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The Solicitors' Journal & Reporter.

VOLUME V.

THE SOLICITORS' JOURNAL.

LONDON, NOVEMBER 10, 1860.

CURRENT TOPICS.

The proceedings which Mr. T. B. Saunders, Equity Draftsman and Conveyancer of London, and Magistrate for the County of Wilts, has instituted at Road, in relation to the late mysterious murder in that locality, seems to have little other practical effect than the demonstration in the face of the whole country of the incompleteness of our present system for the detection of crime. It has been well remarked that the inquiries into the Road murder "have gradually assumed so singular a complexion that they are now almost as unexampled in character as the crime itself." Resort has been had but without success to the aid of the coroner—that most ancient and constitutional officer. The more modern, and as the phrase goes, less English, appliances of detective police were next brought into play, with an equal want of result. Next comes the very questionable, private and peculiar investigation conducted by Mr. Slack, a solicitor of Bath, on the authority, however, of the Attorney-General, the issue of which was altogether unfortunate, but by no means owing as it appeared to any want of ability or industry on the part of the gentleman conducting it. And, lastly, comes the public but still more peculiar inquisition of Mr. Saunders—one altogether so anomalous that we refrain from attempting to characterize it. Indeed, it would have been altogether intolerable and would deserve nothing but reprobation, if the public mind was not thoroughly alive to the said defects of our present machinery for bringing criminals to justice. It is a remarkable fact, and one that cannot be too often mentioned by the press of this country, that England is the only civilized country in the world which has no public prosecutor. Considerable discussion has arisen of late between the relative advantages of coroners' inquests and private investigations by officers of the crown, in capital cases. We are so attached in England to old institutions, it is not likely that any one now living will ever see the abolition of the office of coroner, notwithstanding its very partial utility; but a little more experience such as we have had during the last year, will, no doubt, prepare the minds of Englishmen for an addition to the institutions of the country in the shape of a public prosecutor. Such experience as we have recently had, however, shows how utterly inefficient crown counsel would be as prosecutors, without crown solicitors holding appointments in their respective districts—with the duty of instituting on the spot immediate inquiry, and preparing for trial, or, as they say in Scotland, taking the precognitions of witnesses; which, in important cases, might always be at once submitted to the opinion of the Attorney-General. Such a system would not only tend to put a stop to the present immu-

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nity of great crimes, as in the case of the Road murder, but would also prevent the possibility of innocent persons being lightly accused of enormous and atrocious crimes.

Mr. Bannatyne, the Dean of the Faculty of Procurators, in Glasgow, has recently delivered to the members of the faculty an address which has been published, and is worthy the attentive perusal of members of the profession south of the Tweed. In it he reviews at some length the alterations which have been made by the recent statute in the educational requirements and preliminary tests of admission into the ranks of attorneys in England. It is gratifying to observe that the tendency of these improvements towards raising the reputation of the general body of English solicitors, not only at home, but in other countries, is so manifest. Mr. Bannatyne strongly urges upon his Scotch brethren the example of the Incorporated Law Society; and calls upon them to substitute effective examinations for mere certificates of attendance on classes, and to extend their curriculum beyond purely legal subjects, so as to ensure, as far as possible, something like collegiate training for their younger members. He proposes, first, that the faculty should postpone for two years the commencement of apprenticeship under the charter, so that no one should be admitted an apprentice until he had attained the age of seventeen years; secondly, the establishment of a higher standard of education, both for apprentices, and for admission; thirdly, the ascertainment of his educational qualification by *bonâ fide* examinations; and he particularly insists that these examinations should take place not merely at the commencement of the apprenticeship, or upon admission into the profession, but periodically. The Incorporated Law Society of England, after long effort, has succeeded in obtaining parliamentary sanction for the institution of a preliminary test of the competency of persons proposing to become articled clerks; we hope it will now turn its attention to the subject of term or other periodical examinations so as to complete the important work which it has so efficiently commenced.

The following resolution was passed at the Glasgow meeting of the Social Science Conference by the section specially devoted to the subject of general average:—

That the meeting hereby requests the council of the association to assist by their counsels such person or persons as may be approved of by them, in drawing up a Bill, with a view to its being enacted into a law by the legislative authorities of the several nations of the world, which Bill shall define, as clearly as may be, the term "General Average," and describe more or less fully the cases intended to be included within the definition, and which shall also specify the nature of the loss, damage, or expense allowable in general average, and the principle on which the amount of the loss, damage, or expense shall be ascertained; also furnish a rule or rules for ascertaining the contributory values of the interests concerned, and which shall

also contain such matters as the person or persons drawing up the Bill may think it advisable to insert: that upon such Bill being drawn up and printed, copies thereof shall be transmitted to the several chambers of commerce, boards of underwriters, shipowners' associations, and other commercial societies in different parts of the world, accompanied by a copy of this resolution, and a request to them to examine and return the said copies, with such alterations or amendments as they may think proper to make therein, within six months from the time of the receipt thereof: that, upon the return of the said copies, or upon the expiration of the said six months, the said Bill shall be revised by the person or persons drawing up the same, enlightened by the information acquired as aforesaid: that upon the Bill being perfected in the manner aforesaid it be recommended to the legislative authorities of all commercial nations, to enact the same into a law.

We believe that this resolution is now under the consideration of the council of the Association, and that it is likely to be carried into effect without delay.

Some applications have already been made to the Lord Chancellor, under the Chancery Amendment Act of last session, for the liberation of Chancery prisoners. The course of proceeding under the Act is extremely simple and inexpensive. In a short time, no doubt, a Chancery prisoner of long standing will have become a thing of the past.

The Lord Chancellor very nearly met with a serious accident on his arrival in his carriage, at Lincoln's-inn, yesterday morning, where he is in the habit of sitting to hear appeals. His Lordship proceeded in his carriage, accompanied by one of his daughters, and had arrived almost at the entrance to his Court, when one of the horses came violently in contact with a cab, throwing the Lord Chancellor and his daughter out of their seats into the front of the carriage. Fortunately, however, neither were injured, although the concussion was sharp and sudden. The horse was severely wounded, and the event caused no little commotion in the usually serene region of Old Square.

Several members of the Inns of Court Rifle Corps have been engaged during the week in contesting for a prize that has been offered by Mr. S. Warren, Q.C., Master in Lunacy. The prize we are informed is a Whitworth rifle. We are not aware whether the winner has yet been declared.

Parliament was on Tuesday further prorogued until the 3rd of January, but it was not stated that the two Houses are to meet on that date "for the dispatch of business."

THE SOLICITORS' JOURNAL AND THE PROFESSION.

At the beginning of a new volume it may be useful shortly to consider what are the objects of this Journal, and what are the means by which we endeavour to attain them. It has been always one of our chief cares to promote in every way the improvement of the education of the young solicitor, feeling that by this means the profession to which he joins himself will gain from year to year in social position and in influence; so that its services will be better appreciated, and its claims treated with more consideration than they were in times when a respectable professional journal did not exist, and professional organization was almost unknown. It was our conviction at the outset of our labours that society would do justice to the solicitor if only he did justice to himself—if he considered his high position, and his arduous and varied responsibilities, and prepared himself and those who should succeed him in his sphere of duty by the best

and most comprehensive education both in legal science and in the knowledge and accomplishments of an English gentleman.

Having in view this ultimate result we should above all things desire that the professional education of the solicitor should not commence at a very early age. We are convinced that the whole body would be benefited by the introduction into it of a greater proportion of members who had gone through the ordinary course of a liberal education at a university. We should wish solicitors to imitate a practice which prevails to a great extent with barristers, and from which the bar collectively derives character and influence. Still we are sensible that the number of graduates who place themselves under articles, although it may from year to year increase, must always continue small. The great majority of the profession will always be compelled to prepare themselves to earn a livelihood at an earlier age than is consistent with the carrying out of that wide and deep plan of education which may be accessible to the select few. But we would earnestly deprecate the placing of mere boys in a solicitor's office, in order that they may have passed through the appointed course of preparation, and may claim admission as practitioners on the very day they attain twenty-one years of age. If a lad is articled at sixteen he will absolutely waste two years which might have been spent to profit at some school or college. It is true that by good abilities and industry such a lad may make himself a sound lawyer and a skilful man of business, but his knowledge of law will be confined within the region of narrow technicalities, and the general power of his mind will be stunted for want of a wider field of exercise. Both within the circle of his professional labours and beyond it, he will find—except in some rare instances which are common to both branches of the profession—throughout even the longest and most successful life, that there is one thing wanting which he might have secured for himself in early life, but in his later and perhaps not unprosperous years, neither industry nor mental vigour can easily supply. If such a man had sons whom he destined to his own profession we are certain that he would feel convinced by his own mature experience of the soundness of our views upon the subject of the education of solicitors.

And if we have desired to see the solicitor come to his labours well prepared, we have also sought to secure for him a fair field where he might labour to the best advantage; and while serving the community effectually might be protected in his own just rights. With this object we have watched and recorded the transactions of the societies whose function it is to promote judicious law reforms, and to deprecate, and if possible to arrest, hasty and ill-considered innovations. On all occasions when changes of law and practice have been proposed, we have exhorted the profession to consider, first, that the interest of all its members, both in town and country, was one and indivisible; and, secondly, that this same single interest would be found in the long run to be identical with that of the whole community. If any project of law reform, from whatever quarter, be tried candidly and deliberately by the test of its general public value, the conclusion thus obtained may be acted on fearlessly and unreservedly; and the end which we have proposed in our discussions has been to attain, if possible, to such conclusions. We believe that in Parliament it begins at last to be understood that the conduct of the Law Societies, in reference to proposed legislative changes, is guided by a sincere desire to promote the simplicity of the law, and to ensure the efficiency of its administration. That such has been, as it ought to be, the object of professional organization appeared from the report in our own columns of the proceedings of the Metropolitan and Provincial Law Association lately held at Newcastle. In reviewing the history of the legislation of the present year the Chairman showed that the

efforts of the Association had been so directed as to gain from Parliament a respectful hearing for the collective experience of solicitors on matters which they must necessarily understand far better than any other class of men. Approaching the consideration of every proposed law reform from a public point of view, the Association is entitled in return to claim from Parliament that the same proposals should be looked at also from the peculiar point of view of the solicitor. Those who have prepared themselves by a costly education for the exercise of a laborious profession are entitled to demand that what are called—sometimes very wrongly—law reforms should not be employed as instruments to impoverish and degrade the lawyers. By the exertions of the Law Societies professional rights and privileges are maintained, and the corporate character of a high and responsible profession is kept constantly before its members' minds, so that none are suffered to forget the duties which they owe to their own body, and to that larger society wherein it forms a conspicuous and influential part. We have now observed for several years the operations of the Incorporated Law Society, of the Metropolitan and Provincial Law Association, and of the other similar organizations which exist in large towns and counties. It has been our duty as well as our privilege to report and comment on those operations; and we rejoice to say that they have resulted in equally and largely benefiting at once the client and the solicitor.

It is the business of a professional journal to endeavour to raise the character and social position, to assert the claims, and watch over the interests, of the profession. But another and equally important duty is to assist the practitioner in the daily exercise of his vocation, by promptly noticing, and briefly and clearly explaining, the new statutes and decisions of the courts by which his practice must be regulated, and by endeavouring to furnish him with sound and unbiassed judgments as to the merits of some, at least, of the many legal publications which offer to supply him with fuller and more detailed knowledge than can be conveyed in the columns of a newspaper. In our discharge of this duty, we have endeavoured to make some stand against that prevailing error of the time that the value of every sort of publication is in direct proportion to its length. We have always been sensible that if our readers tried us by the mere number of the words they read, we should be found wanting. We have rather sought to attain, if possible, the praise of judicious selection and condensation. The enormous masses of printed matter which are placed upon the lawyer's table would become an intolerable evil, but for the happy circumstance that he cannot be compelled to read them. Still, if possible, this evil should be resisted by steady adherence to the rule of only noticing what is really new and valuable, and by compressing the notice, whenever possible, in some moderate quantity of words. It has not been, and will not be, our habit to place before our readers heavy masses of undigested verbiage, but to supply to busy men in the shortest compass the practical assistance they require. But while we endeavour to aid the solicitor in his daily routine of duty we would also invite him to look occasionally beyond it. When we say that every lawyer ought to know something of the general science of law and of those great leading principles which underlie all codes and systems of procedure, we are but coming back to the ground from which we first started, and are repeating over again our exhortation to the solicitor to secure for himself, and to those who may follow in his steps, a liberal and comprehensive education. As solicitors gradually learn to feel a deeper interest in the jurisprudence of other times and countries, and in the curious and difficult legal questions which sometimes occupy our own courts, the objects which this Journal has proposed to itself will be to a great extent attained;

and we flatter ourselves that it will, at the same time, be seen to have deserved the name it bears.

We have hitherto refrained from noticing the mendacious statements of a legal contemporary, which, from motives of obvious self-interest, industriously seeks to propagate the notion that this journal is the organ and advocate of metropolitan interests, as against those of the country. The fact that we have the warm support of a large number of the foremost men in the profession in the provinces, enables us to pass over such persistent misrepresentations with the contempt which they deserve. Perhaps, we ought to be gratified rather than otherwise at the exhibition of an uneasiness which is, after all, but an unquestionable proof and measure of success.

PROTECTION FROM ARREST.

It may not yet be generally known that during the few remaining days of the last session, after the withdrawal of the Bankruptcy Bill, a short Act, consisting of two sections only, was hurried through Parliament to extend the effect of the 7 & 8 Vict. c. 70. The original Act was passed for the purpose professedly of facilitating arrangements between debtors and creditors; but was familiarly designated by practitioners as "the Gentleman's Act," from the facilities it afforded to persons of sensitive feelings to get rid of their debts without incurring those unpleasant consequences of indebtedness, at the expense of which the discharge is usually purchased, namely, the loss of liberty and property and the publication of the state of their affairs.

This Act enables an insolvent, with the concurrence of one third in number and value of his creditors (testified by their signing his petition), to present a petition to the Court of Bankruptcy, setting forth the particulars of his debts and estate; that he is unable to meet his engagements; and also setting forth such proposal as he is able to make for the future payment or compromise of them, to which one-third in number and value of his creditors have assented. Upon the presentation of the petition one of the commissioners is to examine *privately* into the matter of it; and for that purpose has power to examine upon oath the petitioning debtor and any creditor concurring in his petition, and any witness produced by the petitioning debtor. Upon this examination of the petition the Court may grant to the debtor a temporary protection from arrest until the further proceedings taken upon the petition, and may, if it think fit, require the petitioner to give bail for his future appearance. The Act strictly applies in its terms only to debtors not in custody at the time of petitioning; and the Amending Act of the last session, 23 & 24 Vict. c. 147, is passed to extend the same powers and privileges to debtors in actual custody.

We conceive that several objections may be made on principle to the extraordinary facilities for obtaining protection given by the provisions of the original Act above referred to, as causing a very unfair and vexatious interference with the regular proceedings of creditors; and that these objections apply with additional force to the extended scope given by the amending Act so hurriedly introduced. It will be observed that the petitioner obtains his protection upon examination of his petition merely. He gives up no property; he need not even, unless the Court requires it, give bail for his future appearance. It is true, he must obtain the signatures of one-third in value of his creditors to his petition; but this is a small proportion, and might, we apprehend, in most cases be supplied from amongst the petitioner's immediate circle of relations and connections; for a party in difficulties generally exhausts his nearest friends before borrowing of strangers. The examination is private; and creditors who do not concur in the petition are not summoned, nor can they be examined upon oath. The insolvent is set at liberty and made a gentleman at large, with full command over

his person and his estate; and it is plain that if he is inclined to any preferential dealing towards particular creditors, or to evade his liabilities altogether, the Act gives him great facilities for so doing.

The subsequent proceedings under the Act provide for summoning all the creditors to meetings to discuss the proposed arrangement of the insolvent, which may be made ultimately binding on the petitioner and all the creditors who have received due notice of the meetings, provided three-fifths in number and value of the creditors or nine-tenths in value or nine-tenths in number where debts exceed twenty pounds shall consent; and thereupon, but not before, all the estate of the petitioning debtor vests in the trustee appointed by the creditors for that purpose. With the ultimate result of the Act we find no ground for exception. The estate of the insolvent in justice belongs to the creditors; and the law affirms their title subject to the reasonable condition of a sufficient majority coming to such an agreement for its realization as they may think proper.

Far different are the provisions of the General Protection Acts applicable to petitions on the part of the insolvent alone unassisted by any of his friendly creditors. Upon the presentation of the petition all the estate and effects of the petitioner forthwith vest in the official assignee, and notice must be given to all the creditors who have the opportunity to oppose the order for protection. The consent of only one-third of the creditors to a proposed arrangement seems a very inadequate ground for placing the insolvent on such a different footing. The smallness of the body of creditors where consent is required gives, it must be feared, a great opportunity for collusion and fraud. The consequences of the Act will probably be often injurious to non-concurring or hostile creditors who are deprived of their rights without any means of opposing and without any equivalent. A creditor may have embarked in costly proceedings against the insolvent which may at the last moment be rendered fruitless by the *ex parte* and private proceedings of his debtor. By the Act recently passed the creditor who has actually got his debtor in custody may be thus deprived of the benefit of all his costs and trouble expended in securing him. We believe that the universal principle on which debtors have been released from arrest is that at least a complete distribution of all their property should be substituted; but the Acts in question suspend the right of the creditor without rendering him any compensation in return.

Arrest and imprisonment for debt are still the law of the land. The expediency of retaining them is one of the most important questions of the day; but we must reserve further notice of it to a future occasion, our present object being restricted to pointing out the inconsistency, inconvenience, and injustice of retaining them as law, and yet taking every opportunity of getting rid of their effects. The creditor is thus placed without any fault on his part in a position of the greatest embarrassment. He has a right of arresting his debtor to enforce payment; while his debtor has a nearly equal right of protection or discharge from arrest. He fancies that he possesses a powerful instrument of compulsion; but he finds, on attempting to use it, that it recoils on his own head. The pretended right of the creditor is made a mere snare and a delusion; the law offering him a remedy with one hand, which it suddenly snatches away with the other. We had hoped that the legislature had at length determined to treat the law of bankruptcy and insolvency in one grand and complete scheme, and cease from further attempts to patch up the old system, consisting as it does of a mass of statutes the deficiencies of which are confessedly manifest at every point. We venture to surmise, however, that the legislature must arrive at some definite and final intention with respect to the law of arrest, as one of the essential preliminaries of a permanent settlement of the law of bankruptcy

and insolvency. Palliative measures of the nature of the Acts above referred to have an unfortunate tendency to perpetuate the cause of the evil, by abating some of its most obnoxious effects, and so obscuring its true character.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

(Before Lord Chief Justice COCKBURN, and Justices WIGHTMAN, HILL, and BLACKBURN.)

Nov. 3.—*Ex parte Watson*.—The Solicitor-General moved that an attorney and solicitor of the Court of the County Palatine of Durham might be admitted an attorney of this court, on payment of the duty, without giving a term's notice. The application was made under the provisions of a statute of the last session (the 23rd & 24th Victoria, cap. 127). The learned Solicitor-General referred to the 45th section of the 6th & 7th Victoria, cap. 73, and the case of *Ex parte Patrick*, (13 L. J., Q. B., 90), which he said decided the question.

Mr. Garth, who appeared for the Incorporated Law Society, said, the term's notice was not required by statute, but by a rule of Court; and he submitted that the notice should still be given.

The Court, however, thought otherwise, and granted the application.

In re —, an attorney.—Mr. Turner moved, on the part of the Incorporated Law Society, that an attorney should be struck off the rolls for misconduct in applying the money of his client to his own use. The attorney pretended that he had advanced a sum of £100 to a person named Truman at 5 per cent interest. The interest was paid for some time, but it came to the client's ears that the attorney was in bad circumstances, and this induced her to require him to give up her securities. Not obtaining what she demanded, she required him to state who the man Truman was, upon which he stated that he himself was the man Truman, that he had no securities, but he would endeavour to procure security.

The Court granted a rule to show cause.

Nov. 6.—*In the matter of Lieutenant Allen*.—Mr. J. Brown moved for a writ of *habeas corpus*, to be directed to the governor of the Queen's Prison, commanding him to bring up the body of William Henry Craven Allen, a lieutenant in the 82d Foot, in order to his discharge, upon the ground that he was detained in illegal custody there, under the sentence of a court-martial. The learned counsel stated that his affidavits were entitled "In the Matter of W. H. C. Allen."

Lord Chief Justice COCKBURN, after referring to Master Corner, said the words were surplusage; it was sufficient if the affidavits had the correct title of the court.

Mr. Brown then proceeded to state that Lieutenant Allen was a young man, twenty years of age, who was tried by a court martial on the 28th of February, 1859 at Shalychanpore, in the East Indies, for the murder of one Bidasse, his servant. The court-martial found him guilty of manslaughter only, and sentenced him to be imprisoned four years, without hard labour. The sentence was confirmed by the Commander-in-Chief, and Agra fort appointed to be the place of his imprisonment. The Horse Guards, it appeared, had turned that sentence into one of transportation, and had brought him over to this country and subjected him to penal servitude, of which he now complained.

Lord Chief Justice COCKBURN asked whether he understood correctly that a sentence of imprisonment, without hard labour, had been converted into one of penal servitude?

Mr. Brown said that was the case.

Lord Chief Justice COCKBURN.—Take a rule to show cause.

Mr. Brown said the rule would be on the keeper of the Queen's Prison.

Mr. Justice HILL said it should also be served on the Home-office and Secretary for War.

Rule *nisi* granted.

COURT OF EXCHEQUER.

(Before the LORD CHIEF BARON, MR. BARON BRAMWELL, MR. BARON CHANNELL, and MR. BARON WILDE.)

Nov. 3.—*Fidley v. Oxlade*.—Proceedings were commenced upon a bill of exchange under the provisions of the 18th & 19th of Victoria. The twelfth day falling on a Sunday, judgment was signed on the day previous. An application was made to

Mr. Justice Keating, at chambers, to set aside the judgment on the ground that it had been signed one day too soon. The application proving successful, the plaintiff, an attorney, commenced the present action against the defendant for his costs. The case was sent down by writ of trial to be heard before the Under-Sheriff of Middlesex. The defence was that the plaintiff had been guilty of negligence in signing the judgment a day before the proper time for so doing.

Mr. Patchett now moved for a rule for a new trial on the ground of misdirection, the Under-Sheriff having told the jury that there was a decision given by Mr. Justice Erle at chambers (*Lewis v. Calor*, 1 Foster & Finlason, 306), by which he felt himself bound to the effect that Sunday should not be included in the twelve days allowed by the Act before signing judgment. Mr. Patchett urged that it was the duty of the attorney to sign judgment at the earliest possible moment, and that in this case there was neither negligence in law nor negligence in fact.

The LORD CHIEF BARON.—If the earliest possible moment involved a doubt, then the safer and better course would be to steer clear of the doubt.

Mr. Patchett.—The statute prescribes a time in which judgment is to be or may be signed, and no rule of Court can override the statute; it was a misdirection in telling the jury that judgment was signed too soon.

Their LORDSHIPS granted a rule to show cause.

The Queen has been pleased to confer the honour of knighthood upon Charles Sargent, Esq., Chief Justice of the Ionian Islands.

Mr. Albert W. Beetham, of the Western Circuit, has been appointed to the Recordership of Dartmouth, in the room of Mr. T. W. Saunders, who has been appointed Recorder of Bath.

Mr. William BurrIDGE Richardson, of No. 28, Queen-street, Cheap-side, has been appointed a perpetual commissioner for taking acknowledgments of deeds by married women for the cities of London and Westminster, and for the county of Middlesex.

Mr. George Ridley, of the northern circuit, and M.P. for Newcastle-on-Tyne, has been appointed one of the Copyhold Enclosure Commissioners, in the room of Mr. Blamire, resigned. A vacancy in the representation of Newcastle will thus be created.

Mr. R. Earle Welby, of the Treasury, late Secretary to Mr. Laing, will continue to act in the same capacity with the Right Hon. F. Peel, who has been appointed Joint Secretary to the Treasury.

The Lord Chief Justice Cockburn has appointed Mr. James Hemp, Deputy Clerk of Assize on the Oxford Circuit, and one of the clerks of arraigns at the Central Criminal Court, to the clerkship of the Court for the Consideration of Crown Cases Reserved, vacated by the death of Mr. Straight.

Recent Decisions.

COMMON LAW.

[By JAMES STEPHEN, Esq., D.C.L., Barrister-at-Law.]

ACTIONS AGAINST CARRIERS, COSTS IN.

Tatton v. The Great Western Railway Company, 8 W. R., Q. B., 606.

Several cases have established that actions against carriers for the non-delivery of goods are based on the wrong committed by the breach of that common law duty, safely to carry and deliver, which is incident to the office of carrier; and are not grounded on any individual contract entered into by the carrier with the consignor or consignee of the goods. In other words, such actions are *ex delicto* not *ex contractu*, and from this fact important consequences arise. Thus the non-joinder of a party jointly liable as defendant, cannot be objected to by plea in abatement or otherwise (see *Pozzi v. Shipton*, 8 A. & E. 963). And it appears even to be immaterial with regard to this, that the declaration may show that there was a special contract between the parties in respect of the same transaction; though if such special contract contained terms

which would not be implied merely by the relationship of bailor and carrier, then the action may be well brought on such special contract, and in that case would be changed in its character, becoming one of contract (see *Legge v. Tucker*, 1 H. & N. 503). The present case shows another important result of the true nature of the ordinary action against a common carrier. This is, that the action is not within that provision of the 19 & 20 Vict. c. 108 (sect. 30), which deprives a plaintiff in an action "of contract," brought to recover a sum not exceeding £20, where the defendant suffers judgment *by default*; It is, on the other hand, within the 13 & 14 Vict. c. 61, s. 11 (being an action "on the case," that is a variety of the general division of actions on torts), and consequently the plaintiff is entitled to his costs on the defendant suffering judgment by default, although a less sum than £20 be recovered.

ATTORNEY AND CLIENT—SIGNED BILL—AGREEMENT TO RECEIVE FIXED SUM FOR SERVICES.

Philley v. Hayle, 8 W. R., C. P., 611.

The declaration in this action was for a certain sum alleged to be due from the defendant to the plaintiff on the money counts; and as a defence it was pleaded that the money claimed was due, if at all, to the plaintiff as the defendant's attorney, and that no signed bill had been delivered a month before action, as required by the statute.

It appeared at the trial that the plaintiff sought to recover under an agreement into which he had entered with the defendant to endeavour to obtain for him at the sessions a spirit licence, on the terms of receiving (if he succeeded) his costs out of pocket, and a certain fixed sum in addition; if he did not succeed, his costs out of pocket only. A bill was delivered before action, but it gave the items only of the sums paid out of pocket by the plaintiff.

The Court of Common Pleas unanimously held this transaction to be illegal, and consequently that the plaintiff could not recover. They said that the policy of the Legislature appeared to prohibit all agreements with clients which would have the effect of giving the attorney more than he would obtain on taxation, though an agreement under which he would receive less would be good enough. "The client," said Mr. Justice Willes, "is entitled to have the judgment of the Master upon the propriety of the charges."

These remarks by the Court of Common Pleas are substantially consistent with previous decisions on this subject; although in one case in the Rolls, an agreement by a solicitor to take a gross sum from his client in lieu of costs was held not to be void, though highly inexpedient (*Re Whitcombe*, 8 Beav. 140).

TROVER—MEASURE OF DAMAGES.

Chinery v. Viall, 8 W. R., Exch., 629.

This case is an instructive one, and from it two general principles may be deduced. First, in order to maintain "trover," it is not necessary that the plaintiff should have had the possession of the goods when converted, provided the property in them had passed to him. Thus, in the present case, A. had sold sheep to B. upon credit, and before the time of payment arrived and while they remained in A.'s possession, he re-sold and delivered them to C. Here A. was held to have converted the sheep, just as though, being a pledgee, he had disposed of the pledge. For, said the Court, A., under these circumstances, (there having been no default on the part of the vendee) retained possession of the sheep, not *quid* vendor, but as the agent and for the benefit of B.

2ndly. In case of a conversion of goods, no arbitrary and absolute rule can be laid down with regard to the measure of damages. In many cases no more than the real damage, that is the loss actually sustained, can be recovered (see *Lamond v. Davall*, 9 Q. B. 1030; and *Read v. Fairbanks*, 13 C. B. 692); although in cases of wilful tort and not for a bare conversion it may be otherwise. The principle to be deduced from the authorities on this subject, is that a plaintiff cannot by suing in trover, instead of in case or other form of action, vary the amount of damage so as to recover more than he is really in law entitled to, according to the true facts of the case and the real nature of the transaction. Hence, in the particular case now under consideration, B. was not held to be entitled to recover from A. the value of the sheep when re-sold to C.; but only such value minus the price B. would have had to pay A. on paying for the sheep he had purchased from him.

STATISTICS OF OUR CIVIL COURTS.

The second part of the Judicial Statistics for the year 1859 comprises the returns from all courts exercising a civil jurisdiction. The proceedings in the Court of Queen's Bench on the Crown side are likewise enumerated, and were as follows:—

On Writs of Mandamus—Applications on Affidavit ...	59
On Quo Warranto—Informations filed	7
On Writs of Habeas Corpus—Applications for Writs .	34
On Writs of Certiorari—Writs issued	99
Judgments and Executions	12
On Grand Jury Bills	1
On Informations ex officio	1
On Orders of Sessions—Removed into Queen's Bench	25
On Special Cases from Quarter Sessions (12 & 13	
Vict. c. 45).....	12
On Special Cases on Proceedings before Justices (20	
& 21 Vict. c. 43).....	61

The returns of proceedings in the three courts on the Plea side are as follows:—

Nature of the Proceedings.	Total.		Queen's Bench.		Common Pleas.		Exchequer.	
	Process issued.	Matters heard.	Process issued.	Process issued.	Process issued.	Process issued.	Process issued.	Matters heard.
Writs of Summons issued	86,370	—	27,831	—	21,445	—	36,974	—
Writs of Capias.....	532	—	224	—	163	—	198	—
Appearances Entered	23,762	—	8,241	—	6,312	—	9,209	—
Judgments	31,618	—	10,637	—	6,943	—	14,186	—
Executions	32,878	—	7,411	—	5,114	—	10,350	—
Motions for New Trials	—	431	—	170	—	134	—	307
Other Special Motions.....	—	641	—	199	—	322	—	370
Hand Motions and on Side Bar Issues...	3,196	—	1,140	—	775	—	1,861	—
Causes referred to Masters	650	—	205	—	84	—	361	—
Total Amount of Fees.....	£38,502 1s. Od.	£22,519 2s. Od.	£12,965 0s. 6d.	£23,418 19s. 6d.				

These returns indicate the continuance of a predilection for the Court of Exchequer; although the causes, viz., a diversity of scales of taxation and fees in the different courts, which originally gained the Court of Exchequer favour with the profession, have ceased to exist. This anomaly shows that the abolition of old rules by no means induces immediately a proportionate result. The *vis viva* and *vis inertia* continue to operate long after the extinction of the causes from which they sprang. The possibility of an inconveniently unequal distribution of business in the Irish Courts was guarded against by the Irish Common Law Procedure Act, which directs that the writs should be filed uniformly, according to a certain rotation, in the three courts. The same remedy is open to us if the pressure of business in the Exchequer ever becomes inconvenient. The inequality, however, must finally disappear of its own accord, its cause having ceased to exist. Yet it

teaches us that the effects of legal improvements should be estimated with caution, and that time should be readily allowed them to yield their natural fruit. If changes in the law recommend themselves to our understanding, we may rest assured that the realization of their utility is a question of time, and not of intrinsic probability. On the other hand, this preponderance of business in the Exchequer shows that customs and prejudices cannot be disregarded, but must be estimated as facts in all our calculations, and allowances made for them accordingly. Thus, by not tempting the open sea of change, nor by cruising always along a shallow beach, we shall best temper the necessary reforms with a prudent moderation.

The number of suits commenced in the year was less by 16·5 per cent. than the corresponding return for 1858. The following table of causes entered for trial includes among the causes for trial on circuit, 33 suits entered in the Common Pleas of Lancaster, 4 entered in the Court of Pleas of Durham, and 2 issues from the Court of Probate.

No. of Cases.	Total.		Queen's Bench		Common Pleas		Exchequer.	
	West-min-ster.	Nisi Prius.	West-min-ster.	Nisi Prius.	West-min-ster.	Nisi Prius.	West-min-ster.	Nisi Prius.
Entered for trial	2,209	1,180	741	478	588	194	700	508
Trials	—	807	—	329	—	128	—	350
Defended ..	965	—	358	—	280	—	387	—
Undefended	167	—	21	—	64	—	82	—
Withdrawn, Struck out, &c.	832	205	299	85	340	36	393	82

As to the nature of the suits, the numbers of a few species only need be stated, the rest being of the more usual character of suits. For compensation for personal injuries under Lord Campbell's Act, the number of suits was 19; for compensation for other injuries, 71; for infringement of patents, 19; for breach of promise of marriage, 22; for libel, 45; for slander, 60; for malicious prosecution, 7; false imprisonment, 72; indictments, 15; and against sheriffs, 5. The number of suits tried on the circuits was, on the Home Circuit, 277; Midland, 120; Norfolk, 49; Oxford, 143; Northern, 132; Western, 135; South Wales, 33; North Wales, 35; Lancashire Common Pleas, 265; Durham Common Pleas, 30. The judgments were as follows:—

	Total.	Queen's Bench.	Common Pleas.	Ex-chequer.
On Judges' Orders:—				
For default of service	1,838	483	496	877
On affidavit of service	21,676	7,055	4,662	9,959
On Demurrers:—				
For plaintiff	22	10	4	8
For defendant	15	5	5	5
On Postea Writ of Trial and Writ of Enquiry:—				
For plaintiff	1,517	510	307	640
For defendant or nonsuit	392	131	90	171
By Default for Plaintiff	3,280	992	759	1,529
On Non Pro's for Defendant	128	59	40	39
On Special Cases:—				
For plaintiff	12	7	2	3
For defendant	19	12	2	5
On Judges' Orders to stay Proceedings:—				
Warrants of attorney, certificates of arbitrators, &c.	2,890	1,420	516	954
Total Judgments.....	31,818	10,687	6,048	14,188

It is remarkable, that of the immense business of this great commercial nation, so small a proportion gives rise to litigation, and that even in the past year, notwithstanding a probably larger amount of commercial transactions, there has been less litigation in the superior civil courts than occurred in 1858.

It is also curious to observe the proportion of litigated cases abandoned by defendants. The proportion of undefended actions was 72·7 per cent.; of the actions defended only 13·5 per cent. were entered for trial: and of the total of the suits commenced, only 2·2 in the 100 were actually tried; and even of these, many, as the report states, were undefended at the hearing. The business is, perhaps, more equally distributed among the circuits than is generally considered. It appears, also, that the Northern is not, as is commonly supposed, the most favoured in this respect. This approximately equal distribution of business among the circuits is a great public benefit, as it tends to an equal diffusion of forensic talent.

The following statement of the results of the cases comprises all tried at Nisi Prius, including those tried in the Common Pleas Courts of Lancaster and Durham.

	Total.	Queen's Bench.	Common Pleas.	Exchequer.	Nisi Prius.
Verdict for plaintiff	1,145	247	244	261	673
Verdict for plaintiff, subject to special case	35	5	5	6	13
Verdict by consent with reference	119	28	11	9	71
Verdict for defendant	313	71	59	68	145
Jury discharged without verdict	23	7	12	6	3
Juror withdrawn	64	10	4	11	43
Nonsuit	60	10	8	29	34
Set Processus, Venue changed, Record withdrawn, &c.	129	—	1	—	128
Total	2,242	379	344	409	1,110

The proportion of the writs of summons issued was in the Queen's Bench 32·3 per cent., in the Common Pleas, 24·8 per cent., and in the Exchequer, 42·9 per cent. The averages in the different courts tend to an equality, as to trials; the proportion of causes tried being for the Queen's Bench 33·5 per cent., Common Pleas, 30·4 per cent., and Exchequer, 36·1 per cent. The diversity of the averages, however, again, of course, appears on the judgments, the proportion of those being for the Queen's Bench 33·6 per cent.; Common Pleas, 21·8 per cent., and Exchequer, 44·6 per cent. Verdicts were obtained for amounts above £5,000 in 11 cases; for £20 and under the number was 341. The total amount recovered was £324,388. The total of writs of *fiore facias* was 14,052; of *capias ad satisfaciendum*, 8,142; of possession, 583; of *elegit*, 42; of *exegi facias*, 53; of *capias utlagatum*, 6; total of writs of execution, 22,878. The plaintiff thus, it appears, succeeds in more than three-fourths of the actions. This, alone, indicates the non-litigious character of the nation, as it shows that the moving party had, as a general rule, just cause for the suit. If ever international statistics be generally accessible, it will be an interesting study to consider the comparative advance in public morals in different nations, as recorded not only by the number of suits commenced, but also in the number of suits abandoned or perversely litigated. This success of the plaintiff should not, of course, induce any future plaintiff, who may be acquainted with the statistics, to conclude that the chances, like the average, are more than 4 to 1 in his favour. Such an inference would be wholly unwarranted. Statistics are only applicable to general laws, and are useful mainly to the legislator. If an individual could lawfully become the assignee of causes of action, and then litigate by wholesale, general averages might

be used by him to estimate the probable profits of his unlimited liability. But, that an individual litigant should calculate his chances of success from judicial statistics would be as rational, as that a patient should estimate the likelihood of his recovery by a comparison of his age with the average duration of human life. Of new trial motions, 103 were refused; in 225 such motions, rules *nisi* were granted; in 96, the rules were made absolute; and in 104, the rules were discharged. Of the 86,270 suits commenced, only 23,762 were cases in which defences were filed; of these, only 3,209 were entered for trial; and of these, only 1,939 were actually tried; so that, as is stated in the report, of the suits commenced, only 2·2 per cent. remained for the decision of a jury. Judgments were also obtained in 31,318 of the cases not so tried, thus forming a proportion of 38·8 to every 100 cases entered. In 22,378 cases, writs of execution were issued in the proportion of 61·4 per cent. against the goods, and 35·5 per cent. against the person of the defendant. As to the proceedings in chambers, the total number of summonses was 41,315. There was but 1 writ of error; and 2 bills of exceptions. Of the proceedings in the Court of Error the number of notices and writs of error was 34; set down for argument, 32; writs affirmed, 11; writs reversed, 2; remanets, 5. Of appeals from the Court in Banco there were notices of appeal lodged, 44; set down for argument, 20; affirmed, 14; reversed, 4; remanets, 5. The amount of the Sutors' Fund was, on the 1st of January, 1859, £38,659 18s. 7d., to which was added during the year, £110,650 2s. 7d.; the total to the 1st of January, 1860, thus being £149,310 1s. 2d. The amount paid out during the year was £112,286 13s. 11d. The fees levied by the Common Law Masters during the year was £58,902 1s. 0d., of which the sum of £38,057 7s. 10d. was disbursed for salaries and other like expenses.

The high proportion which the executions bear to the judgments—like the progressional falling away of defendants at the successive stages of the action—is an index of the non-litigious character of the nation, as it shows that the failure to discharge claims arose from an inability, and not a reluctance, on the part of those who were liable. The high proportion of new trial motions to the trials proves either that the litigious number of our countrymen, however inconsiderable, are very litigious indeed, or that these protracted contests were cases in which the legal rights of the parties were really obscure—an inference more in accordance with the other data, and one which we more willingly suggest.

Correspondence.

EQUITY PROCEEDINGS UNDER THE OLD PRACTICE OF THE COURTS.

In proof of the truth of the assertion by a "Solicitor's Clerk" in the *Solicitor's Journal* of the 15th September last, that "the judges were too much in a hurry to get through business to bestow a moment's time on the form (or he may have added the justice) of the order," permit me to mention the following melancholy facts.

A gentleman of Bristol who died in 1824 worth upwards of £800 a year, by his will, duly signed and attested, gave all his real and personal estate to trustees upon trust to pay the income among his seven children, and the survivor, during their respective lives, and then to divide his property among such of his grandchildren as should be then living.

In 1835 a bill was filed in the Court of Exchequer by a member of the family to have the trusts of the will declared by the Court, which bill Lord Abinger dismissed without allowing costs to any party, on the grounds that the trusts of the will could be carried out without the assistance of the Court. However, subsequent suits in chancery were instituted by some members of the testator's family, and even by other

parties who could not by any possibility have any claim to the property; and at the hearing of the cause in 1854, before one of the Vice-Chancellors, he ordered the costs of all the solicitors (thirteen in number), to be paid out of the estate whether their clients had any claim or not (upon which he gave no decision), and to be raised by sale or mortgage of the freehold estates. These costs, amounting to the enormous sum of £7,200 and upwards, were paid out of money raised by a mortgage of the estates, which mortgage was subsequently paid off by a sale of the estates (thus swelling out the costs as much as possible). The sale produced about £11,000, out of which the sum of £2,245 only has been paid into court to the credit of the estate.

The result of the above order has been most disastrous to the testator's surviving son (now upwards of eighty-two), who is the only one of the testator's children who has any children living, and who has not been able to get from the trustees one shilling towards his support for the last two years, and is at this moment dependant on the voluntary contributions of a few benevolent individuals for the maintenance of himself and his two unmarried daughters.

AN OLD SUBSCRIBER.

STAMP ACT—PROOF OF CANCELLATION

The 12th section of the New Stamp Act, 23 & 24 Vict. c. 111, requiring proof of the sixpenny adhesive stamp being cancelled at the time of signing, may, in practice, cause inconvenience. Allow me to suggest, that in order to provide for this the form of attestation should run thus:—

Signed by the said A. B. in my presence, who, at the time of so signing, did write upon or across the stamp his name, and the date of the day, and year of writing the same.

A SUBSCRIBER.

COSTS IN SUPERIOR COURTS.

If an action is commenced and successfully prosecuted in one of the superior courts of law, to recover a debt which is within the jurisdiction of the county court, and the judge at the trial refuses to certify for costs, can the defendant recover from the plaintiff the excess of costs to which he has been put by being compelled to defend the action in a superior court instead of the county court?

If he cannot, what course should he adopt, after service of the writ and appearance entered, in order to stop costs?

A TYRO.

THE COMMON LAW JUDGES' CHAMBERS.

I read "D. A.'s" letter of the 25th of August, and the "Attorney's Clerk's" of the 15th of September, and am surprised nothing further has been suggested on this important subject. I conclude everyone is quite sick of the wretched system, and yet none think it worth while to try to remedy it. It seems to me "D. A.'s" suggestions might safely be carried out, and that he strikes at the root of the evil. The confusion and inconvenience that have been caused by the uncertain and often late attendance of a judge only twice a week, is not all the damage which results from the present system.

ANOTHER ATTORNEY'S CLERK.

CHANCERY JUDGES' CHAMBERS.

I commend to the attention of your readers Sir J. Graham's speech of the 20th of August, in your number of the 25th of that month. It entirely follows out the views so often expressed by your correspondents and in your articles as to the objects and working of the Acts, and shews that the defect arises from the chief clerks doing business for which they are obviously unfitted.

X.

THE COMMON LAW MASTERS.

It was lately proposed in your paper that the common law masters should assist the judges in the disposal of minor summonses. I can safely say that they have very little to do. Master Gordon, of the Common Pleas, has been attending during the vacation, but I heard him say that he was not obliged to stop after one o'clock. I think he came about twice a-week.

A COMMON LAW MANAGING CLERK.

MANOR COURTS.

I return to the Judicial Statistics. Will any one believe that there still exist thirty manor, &c., courts at the present day? But see p 134, and the business done in some is really important and extensive. What is the use of county courts? What of the superior Courts? If the wretched minor jurisdictions exposed on this page like kites on a barn door as a warning (for nothing else can be meant) are to exist, I cannot see why they are not to be all over the kingdom, and why the old courts of request are not to be resuscitated. I heard of a curious instance of the power of the Vice-Chancellor of Oxford's Court. An undergraduate who had left college had to go there to defend an action. I am told it is a common case—fancy dragging a man from Cornwall to Oxford because he had once been at college! Who knows anything of the Vice-Chancellor's Court at Oxford, and is it to be compared with a court presided over by judges appointed by the Lord Chancellor, and regulated by acts and rules known to all. Did ever any one hear of half the manors having courts? They must be held in pill boxes; and I only account for their existence on the ground that no one is aware of them.

D. H.

The Provinces.

BIRMINGHAM.—Our readers are aware that it is required on the part of the accountants who are entrusted with the preparation of a bankrupt's balance-sheet, that they or their clerks should attend at the office of the official assignee, to obtain access to the books for that purpose; and it is supposed that proper accommodation shall be afforded to them to facilitate their labours. In the case of one of the official assignees of the Birmingham District Court (Mr. Kinnear), however, the personal comfort of the gentlemen engaged in these arduous duties appears to have been overlooked. Frequent complaints having been made to the Commissioner as to the want of accommodation for the preparation of bankrupts' balance-sheets in that gentleman's office, and it having recently been represented to the court, that a clerk to an accountant was lying in a dangerous state from the effects of the dampness of the office, Mr. Registrar Waterfield directed his usher to obtain the report of a surgeon on the condition of the place. A surgeon was accordingly employed, and having gone through the cellars (for they cannot be otherwise designated), fitted up as offices, reported that "they were not fit for human beings to sit in." The Commissioner, upon hearing this statement, immediately made an order for the books of the bankrupt by whom the complaint was made to be given up to him, so that he might prepare his balance-sheet elsewhere, and not injure his health.

At a private meeting of the town council, held on the 2nd inst., a decision was come to in favour of electing Mr. Arthur Ryland mayor for next year, the present mayor having declined to accept office a second time, stating that no such necessity as would have justified his re-election had been made manifest; and that, indeed, there were cogent reasons why, on the contrary, Mr. Ryland should occupy the office. Mr. Ryland was therefore nominated, and after a lengthened discussion, the result was a vote in favour of the election of Mr. Ryland.

WOLVERHAMPTON.—County Court of Wolverhampton: *Edwards v. Foster*.—This case was argued on the 29th ult. before Mr. Skinner. Mr. Motteram, of the Oxford Circuit, appeared for the plaintiff, and Mr. Barnett for Mr. Foster. The action was brought to recover the sum of £10 17s. 6d. for goods supplied to the defendant in March last by the plaintiff. A short time since the defendant petitioned the Birmingham Bankruptcy Court under the Private Arrangement Clause, and obtained protection from arrest; but it was contended that the protection so granted could not prevent the plaintiff from obtaining a verdict, inasmuch as it only extended to the security of his person and goods from process, and did not prevent the plaintiff from suing and obtaining judgment, though it would be so if execution issued. If the plaintiff was to be prevented from bringing his action and obtaining a verdict because of the protection, it might act to his injury in case the arrangement should by any means be upset. Mr. Barnett contended that as the plaintiff was scheduled by Mr. Foster, the latter was protected against any proceedings of this nature from him by the protection which he had obtained under the 211th section of the Bankruptcy Consolidation Act; and further, that he was bound by the arrangement to which more than the legal

three-fifths in number and value of Mr. Foster's other creditors had come. His Honour gave judgment for the plaintiff.

At a meeting of county and borough magistrates and other gentlemen in this town, on the 31st ult., it was resolved that a public subscription should be entered into for the purpose of presenting to John Leigh, Esq., late stipendiary magistrate for South Staffordshire, a token of respect from the inhabitants of South Staffordshire upon his removal to Worship-street Court.

Ireland.

REAL PROPERTY LAW AMENDMENTS OF THE SESSION 1860.

The late session of Parliament, barren as it proved with regard to legal improvements in England, was partly redeemed from a similar stigma in the estimation of Irish lawyers by the passing of two Acts of a practical character relating to land in Ireland. The statutes 23 & 24 Vict. c. 153 and 154 became law, not without much discussion; but, having surmounted all obstacles, mainly through the determination shown by Mr. Cardwell and Serjeant Denny, they at length received the royal assent; and it remains to be seen how far the expectations will be realized of those who have predicted their failure in practice.

The object of the first of these Acts, "The Landed Property Improvement Act," is sufficiently indicated by its title. Hitherto improvements on land have either been neglected altogether, or have been effected through advances of public money under several modern statutes. It was, however, felt that there was money in abundance in private hands applicable for this important purpose, and that the want to be supplied was that of a guarantee that improvements effected on settled estates (and few large estates in Ireland are out of settlement) should be fairly paid for, and that the benefit of expensive works done by one person should not be wholly reaped by another person. Accordingly, this Act enables improvements to be carried out on settled estates with private funds and on equitable terms; and it further contains leasing clauses which promise to supersede the more costly machinery provided by the "Settled Estates Act" of 1856. Then follows the part of the Act relating to "improvements by tenants," a subject most fully discussed in Parliament. The Act in its present shape gives every security that a landlord shall not in any case be charged for improvements made on his estate against his will. As this Act very closely concerns those connected with the landed interest as owners, or mortgagees, it may be well to glance at its chief features as briefly as possible.

A limited owner, that is, a person entitled for the term of his life to the enjoyment of an estate, under any deed or will, is empowered to charge the estate as against the remaindermen with the cost of any of the following improvements—thorough or main drainage of land; reclaiming land from tidal or other waters; embankments; reclamation or inclosure of bog and waste lands; making of roads or fences; erection of farm-buildings, houses for stewards, labourers, &c., and other buildings for farm purposes; and the renewal or reconstruction of any of the foregoing works, or alterations in or additions to them.

The Act proceeds to point out the way in which the improving owner is to proceed. A statement of the intended improvements, containing also all further particulars that can be material, is to be lodged in the Landed Estates Court, a judge of which Court is, after the service of notice on all parties interested, authorised to sanction the proposed improvements. After the works are completed, proof of their completion is to be furnished to the Court, which may then finally make a "charging order" (after another notice to the successor and all persons interested), charging the estate with payment of an annuity of £7 2s. for every £100 shown to have been laid out in such improvements, and payable for twenty-five years to the limited owner or his representatives. This annuity is, unless the judge shall otherwise direct, to have priority over all other charges or incumbrances whatever (excepting Government advances, head rents, &c.) The order charging the annuity is to be registered in the proper office. Regulations are to be made by the Court as to the details of procedure under this part of the Act.

The next division of the Act relates to leases. Limited owners are empowered under certain conditions to grant agricultural leases for twenty-one years, improvement leases for forty years, and building leases for ninety-nine years. Of every such lease a counterpart must be executed by the tenant

containing a covenant for payment of rent. Agricultural leases may be granted by the owner of his own accord; but if he desire to grant an improvement lease of longer term, he must obtain the sanction of the county judge of the county where the land is situate. Building or repairing leases must also be sanctioned by the same authority; and where the building lease is of land beyond a certain value or extent, or for a longer term than ninety-nine years, the sanction of a judge of the Landed Estates Court must be obtained on application in a summary way. A new attempt is made by the Act to shorten indentures of leases (notwithstanding the failure of similar attempts in former times). It is declared that in agricultural leases covenants for good husbandry, &c., are to be implied, and the usual condition of re-entry for payment of rent is also to be implied in every description of lease. Every lease including any building is to specify on whom the obligation of rebuilding is to lie, in case of loss by fire, &c. The leases are to take effect in possession, and to reserve the full yearly rent; but in the case of building leases, a nominal rent is allowed to be reserved during the first five years of the term.

The Act points out the description of improvements to be provided for in an improvement lease, and authorizes rules of practice for obtaining the sanction of the Landed Estates Court, or the county court, to be made by the judges of those courts respectively.

The third part of the Act has for its object the encouragement of tenants themselves in making valuable improvements on the land in their occupation. The following are declared to be tenants' improvements—thorough or main drainage; reclamation and enclosure; making farm roads; irrigation; embankment from inland waters; erection of farm houses, or buildings suitable to the farm; reconstruction or renewal of any of the foregoing works. The "limited owner," or tenant for life, however restricted by the terms of his settlement, may contract with a tenant for the carrying out of any of these improvements; and after their completion, the tenant will be entitled to receive an annuity for twenty-five years of £7 2s. for every one hundred pounds so expended by him. A statement of the nature and value of the improvements is to be lodged with the clerk of the peace of the county, and the sanction of the county judge must be obtained. But before making the order charging the lands, the judge must hear any objections that may be raised; and he is authorized to make inquiries through competent persons, and on his being satisfied that the amount has been *bona fide* expended, he may make the order charging the annuity in favour of the tenant and his representatives, payable for twenty-five years annually from the date of the order. The annuity is to be in suspense so long as the tenant continues in his tenancy, and becomes actually payable only on his being ejected from his tenancy. Where no express agreement is entered into between tenant and landlord, the tenant is enabled to serve a notice on the landlord specifying the improvements he desires to make, with other particulars, and the estimated expense. The landlord may thereupon take either of three courses. He may, by agreement with the tenant, himself execute the works, charging the tenant an extra five per cent. upon the outlay to be recovered as rent. Or he may, within three months, notify to the tenant his unwillingness that the land should be improved; in which case, as no appeal lies, the improvements of course cannot be executed at all. Thirdly, the landlord may remain passive, and permit the tenant to execute the works at his own cost, to be repaid by an annuity as before stated.

Such are the leading features of this Act, which must surely remove any difficulties interposed by the English laws of settlement in the way of land improvement.

We reserve for the present a notice of the second and more lengthy Irish Real Property Act of this session—the Landlord and Tenant Consolidation Act.

In the Court of Exchequer on the 3rd inst., in a cause of *Armstrong v. The Earl of Meath*. Mr. Whiteside, Q.C., for the plaintiff, applied to the court to allow the case to stand over for a few days. He had received Mr. (now Master) Fitzgibbon's brief, and as the case had been partly argued, he wished to learn from the Master where he left off, so that he (Mr. Whiteside) might take up the case at that point, and thus save the time of the Court.

The CHIEF BARON said that under the circumstances the case might stand over.

Mr. Lawson, Q.C., has been called to the degree of second

serjeant-at-law, and Mr. Sullivan, Q.C., to the degree of third serjeant-at-law.

Mr. Gerald Fitzgerald, Q.C., has been appointed one of the Masters of the High Court of Chancery.

Foreign Tribunals and Jurisprudence.

(From the *Gazette des Tribunaux*, 17th Oct., by WILLIAM HACKETT, Esq., Barrister-at-Law.)

COUR IMPERIALE DE BOURGES.

TREASURE-TROVE—PARENTAL LIABILITY.

The discoverer of treasure is entitled to a moiety of it, to the exclusion of others who were present at the time of the finding, and aided the finder in collecting the treasure.

The parent is not liable for the mis-feasance of the child, where he could not have prevented the act complained of, and there is no evidence that the education of the child has been culpably neglected.

The Imperial Court of Bourges has lately made a decision with reference to treasure-trove not without interest. It appears that Jacques Descoux, a youth who was employed in digging the foundation for a new house in Bourges, discovered a treasure buried in the earth, consisting of a hundred and fifty-eight pieces of gold. He called his comrades, and together they collected the gold, and placed it in the hands of Rollin, the master mason, who made a division of the spoil; but Descoux, conceiving that he was wronged, summoned Rollin and the others before the Tribunal of First Instance.

Descoux, the father, in the name and as the guardian of his son, claimed that his son, as the finder of the treasure, was entitled to it, to the exclusion of all the other workmen who were working with him at the time of the discovery; that, notwithstanding, he had been despoiled by the others, who, profiting by his inexperience, had robbed him of the greater part of the treasure, and only allotted to him an inconsiderable portion of the sum found; and concluded by calling upon them to restore the value of half the treasure, with interest and costs. The land in which the treasure was found belonged to the department of Cher, and by law half of it was the property of the department. Accordingly, the Prefect of Cher intervened as representing the department, and demanded the restitution of half the treasure. The judgment of the Court declared the intervention of the prefect receivable and well founded; that Descoux must be considered as the sole discoverer of the treasure; condemned the defendants to recoup; ordered one moiety to be paid to the prefect, and the other moiety to Descoux.

On appeal to the Imperial Court the judgment of the Court below was confirmed as far as concerned the rights of the prefect and the right of the finder; but as regarded the liabilities of the different defendants the judgment was considerably altered. There is one clause of the judgment which we will give *in extenso*, as showing the different policy of the French law from our own. It seems that one of the defendants was simply charged as the father of one of the workmen, being himself altogether unconnected with the transaction. The language of the Court was as follows:—

"Considering, that the article 1384 of the Code Napoleon does not decide that every fault on the part of a son absolutely involves the responsibility of the father, since the same article enacts that this responsibility ceases if the father proves that he could not prevent the action which occasions it; that in the present case it is true that Gabriel Jean lived with his father, but that he habitually worked in a workshop and under the orders of a master who, up to that time, had enjoyed a good reputation; that it was at the usual hour, and during the time of labour, and under the eyes of his master, and even by his act, that the said Gabriel Jean took the sums the restitution of which is claimed; that it seems, therefore, that Jean the father could not possibly have foreseen and prevented such an act; that neither the correctional information nor the civil proceedings have shown any evidence which tends to incriminate either the morals of the father or the education which he has given to his son; that indeed, it is alleged, without any evidence in support, that the father must have known that the son had money, since he had purchased clothes and utensils, but that the knowledge which he might have had of these purchases could not be of a nature to involve him in the consequences of an accomplished fact, unless he had either concealed or diverted a portion of the product of the *quasi delictum*, in which case he might be proceeded against as personally bound; that, moreover, and in

law, if the father, although absent, may be declared responsible for the acts of his infant son, it can only be, according to the sound interpretation of the law, in cases in which the concomitant and characteristic circumstances of the fault of the son have denoted in him vicious habits which prove the want of domestic discipline; that it is not so in the present instance, in which the faults with which Gabriel Jean has been justly reproached, although punishable by law, do not seem to have appeared with their true gravity and importance to the eyes of a youth of eighteen, as has been acknowledged by the Correctional Tribunal.

"Declares that Jean the father is not responsible for the acts of his son, and discharges him from the claim made against him by the Prefect of Cher and by Descoux."

The Civil Tribunal of Bourges has lately decided that when a station-master of a railroad receives from another station-master a telegraphic despatch to enquire if the road be clear, and answers in the affirmative; whilst it is at the same time blocked up, he commits a fault which makes him responsible in case of accident; and it does not make any difference that he hoped to clear the road before the arrival of the expected train. In the same case the Court held the company liable jointly with the delinquent servant.

M. Charrié, one of the former celebrities of the bar of Bordeaux, is just deceased, at the mature age of seventy-six. His name is not much known amongst the present generation. For the last few years M. Charrié had, to a great extent, retired from the practice of his profession, and devoted himself to his beloved literature. But many years ago, during the palmy days of the First Empire, M. Charrié was distinguished among the brilliant circle of orators who then ornamented the bar of Bordeaux. There was one case in which Charrié at that time distinguished himself—a case which has since been often cited in questions concerning literary property—that of *Madame Lesparde*, about the writings of Chénier. The last cause he pleaded was that of General Clouet, in 1846, before the Royal Court of Paris. His pleading has been printed, and, if we do not mistake, is included in the collection of the *Barreau Moderne*. Frequently of late years, since his retirement from the active pursuit of his profession, he might be seen in the Palais, attracted thither by his affection for his brethren, and the love he still felt for a profession which he had practised with so much ability and dignity.

We are indebted to Mr. A. C. Scoles, of Bedford-row, for the following authenticated translation from the Arabic of a recently executed purchase deed, according to the Mohammedan form, of a house and premises in Jerusalem.

"Seal and signature of the Kadij of Jerusalem.

"This is a true and legal title-deed, a precise and accurate document, the purport of which is framed and its contents constructed from the record of what was transacted and recorded in a sitting of the venerable Law Court, may God most High magnify it, before our lord and master, the very learned and truly efficient judge, who writes the accuracies of law and interpretation, and expounds the principles of both in the best manner, the chief of the judges of Islam, the most learned of all doctors; the mullah who has prefixed his honoured signature at top. May his learning and excellence abide, and his pre-eminence increase.

"Mr. N., subject of the sublime Turkish empire—may the Lord preserve and keep it—bought with his own property, not that of others, of the seller, the writer of this document, the humble N. being present, together with the purchaser in this law-sitting, he then sold him by a true and permanent sale what is his own and in his possession, and transferred and committed to him universally the legal disposal of it, having purchased it in the way of legal *Estakhar* according to a legal title deed dated rajah twelve hundred and seventy-three, the property having accordingly been in his full permanent and abiding possession without any objection or opposition having been made to him on this score up to the time of this definitive true legal and authentic sale—namely, the whole of the well-known share of three *keerats*, from the whole of twenty-four *keerats*, situate in the holy city of Jerusalem, near Damascus-gate in the Zarahny-street, and is known now by the name of Dar-el-Burahy, and is now in the possession of Rev. N., and comprises an upper room and an open space in front of it, and a lower room (formerly two),

and an open arching, a kitchen, a water-closet, and a small arched magazine, and a water-cistern for gathering rain-water, and open spaces and partances universally, compounds, and legal rights:—The boundaries of which are:—southward, the thoroughfare of the lane and the house-door; eastward—the house formerly belonging to M., and now in the possession of N.; northward, a house bequeathed to the Greek convent; westward, the thoroughfare between this and the house of Rev. M., joined to it by an arching, beneath of which is the thoroughfare:—Sold all rights belonging to the same, together with all its partances universally, its passages, its sewers, its compounds, and whatever is known by it or ascribed to it, together with every right belonging to it in law—a true and lawful sale; a permanent, definitive, and authentic purchase, in which is no subterfuge nor any flaw that could invalidate it, comprising acceptance and receipt on conditions of validity and obligation at a price the amount of which is four thousand piastres, a price immediately received by the hand of the writer of his the aforesaid seller from the hand of the aforesaid purchaser, according to the confession of the seller, who received the same from the purchaser, a legal acknowledgment in virtue of which the conscience of the aforesaid purchaser is cleared of the whole of the price named above, and of every part of it, and legally absolved by receipt, a disbursement, so that the definitive act of sale has taken place between them in regard to all this in acceptance and receipt and disbursement true and legal by bodily touch in token of agreement between them, and by a legal contract. Wheresoever, therefore, anything comprised in or belonging to this property be found there its appropriation is valid, because obligatory by law. Then, after the completion of this, the writer of this, the aforesaid seller, called witnesses to attest that he absolves the conscience of the aforesaid purchaser from all allegations of overreaching, imposition, or deception in this sale, an absolution in law. The purchaser has legally accepted for himself this transaction, being well aware of the stipend of Haker for this afore-described share in this aforesaid house, amounting to ten piastres per annum, to the bequest of the late Mr. N. (may God absolve him).

"This the purchaser willingly accepts, and binds himself legally to pay the sum mentioned every year to the aforesaid bequest.

"Accurately written in the commencement of the sacred month Salkadij, in the year three and seventy and two hundred and one thousand.

"Witness—

"The writer, the humble N. N.

NEW YORK.—A decision has just been pronounced in this State which affords a striking illustration of the evils of hasty legislation. The revised statutes of New York contained, among others, "An Act concerning Crimes and Punishments;" wherein it was provided that certain offences should be punishable with death, and that "the punishment of death shall in all cases be inflicted by hanging the convict by the neck until he be dead." Last winter the philanthropists made an effort to have capital punishment abolished. They had a long hearing before the Assembly Committee, which resulted in a compromise, providing that only treason and murder in the first degree should be hereafter punished with death, and that the sentence should not be carried into execution within a year after conviction, during which time the convict should be kept at hard labour. The repealing clause of the new Act was intended to embrace all the clauses of the old Act inconsistent with it; but, by some error, it included the words quoted above. It is decided by the Court that the new law, having abolished the only statute defining hanging as the mode of punishment, and itself prescribing no new mode, there is now no known sentence which can be pronounced against a person convicted of murder in the first degree. Thus, by the possible mistake of a clerk, or the trick of an agent, the Legislature of the State of New York have been forced into the temporary abolition of capital punishment.

THE HAGUE.—*International Criminal Law*.—A subject of very grave importance to the mercantile community will shortly occupy the attention of the superior criminal court at the Hague. In January last a Dutchman, named Charles Van Gelder, who was employed in a confidential capacity by Mr. Stubbs, the principal of a firm in Gresham-street, absconded with money and other property belonging to that gentleman, and it turned out that he had also committed forgeries to a very considerable extent, and had obtained discount upon bills purporting to bear the acceptances of city firms, some of which, upon inquiry, it

was discovered were non-existent, and others were forgeries. By escaping to the Hague he eluded the English police, since no extradition treaty exists between this country and Holland, and as he declared himself a Dutch subject, the Dutch government refused to deliver him up. The important question then arose whether the Dutch criminal courts could take cognizance of a criminal offence committed in a foreign country. Through the interference of the British minister, the law officers of the Netherlands government were at length induced to take an interest in the matter, and to see the very grave importance of the question, and they resolved that the matter should at all events undergo solemn judicial consideration by the law officers of the crown. With this view Mr. Stubbs and all the other witnesses required to support the case were summoned to appear, and they gave their evidence, and the prisoner himself, in accordance with the law of Holland, underwent several interrogatories by the judges, and after a long inquiry, and a strenuous endeavour on the part of the prisoner's advocate to prevent such a course being taken, he has at length been sent to take his trial before the supreme court of justice at the Hague, upon the charge of forging acceptances to certain bills of exchange, the alleged offences having been committed in England. The case now, therefore, stands for trial before the judges, when the point of law will be discussed whether a subject, committing forgery or fraud in a foreign country, can be convicted in Holland. Should this point be decided in the affirmative, the comparative immunity which has been available to persons absconding to that country will be destroyed.

The *Upper Canada Law Journal* informs us that an Act has been passed for the province of Lower Canada providing for the establishment of a complete system of judicial statistics.

Review.

A Treatise on the Law of Merchant Shipping. By DAVID MACLACHLAN, M.A., of the Middle Temple, Barrister at Law. London: Maxwell.

It is now more than half a century since Lord Tenterden (then Mr. Abbott) wrote his famous treatise on the "Law relative to Merchant Ships and Seamen." For more than a century previously, no work of any pretensions on this subject had been achieved by an Englishman. In the eighteenth century the great text book of lawyers on maritime and commercial law was that of Molloy,* which, even in those days, went through as many editions as since then Abbott on Shipping has attained. If we except the unquestionably valuable additions which have been made from time to time to the latter, by its accomplished editor, and the recent collection of leading cases on mercantile and maritime law by Mr. Tudor, comparatively nothing has been done since the commencement of the present century by English text writers towards the elucidation of one of the most important and comprehensive branches of law, and one, moreover, which it might be supposed beforehand would be deemed of all others the most attractive for our jurists. The remark of Lord Tenterden in the preface to his first edition, although he did what he then could to make it no longer applicable, has just as much force now as it had then. "The absence," said his lordship, "of a general and established code of maritime law which almost every other European nation possesses, seems to render a collection of the principal points of that law peculiarly necessary for English merchants and English lawyers." Since those words were penned a vast number of additions have been made in the statute law relating to ships and shipowners. A great revolution, moreover, has taken place in the mercantile marine not only of England but of all countries. On the one hand, the invention of steam engines and other appliances of science, by the vast changes which they have wrought in the material of our commercial navy, and in commerce generally, and on the other, many modern treaties and conventions involving questions of maritime law, combine in proving the necessity of some large and systematic treatise on the English law of merchant shipping, including not merely such questions as relate to owners, mariners, and freight, but those larger topics which belong to international maritime law. There is perhaps nothing in the legal literature of this country more surprising than the fact that no English lawyer has ever yet (until the last year or

two) seriously essayed a work on this great subject. The work of Mr. Tudor, to which we have already referred, may be considered the first important effort in this direction; but its plan necessarily involved fragmentary treatment, the design of the learned author never having gone beyond the selection and illustration of some leading cases on mercantile and maritime law.

Whether we regard the origin of modern maritime law as traceable through the Roman jurists to such sources as the laws of Rhodes, or regard it as a species of unwritten law common to all civilized states, in either view, surely no department of jurisprudence can offer a more desirable field to an English jurist. Few topics at all events have been more laboured by foreign writers on law. An Italian lawyer of the latter part of the last century wrote in his native tongue a universal dictionary, and in the French language a treatise, on the maritime law of Europe.* An American lawyer has translated the last mentioned work, although but very few copies of the translation have found their way to Europe. The Germans can boast of Heineccius,† and the several writers referred to by him, Engelbrecht,‡ and other writers on maritime law. Among the numerous Dutch and Flemish lawyers who have written upon the subject may be mentioned, Roccus,§ Pardessus,|| and Hübner§. The French can boast of numerous works of the same kind: Pothier of course treats largely and in detail of ships and shipping; and every French lawyer may find any question coming within the range of the subject in the Code de Commerce. Spain also has its maritime law authors.** It appears not unreasonable, therefore, for an English jurist in this latter half of the nineteenth century to look for the favourable reception of a book which is not confined merely to the class of questions to be found in Abbott on Shipping. Previously to and for some time after the last-mentioned work had left the hands of its author, the Admiralty Court of England existed in scarcely more than a name; and Lord Stowell, its first great judge, who, in fact, laid the foundations, and almost reared the superstructure of English maritime law, himself expressed his shame at the small amount of judicial work which he had to do. The labours of Lord Stowell, however, have been almost rivalled by those of one of his successors who now presides over that court; and probably in no other country in the world is there any richer storehouse of materials for a great book on maritime law than is to be found in the judgments of these two learned civilians and in the decisions of our English tribunals generally. Mr. MacLachlan, therefore, in what he has undertaken had not only the satisfaction of knowing that he was about to engage in a work almost of necessity to English law, but had further the advantage of dealing with a large mass of most valuable, although somewhat undigested, matter. Not only does the general scheme and design of his treatise differ in numerous important respects from that of Lord Tenterden's Treatise; but to a large extent the very subject matter itself is new to English text books. Mr. MacLachlan favours us in his preface with the following account of his general plan:—

"The following treatise, planned upon the order of the subject, opens with the acquisition of ship property, and those dealings with it, when acquired, which are recognised and sanctioned by law. It passes from this to the various relations of the owners in connection with such property—among themselves, with their agents, to the world at large, the mariners in particular, and generally to the owners of other ships that may be met with on the maritime highway. Thus far it comprises only those dealings and relations, legally considered, which begin and end immediately in the possession of this description of property, forming what may be regarded as the first grand division of the subject. The second division is concerned with the commercial purpose of ship property, and all those obligations which are severally contracted by the owner and the freighter in the employment of it for that end, whether expressly stipulated between them at the first, or implied by law from the relation thus formed, in connexion with the course of subsequent events. The subject, in this view of it, appears distinctively massed about a few centres, presenting for the investigation of it a plan that easily admits of the full discussion of particulars whilst it naturally combines towards the general development of the whole, and immediately accessible

in any part of it to a mere stranger. The complete conception of a work of this nature comprehends a variety of subjects not hitherto considered within the same treatise. Ships regarded as property, although engaging so large an amount of British capital, did not enter into Mr. Abbott's scheme. The General Maritime Law and the Law of Nations, touching international questions, have heretofore been dismissed with the casual notice of a few decisions; and yet, as administered in the Prize Court, they affect shipping, and merchandise, and the profits of the carrying trade, being universal in the applicability of their principles, and bearing sensibly in their effect upon the interests of communities and the prosperity of a nation."

We are able to say after a careful examination of the book before us not only that the author's own account of it is correct, but that he scarcely does himself justice in it. Unpretending as is his statement of his labours they will be found upon examination to have been of a magnitude and character which would be held by most persons to justify what brother Jonathan calls "taller talk." Simple as the general arrangement of the work and the grouping of its details may appear from Mr. MacLachlan's preface, there are evidences throughout the entire book not only of great skill in dealing with new subject matter, and arranging it in a natural and convenient manner, but of untiring labour in the attempt to obtain perfect completeness. With much searching we have been able to discover very few omissions, and even where they occur there generally appears to be some reason for them. As a rule every reported case bearing upon the topic under consideration is noticed by the author; while he is always remarkable for his self-denying abstinence from unnecessary statement of facts, needlessly long quotations from well-known judgments, and the other machinery of modern book-making. Whatever Mr. MacLachlan has written is evidently the result of his best consideration, and is expressed with precision and conciseness.

Another creditable feature of this work is, that while the author rarely fears to approach the most difficult questions of international maritime law, and treats them with more boldness than is usually shown by English jurists in this province, he is never tempted away into the regions of mere speculation, but always keeps his eye closely upon the practical value of what he is doing. Indeed, we hardly know how to give a higher praise to a legal author, or we should be disposed to award it to Mr. MacLachlan for his performance; for we have seldom met with a law book that deserves more praise in many respects than that now before us.

As to the omissions to which we have already alluded, we may mention the subject of marine insurance. Lord Tenterden omitted it purposely, as the subject had already been well treated; and since then Mr. (now Sir Joseph) Arnould has done all perhaps that is needed on that subject. The omission of it, nevertheless, in a work devoted to general maritime law requires some explanation, and is not unlikely to cause the overlooking of a class of decisions which, although they come under the general head of marine insurance, nevertheless involve many nice questions touching other points of maritime law, *ex gr.*, the implied warranty of seaworthiness in insurance contracts, what amounts to, and what justifies, a deviation from the usual course, &c. The space devoted by Mr. MacLachlan to the question of the right of search and to the doctrine of contraband of war, is so limited as to disable him from introducing into his text all the authorities which he might usefully have cited. Probably the fact that Mr. Tudor had already collected all the cases on these topics induced Mr. MacLachlan to treat them more summarily than he otherwise would have done. The chapter on general average is characterised by lucid arrangement, and gives a succinct account of English law on that important subject, but it barely alludes in passing to the troublesome differences in the laws of various countries, as to the nature of the loss, damage, and expense, allowable in general average, and in the principle for the ascertainment of the same respectively. Mr. MacLachlan's explanation probably would be that he was not writing an account of the maritime law of Europe and America, but of England; and although he was willing to discuss doctrines of the latter, so far as they were common to the English and other systems of jurisprudence, he was not obliged to go out of his way to point out the differences. The question of general average, however, is eminently one of international importance; and a book professing to deal with the law of nations, so as it affects maritime law, ought not to be all but silent on this head.

* *Dizionario Universale Ragionato della Giurisprudenza Mercantile.* By Domenico Alberto Azuni. *Droit Maritime de l'Europe.* By the same Author.

† *Scriptorum de Jure Nautico et Maritimo Fasciculus.*

‡ *Corpus Juris Nautici, &c.*

§ *De Navibus et Naulo.*

|| *Cours de droit Commercial.*

§ *De la Saisie des Batimens Neutres, &c.*

** *Capmany y de Monpalan.*

Metropolitan and Provincial Law Association.

THE LAW OF JUDGMENTS.

The following learned and very useful paper on the Law of Judgments as affecting Real Property, was read by Mr. G. J. Johnson, of Birmingham, at the late meeting of this Society:—

The clauses as to judgments in Lord St. Leonards' Act of last session (23 & 24 Vict. c. 38) are the *fifth* legislative attempt during the last twenty years to amend this branch of the law.

It was supposed by many of us, and hoped by all, that this last Act would remove all the difficulties, and abolish all the inconveniences which the four previous Acts have created. This supposition is unfortunately *not* correct; for although the Act is a great improvement, yet it is tainted with the vice of all previous legislation on the subject, viz., that of amendment without consolidation, and leaves the old law in full force in two classes of cases:—

1. As to all judgments entered up before 23rd July, 1860, even as against purchasers and mortgagees.
2. As to all judgments either before or after the Act, so far as concerns the judgment debtors themselves and their creditors, and all other persons except purchasers and mortgagees.

We have not therefore yet got rid of the law of judgments; and the object of this paper is to describe briefly the state of that law, the extent to which it is altered by Lord St. Leonards' Act, and incidentally to show how many difficulties have occurred by the neglect of the principle that there should be no amendment without consolidation.

Singular as it may appear, we cannot thoroughly understand the subject without beginning with the Statute of Westminster the Second (13 Edw. 1, c. 18, A.D. 1285); and if any one thinks this pedantic and impractical, I would refer him to the recent case of *Fuller v. Redman*, (reported in the *Law Journal* for the present year), in which an unfortunate administrator had his payments to simple contract creditors disallowed as against a judgment creditor, only because this statute was still in force and had been overlooked in the four Acts for the amendment of the law of judgments.

This Statute of Westminster the Second, then, first affected real property with judgments by enabling the judgment creditor to have at his election either a *feri facias* or the half of the debtor's freehold lands. From this election the writ under which the lands were taken was called an *elegit*. It is to be noted, that the distinction between freeholds and leaseholds, which has ever since prevailed and which is the basis of the legislation of the last session, dates its origin from this early period, for the debtor's leasehold interests might either be taken in the entirety, as personal property, under a *fi. fa.* or a moiety attached under an *elegit* as an interest in lands.

Again, between freeholds and leaseholds there was also this difference, that the moiety of the freeholds was bound from the signing of the judgment; but the leaseholds under a *fi. fa.* only from the time of the delivery of the writ to the sheriff (29 Car. 2, c. 4, s. 16).

For the protection of heirs and executors, purchasers and mortgagees, it was provided by 4 & 5 W. & M. c. 20 (A.D. 1692), that no judgment should affect them unless docketed as there directed.

So stood the law at the time of the passing of 1 & 2 Vict. c. 110. The object of that Act was to extend the creditor's legal remedy to *all* the debtor's *real estate* instead of *half* his freeholds; to give him increased equitable remedies; and to establish an improved system of docketing, called registration, for the information and protection, not only of the purchasers and mortgagees (as the old dockets) but of creditors.

Here occurred mistake the first. Instead of repealing the statute of Westminster the Second and starting afresh, it was simply provided that a judgment creditor might have the whole of his debtor's real estate under an *elegit*, but that no judgment by virtue of that Act should affect purchasers, mortgagees, or creditors unless and until registered.

The result was, that as soon as 1 & 2 Vict. c. 110 was passed a judgment creditor had two courses open to him, i. e., either to docket under the old law and take half his debtor's freehold lands, or to register under the new law and take the whole of his debtor's real estate. It must not be supposed that this was not likely to be done: it was; and for this reason, that under the old law a judgment creditor was entitled to relief in equity against a purchaser or mortgagee if he had given express notice, although he had not docketed (*Davis v. Earl of Strath-*

more, 16 Ves. 419) and as it was thought (and afterwards expressly provided) that under the new law notice was nothing without registration, a creditor who had not registered might act on the principle that "half a loaf was better than no bread," and so give notice and take his chance under the old law.

As soon as this mistake was discovered, and in the very next session, the 2 & 3 Vict. c. 11 was passed expressly to correct it, and instead of correcting it made the matter worse by simply closing the old dockets (s. 1) and leaving unaffected the judgment required to be docketed. In other words, it left the old remedy outstanding and simply withdrew the old protection against it! The creditor's right to take half his debtor's lands was still untouched, and though he could not make it available at law, the unreversed decision in *Davis v. Strathmore* enabled him to do so in equity as against a purchaser or mortgagee with notice. Indeed, it was mooted whether express notice without registration was not a ground of equitable relief under the new Act. To settle these doubts a *third* Act was passed (3 & 4 Vict. c. 82) which certainly did settle that notice however express without registration, did not avail under the new law, but still left it open to a judgment creditor to charge one half of his debtor's lands in equity under the old law, by giving express notice, although he had not registered under the new law and could not docket under the old. To stop this gap a *fourth* Act was necessary—18 Vict. c. 14. Sect. 4 of this Act finally declared that express notice of any judgment without registration under 1 & 2 Vict. c. 110 should not affect a purchaser, mortgagee, or creditor, either at law or in equity.

So much for the first serious error, that of leaving two concurrent and conflicting systems in operation at one time. In addition to this there were two other omissions in the 1 & 2 Vict. c. 110. First it did not declare whether registration was in itself notice, and secondly it left it very doubtful whether the former distinction between freeholds and leaseholds (i. e. that freeholds were bound from the entry of the judgment, but leaseholds only from the issuing of the execution) survived in the new system.

These omissions were supplied by the 2 & 3 Vict. c. 11, in the worst possible way, i. e., by reference to the old law instead of declaring the new. Sect. 5 of the last-mentioned Act provides that as to purchasers and mortgagees judgments under 1 & 2 Vict. c. 110, should not affect lands "further or more extensively" than if such judgments had been docketed under the old law. It would have taken fewer words to have said plainly (1) that registration should not of itself be notice to purchasers or mortgagees, and (2) that as to them, leasehold interests should not be bound until execution issued. But the Legislature preferred to throw upon the profession the task of finding out what the old law was, and if we could find out that, then telling us that the new system did not affect lands "further or more extensively" than the old.

If the practitioner looked up the old cases he would find it was decided in the reign of Charles II. (*Churchill v. Grove*, Freeman's Chy. Ca. 176), that docketing was not notice. Few solicitors felt quite satisfied with these musty authorities until they were recognized as valid under the new law in *Lane v. Jackson*, 20 Beav. 539, where it was held not only that registration was not notice, but also that there was no obligation on a purchaser to invite notice by searching the register. Although if he does search he is fixed with notice of judgments on the register, whether he finds them or not (*Procter v. Cooper*, 2 Drew. 1).

Notwithstanding these decisions I have frequently had occasion to discuss this point with other solicitors, and have found the notion to be very common that registration was of itself notice, and I contend that it is a point which ought to have been clearly settled on the face of the Act itself.

But it may be asked, if notice without registration is invalid; and registration without notice also inoperative as against a purchaser or mortgagee, why search at all? why invite notice by search? One sufficient reason is that a subsequent purchaser who does search may find a judgment was registered of which if you had searched, you would have been fixed with notice, and in the nature of things you cannot prove that you did not search, and did not have notice, and such a title cannot be forced on a purchaser (*Freer v. Hesse*, 4 De Gex M. & G. 495).

The other point as to the precise effect of the new Acts on leaseholds on which the Legislature ambiguously declared that such Acts were not to operate "further or more extensively" than the old as against purchasers or mortgagees, occasioned much difference of opinion. By the cases of *Westbrook v. Blythe*, 3 E. & B. 737 (A. D. 1854), at law; and

Harris v. Davison, 15 Sim. 128 (A.D. 1846); and *Gore Bousser*, 3 Sm & G. 1 (A.D. 1855), it may be taken to be settled that as against the judgment debtor himself, and all others claiming under him, *except purchasers and mortgagees without notice*, leaseholds are now bound from the time of the judgment entered in the same way as freeholds, and that a judgment creditor is in a better position than under the old law, in that his right to seize at law and his lien in equity takes date from the entry of the judgment, whereas under the old law he had no right either at law or in equity until the *elegit* or *fi. fa.* actually issued. But as against purchasers and mortgagees without notice the judgment creditor's right takes date only from the time of execution issued, and it would seem (as stated in the late Mr. Baron Watson's argument in *Westbrook v. Blyth*, although this has never been decided) that the creditor could only take half of the leaseholds. This is one of the fruits of legislation by reference.*

Another serious omission in the 1 & 2 Vict. c. 110, and its three amendment Acts was the case of heirs, executors, and administrators. The effect of the Statute of Westminster the Second, was to bind them to pay judgment debts in priority to simple contract debts, whether they had notice or not. The 4 & 5 W. & M. c. 20, furnished them with a protection by obliging judgments to be docketed as a condition precedent to their obtaining priority. The 2 & 3 Vict. c. 11, took away this protection, but (as was decided by the before cited case of *Fuller v. Redman*, L. J. 1860, Ch. 324), left the mischief remaining by omitting all mention of heirs, executors, or administrators in the class of persons protected by non-registration and non-notice. This is cured by sect. 3 of Lord St. Leonards' Act.

Now all this mischief and complexity has been brought about by the neglect of that most salutary rule—no alteration without consolidation. If at the time of the passing of the 1 & 2 Vict. c. 110, the Statute of Westminster the Second, the root of the old system had been taken away we should not have required four amendment Acts to lop off its different branches. It does not fall within the scope of this paper to advert to the other vexed questions arising on these Acts, such as the effect of re-registration, and other points. I have only adverted to those questions as to freeholds and leaseholds, and notice, necessary to introduce the new Act.

Now for the Act itself. The preamble states that it is desirable to do three things.

1. To place freehold interests in real estate on the same footing with leaseholds as to judgments so far as purchasers or mortgagees are concerned [i.e. to bind them by the execution and not by the judgment].
2. To enable such purchasers and mortgagees to ascertain when the execution has issued; and
3. To protect them against delay in levying the execution.

These three objects are effected in the following way, as to the first:—No judgment is to effect any land of whatever tenure as to purchasers or mortgagees unless and until such judgment is followed by execution.

[So far, therefore, as purchasers and mortgagees are concerned mere judgments entered up subsequently to 23rd July, 1860, have no operation. It is only an execution that they have to fear.]

The second object, that of enabling purchasers and mortgagees to ascertain when execution has issued is accomplished.

1. By establishing a new registry of executions distinct from, although connected with, the registry of judgments; and
2. By making it necessary that the execution shall be so registered before the purchase or mortgage. If not so registered, it does not affect a purchaser or mortgagee, even though he has notice of it.

On this part of the Act it is to be carefully noted that we shall henceforth have two registers:—

1. A register of executions, affecting purchasers and mortgagees only; and
2. A register of judgments, affecting all others than purchasers and mortgagees, and affecting them as to judgments before 23rd July, 1860.

From two letters of the registrar's chief clerk, published in the legal periodicals in August last, it appears that the practice

proposed to be followed by the register office, with the concurrence of Lord St. Leonards himself, will render it necessary—

That the judgment creditor should register his judgment in the judgment register, and also register his execution in the execution register, but that purchasers or mortgagees need only search the judgment register as heretofore, as they will find a memorandum added to every judgment whenever an execution has been issued. When such memorandum is not found, it may be presumed that execution has not been issued, and therefore could not be registered. Where such a memorandum is found, the register of executions must be searched to see if the second requisite—viz. registration of execution—has been complied with.

Upon this section the old question is sure to arise, will the registration of execution be of itself notice? The committee of the Birmingham Law Society in a report on the bill, in which I had the honour of assisting, earnestly suggested that a declaratory clause on this point should be inserted in the Act. This has not been done, but I submit that registration of an execution is not notice under this Act to a purchaser or mortgagee. The point is not free from all doubt, for it may be contended that as the declared object of the Act is to "place on the same footing" freehold and leasehold estates, and as leaseholds were at the time of the passing of the Act bound by the issuing of a *fi. fa.*, freeholds to be on the same footing must be bound by the issuing of the execution, if and when registered before the purchase or mortgage. The reply to this is, that leaseholds were only bound by the issuing of an execution, *when that execution was a fi. fa.* treating such leaseholds as goods. Leaseholds were never bound by an *elegit* from the time it was issued only from the time of execution. And granting even that s. 1 of the 19 & 20 Vict. c. 97, that a *fi. fa.* shall not bind goods until notice, does not apply to terms of years, so as to make notice necessary, there is nothing in the Act under discussion to destroy the difference of operation between a *fi. fa.* and an *elegit*, and to give an increased operation to an *elegit*. Again, and I rest the matter chiefly on this point, the protection acquired by non-notice is part of the general doctrine of courts of equity which supplements and controls all the statutory provisions, unless this jurisdiction of equity is taken away by express words. The uniform doctrine of courts of equity was that docketing was not notice, that registration is not notice, and, bearing in mind that registration of executions under this Act is not an original system but only an addition and accessory to the already existing registration of judgments this doctrine will surely be held (in the absence of express provision to the contrary), to apply as well to the derivative and accessory registration of executions as to the existing registry of judgments.

The third object of the Act, that of protecting purchasers and mortgagees from delay in the execution of the writ, is accomplished by providing that such writ must be executed and put into force within three calendar months after registration. In other words it remains a charge on the land for three months only; and as there is no provision for re-registration as in the case of judgments, it is presumed that it cannot be kept alive beyond three months.

The results of our enquiry into the Law of Judgments may be summed up thus.

As far as the debtor himself is concerned, and all persons claiming under him, except purchasers, mortgagees, and creditors, the judgment may be enforced by an *elegit* at law on all his real estate, and is a charge thereon in equity; and no registration is required for that purpose.

As far as purchasers, mortgagees, and creditors are concerned, the question how far they are affected will in future depend on whether the judgment was entered up before or after the 23rd July, 1860.

1. If the judgment was entered up before 23rd July, 1860, it must be registered under 1 & 2 Vict. c. 110, and such purchaser or mortgagee must have notice of such registration. Neither notice without registration nor registration without notice will do. There must be registration and notice, but notice will be implied from search of the register.

Any judgment entered up before 23rd July, 1860, may, it would seem, be kept alive indefinitely by re-registration every five years.

And it would seem also, (from *Beavan v. Earl of Oxford*, 4 W. R. 112) that if it were not continuously registered e.g. if the five years expired in 1860, and it were not re-registered until 1861, a purchaser or mortgagee with notice in 1862 would be bound. Hence arises the necessity for keeping in view the old law.

2. If the judgment was entered up after the 23rd of

* It is not yet decided how far sect. 1 of 19 & 20 Vict. c. 97, "The Mercantile Law Amendment Act, 1846," which enacts that goods shall not be bound by the mere delivery of writ to the sheriff as before, but only after notice that the writ is so delivered, applies to terms of years. The argument that it does not is derived from the preamble of the Act, declaring its object to be to remedy inconveniences to persons engaged in trade. The argument that it does is that the same term "goods" in the Statute of Frauds has been held to comprise terms for years.

July, 1860, it must *as to purchasers and mortgagees* not only be registered, as before, as a *judgment*, but must ripen into an *execution*, and be registered and enforced as provided by this Act; but as *creditors* are not mentioned in this Act they are in the old position, *i.e.* the same as though it had been entered up before the 23rd of July, 1860.

I have exhausted my limits in the attempt to explain what the law is; I cannot conclude, however without observing that the present anomalous system will soon require alteration. I fear that the existence of two concurrent registers affecting distinct classes of persons, will, like the collision of the old dockets and new register, occasion difficulties which we cannot see at present.

Independently of that, it seems to be clear that if it is good policy to give a judgment creditor a claim on the real estate of his debtor, it is a departure from that policy to reduce his claim to a shadow, as it will be under this Act. If, on the other hand, it is right so severely to restrict these claims as against purchasers and mortgagees, it is equally right and incomparably more convenient to relieve purchasers and mortgagees altogether from them.

National Association for the Promotion of Social Science.

PROCEDURE IN CRIMINAL CAUSES.

The following paper by Mr. J. Campbell Smith, advocate, suggesting some amendments in the procedure of criminal courts in England and Scotland, was read by that learned gentleman in the Jurisprudence Department of the recent Congress at Glasgow:—

I assume as settled that the end of criminal prosecution is to punish crime, and that every crime is a *fact* to be proved by witnesses according to the rules of evidence to the satisfaction of a jury of twelve or fifteen men. Besides the jury, the agents in a criminal cause are the prosecutor who accuses, the counsel of the accused, and the judge who decides when disputes arise as to the admissibility of evidence or the *relevancy* of the allegation of crime. The duty of all these is well settled both in England and Scotland, and neither country has much to borrow from the other nor much to amend. But there are some improvements which both might adopt with advantage.

One very great improvement I think England might borrow from Scotland, and that is the institution of a staff of local prosecutors for the public, to investigate crime and to collect evidence of crime to be used against the criminal at his trial. In Scotland this is done by the procurators-fiscal, who are stationed in each district. The procurator-fiscal, when he receives information of some criminal act, directs investigation, examines witnesses, and sends the result of his inquiry to the crown-agent, who lays it before the Lord Advocate, who is public prosecutor for all Scotland, as the Attorney-General is, in theory, for England, and he or his assistants called *deputes*, direct a trial, or "no further proceedings," according as they consider the guilt of the accused can be established or not. The entire machinery is very simple and is not at all expensive, and it is such that crime cannot be whispered about and escape. But in England there is no machinery. The Attorney-General is public prosecutor, but he has no corps of observation posted over the country to give him information of crime. When a crime is committed no one is bound to bring the offender to justice. Any private individual may do so, but he can do it only at considerable cost; and if it turn out that the prosecution should fail, he may be ruined by an action of damages for "malicious prosecution." The consequence is, that no private individual who has not been deeply injured will run the risk, and even though he has been deeply injured he may sink his sense of public duty and his desire of revenge under his indolence and his fears. And there are some crimes which, though tending to debase and dissolve society, no private person would feel impelled to have exposed and punished. I know that in England crimes that are notorious and sorely nameable pass with impunity. No one finds it to be for his interest to seek them out, prosecute, and see them punished: and I believe that there is no crime whatever except murder which does not in England frequently remain unprosecuted for want of a staff of public prosecutors acting under the Attorney-General or some other head.

So far as I can learn, Englishmen are agreed that their present system is not what it ought to be. Lord Brougham has exposed its great defects oftener than once. Some who, like his lordship, have studied the matter, believe that the Scotch system is better, but how to transplant it to England is the difficulty,

which, however, is not, as I think, very formidable. Our procurators-fiscal investigate into all suspicious cases of death, and their investigations, though *ex parte*, are not less satisfactory than those of the English coroner, who is, we in Scotland consider, a somewhat officious and incompetent functionary, prone to expose private matters needlessly, and to proclaim on the house top what should be buried in the grave. I wonder if matters could not be arranged so that the English coroner, or some substitute for him, could investigate all crimes with a little less fuss perhaps, if vulgar curiosity will permit of it. I know that there is something to be said for a public investigation; but so long as Dr. Taylor and other scientific men, with either pure or impure copper gauze, seek for the very kernel of crime in private laboratories, I submit that the coroner's public investigation is more of a name than a reality. But I do not quarrel with it, as it is an English institution; all I say is, that a similar or at least equally sufficient process of investigation should be extended to all crimes, and that can be attained only by the appointment of public prosecutors in every county and town to investigate crimes and pursue criminals to conviction. Practically, this may be brought about, so far as I can see, with very little additional expense to the public, in this tolerable way at least—namely, by appointing local prosecutors, and a staff of barristers subordinate to the Attorney-General, and letting them be paid by fees as *self-appointed* prosecutors are now; who, varying in each case, cannot reap the full benefits of experience, whether their zeal be stimulated by fees or not.

On the other hand, Scotland could borrow a reform from the criminal courts of England, and that is the method of reserving points of law that arise during a trial for the deliberate consideration of a full bench of judges. In Scotland, three judges sit in the High Court of Justiciary, and two on circuit, and they are under the necessity of deciding off-hand and in the most summary manner very difficult questions of law. The consequence is, that the most diverse and conflicting decisions are given. One set of judges decide that an attempt to steal is not a crime; and another, that an attempt to pick pockets is a crime. The High Court decides, that selling a pledged article without authority is not theft, and a judge on circuit lays it down to a jury that it is theft. One judge tells a jury that before they can convict a mother of infanticide, there must be proof of complete living birth, as the judges of England always do, and the woman is acquitted, and another judge does not lay down that law, and after evidence precisely the same as that on which the other was acquitted, a poor wretch is convicted and sentenced to penal servitude for life or to death. The civil court refers to the oath of a party denying marriage for proof of marriage, and in the circuit court a judge tells the jury that the oath of one witness who admits marriage proves nothing. In fact, the contradictory and arbitrary judgments of the judges of Justiciary are somewhat astonishing, and the only way to end a conflict which tends to render them ridiculous, would be to reserve all questions of law for the decision of all the judges of the criminal court.

To do this was a pet notion of the celebrated Lord Cockburn, the practical clearness of whose mind was only surpassed by the brilliancy of his humour; and he tried it once with an unfortunate result. In a trial at Inverness, of a woman named Fraser, and her son, for poisoning a man who was her husband and his father, a packet was offered to be put in evidence as a production, which was described as a "sealed packet," when in point of fact the seal had been cut all round, and the packet opened after seal. Counsel objected to the admission of this misdescribed packet; and Lords Cockburn and Ivory reserved the point for the consideration of the High Court. The prisoners were found guilty of murder, and the case against them was continued to an indefinite day. Ultimately it was held by the High Court that the failure to name a day was fatal, because in the Court of Justiciary all diets are *peremptory*, and owing to that omission the prisoners escaped, and Lord Cockburn's experiment failed. But the present Lord Justice General, whose words always mean fully what they express, doubted the competency of reserving a point of law in the course of a trial; and I hardly think any judge would venture again to make the experiment, so that we can obtain this reform only through legislation.

There was another matter in Scotch criminal procedure of which Lord Cockburn disapproved, and that is the verdict of "not proven." It is difficult to feel the force of his argument on this point; and I have seen that whenever the attention of the English public has been called to it, the honest good sense of England has thought it a right verdict, because it is in many cases a true verdict, and the only true verdict possible on the

evidence. The truth of that form of verdict in all doubtful cases is its vindication and recommendation to English juries if they choose to adopt it, and it is not right either that juries should be driven to say on their oaths "guilty," when there may be a doubt, or "not guilty," when on the probabilities before them that verdict can scarcely be true.

If the number of men requisite to form a jury were not fixed, a good deal might be said to show that fifteen men should not be kept from their business, as in Scotland, to try criminals who have stolen a quarter of a pound of butter, or a handkerchief, or a sheet. A smaller number might do, say six or nine, and the verdict ought to be returned by a majority of not less than two-thirds. That it should be impossible for a simple majority of one to find a fellow creature guilty of murder, is a state of matters to shudder at; and it ought not to be. The last trial for murder, in Glasgow, save one, was nearly a tragedy owing to this state of the law; for seven of the jury were for finding two sisters, the Milligans, guilty of that frightful crime, without any evidence at all.

When one hears of a verdict of that kind he is inclined to doubt, as I often do, whether administering an oath to juries be not a waste of time. I hardly think it has any influence at all. The honest men make up their minds (if they do not do as the judge bids them) without thinking of an oath, and just as they would do in reference to any of the affairs of ordinary life. Indeed, some judges tell them to do so, if counsel have ventured to call their attention to the obligation of an oath; and my conviction is that it has not the least effect, and that almost universally the motives of jurymen are such that they do not need it.

I should even go further and doubt the utility of administering oaths to witnesses. An honest man will not tell a lie although not on oath, and a dishonest man will not refrain from lying for any moral or religious consideration. The punishment of perjury alone deters from telling what is not true; and falsehood in a court of justice could still be an indictable offence, although oaths were abolished. To those who are in the habit of taking oaths they become quite indifferent; and it is only necessary to hear a few policemen swear, to appreciate the levity with which oaths are taken, and to cross-examine a few policemen to know that the superficial levity has penetrated to the conscience and beyond it. I believe the simple word of a policeman, or a lawyer, or a doctor, or any *skilled* witness, as readily as his oath. Generally, professional men feel the weight of honour and reputation quite as much as of religion; and a mind which owns the force of religion will not be dead to honour. So that it comes to this:—with honest witnesses no oath is needed; and over dishonest witnesses there is no check except the fear of punishment of the most immediate kind.

But if oaths are to be administered, as they will be for some time yet, I think that it should be left to either of the parties to call upon the judge to administer the oath to witnesses who in their opinion may be more surely bound by it, and that the Scotch system of administering them is better than the English, as it gives the judge who says the words which the witness repeats, an opportunity of seeing through the witness, if he have any faculty in that way, and it has, besides, a more solemn effect than if it be done by the usher or other inferior officer of court. To a student of physiology I fancy kissing a dirty New Testament which has been kissed by thousands is neither a pleasant nor a solemn operation.

The Scotch law admits in evidence against a prisoner one statement not given on oath, which is what is called his "declaration." As soon as possible after his apprehension, and before he can take advice, which, indeed, is shut out from him, the accused is taken before the sheriff or other magistrate, who tells him what the crime is with which he is charged; that the procurator-fiscal, who is present, is to ask him questions about his participation in that crime; and that he need not answer them unless he please, but that his answers will be taken down, and may be used in evidence against him. If the accused be an experienced criminal, or an intelligent one, he knows how much the declaration told against himself on some former occasion, or how it led to the conviction of some of his associates, so he tells the fiscal his age, that he is an Irishman and unmarried, and declines to answer all questions as to the charge made against him. But if he be inexperienced in criminal matters, if he has not been posted up by wary rogues as to the dangers of giving a declaration, if it be his first offence, and his nature is comparatively simple and innocent, he perhaps confesses or enters into awkward explanations, or says things that are not exactly true, and then every confession, lame explanation, and little falsehood, is used

against him in evidence; the theory of the law being, that every thing he has said may tell against him, but nothing he has said can tell in his favour. I remember seeing two men tried at Glasgow circuit for the theft of a ham. The evidence by witnesses against the two was the same, but in his declaration the one had said nothing, and the other had denied being in a certain place where he was proved to have been, though he might have forgotten, as he was half-drunk. The judge directed an acquittal of the thief who had declared nothing, and left the case of the other to the jury, who, by a majority, found him guilty—on somewhat insufficient grounds as I thought, though I was not his counsel. And I have seen a great many criminals convicted who would have escaped, had it not been for their unsuspecting "declarations." Some may and do say, "Well and good, these convictions are so much gain to justice." But I say and think differently. I think that to take advantage of a prisoner's ignorance and simplicity, however in accordance with Scotch "pawkins," is to do a mean and dishonourable act, which outrages the moral sense, and which no court of justice in a civilised country should stoop to countenance. Every argument that can be urged in favour of declarations can be urged in favour of torture, of which they are, indeed, a thinly disguised and refined species adapted to this highly refined and delicate age. For the mind can be laid on the rack as well as the body; and to a solitary human creature, suddenly accused of crime, shut off from friend and counsellor, oppressed and confused with terror, smitten down, it may be, by a sense of guilt, the magistrate and the accuser, and the officials that surround them, are neither more nor less than instruments to extract a confession somewhat more conformable to modern notions than the thumbscrew and the iron boot and red-hot pincers. It is high time that Scotch criminal jurisprudence were rid of this blot; and I feel that our help will come either from every one in Scotland getting to know that a declaration is always dangerous and never can serve the accused, or from England saying that unfair advantage ought not to be taken of ignorance and simplicity; for I fear that most of our Scotch lawyers who have served under the Crown as public prosecutors, will be ready to apologize for a system which they find to be very convenient, however hard upon unfortunates who want intelligence and cunning.

I have done, restraining myself from mentioning some small points of no great interest, and from one or two because the state of my information did not enable me to discuss them, and one of them was the very insufficient notice that a prisoner in England gets of the case that is to be made against him. He does not appear to be entitled to a copy of the indictment, and he is not entitled to a list of witnesses, to enable him to inquire into what they have to say against him, and meet it. I dare say the English mind is more rapid in apprehension than the Scotch; yet a system which must abound in surprises ought to exist anywhere except in courts of criminal justice. Probably when England obtains its staff of public prosecutors, prisoners will obtain fuller information to help them to prepare their defence.

Admission of Attorneys.

Queen's Bench.

NOTICES OF ADMISSION.

Michaelmas Term, 1860.

(The clerk's names appear in small capitals, and the attorneys to whom articles follow in ordinary type.)

BEATTY, WILLIAM HENRY RANDALL.—G. M. Evans, Farnham;
G. W. C. Dean, 27, New Broad-street.
BELLINGHAM, JAMES GORDON.—W. B. Froeland, Saffron
Walden.
BURT, HENRY MATTOCK.—J. Cutts, Gray's-inn.
CLARKE, GEORGE WILLIAM.—E. Coxwell, Southampton.
CURTLER, JOHN ASHMORE.—J. Curtler, Droitwich.
DUMBLETON, HORATIO, B.A.—J. T. Bolton, Solihull.
FOX, ALFRED.—J. E. Fox, Finsbury-circus; J. E. Fox, jun.,
Finsbury-circus.
GADDNER, JAMES.—R. Swan, Lancaster.
GODDARD, WILLIAM JOHN.—F. Charsley, Amersham.
KANE, EDWARD.—J. E. Prowles, Monmouth.
LESLIE, LEWIS JOHN.—C. B. Dryden, Lincoln's-inn-fields.
MINSTER, ARTHUR.—R. H. Minster, Coventry.
TAYLOR, WILLIAM.—C. F. Darwall, Walsall.
THOMAS, EDWARD FAITHFULL.—J. Walker, Chester.

WALSH, PERCIVAL LEWIS.—F. J. Coleridge, Ottery St. Mary; J. Leech, 65, Moorgate-street.
WHITFIELD, OCTAVIUS.—1, Mitre-court, Temple.

Last day of Michaelmas Term, 1860.

BARNARD, JOSEPH GEORGE.—G. E. Williams, Cheltenham.
BEATY, WILLIAM HENRY RANDALL.—G. M. Evans, Farnham; G. W. C. Dean, 27, New Broad-street.
BURNAND, JOHN THOMAS NEWMAN.—E. E. D. Grove, 8, Angel-terrace, Islington; John George Hick, 13, Copthall-court.
BUSBY, SILAS.—J. D. Simpson, 7, Golden-square.
COLLINS, JOHN.—J. Atkinson, Whitehaven.
FORD, WHARTON.—M. Ford, 8, Lincoln's-inn-fields.
GARRETT, RICHARD EYDON.—W. P. Scott, 55, Lincoln's-inn-fields.
HARMAN, JOHN.—C. Harman, High Wycombe; W. Pulley, Edmonton.
HOLT, THOMAS.—J. Rowe, Liverpool.
HUMPHREYS, ARTHUR.—E. Cunliffe, Manchester.
JENU, RICHARD.—R. Cattara, 33, Mark-lane.
JONES, EDWIN.—W. Manby, Wolverhampton.
JONES, GEORGE AP. EYTON PARRY.—E. Potts, Chester.
KING, JOHN.—J. W. King, Walsham-le-Willows.
KRUGER, HENRY JAMES.—C. Fiddey, Inner Temple; C. Bevan, Small-street, Bristol.
LEECH, SAMUEL.—E. Gamble, Derby.
LOVESEY, RICHARD WHITHORNE (Judge's Order).—E. S. Griffiths, Cheltenham; W. Matthews, Gloucester.
MAHER, GEORGE MARTIN.—John Gaskoin, Swansea.
MARSHALL, EDWARD FIELD.—John Hough Marshall, Hatton-garden.
NANSON, HENRY.—Henry Vallance, Essex-street, Strand.
PARRY, HENRY EDWARD.—Hugh Jones, Carnarvon.
SERJEANT, FREDERICK ROBERT.—John Serjeant, Ramsey.
TEMPLE, JOHN ALFRED.—T. H. Scarborough, 5, Bloomsbury-square.
WYATT, GEORGE HARVEY.—J. H. Hearn, Newport; J. A. Mew, Newport.

APPLICATIONS FOR RE-ADMISSION.

Last day of Michaelmas Term, 1860.

Bower, John.—Bryn Helen, Carnarvon.
Davies, Walter David.—35, Grafton-square, Clapham; and 23 Finsbury-square.

Last day of Hilary Term, 1861.

Heron, Joseph, Manchester.
Kell, William Ghimes, 112, Westbourne-terrace, Hyde-park.

APPLICATIONS TO TAKE OUT OR RENEW CERTIFICATES.

November 16, 1860.

Lawrance, William, Fletton, Hunts, and Peterborough.

Last day of Michaelmas Term.

Fell, George, 8, Gerrard-street, Islington.
Lapenotiere, William, 5, St. Stephen's-terrace, St. Pancras; East Oxford, Upper Canada; 10, Bloomsbury-square; and 18, Great Ormond-street.

November 27, 1860.

Abbott, William, Roehdale.
Acland, Samuel Lawford, Bombay, East Indies.
Beilby, George, jun., Kingston-upon-Hull.
Bolton, John, 90, Fetter-lane, Holborn.
Bower, Charles, 19, Clifford-street; 66, Great Portland-street; and 416, Oxford-street.
Bozon, Frederick, 35, Olney-terrace, Walworth-road.
Burrell, Edward Montague, Ironmonger's Hall.
Charlesworth, Charles Henry, Hanover-square, Leeds.
Church, Francis, Hungerford, Berks.
Clarke, Percy Brooke, Dover.
Cockle, Charles Moss, 8, and 14, Orington-square, Brompton.
Coe, Augustus Frederick, 4, Rosslyn-terrace, Hampstead.
Cooke, Joseph Percy (Judge's Order), 10, Aberdeen-terrace, Bristol.
Cooper, William, 14, Brompton-crescent.
Cousen, George, Birkenshaw, near Leeds, and 24, Arundel-street, Strand.
Dahwood, William Halsey, 43, James-grove, Peckham.

Drawbridge, William, Wakefield.
Feuillade, Francis, 22, Bute-street, Old Brompton.
Finch, John, 9, Denbigh-terrace, Notting-hill.
Gibbs, Griffith, Gloucester.
Godwin, Henry Burke, Speen-hill, near Newbury.
Gough, Charles Selwyn, Kingsholm, Gloucester; and Overbury, Worcester.
Harrison, Thomas Haydon, Chase-hill, Enfield.
Hilliard, Thomas Harvey, Wolstanton, Stafford; Harrowgate; and Brixton.
Howlett, Francis John, Bowthorpe, Norfolk; and Everton, near Liverpool.
Hunt, Thomas, Lytham, Lancaster.
Ivimey, Henry, 2, Amphill-square, Hampstead-road.
Johnson, Edward Davey, 7, Albemarle-street, Piccadilly; Port-nambuco, in the empire of Brazil; and Ickford.
Kimberley, James William, 32, Camden-street, Birmingham.
Lander, George Moseley, 2, St. Paul's-crescent, Camden-town.
Law, Robert Dalton, Manchester.
Lawrance, William, Fletton, Huntingdon; and Peterborough.
Le Pibre, Peter, Folkestone.
Mac Gregor, Joseph Alexander James, 9, Howard-street, Strand; Melbourne; and Walcott-place, Kennington.
Massey, Henry Eyre, 43, St. Albans-street, Kennington-road; and Lambeth-square.
New, Frederick Bayly, 24, Dalston-terrace; and 22, Albion-grove, Barnsbury.
Nichols, Samuel, 17, Offord-road, Caledonian-road; and Cumming-street, Pentonville.
Nicholson, Alfred, St. Ives; and Bedford.
Orlebar, Charles Daniel, 12, Pakenham-street, St. Pancras.
Pain, William Henry Bellew, 31, Swinton-street; and 6, Jermyn-street.
Parker, Thomas, Greenwich; and 1, Pump-court, Temple.
Prentis, Henry, Bombay; and Penang.
Prichard, Charles Edward, Lower Gouford, Ludlow, Salop; Christchurch, New Zealand; High Seas; Penzance; Weston-Super-Mare; and Bowdley, Worcester.
Ravenhill, James Holmes, 25, Maismore-square, New Peckham.
Scott, Montagu Douglas (Judge's Order), Putney, Surrey.
Sheppard, Charles Edward, Rivers-cottage, Clifton.
Smith, Henry John, 23, Denbigh-place, Pimlico.
Stace, Edward Keate, Hong Kong, China; and Southampton.
Strong, William, 30, Bouverie-street, Fleet-street.
Tayler, William, Gloucester-road, Tutshill, Gloucester; Bath; and Bristol.
Taylor, George, 106, Ebury-street, Pimlico; and Belgrave-street, South Ebury-street.
Taylor, Joseph William, 1, Canute-villas, Kingsholme, Gloucester.
Toeque, George Richard Fletcher Howes, Richmond, Surrey.
Tooth, Robert, 5, New-inn; Buckingham-street; Putney; and Richmond.
Venning, John James Edgecombe, 7, Lothbury, City.
Watson, Henry, jun., 22, Lincoln's-inn-fields.
Whatley, David, Cirencester, Gloucester.
Whyley, Mark, Leighton Buzzard, Beds.
Wilmshurst, John, Warwick.
Wingfield, Henry George Eden, Keynsham, Somerset.
Woodall, William, Otter, Scarborough.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Monday, Nov. 12.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Friday, Nov. 16.

Mr. Henry Butterworth, the eminent law publisher of Fleet st., died on Friday, the 2nd inst., rather suddenly, from congestion of the lungs. He was in the 75th year of his age, and was one of the oldest of literary publishers in the metropolis. Mr. Butterworth had been, until shortly before his death, actively engaged in the business with which his name was identified, and in matters of public usefulness.

The Electric and International Company employ nearly

two hundred young women at their various offices, and speeches occupying entire pages of the *Times* have been transmitted from the north and transferred to writing in a few hours by young women alone, and with wonderful accuracy. This success is a great encouragement to those who have the conduct of new institutions where men have not yet gained exclusive possession.

Court Papers.

Chancery.

ORDER OF COURT.

Wednesday, the 7th day of November, 1860.

Whereas from the present state of the business before the Lord Chancellor and the Master of the Rolls respectively, it is expedient that a portion of the Causes set down before the Lord Chancellor to be heard before the Vice-Chancellor Sir William Page Wood, should be transferred to the Master of the Rolls' Book of Causes for hearing.

Now I do hereby, at the request of the Master of the Rolls, order that the several Causes set forth in the schedules hereunto subjoined, be accordingly transferred from the Book of Causes of the Vice-Chancellor Sir William Page Wood to that of the Master of the Rolls. And I do further order that all Causes so to be transferred (although the bills of such Causes may have been marked for the Vice-Chancellor, Sir William Page Wood, under the Orders of Court of the 5th of May, 1857—Order VI. of Consolidated Orders—and notwithstanding any Orders therein made by the Vice-Chancellor Sir William Page Wood, or his predecessor), shall hereafter be considered and taken as Causes originally marked for the Master of the Rolls, and be subject to the same regulations as all Causes marked for the Master of the Rolls are subject to by the same Orders. Provided, nevertheless, that no order made by the Vice-Chancellor, Sir William Page Wood, or his predecessor, in any such Causes, shall be varied or reversed otherwise than by the Lord Chancellor or the Lords Justices. And this Order is to be drawn up by the Registrar, and set up in the several offices of this Court.

CAMPBELL, C.

SCHEDULE.

PLAINTIFF.	DEFENDANT.	REFERENCE TO RECORD.
Lemon	Whimper	Motion for Decree 1857 .. L .. 109
Whitmore	Turquand	Motion for Decree 1860 .. W .. 160
Heywood	Heywood	Motion for Decree 1860 .. H .. 99
Clayton	Cowland	Motion for Decree 1859 .. C .. 184
Masters	Bunn	Cause 1864 .. M .. 165
Hinds	Bone	Motion for Decree 1859 .. H .. 122
Wolfgram	Upward	Cause 1859 .. W .. 65
Hale	Bolton	Motion for Decree 1860 .. H .. 76
Holden	Webber	Cause 1859 .. H .. 97
Stovold	Stovold	Motion for Decree 1860 .. S .. 66
Morgan	Redman	Motion for Decree 1859 .. M .. 174
Talbot	Crossley	Motion for Decree 1860 .. T .. 27
Dumfeld	Currie	Motion for Decree 1860 .. D .. 60
Jones	Dixon	Cause 1858 .. J .. 70
Bail	Williams	Motion for Decree 1858 .. B .. 245
The Prince Alex- andro-Torlonia	The Wiesbaden Railway Com- pany	Motion for Decree 1860 .. T .. 63
Lywood	Warwick	Motion for Decree 1860 .. L .. 48
Garner	Garner	Cause 1859 .. G .. 19
The London, Brighton and South Coast Railway Com- pany	Turnley	Motion for Decree 1860 .. L .. 34
Garrick	Taylor	Cause 1859 .. G .. 112
Hughes	Lewis	Cause 1854 .. H .. 68
Webb	England	Motion for Decree 1860 .. W .. 65
Norris	Chambres	Cause 1857 .. N .. 36
Badham	Allen	Motion for Decree 1859 .. B .. 228
Crooks	Begg	Motion for Decree 1859 .. C .. 24
Hale	Bolton	Motion for Decree 1860 .. H .. 76
Nugee	Chapman	Motion for Decree 1860 .. N .. 12
Cooper	Hubbuck	Motion for Decree 1860 .. C .. 24
Heath	Nugent	Motion for Decree 1860 .. H .. 95
Ley	Chiff	Motion for Decree 1859 .. L .. 132

CAMPBELL, C.

N.B. The Master of the Rolls will not hear any of the above Causes before the 20th day of November instant, unless by the desire of the parties themselves.
Cecil Monro, Registrar.

Queen's Bench.

NEW CASES.—MICHAELMAS TERM, 1860.

SPECIAL PAPER.

Dem.	Eastwood v. Fletcher.
"	Dutton and Another v. Fowles.

Common Pleas.

NEW CASES.—MICHAELMAS TERM, 1860.

DEMURRER PAPER.

November 14.

Dem.	Cochrane v. Green.
November 19.	
Dem.	Earle v. Hopwood.
"	Reade v. Conquest.
"	Oxlade v. North Eastern Railway Company.
Co. Court App.	Dunn, Appellant; Lawson and Others, Respondents.
Case by order.	The Mersey Docks and Harbour Board v. Cameron and Others.
Case Nisi Prius.	The Medway Company v. The Earl of Romney.

Dem.	Brown and Others, Executors, &c., v. The Mayor, &c., of the City of London.
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NEW TRIAL PAPER.

Middlesex.	Paris v. Levy.
"	Ralston v. Smith.
"	Crosse v. Martin.
London.	Pole and Another v. Ceterovich.
"	Smith and Others v. Vertue and Another.
"	Yeames and Others v. Lindsay and Others.
"	Jones v. Newport.
Reds.	Hartwell v. Veasey and Wife.
Cambridge.	Hunt and Others, Churchwardens, &c., v. Allgood and Others.
Stafford.	Whitehouse v. Fellowes, Clerk.
Bristol.	Haller v. Warman.
Kent.	Brady v. Tod.
"	Berridge v. Ward.
Surrey.	Wilton v. The Atlantic Royal Mail Steam Navigation Company.
"	Fickler v. Marshall.
"	Hosson v. Howitt.
Sumsex.	Hare v. Henty and Another.
"	Turner v. Hutchinson.
Liverpool.	Chapman v. Callis.
"	Wilson v. The Lancashire and Yorkshire Railway Company.
York.	Oxlade v. The North Eastern Railway Company.
"	Walker v. The Manchester, Sheffield, and Lincolnshire Railway Company.
Durham.	M'Sweeney v. Douglass.

Notice is hereby given that the Court has appointed Thursday, the 18th, and Tuesday, the 20th of November inst., for hearing and deciding the appeals from the decisions of the revising barristers under the Act 6 Vict. c. 18, on which days the Court will proceed to hear the same; but the case of *Brumfit and Others v. Bremner*, in the list of such appeals will not be proceeded with before the 20th instant.

English Funds and Railway Stock.

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	232	Stock Ditto A. Stock	117
3 per Cent. Red. Ann.	91½	Stock Ditto B. Stock	184
3 per Cent. Cons. Ann.	93½	Stock Great Western	73½
New 3 per Cent. Ann.	91½	Stock Lancash. & Yorkshire	117
New 2½ per Cent. Ann.	91	Stock London and Blackwall	62½
Consols for account	93½	Stock Lon. Brighton & S. Coast	115
India Debentures, 1858.	25	Stock Lon. Chatham & Dover	52
Ditto 1859.	25	Stock London and N.-Watm.	100½
India Stock	103½	Stock London & S.-Westm.	94½
India 3 per Cent. 1859.	103½	Stock Man. Sheff. & Lincoln.	46½
India Bonds (£1000)	8 dis.	Stock Midland	133½
Do. (under £1000)	8 dis.	Stock Ditto Birm. & Derby	105
Exch. Bills (£1000)	3 dis.	Stock Norfolk	55
Ditto (£500)	3 dis.	Stock North British	62½
Ditto (Small)	3 dis.	Stock North-Eastn. (Birkw.)	102½
RAILWAY STOCK.		Stock Ditto Leeds	56½
Shra.	80	Stock Ditto York	88½
Stock Birk. Lan. & Ch. June.	96	Stock North London	104
Stock Bristol and Exeter	67	Stock Oxford, Worcester, & Wolverhampton	51
Stock Cornwall	67	Stock Shropshire Union	44
Stock East Anglian	17	Stock South Devon	64½
Stock Eastern Counties	52½	Stock South-Eastern	67
Stock Eastern Union A. Stock	40	Stock South Wales	79
Stock Ditto B. Stock	29	Stock N. Yorkshire & R. Dun	40½
Stock Great Northern	115	Stock Stockton & Darlington	70
		Stock Vale of Neath	70

Births, Marriages, and Deaths.

BIRTHS.

BARRON—On Nov. 3, 96, Guildford-street, the wife of Edward Jackson Barron, Esq., Solicitor, of a daughter.
BECKINGSALE—On Nov. 2, the wife of William Jefferies Peckingsale, Esq., Solicitor, Newport, Isle of Wight, of a son.

MARRIAGES.

LLOYD—NEVINS—On Nov. 1, Rowley Young Lloyd, Esq., Barrister-at-Law, to Mary Elizabeth, daughter of John Jowitt Nevins, Esq., of Cleve Dale, Gloucestershire.
POTTS—HARRIS—On Oct. 31, Henry John Potts, Esq., of Daventry, Solicitor, to Jane, youngest daughter of the late William Harris, Esq., of Fairfield Court, Worcestershire.

DEATHS.

BOYSE—On Oct. 29, Mrs. Boyse, wife of John Boyse, Esq., Solicitor, of Woodlands, county Clare.
BURTON—On Oct. 31, Elizabeth, relict of the late Henry Burton, Esq., Barrister-at-Law, aged 66.
BUTTERWORTH—On Nov. 2, in the 76th year of his age, Henry Butterworth, Esq., F.S.A., of Fleet-street.
CHALLIS—On Nov. 4, Emma, wife of William Challis, Esq., Solicitor, Basingstoke, in the 44th year of her age.
PINSON—On Oct. 20, John Pinson, Esq., Solicitor, of Birmingham.
WALKER—On Oct. 31, aged 62, Mrs. Sarah Walker, of York, mother of W. Walker, Esq., Solicitor.
WHITLEY—On Oct. 31, aged 62, Isabella, wife of John Whitley, Esq., Solicitor, Liverpool.

Heirs at Law and Next of Kin.

Advertised for in the London Gazette and elsewhere.

BRISTINGTON, JOHN, who died lately in Newborn, North Carolina, United States of America. Next of kin to apply to James Fairbairn, Esq., 25, Tower-street, Portobello, near Edinburgh.
 MOSES, AARON, who was formerly an Innkeeper at Billericay, Essex. Heirs at law to apply to William Brown, Esq., Solicitor, Nottingham.
 RICKARD, HENRY, who formerly resided at Doncaster, and when last heard of (in the year 1845), was a seaman on board the American ship Saracen. Himself, or it dead, his representatives to apply to Messrs. Collinson & Littlewood, Solicitors, Doncaster.

London Gazette.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, NOV. 6, 1860.

LITTLE DOWN AND EBBER ROCKS MINERAL AND MINING COMPANY (LIMITED).—Commissioner Holroyd will proceed on Nov. 22, at 11, at Basinghall-street, to settle the list of contributories of this company in Class A.

UNLIMITED IN CHANCERY.

TUESDAY, NOV. 6, 1860.

PHENIX LIFE ASSURANCE COMPANY.—V.C. Wood, will proceed, on Nov. 22, at 12 and 1, to settle the lists, classes A. and B. of contributories of this company.

FRIDAY, NOV. 9, 1860.

UNLIMITED, IN CHANCERY.

MITER GENERAL LIFE ASSURANCE ANNUITY & FAMILY ENDOWMENT ASSOCIATION.—Master of the Rolls order to wind up. Nov. 3.

LONDON & EASTERN BANKING CORPORATION.—V.C. Wood, order for a call of £75 per share on all contributories in classes A and B; class A, on or before Dec. 15, to pay to Mr. John Ball, Official Manager, 3, Moorgate-street, London, the balance of such call; class B, on or before Feb. 18, 1861, to pay to the said John Ball the balance due on such call.

PHENIX LIFE ASSURANCE COMPANY.—V.C. Wood will, on Nov. 22, at 12 and 1, proceed to settle the lists, classes A and B, of contributories of this company.

LIMITED IN BANKRUPTCY.

CARDIFF & CARMARTHEN IRON COMPANY (LIMITED).—Order to wind up, Nov. 1. Same time George John Graham appointed Official Liquidator. Meeting for proof of debts, Nov. 16, at 11.

LONDON & BOROUGH STEAM WHEEL COMPANY (LIMITED).—Meeting for proof of debts, before Commissioner Evans, Basinghall-street; Nov. 20, at 2.

Professional Partnership Dissolved.

TUESDAY, NOV. 6, 1860.

MORGAN, JOHN, & WILLIAM ROBINSON SMITH, Attorneys & Solicitors, at Merthyr Tydfil and Aberdare, Glamorganshire, by mutual consent, Nov. 1.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, NOV. 6, 1860.

BAKER, WILLIAM, Esq., Eaton-square, Middlesex, and Orsett Hall, Essex (formerly WILLIAM WINGFIELD, Esq.) Bennett, Dawson, & Thornhill, Solicitors, 2, New square, Lincoln's-inn. Dec. 31.

BOWMAN, SARAH, Widow, Sockleworth, Castlesowerby, Cumberland. McAlpin, Solicitor, Carlisle. Nov. 20.

BRADDOCK, WILLIAM, Esq., late of Blackland, Plympton St. Mary, Devonshire, formerly of the Bengal Civil Service. Cowlard, Solicitor, 14, Lincoln's-inn-fields. Jan. 1.

DOUGETT, JOSEPH, Gent., 4, Clapton-place, St. John, Hackney, Middlesex. Loftus & Young, Solicitors, 10, New-inn, Strand. Dec. 31.

HALL, JAMES WALLACE RICHARD, Banker, Springfield, Ross, Herefordshire. Evans, Solicitor, Gloucester. Feb. 1.

IVINS, EDWARD, Farmer, Butler's Marston, Warwickshire. Tibbits, Church-street, Warwick. Dec. 15.

LEIGH, ELIZABETH, Spinster, 15, Half Moon-street, Piccadilly, Middlesex. Palmer, Palmer, & Ball, Solicitors, 24, Bedford-row, Holborn. Nov. 14.

LOCKING, GEORGE, late Secretary to the Hull and Selby Railway Company, Kingston-upon-Hull. Phillips, Solicitor, 77, Lowgate, Hull. Jan. 31.

MOORE, EDWARD, Cotton Spinner, Palace House, Burnley, Lancashire. Shaw, Giffellife, Tattershall, & Handsley, Burnley. Dec. 7.

POTTINGER, RICHARD, Esq., formerly of Wood Rows, Compton, Berks, and late of Speenhamland, Berks. Whatley & Dryland, Solicitors, Reading. Dec. 20.

STOKES, REV. THOMAS TRAUNDE, Clerk, Loughton, Essex. Coverdale, Lee, & Collyer-Bristow, 4, Bedford-row, Middlesex. Dec. 15.

WARD, WILLIAM, Farmer, Leicester. Spooner, Solicitor, Hornfair-street, Leicester. Jan. 1.

FRIDAY, NOV. 9, 1860.

BRADBURY, HENRY RILEY, Bank-note Engraver & Printer. Benham & Tindell, Solicitors, 18, Essex-street, Strand. Dec. 31.

BRADLEY, WILLIAM ORTON, Timber Merchant, Bishopwearmouth, Durham. Hanson & Son, Solicitors, 12, East-cross-street, Sunderland. Feb. 3, 1861.

CASTELL, EDWARD, Innholder, Daventry, Northamptonshire. Lewis, Solicitor, Daventry. Dec. 1.

DICKS, JAMES, Gent., Newnham, Northamptonshire. Gery, Solicitor, Daventry. Dec. 10.

FANKS, MARMADUKE, Miller, Claybrook Mill, Leicestershire. Fox, Solicitor, Lutterworth. Dec. 31.

HALL, JOHN, Esq., Weston Colville, Cambridgeshire. Barley & Carlisle, Solicitors, 9, New-square, Lincoln's-inn, Middlesex. Dec. 15.

HERRILL, DAVID, Yeoman, Mead, Wantage, Berks. Ormond, Solicitor, Wantage. Dec. 31.

LEVER, MARY, Widow, Fovant, Wilts. Wilson, Solicitor, Salisbury. March 23, 1861.

POWELL, SARAHAN, Draper, Olney, Buckinghamshire. Powell & New-comb, Solicitors, Newport Pagnell. Dec. 1.

SATCHELL, TIMOTHY, Hatter, 158, Fenchurch-street, London, and Wormley House, Wormley, Herts. Satchell, Widow, Wormley House, Wormley, Herts. Satchell, Hatter, 43, Lord-street, Liverpool, or Redgate, Export

Ch essemonger, 13, George-street, Mansion House, London, Executors. Dec. 26.

SAWYER, JAMES, Gent., Totness, Devonshire. Kellock & Kellock, Solicitors, Totness. Dec. 29.

SLOPER, JAMES, Esq., Bath. Stone, Chamberlayne, & King, Solicitors, Bath. Feb. 6, 1861.

WINNALL, MARGERY YAPP, Widow, Burton, Linton, Hereford. Stallard, Solicitor, Worcester. Dec. 2.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, NOV. 9, 1860.

BARNES, RICHARD, Farmer & Malster, Hampton Lucy, Warwickshire. Watts v. Barnes. M. R. Dec. 3.

BROOKS, GEORGE, Licensed Victualler, Cross Keys' Hotel, West Smithfield, London. Hooper v. Brooks. V. C. Stuart. Nov. 26.

BURT, JOHN, Jeweller, Birmingham. Holden v. Eborall. V. C. Stuart. Dec. 3.

FOULHAM, ELIZABETH, Spinster, Wrexham, Norfolk. Clarke v. Chamberlin. V. C. Kindersley. Dec. 3.

GILLHAM, WILLIAM, Esq., Mare-street, Hackney, Middlesex. Berger v. Berger. M. R. Dec. 1.

GRIFFITHS, DAVID, Silk Mercer, 1, Chandos-street, Covent-garden, Middlesex. Louvet v. Shearly. M. R. Dec. 2.

JERVIS, JOHN, Esq., Inner Temple, London. Jervis v. Rushton. V. C. Kindersley. Dec. 3.

KEELING, THOMAS, Auctioneer, Edgware-road, Middlesex. V. C. Kindersley. Dec. 8.

MAJOR, WILLIAM, Doctor of Medicine, Camberwell, Surrey. Smith v. Major and Others. V. C. Stuart. Dec. 10.

MICKLETHWAIT, JOHN, Esq., Shepcote, Ardley, Darfield. Birks v. Micklethwait. M. R. Dec. 1.

PEARMAN, LUKE, Gent., Barksow, Warwickshire. Pearman v. Pearman. M. R. Dec. 1.

POINTON, WILLIAM, Gent., Burslem, Staffordshire. Pointon v. Pointon. V. C. Stuart. Dec. 12.

SHOULS, RICHARD, Plumber, Painter, & Glazier, 53, Leman-street, Goodman's-fields, Middlesex. Shouls v. Dew. V. C. Stuart. Dec. 10.

Assignments for Benefit of Creditors.

TUESDAY, NOV. 6, 1860.

FOOTE, THOMAS FREDERICK, Shopkeeper, Henstridge, Somersetshire. Nov. 3. Sol. Jellard, Wincanton.

GILL, FRANCIS, Miner, formerly Draper & Grocer, Mount Hawke, Cornwall Oct. 24. Sol. Paul, Truro.

GRIFFIN, JAMES, Baker & Flour Dealer, Louth. Oct. 16. Sol. Sharpley Louth.

MAC KNIGHT, JAMES, & JOHN MAC KNIGHT, Woollen Manufacturers, Carlisle. Oct. 29. Sol. McAlpin, Carlisle.

PHILLIP, JAMES, sometimes called JAMES, General Grocer, Northring Sussex. Nov. 3. Sols. R. & J. Holmes, Arundel.

PREEN, ANDREW, Draper, Broad-street, Worcester. Oct. 10. Sol. Atkins, 3, St. James's-square, Manchester.

RICHARDS, GEORGE, Wholesale Stationer and General Dealer, Bristol. Oct. 11. Sols. Stanley & Washbrough, 11, Corn-street, Bristol.

STEVENS, THOMAS RUTLEDGE, Leather Merchant, Newcastle-upon-Tyne Oct. 16. Sol. Joel, Newcastle-upon-Tyne.

FRIDAY, NOV. 9, 1860.

ASHBY, SAMUEL, Currier, Northampton. Oct. 20. Sol. Shoosmith, Northampton.

GROSVENOR, WILLIAM, Builder, Elberton, Gloucestershire. Oct. 20. Sols. King & Plummer, 5, Exchange-buildings, East Bristol.

PAGE, LUTHER, Miller, Hellingly, Sussex. Oct. 26. Sol. Shunock. Hailsham.

PIKE, CHARLES, Pawnbroker, Sheffield, Yorkshire. Oct. 19. Sols. G. A. & W. Emsley.

Bankrupts.

TUESDAY, NOV. 6, 1860.

BAKER, WILLIAM WILCOX, & HENRY SENDALL, Manufacturing Stationers, 67, Old Bailey, London. Com. Evans: Nov. 16, at 12.30; and Dec. 20, at 1; Basinghall-street. Off. Ass. Bell. Sol. Bruton, 27, Basinghall-street. Pet. Nov. 5.

BALL, CHARLES GRAY, Coal Merchant & Provision Dealer, Peterborough, Northamptonshire. Com. Evans: Nov. 13, and Dec. 11, at 12; Basinghall-street. Off. Ass. Bell. Sols. Wright & Bonner, London-street, Fenchurch-street; and Law, Stamford, Lincolnshire. Pet. Oct. 30.

DANIEL, GEORGE MARK PALMER, Ironmonger, Camelford, Cornwall. Com. Andrews: Nov. 20, and Dec. 19, at 12; Exeter. Off. Ass. Hirtzel. Sols. Rowe, Stratton, Cornwall; Laidman, Exeter; or Fryer, St. Thomas Exeter. Pet. Oct. 27.

LAURIE, THOMAS WILLIAM, trading under the name of Thomas Laurie, Innkeeper, Livery Stable Keeper, & Farmer, Bishop Auckland, Durham. Com. Ellison: Nov. 14, at 12.30 and Dec. 19, at 12.30; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Hartley, 14, Gray's-inn-square, London; or Brignal, Durham. Pet. Nov. 1.

LEE, WILLIAM, & HENRY SMITH, Woollen Cloth Manufacturers, Batley, Yorkshire. Com. West: Nov. 16, and Dec. 14, at 11; Leeds. Off. Ass. Young. Sols. Iverson, Heckmondwike; or Bond & Barwick, Leeds. Pet. Oct. 16.

NAPIER, JAMES, Ship Owner & Carrier, Rhyl, Flintshire. Com. Perry: Nov. 16, and Dec. 10, at 11; Liverpool. Off. Ass. Morgan. Sols. Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool; or Williams, Rhyl, Flintshire. Pet. Oct. 24.

POWELL, WILLIAM, Linendraper, Newport, Monmouthshire. Com. Hill: Nov. 19, and Dec. 18, at 11; Bristol. Off. Ass. Miller. Sols. Reed, Graham-street, London; or Whittington & Gribble, Bristol. Pet. Nov. 2.

RANDALL, FREDERICK, Coach Builder, 272, Whitechapel-road, Middlesex. Com. Holroyd: Nov. 20, at 3; and Dec. 18, at 12; Basinghall-street. Off. Ass. Lee. Sols. J. & J. Hoggood, 14, King William-street, Strand. Pet. Nov. 6.

SEMS, WILLIAM HENRY, Apothecary, Winstler, Derbyshire. Com. West: Nov. 17, and Dec. 15, at 10; Sheffield. Off. Ass. Brewin. Sol. Stone, Wivkeworth, Derbyshire. Pet. Oct. 27.

STOKES, GEORGE, Provision Dealer, 87, Snow-hill, London. Com. Evans: Nov. 16, at 11; and Dec. 20, at 12; Basinghall-street. Off. Ass. John

son. *Sols.* Wright & Bonner, London-street, Fenchurch-street. *Pat.* Nov. 3.

FRIDAY, Nov. 9, 1860.

ARNOLD, ELISHA, Straw Platt Dealer, Grocer, & Baker, Flamstead, Hertfordshire. *Com.* Fonblanque: Nov. 21, at 1.30; and Dec. 19, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pat.* Aug. 21.

BAKER, JOHN, Tanner & Farmer, Heathfield, Sussex. *Com.* Fonblanque: Nov. 21, at 2; and Dec. 19, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Murray, Son, & Hutchins, 11, Birchin-lane, London. *Pat.* Nov. 8.

BOCH, ROBERT MILLER, General Warehouseman, Clothing Manufacture, & Dealer, & Hydraulic Packer, Liverpool (John Bouch & Son). *Com.* Perry: Nov. 22, and Dec. 12, at 11. *Off. Ass.* Bird. *Sol.* Frodsham Liverpool. *Pat.* Nov. 7.

CLARK, THOMAS, Tanner & Leather Seller, Midhurst, Sussex. *Com.* Fonblanque: Nov. 2, at 11; and Dec. 18, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Rogerson & Ford, 31, Lincoln's-inn-fields, London, and Alberty, Midhurst, Sussex. *Pat.* Nov. 1.

CLAVARDS, WILLIAM, Dealer in Horses, & Cab Proprietor, Conway Mews, Hampstead-street, Fitzroy-square, Middlesex. *Com.* Goulburn: Nov. 19, at 12; and Dec. 21, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Pawle, Belfrage, & Asprey, 7, New-inn, Strand, London. *Pat.* Nov. 5.

COLTMAN, THOMAS, Plumber, Glazier, Painter, & Gas Fitter, Coventry. *Com.* Sanders: Nov. 22, and Dec. 14, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* Reeves, Birmingham. *Pat.* Nov. 6.

LLEWELIN, JAMES, Saddler, Hereford. *Com.* Sanders: Nov. 19, and Dec. 10, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Bodenham & James, Birmingham; or Hodgson & Allen, Birmingham. *Pat.* Nov. 3.

NAPIER, WILLIAM, Coal Merchant, Union Wharf, Wapping Wall, Middlesex. *Com.* Evans: Nov. 20, at 11, & Dec. 20, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Anderson, 17, Great James-street, Bedford-row. *Pat.* Nov. 8.

PHILLIPS, SAMUEL SMITH, Bonded Store Keeper & Provision Merchant, Bute-street, Cardiff (S. S. Phillips & Co.) *Com.* Hill: Nov. 20, & Dec. 18, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Wilcocks, Cardiff, or Bevan, Girling, & Press, Small-street, Bristol. *Pat.* Nov. 8.

REED, WILLIAM, Carman & Contractor, 4, Salisbury-place, Lock's-fields, Walworth, Surrey. *Com.* Evans: Nov. 22, at 11, & Dec. 27, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Wild & Barber, Ironmonger-lane. *Pat.* Nov. 8.

RYLAND, GEORGE CROWTHER, Coal & Iron Merchant, Birmingham. *Com.* Sanders: Nov. 19 & Dec. 10, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham. *Pat.* Nov. 7.

SHEPPARD, ROBERT WATSON, Coal Merchant & Auctioneer, Charlbury, Woodstock, Oxfordshire. *Com.* Goulburn: Nov. 19, at 11; and Dec. 21, at 11.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Nichols & Clark, 9, Cook's-court, Lincoln's-inn, London, for Marshall, Cheltenham. *Pat.* Nov. 8.

STANLEY, RICHARD, Draper, Stroud, Gloucestershire. *Com.* Hill: Nov. 20, and Dec. 31, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Davidson, Bradbury, & Co. 22, Basinghall-street, London, or Whittington & Gribble, Bristol. *Pat.* Oct. 31.

SURMAN, JOHN, Tailor & Outfitter, Royal Crescent, Southampton. *Com.* Holroyd: Nov. 22, and Dec. 18, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Selaby, 2, Fen-court, Fenchurch-street, London. *Pat.* Nov. 8.

BANKRUPTCIES ANNULLED.

TUESDAY, Nov. 6, 1860.

ANDREWS, LARAN, Grocer & Tobaccoist, Wells, Norfolk. Nov. 3.

RICHARDS, WILLIAM, Builder, 4, Upper North-place, Gray's-inn-road, Middlesex. Oct. 23.

FRIDAY, Nov. 9, 1860.

STARK, HUMPHREY, Bootmaker, 119, Broad-street, Reading, Berks. Nov. 7.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Nov. 6, 1860.

BARNETT, BENNETT, Dealer in Pictures & Curiosities, 1A, Burlington-gardens, Bond-street, Middlesex. Nov. 27, at 11; Basinghall-street.

BROWN, EDWARD, Brewer, Ditton, Warrington, Lancashire. Dec. 3, at 11; Liverpool.—CALLOW, JOSEPH, Ribbon & Trimming Manufacturer, Coventry. Dec. 14, at 11; Birmingham.—FAULKNER, JOSEPH, Baker & Flour Dealer, Liverpool. Nov. 27, at 11; Liverpool.—GROSS, FREDERICK AUSTIN, Furniture Dealer, Newcastle-upon-Tyne. Nov. 22, at 1; Newcastle-upon-Tyne.—HAMMOND, JOHN, Grocer, Wrexham, Denbighshire. Nov. 27, at 11; Liverpool.—HOAD, WILLIAM DANIEL, Ship Builder, Watchbell-street, Rye, Sussex. Nov. 17, at 11; Basinghall-street.

to receive proof of debt of Mr. George Wood, Timber Merchant, Sunderland.—HOLDICH, THOMAS LAW, Ironmonger & Seedsman, Hinckley, Leicestershire. Nov. 29, at 11; Birmingham.—JEFFREYS, JAMES WILSON, & JOHN MEEK, Merchants, Liverpool. Nov. 27, at 11; Liverpool.—JENNENS, AARON, & JOHN BETTRIDGE, Papier Mache Manufacturers & Japanners, Birmingham. Nov. 26, at 11; Birmingham.—KINROSS, HENRY, & JAMES SHAW, Cab & Omnibus Proprietors, Kingston-upon-Hull (Kinross & Shaw.) Nov. 28, at 12; Kingston-upon-Hull; sep. est. same time, of James Shaw.—LEE, THOMAS, Merchant, 5, George-yard, Lombard-street, London, and 1, Edmund-street, Birmingham, Warwickshire. Nov. 29, at 2; Basinghall-street.—LILLEY, THOMAS, Merchant Tailor, North Shields. Nov. 28, at 12.30; Newcastle-upon-Tyne.—MERRICK, WILLIAM HIGGINS, Innkeeper & Commission Agent, Hailes-owen, Worcestershire. Nov. 19, at 11; Birmingham.—NEWTON, REVUE, Silk Throwster, Bold-lane Mill, Derby. Nov. 29, at 11; Nottingham.—RAMMAGE, WILLIAM, Ironfounder, the Platts, near Stour-bridge, Worcestershire. Dec. 14, at 11; Birmingham.—SLEDDEN, JOHN GREEN, Woollen Draper, Birmingham. Nov. 28, at 11; Birmingham.—SMITH, EDWARD, Printer & Stationer, Birmingham. Nov. 28, at 11; Birmingham.—WELCH, JOHN WELLINGTON, Warp Sizer, Manchester. Nov. 29, at 12; Manchester.

FRIDAY, Nov. 9, 1860.

BLACKBURN, JAMES BERRY, Currier & Leather Seller, Saint Stephen's-plain, Norwich. Dec. 1, at 12; Basinghall-street.—BOTTEN, CHARLES, Brass Foundry, Crawford-passag, Clerkenwell, Middlesex (Charles Botten & Son). Nov. 20, at 2; Basinghall-street.—CROGG, ROBERT DAWSON, & FREDERICK ANGASTERN, Dealers in Atmospheric Clocks, 44, Friday-street, Chospide, and 73, Fleet-street, London. Nov. 30;

at 11; Basinghall-street.—CROSS, CHARLES, Silk Warehouseman & Agent, 19, Gutter-lane, London. Nov. 30, at 11.30; Basinghall-street.—DICKINS, WILLIAM, Shoe Manufacturer, Daventry, Northamptonshire. Nov. 21, at 12.30; Basinghall-street.—HARRISON, THOMAS, Tailor and Draper, Henley-upon-Thames, Oxfordshire. Dec. 1, at 12; Basinghall-street.—M'ALPINE, JOHN, Jun., Heacher, Newington-road, Ball's Pond, Middlesex. Nov. 30, at 12; Basinghall-street.—M'ALPINE, JOHN, Ironmonger, 110, High-street, Cheltenham. Dec. 13, at 11; Bristol.—NICHOLSON, JOHN, Currier & Leather Dealer, Liverpool. Dec. 3, at 11; Liverpool.—OVERBURY, JOHN, Woollen Warehouseman, Frederick's-place, Old Jewry, London. Nov. 30, at 1; Basinghall-street.—PARROT, WILLIAM, Boot & Shoe Maker, 16, Lisle street, Leicester-square, Middlesex. Dec. 1, at 12; Basinghall-street.—PORTER, THOMAS, Chair and Cabinet Maker and Upholsterer, 6, Beauvoir-place, Kingsland-road, Middlesex. Dec. 4, at 12; Basinghall-street.—REKES, GEORGE, Jun., Riding Master, Livery Stable Keeper, & Horse Dealer, Cheltenham, Gloucestershire. Dec. 6, at 11; Bristol.—ROACH, CHARLES, Humber, Devizes, Wilts. Dec. 13, at 11; Bristol.—SIMPSON, DAVID, Goldsmith & Jeweller, 29, Hatton-garden, Middlesex. Dec. 1, at 1; Basinghall-street.—TOWNSON, WILLIAM, M., Victualler, Liverpool. Nov. 30, at 11; Liverpool.—WILSON, JOHN, Boot & Shoe Maker, Sunderland. Nov. 22, at 11; Newcastle-upon-Tyne.

CERTAINTY IN LIFE ASSURANCE.

The conditions and limitations contained in Ordinary Life Policies deprive them of present value, and make their ultimate effect dependent upon the result of future investigations, to be commenced only after the death of the assured life.

THE INDISPUTABLE LIFE ASSURANCE COMPANY OF SCOTLAND was instituted for the purpose of obviating these defects, and granting indefeasible Policies of complete security.

TRUSTEES.

Andrew Gillon, Esq., of Wallhouse.
Samuel Hay, Esq., Banker, Edinburgh.
Henry Moffat, Esq., of Eldin.

ORDINARY DIRECTORS.

William Anderson, Esq. James Ritchie, Esq.
William N. Fraser, Esq. Adam Morrison, Esq.
Henry Moffat, Esq. The Rev. Wm. Robertson.

JOHN TURNBULL, Esq.

MEDICAL ADVISER.

Professor John H. Bennett.

AUDITORS.

James Greenhill, Esq., Banker, Edinburgh.
Thomas Scott, Jun., Esq., Chartered Accountant.

SOLICITORS.

Messrs. J. & J. Turnbull, W.S.

BANKERS.

The Union Bank of Scotland.

SECRETARY.

Alexander T. Niven, Esq., Chartered Accountant.

MANAGER.

Alex. Robertson, Esq.

CHIEF OFFICES:—

12, Queen-street, Edinburgh; 32, Moorgate-street, London.

"CASE FOR THE OPINION OF COUNSEL."

"This Company was formed for the purpose of granting Life Assurance Policies which should be absolutely Indisputable, and the following form of Policy has been adopted. (Copy Policy).

"The Opinion of the ATTORNEY-GENERAL and Mr. J. NAPIER HIGGINS is requested.

"Whether a Policy in the above form would be Disputable by the Company upon any ground whatever, and if so, upon what ground."

"WE ARE OF OPINION THAT (assuming the Assured to have an Insurable Interest in the Life within the Provisions of 14 Geo. III., c. 48) A POLICY IN THE FORM STATED ABOVE WOULD BE INDISPUTABLE BY THE COMPANY, BOTH AT LAW AND IN EQUITY.

"RICHARD BETHELL, Attorney-General.

"J. NAPIER HIGGINS."

"IT IS QUITE COMPETENT to stipulate that the money assured shall be paid, on the sole condition that the party whose life was assured was alive at the date of the Policy, and thus exclude the questions which have so frequently occurred as to the truth or falsehood of the representations which led to the contract. I AM OF OPINION THAT THE FORM OF POLICY SUBMITTED TO ME DOES ACCOMPLISH THIS OBJECT.

"J. MONCRIEFF, Lord Advocate,
and Dean of the Faculty of Advocates of Scotland.

BRITISH MUTUAL INVESTMENT, LOAN

and DISCOUNT COMPANY (Limited),
17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £100,000, in 10,000 shares of £10 each.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. COBBOLD & PATTESON, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal is 5 per cent. The investment being secured by a subscribed capital of £35,000, £70,000 of which is not yet called up.

LOANS.—Advances are made, in sums from £25 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to

JOSEPH K. JACKSON, Secretary.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, NOVEMBER 17, 1860.

CURRENT TOPICS.

Notice has been given in the advertising columns of the morning journals that application is intended to be made to Parliament in the session of 1861, for an Act to authorise and enable the Commissioners of her Majesty's Works and Public Buildings to acquire, by compulsory purchase or otherwise, certain houses, tenements, and other buildings in the Liberty of the Rolls, as a site for the proposed Palace of Justice. The boundaries of the site are stated as follows:—on the north and north-west by Carey-street; on the south by Pickett-street Strand, the Strand, and Fleet-street; on the east by Bell-yard; and on the west and south-west by Yeates's-court, Clement's-inn, and the Vestry-house of the parish of St. Clement Danes. There is no doubt that not only the law authorities but Lord Palmerston himself, and other members of the Cabinet, are very desirous to give full effect to the vigorous scheme suggested in the report of the Concentration of Courts Commissioners. During the long vacation the Prime Minister, accompanied by the Attorney-General and Solicitor-General, visited the proposed site with the view of making himself personally acquainted with the details of the plan, and the locality of the intended buildings; and we believe that he is prepared to recommend Parliament to resort to the suitors' fee fund—according to the suggestions of the majority of the commissioners—for the sum necessary to carry out this great undertaking.

The Bill "for repealing divers Acts and parts of Acts which have ceased to be in force," has recently been printed. It consists of two short clauses—one repealing the Acts mentioned in the schedule to the extent therein specified; and the other declaring that the Act "shall not be deemed to affect anything already done under any enactment herein comprised, or to affect any right, benefit, obligation, or liability now existing, or capable of hereafter arising, or being employed or enforced under any such enactment; nor shall any such enactment, by reason of its being herein comprised, be deemed to have been in force at the time of the passing of this Act, or at any time heretofore, further or otherwise than it would have been so deemed if this Act had not been passed." The Bill is the first step towards that expurgated edition of the statutes which, under the direction of the Lord Chancellor, the Attorney and Solicitor Generals, has been entrusted to Mr. Reilly and Mr. Wood. The schedule shows first the Acts proposed to be repealed; secondly, the subject; thirdly, the extent of repeal; fourthly, the mode in which the particular enactments have ceased to be in force; and, lastly, the public office to which the Act belongs. This schedule, which includes the statutes relating to departmental administration from the 19 & 20 Vict. to the 11 Geo. 3, has been submitted to the officers of the Customs, Treasury, &c., and having been subjected to a rigorous examination, it is understood that the labours of the learned editors have been ascertained to be singularly accurate and correct. It therefore is to be hoped that the many Acts mentioned in the schedule will speedily be swept away from the overcrowded pages of our Statute Book.

A movement has been set on foot by Lord Brougham for getting up a public dinner, to be given by the English bar in honour of M. Berryer, the great French advocate. We understand that already several of the most eminent members of the profession in this country have signified their approval of the proposition, and that Sir Fitzroy Kelly assists Lord Brougham in making the preparatory arrangements.

The *Morning Post* of yesterday states that the letter of the Attorney-General (which appears elsewhere in our columns), read by Mr. Morley in his speech at Manchester, was a private communication, and that the use made of it by Mr. Morley was without the consent or knowledge of the Attorney-General.

THE BORGHESE CASE.

This case has been one of the longest, and also one of the most interesting, ever discussed in the Court of Chancery. It occupied fully a fortnight in argument. The examination of Italian lawyers at Rome extended over three months, and their opinions and oral evidence were printed for the information of the Court in the same number of folio volumes. A very high degree of learning and ability were displayed both by the English and Italian advocates, who at such great length discussed the case; and the judgment delivered by Vice-Chancellor Wood on Tuesday last was in every way worthy of the occasion, and of the reputation of that distinguished judge. It is remarkable that when the claimants first gave notice of their alleged rights, Mr. Rolt was consulted as to the validity of the claim, and advised against it. Subsequently, Mr. Rolt became the plaintiff's leading counsel, and argued, with all his accustomed force, against the opinion he had himself expressed. We believe that few English lawyers, looking at the question by the light of English law, and with English habits of thought, would fail to form the same first opinion as Mr. Rolt did. And after hearing all the ingenious reasonings of the Italian lawyers, and endeavouring to consider the question from the point of view assumed by them, it is probable that an English mind would rest finally in the opinion which it had formed at first. The judgment of the Vice-Chancellor was in accordance with what we venture to call the primary and obvious view of the case before him. It was admitted that the document in controversy must be expounded by Italian lawyers, according to the rules of Italian law; but after considering a great variety of subtle arguments, the Vice-Chancellor put them one by one aside, and decided the case by the application to it of plain reasoning and of broad principles which belong equally to all legal systems. It would not be unfair to describe the decision, in this case, as a triumph of common sense over technicality.

The suit was founded upon a contract dated 7th March, 1835, preliminary to the marriage of Lady Gwendaline Talbot with a prince of the noble Roman family of Borghese. This contract was signed by Lord Shrewsbury and Prince Borghese, the fathers of the parties to the intended marriage. On the 9th May, 1835, a solemn public instrument was executed before a notary, and there was also a private instrument of even date. The marriage was solemnized two days after the execution of these instruments. Lord Shrewsbury had one other daughter and no son. The Princess Borghese died before her father, and left her husband and one daughter surviving her. That daughter married the Duc di Sora, a Roman noble, and upon her marriage her rights, and those of her father, under her mother's settlement, became vested in her father and herself in equal moieties. Thus the claimants in the suit were the Princess Agnese Borghese, wife of the Duc di Sora,

and her father; and the principal defendants were the trustees to whom Lord Shrewsbury gave the bulk of the real and personal estate, over which he had a disposing power, upon certain trusts under which his two daughters and their families took no benefit. The present claim rested upon the 5th clause of the preliminary contract above-mentioned. That contract, and also the two solemn instruments of later date, were in the Italian language, and were executed at Rome, where Lord Shrewsbury resided with his family. The translation of the 5th clause adopted by the Court, was as follows:—

Over and above the aforesaid dowry thus constituted his Excellency the Earl of Shrewsbury assigns from this moment likewise by title of dowry to the lady bride a portion equal to the other heirs in concurrence in his free inheritance cleared from debts and legacies.

By a previous clause Lord Shrewsbury had agreed to pay or secure to his daughter a dowry of £40,000. In addition to that sum, the claimants now demanded half of Lord Shrewsbury's real and personal estate, without deduction for debts or legacies. They claimed "a portion equal to the other heirs in concurrence in his free inheritance," that is, in his unentailed property; and as the only other heir was Lord Shrewsbury's surviving daughter; the "portion" claimed by them was, as regards quantity, one half. As regards quality, they alleged that this portion was to be "free," or "cleared" from debts and legacies, which in that case would be thrown upon the other half of the inheritance. It will be seen that by this construction the participle "cleared" was made to depend upon the more remote substantive "portion," instead of upon the nearer one "inheritance." It was contended on the other side that the "inheritance" was to be "cleared" of debts and legacies by paying them out of it, and then the claimants would take a moiety of the residue; and as Lord Shrewsbury had given away his whole estate, there was no residue, and therefore the claimants could take nothing. This was, in effect, contending that the participle "cleared" belonged to the nearer substantive "inheritance." Upon this question of construction, which was the principal question in the cause, the Vice-Chancellor decided against the plaintiff. He held that Lord Shrewsbury had retained full disposing power over his entire property; and as he had disposed of the whole of it, there remained nothing upon which the clause could operate, and therefore he dismissed the bill.

We think the plaintiff relied upon a forced and the defendants upon the plain construction of this clause. But upon a number of subsidiary and artificial arguments of the defendants, the Vice-Chancellor chiefly rested upon the testimony of their own witnesses to decide against them. Thus it was alleged that the fifth clause constituted a *pactum successorium*, or agreement concerning the succession of a living man, which is forbidden by the Roman law on the very unsatisfactory ground that it is *contra bonos mores*, as causing the heir to desire the death of the person who created him. Modern Roman lawyers appear to feel the absurdity of this rule, whose existence they nevertheless admit, and they endeavour to limit its operation by numerous and refined distinctions. Thus in the present case the plaintiff's witnesses contended that the clause in question did not give a right to a quota of succession, but only to a quota of property. One of the defendants' witnesses called this distinction "the algebra and metaphysics of jurisprudence, and an invention of lawyers for the purpose of eluding the law." Nevertheless, the distinction seems established—at least if it be possible in any particular case to draw it. The whole or a portion of an inheritance, as inheritance, cannot be taken by a compact *inter vivos*; but the word *credita* may possibly appear from the context to mean only property—it may stand for *bona mobilia et immobilia*, just as those words may, under certain circumstances, be equivalent to the *universum jus*. All this, it must be owned, is a very

pretty exercise of ingenuity, but it would be highly unsatisfactory to see the judgment of an English court rested upon such a slender ground. As the Vice-Chancellor remarked, the Italian cases on this head run very fine. He founded his own decision against the defendants' allegation of *pactum successorium* upon the doctrine derived from their own witnesses, that such a pact must depend for its effect upon the heir surviving the person who created him; whereas here the assignment was to take effect immediately, and besides, it was made "by title of dowry," or, as we should say, for the valuable consideration of marriage, and therefore the daughter would not take as heir, but as a creditor against the heir.

Upon this point, then, the defendants failed, and they were equally unsuccessful with the arguments which they founded upon a clause of the solemn public instrument, called from its two first words the *viene consacrato* clause, and of which the translation was as follows:—

The right of jointly succeeding to the inheritance of her father, according to the common law, is by express provision reserved to the said future bride.

It will be seen that this clause was much less favorable to the plaintiff's claim than that contained in the preliminary contract. Indeed it left Lord Shrewsbury quite at liberty to burden his succession with debts and legacies, or to give away the whole of it, as he did, to strangers. The defendants struggled hard to show that this clause must be taken in substitution for what we shall call for the sake of brevity the fifth clause. Here was an informal contract, and a subsequent solemn instrument. Was it not reasonable to suppose that the parties, on deliberation and under advice, had embodied the whole of their mature intentions in the instrument of later date? But one objection to this view was that Lady Gwendaline, a minor, had acquired a present right under the fifth clause, and the proper formalities had not been observed to make her renunciation of that right valid. And, moreover, it was clear upon Italian law that the mere execution of the formal instrument would not abrogate the preliminary contract. There could be no revocation except by incompatibility, and here the two clauses might well stand together. There were also authorities to show that even if the two clauses were inconsistent, the former and not the latter must prevail.

Whatever may be the practical effect of the Roman law upon the condition of the people subject to it, one cannot but feel strongly impressed by the majestic antiquity of a system which seeks the origin of its principles in the remote ages of the free republic which preceded the empire of the Cæsars. We have spoken before of the illegality of a *pactum successorium*, and of the artificial reasons given for that rule of law. But in his "Opinion for the truth," produced in support of the plaintiff's case, the advocate Rossi showed that this rule was founded on the early practice, according to which an heir could only be created by a *lex* passed by the Roman people in their *comitia*. Inheritances were, by the law itself, transferred to the nearest relations of the deceased, and the ancient Romans held that it was lawful for no man to derogate by his own will from such a prescription of the law, and to institute to himself a different heir. When therefore any one wished to do so, he must get a law passed for the express purpose. Upon this ground compacts concerning succession were held to be unlawful and void. Our own reverence for tradition will fit us to appreciate a legal system so much more ancient than our own; and we find that the grandeur of the Roman law is well supported by its practitioners at least in their deliberate compositions. Under the pressure of an English cross-examination, it must be owned that they rather compromised their dignity. But in their written opinions and in their deeds they maintain a sufficiently elevated style. "The aggregate of all virtues which can illustrate a noble young lady," induced a certain Prince to request that

she might be given in marriage to his first-born son, "a young man equally adorned with the highest qualities." This is the recital of the settlement made "with the Divine will," and "under the Pontificate of our Lord Pope Pius IX. happily reigning," on the marriage of the Princess Agnese Borghese with the Duc di Sora. If space permitted, we could collect many other interesting examples of a style of thought and of expression which contrast most vividly with those of English lawyers.

THE TRUSTEES AND MORTGAGEES ACT (23 & 24 VICT. c. 145).

This Act has been discussed under a variety of aspects. At one time the soundness of the principle of making powers and provisions incident to estates has been questioned, on the ground that a mortgage in its equitable bearing is a matter of special contract between the parties, while the similarity of any number of private transactions does not invest them with such a character as to bring them within the scope of public legislation. At another time the statutory development of deeds has been objected to, as interfering with the liberty of persons who may make dispositions in ignorance of an officious law. Again, the perplexity of construing the clauses of an instrument together with the clauses of an Act of Parliament has been balanced against any advantage of the brevity of form resulting from the operation of the Act. The general inconvenience too of a mortgagee being obliged to look into the statute book, consolidated or unconsolidated, for what he is allowed to do, and what not to do under his security, tends, it is argued, to complicate business, and so to counteract any convenience of an imperfect, however simple, document in the mortgagee's hands. But grant the principle of making powers incident to estates, admit that there is no undue interference with conveyancing liberty, tolerate the perplexity, and decide in favour of the convenience, yet, there remains the paramount consideration—has the legislative measure been put into a shape suitable for the accomplishment of the object which it professedly has in view? Has Parliament, in its office of draftsman, adequately provided for the circumstances of the matter? Is the shortness of the six clauses—the 11th to the 16th—which regulate sales by mortgagees of real property in their wide diversity, due to a breadth and comprehensiveness, which adapt themselves to the manifold requirements of business; or is this shortness a meagreness owing to narrow views, which cannot contemplate anything beyond the plainest case of mortgage? Is it grasp of subject or ignorance of detail that really characterises this Act?

There is an imposing generality in the preamble:—"It is expedient that certain powers and provisions which it is now usual to insert in mortgages, &c., should be made incident to the estates of the persons interested so as to dispense with the necessity of inserting the same in terms in every such instrument." This is doubtless the magic statutory formula. Parliament need only declare that this or that thing is "expedient," and unfold a dozen or half-dozen clauses, and it is assumed that the thing is done. Since the passing of this Act, the practical question asked hitherto has been, shall we or shall we not exclude its operation from our deeds? If we do not, then according to the prevailing impression, the statutory provisions will fasten themselves inextricably among the common forms of the instrument with such variations and limitations as in the opinion of each cunning interpreter the forms may work in the provisions when applied to the particular case. The acceptance or rejection of the parliamentary conveyancing boon is regarded as optional. The self-imposed limits of its operation have not been at once perceived. We are not now referring to patent restrictions, as that

(s. 11) the purview of this part of the Act is confined to principal money secured or charged by deed on hereditaments of any tenure, and (s. 24) to money advanced or to be advanced by way of loan, or an existing or future debt, and further (s. 32) that the Act does not empower persons to affect the rights of any one, further than they might have affected such rights, if the instrument had contained express powers for such persons to affect such rights.

The self-imposed limits to the application of the mortgage clauses arise mainly out of the 15th section. "The person exercising the power of sale hereby conferred shall have power by deed to convey, or assign to, and vest in the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of, except that in the case of copyhold hereditaments the beneficial interest only shall be conveyed to and vested in the purchaser by such deed."

"Had" seems to be a kind of aorist—a tense which has its legitimate uses, but which was not previously naturalised in an Act of Parliament. Let us try back for the meaning of this aorist. Various periods are mentioned in the preceding clauses. There is the period of making the security, the period when the principal shall have become payable, the period of one year after that period, or of six months' arrear of interest, or of failure to pay an insurance premium, the period of sale, and the period of six months' notice before exercising the power of sale. We will suppose, on the principle of *qui prior est tempore, &c.*, that the first of these periods is meant. Then, it is plain that the Act cannot be intended to apply to any case of a mortgage of less than the mortgagor's whole estate and interest, and the whole estate and interest of which he had power to dispose. Otherwise, it would be absurd that the mortgagee should have power to convey for all such estate and interest. Hence, not only are securities made by limited derivative interests out of the mortgagor's estate excluded, but those created under powers; as by a tenant for life, to raise portions or to pay debts, or by trustees for the exoneration of estates, or other usual purposes. No mortgage made under a mere power to dispose in mortgage can be within the 15th section, or consequently within the Act.

Of a similarly restrictive character is the 14th section, enacting that, upon a sale, the residue of the purchase-money shall be paid to the person entitled to the property subject to the charge—a provision wholly unsuitable to any case of divided ownership in the equity of redemption, whether by settlement or otherwise.

Even in the case of a mortgage, which is within the Act, the application of the 15th section suggests a serious inquiry. Hitherto a conveyance on a sale by a mortgagee has operated to pass his estate at law, freed from all right of redemption in equity. But a conveyance made under the Act is to convey for the estate and interest of the mortgagor. Is the purchaser, therefore, to take as for the estate and interest which the mortgagor had at the time of the mortgage, and not for the estate and interest which the mortgagee has at the time of the conveyance? Thus, suppose the case of a mortgagee who, taking without notice of judgments against the mortgagor, has escaped the effects of the 1 & 2 Vict. c. 110; a purchaser from such a mortgagee in the ordinary way would not be affected by such judgments, although the purchaser had notice of them. Will he be affected by them, if under this Act, he takes for such estate and interest as the mortgagor had at the time of the mortgage? The test supplied by the Act itself is, that the rights of other persons (judgment creditors, for instance) shall be affected only to the extent to which they might be affected if the powers had been given in the instrument. We must, therefore, construe the effect of the statutory conveyance in the same manner as we should

that of the ordinary conveyance by a mortgagee, if the mortgage had given him power in a sale to vest the property in a purchaser for all the estate and interest therein, which the mortgagor at the date of the mortgage had power to dispose of. What would be the operation of such a power given in a mortgage? Would it throw a purchaser from the mortgagee back upon the mortgagor's title at the time of the mortgage? Can any one safely affirm that it would not? This extraordinary 15th clause has gone so far out of its way, and introduced such a novel treatment of the relations between the mortgagor, mortgagee, and purchaser, in the vital point of the conveyance, that it holds out to a cautious practitioner something like a *noli me tangere*.

There are other points in the mortgage clauses that are noticeable, as rendering necessary great caution, if not raising great doubt. The Act purports to dispense with the necessity of inserting the usual powers and provisions in terms in every mortgage. It might thus be mistaken for a kind of Mortgage Clauses Consolidation Act, and the mortgagee be regarded as occupying under the Act the same position as if the common-form powers and provisions had been actually inserted in the deed; but this is a theory which must not be trusted before examination of it with the clauses. Turning to the 13th, a sale is not to be made until after notice; "but when a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorise the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorised exercise of such power shall have his remedy in damages against the person selling." The corresponding proviso in the common form of a power of sale is to the effect, that upon any sale purporting to be made in pursuance of the power, the purchaser shall not be bound to see or inquire whether notice has been given or default made, or as to the expediency of the conditions of sale or otherwise as to the propriety or regularity of the sale, and that notwithstanding any irregularity or impropriety, the sale shall be valid as regards the purchaser. These powers of the Act and of the common form differ in two important particulars. The common form contemplates irregularity or impropriety by the vendor, and relieves the purchaser from being bound to see or inquire respecting any and from the consequences of not seeing or inquiring. The Act is more general, and would save the purchaser's title, although both he and the mortgagee were aware that no case had arisen to authorise a sale, or that no notice had been given. Again, while the 13th section is chargeable with this undue licence, it does not give sufficient licence respecting the grounds of irregularity, confining them as it does to the circumstances of no case arising for sale, and of want of notice. Consequently, the object of the common form, that no irregularity or impropriety as between the mortgagee and mortgagor shall vitiate the sale as respects the purchaser, is not secured by the statutory power.

In applying the 13th section practitioners have also to consider, what is the precise force of the words "in professed exercise of the powers hereby conferred." Thus, if a mortgagee put up the property to sale by auction in the ordinary way, as a sale by a mortgagee, and the usual contract were entered into at the foot of the particulars, it is apprehended that the mortgagee could not afterwards, in carrying out the contract, insist upon the benefit of the indemnity afforded by the Act to the purchaser's title. The sale must at the outset, in the particulars of sale, profess to be made in pursuance of the Act. The same remark applies to a sale by private contract. As regards a subsequent purchaser, however, it will have been sufficient to notice the Act in the conveyance from the mortgagee. The

necessity of making the sale from the first professedly under the Act is peculiarly apparent in the case of a subsale by the purchaser.

Some curious cross purposes in practice will result from the provisions of the 11th section, conferring the power of sale, taken in connection with the 12th, providing a discharge to purchasers. By the former section, the person to whom the money "shall for the time being be secured, his executors, administrators, and assigns," shall have power to sell. By the latter section receipts for purchase-money given by the "person or persons exercising the power of sale," shall discharge purchasers. So that if a mortgagee die, and his executor, who is the person to whom the money will for the time being be payable, commences a statutory sale and dies intestate, his "administrator" will be the statutory party to continue the exercise of the power, and therefore to give receipts to purchasers; while the mortgagee's executor will now be the person entitled to the money.

Some experienced conveyancers are, we know, declining the Act. It is scarcely necessary to remind any of our readers that, unless expressly excluded, it takes effect upon a deed. We feel bound, therefore, not to close these remarks without a form of proviso that will be useful for the avoidance of doubts and difficulties, until an amendment or substituted measure shall have been passed, or until judicial decision, obtained by and at the cost of those who may offer themselves as patriotic scapegoats for legislative sins, shall have come in aid to resettle the Act. The proviso is framed on the language of the 32nd section:—

"Provided always, and it is hereby declared, that none of the powers or incidents by the Act to give to trustees, mortgagees, and others, certain powers now commonly inserted in settlements, mortgages, and wills, conferred or annexed to particular offices, estates, or circumstances, shall take effect, or be exercisable in, or in respect of any offices, estates, circumstances, matters, or things created by, or arising under, these presents."

The Courts, Appointments, Promotions, Vacancies, &c.

VICE-CHANCELLORS' COURT.

(Before Vice-Chancellor Sir W. P. Wood.)

Nov. 12.—*Waller v. Holmes*.—This was a petition of the defendant for the delivery by a London firm of solicitors to the petitioner of all deeds and documents, &c., in their custody belonging to him.

The petitioner had employed Mr. Sims, a country solicitor, to act for him in the suit. An order was made in December, 1855, for production by the defendant of all documents, &c., relating to the matters in question in the suit, at the office of Messrs. Mead & Daubeny, the London agents of Sims. Sims died in 1859, and, after settling off the amount of his bills of costs in *Waller v. Holmes*, his estate still remained largely indebted to the petitioner for moneys advanced. Sims also died indebted to his London agents, Mead & Daubeny, to the amount of £600. The proportion of their claim which had arisen in *Waller v. Holmes* amounted to £142, and until satisfaction of their lien for this sum they refused to deliver up to the petitioner his deeds.

The VICE-CHANCELLOR held that the deeds must be delivered up to the petitioner. The country solicitor could confer no higher right upon his London agent than he possessed himself. The London agent was always taken as giving credit to the country solicitor, and not to the client himself, of whom he knew nothing. In the present case there was nothing due from the client to the country solicitor, and the result was that there was no such right of lien in the London agents as had been contended for by them. The deeds were ordered to be delivered up, and the respondents to pay the costs of the petitioner.

COURT OF QUEEN'S BENCH,

(Sittings in Banco before Lord Chief Justice COCKBURN, and Justices WIGHTMAN, HILL, and BLACKBURN.)

Nov. 7.—*Fox v. Williams*.—This was an application for a rule calling upon the plaintiff to show cause why the verdict found in his favour, with £200 damages, should not be set aside, and a new trial granted, upon the ground of misdirection and that the damages were excessive. It appeared the plaintiff, Charles Burton Fox, was a solicitor, carrying on business at Newport, in Monmouthshire, in partnership with a Mr. Prothero. The defendant was the printer and publisher of the *Star of Gwent*, a newspaper circulating in the same county, and the action was brought against him to recover damages for two libels published by him in the *Star of Gwent* on the 18th of February, 1860. At the trial, which took place at Hereford, at the last assizes, before Mr. Justice Byles and a special jury, the plaintiff obtained a verdict with £200 damages. It appeared that the plaintiff was clerk to the Newport justices, and his partner, Mr. Prothero, was clerk of the peace of the county. The 102nd sect. of the Municipal Corporations Act (the 5 & 6 Will. 4, c. 76) enacted that the clerk to the justices should not be interested, directly or indirectly, in the prosecution of offenders committed by the borough justices; and as the plaintiff was in partnership with Mr. Prothero, and so shared in the fees which that gentleman received as clerk of the peace on the trial of prisoners committed by the Newport justices, it was objected to the plaintiff that he had an indirect interest in advising the Newport justices to commit offenders for trial. This led to various legal proceedings, which ended in a decision of a court of error that the plaintiff had acted illegally, and a nominal fine of one shilling was imposed upon him. The plaintiff and his partner then, under the advice of counsel, executed a deed, under which it was arranged that in future each party should receive his own fees to his own use, and that they should no longer share in each other's fees. This deed had been denounced in terms which it was admitted could not be justified, and which cast an imputation on the honour of the plaintiff; but it was contended that, notwithstanding the deed, the plaintiff was still interested, by his partner, in the prosecution of offenders committed by the borough justices, and it was submitted that, at all events, the damages were excessive.

Lord Chief Justice COCKBURN said the Court would communicate with Mr. Justice Byles on the subject; and, at a later period of the day, his lordship said the Court had ascertained that Mr. Justice Byles was not dissatisfied with the amount of damages. It was admitted that the libel went beyond fair comment, and described the arrangement in question as merely colourable. It made a charge on the personal honour of the plaintiff, and, therefore, it was competent for the jury to give the plaintiff substantial damages. The learned judge was not dissatisfied with the amount of the damages, and, therefore, he (Lord Chief Justice Cockburn) thought the verdict ought not to be disturbed. With respect to the other point, his lordship thought there had been no misdirection. The plaintiff had now no interest, at least no pecuniary interest, in the prosecutions; his only interest was that which a man might take in advancing the interest of his friend. But that was not the sort of interest which the Act contemplated. It might be that the arrangement was open to some observations, but not to the comments which had been made upon it.

The other judges were of the same opinion.

Rule refused.

(Sittings in Banco, before Lord Chief Justice COCKBURN and Justices WIGHTMAN, HILL, and BLACKBURN.)

Nov. 8.—*Ex parte the Mayor of Birmingham*.—The Solicitor-General moved, on the part of the Mayor of Birmingham, for a rule calling upon the justices of the borough to show cause why a *mandamus* should not issue, commanding them to allow the mayor to take precedence and to preside as chairman at all meetings of the justices where a chairman should be required. The application was made on the part of Thomas Lloyd, the mayor for the year 1859-60, and was founded on the 57th section of the Municipal Corporations Act (the 5th & 6th Will. 4, c. 76), which enacted that the mayor for the time being of every borough shall be a justice of the peace for such borough, and continue so for one year after he shall cease to be mayor; and that "such mayor shall (during the time of his mayoralty) have precedence in all places within the borough." The magistrates had put a con-

struction upon the statute that it did not apply to meetings of magistrates, but was only intended to give the mayor social precedence in the borough; but the Solicitor-General contended that that was not the true construction, but it was intended that the mayor, being a justice *virtute officii*, should preside at all meetings of the justices where a chairman should be required.

Lord Chief Justice COCKBURN said he thought the right construction had been put on the statute, and that it referred only to social precedence, and did not give the mayor a right to preside at magistrates' meetings.

Rule refused.

Nov. 12.—*In re —, an Attorney*.—This was an application for a rule calling upon an attorney to show cause why he should not answer the matters of an affidavit and pay over to the applicant a sum of money. It appeared that a few years since the applicant left England for the Cape of Good Hope, and gave the attorney a power of attorney to conduct his business for him in his absence. A sum of £600 was owing to the applicant, and the attorney was advised to get it in and invest it on mortgage. The money was accordingly got in, and the attorney stated he had invested it. The applicant afterwards sent the attorney £150 to be invested, and on his return to England in 1859, required an account of the investments; but not being able to obtain any account, demanded payment of the money. The money not having been paid, the matter was placed in the hands of the applicant's present attorney, whereupon the former attorney rendered an account in which he had debited himself with a loan of £600 at £2 per Cent., but which he had afterwards raised to £5 per Cent.; but this was done without any communication with the applicant. The Court granted a rule.

COURT OF COMMON PLEAS.

Nov. 12-13.—*Lewis v. The Mayor and Corporation of Rochester*.—This was an action by the plaintiff, formerly town-clerk of Rochester, against the corporation, on their retainer to him to oppose an application for a *mandamus* directed to the Mayor of Rochester, to compel him to revise the list of burgesses for three of the six parishes into which Rochester is divided, which had not been revised owing to a list of the burgesses in those parishes by mistake not having been published according to the requirements of the Municipal Corporation Act; and the question raised by the case was, whether the plaintiff could maintain his action on this retainer under the common seal of the corporation for his bills of costs.

The Court gave judgment for the plaintiff.

DIVORCE COURT.

(Before Sir C. CRESSWELL.)

Nov. 9, 10.—*Shedden v. Shedden*.—The proceedings in this Court on Friday and Saturday, the 9th and 10th instant, were of unusual interest, from the fact that a lady, whose counsel had withdrawn from the case in consequence of not having had time to master its very numerous and complicated details, came forward herself, and addressed the Court in a speech that would have done credit to a practised barrister. At the sitting of the Court, on Friday, Mr. Macaulay, Q.C., applied for an adjournment, on the ground that neither he nor Sir Hugh Cairns (who was with him) had been enabled to give that attention to the papers which the complicated and very peculiar nature of the case required. Sir C. Cresswell, however, stated that before the long vacation he had given notice that this case would be the first that would be taken this term. Great public inconvenience would arise if it were postponed. It must therefore go on. Mr. Macaulay regretted to say that, under the circumstances, it must go on without the aid of himself and his learned friends. He and his colleagues then withdrew. Miss Shedden accordingly stood forward, and in a very lengthened, but exceedingly lucid, and even eloquent speech, stated the case in support of the petition. She felt that some prejudice might arise against her for having thus come forward; and an apprehension might be entertained lest, in an age when so much was said of woman's rights, other ladies might be induced by her example to plead their causes in person. She continued to address the Court until it rose. On Saturday, when the case was resumed, Miss Shedden stated that Sir H. Cairns and Mr. Macaulay would be ready to proceed with

the argument in her behalf on Thursday; and asked for an adjournment till then. The Court declined to accede to the application. The Attorney-General (who had been cited to watch the proceedings) was ready to assent to the application. Sir C. Crosswell had no objection to postpone the legal argument, provided that the rest of the case were proceeded with, so that no time might be lost. After some further discussion, Miss Shedden stated she was unable at once to proceed with her case. At that moment she felt as if she could hardly speak—not that she felt physically weak, but she feared that if she attempted to go on, her brain would hardly stand it. Mr. Macaulay was then confined to his room, and Sir H. Cairns (whose kindness and the kindness of whose family she could never forget) had an engagement in the Vice-Chancellor Wood's Court, and could not be present. Sir Hugh had told her that he should never think without pain and distress on the state in which he had been obliged to leave the case. (Here Miss Shedden, who is a person of very ladylike demeanour, exhibited some emotion, her voice faltered, and she abruptly concluded). She spoke on Saturday for nearly five hours.

COURT OF ALDERMEN.

The late Alderman Wire.—At a Court held on the 13th inst., at which the Lord Mayor presided, Mr. Alderman Copeland said it had pleased God to deprive them of one of their number, the late Mr Wire, who for a long period of years was known to the corporation of London, and who as a magistrate discharged the duties of his office with great zeal and fidelity. He felt sure that the Court would pay that tribute of respect to his memory, and offer that condolence and sympathy to his widow and family, which were due at their hands. As a corporator, as under-sheriff, as sheriff, and as Lord Mayor of the city, he had known Mr. Wire, and certainly he deserved credit at the hands of the Court for the manner in which he invariably discharged his duties. He moved a resolution expressive of regret on the part of the Court at the death of their esteemed and estimable colleague, and of their appreciation of his public services, and directing that a vote of condolence be prepared and presented to his widow and family. Sir P. Laurie, in seconding the motion, said he had great respect for Mr. Alderman Wire, for he always thought him a most honourable man. The motion was carried unanimously.

COURT OF COMMON COUNCIL.

At a court holden on the 15th inst., Dr. Abraham moved that it be referred to the Law, Parliamentary, and City Courts Committee to consider the expediency and propriety, and also the terms, of including the City Commission of Sewers in the arrangements provided for performing the legal business of the corporation, in order to relieve the ratepayers of the city from the expense of employing separate Parliamentary and other law officers to perform the legal business of the commission, and to report thereon forthwith to the Court. He submitted that, as the Commissioners of Sewers were appointed by that Court, and almost all of them were members of the Council, the Commission was to a certain extent a branch of the corporation. The Commission expended about £15,000 a year in public works and improvements, scarcely one of which could be carried out without the intervention of a lawyer. Its average annual law expenses during the last five years had amounted to £780, and its Parliamentary expenses to £718. He thought an arrangement might be made that would add little to the present expenses of the corporation, and might materially lessen those of the Commission.

The motion was agreed to.

CLERKENWELL POLICE COURT.

Nov. 12.—Henry Augustus Meech, formerly clerk to Messrs Gregory & Co., Solicitors, Bedford-row, was charged with stealing the sum of £140, the property of that firm. It appeared that in July, 1859, Mr. Gregory gave the prisoner a cheque for £120 to pay for probate duty. Shortly afterwards Meech absconded, without having appropriated the money to the purpose for which it was intended. Nothing further was seen of him till the 9th instant, when he was observed by Mr. Fraser, a clerk in the prosecutors' employ, and was given into custody. It also appeared that when the prisoner absconded, he took with him a cash book in which he entered the fees paid to counsel, and that several sums he had received for that pur-

pose had not been paid by him, and the prosecutors had to draw cheques a second time to pay those fees. The prisoner was committed for trial, but bail was taken for his appearance, himself in £400, and two sureties in £200 each.

SOUTHWARK POLICE COURT.

Nov. 10.—One of the toll-collectors at Waterloo-bridge was summoned by Mr. Frederick Payne Puckle, a member of the London Scottish Volunteers, for unlawfully demanding and taking the toll while he was going to the place appointed for drill, dressed in his uniform, according to the regulations, &c.,

It appeared that the head-quarters of the corps were at Adelphi-terrace, and that they drilled at Westminster-hall. Mr. Puckle resided at Camberwell, and on Saturday afternoon, the 3rd instant, left home for the purpose of going to drill. He was dressed in his usual uniform, and as he was about to pass through the toll-gate at Waterloo-bridge, the defendant demanded the toll. He claimed exemption, as he was on duty, but the defendant insisted upon being paid, consequently he handed him the money, under protest.

The complainant was at the time without his arms or accoutrements, the regulations of the corps being that the members of the corps should go to head-quarters to fetch their arms and accoutrements for drill, and leave them there after drill. It was contended on the part of the bridge company, that as Mr. Puckle was in simple uniform, he could not claim exemption. The magistrate, however, thought a sufficient reason had been given for the complainant being without his side-arms, and gave judgment accordingly, but did not inflict a penalty, merely ordering the defendant to pay costs.

The following solicitors were elected mayors of the undermentioned municipal boroughs on the 9th instant:—

Mr. Thomas Crawhall Alcock.....	Sunderland.
Edmond Foster	Cambridge.
Charles Bettesworth Hellard...	Portsmouth.
Henry Ingledew.....	Newcastle-on-Tyne.
Lewis Whincop Jarvis	Lynn.
Samuel George Johnson	Faversham.
George Leeman	York.
Gillett Jonathan Ottaway.....	Salisbury.
Cadwallader Edmonds Palmer	Barnstaple.
John Pearson.....	Doncaster.
Arthur Ryland	Birmingham.
Joseph Shipton	Chesterfield.
Charles Woolridge.....	Winchester.

Mr. Merivale, the Under Secretary of State for India, has appointed Mr. Charles Chicheley Plowden to be his private secretary in the place of Mr. Hobhouse, who has been promoted.

The Hon. Society of Gray's-inn have appointed the Rev. W. Henry Hart, M.A., Demy of Magdalen College, Oxford, and officiating Curate of St. Luke's, Chelsea, Reader and Afternoon Preacher of the Society.

Recent Decisions.

[Equity, by JAMES NAPIER HIGGINS, Esq., Barrister-at-Law; Common Law, by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

PRACTICE—ENFORCING COMPROMISE BY PETITION.

Dawson v. Newsome, 8 W. R., V.C.S., 725.

Since the Chancery Amendment Act of 1852, the tendency of the practice of courts of equity is towards the substitution of petitions and summary applications for the more formal procedure of regular suits; and this case is useful as shewing that the Court will not be averse to decide upon petition such an agreement for the compromise of a suit as before the Act of 1852 would have required the institution of a suit by bill. In *Richardson v. Eyton*, 2 De G. M. & G., 79, the Lords Justices considered that they could not give effect to an agreement for the compromise of a suit by a petition in that suit, and that a new suit, one in fact for the specific performance of the agreement, was rightly instituted. Sir John Leach, also

in *Forsyth v. Manton*, 5 Madd. 78, was of opinion that the Court had no jurisdiction to enforce an agreement which was no part of the suit, but had been privately come to by the parties out of Court. The principal case, previous to the Act of 1852, upon this point of practice is *Askew v. Millington*, 9 Hare 65, in which Turner, V.C., upon a petition to enforce an agreement entered into by the parties to the cause after it was at issue, for the compromise of the suit, refused to dismiss the bill or to stay proceedings. The ground of this decision also was that the petition sought in fact the specific performance of an agreement—which according to the practice of the Court could only be decreed in a regular suit. “On principle, I think,” said the learned judge, that the proceeding by bill is more correct; for it is obvious that the Court, in trying such matters upon an interlocutory application in the original suit, is called upon to adjudicate on affidavit upon matters depending on equities wholly distinct from the equity appearing upon record in the cause.” In *Dawson v. Newsome*, however, Stuart, V.C., said, “that whenever under the present fortunately improved practice an agreement for the compromise of a suit was entered into and a petition presented in order to carry that agreement into effect in the most speedy and least expensive way, he should think it his duty to use every means in his power to make that agreement effective, when consistently with the rights of third parties the matters in question might be safely disposed of in that way.” Under the modern practice, as the Vice Chancellor pointed out in his judgment in this case, if the petitioner were refused relief upon the ground that he had adopted a wrong mode of procedure, he would have nothing to do but to alter the form of the petition into that of a bill, and give notice of motion for a decree, which he might obtain upon precisely the same evidence as had proved insufficient upon the petition. This would be an obvious absurdity under the new system of practice inaugurated in 1852. It must not be forgotten, however, that even now it would be dangerous to attempt to enforce by petition an agreement for the compromise of a suit where the agreement for the compromise itself involves new matter, or the interests of any persons who are not parties to the suit, and, perhaps, it might also be added where the agreement itself—*ex. gr.* as to the manner in which it was obtained, ignorance of a compromising party as to his rights, &c.—would appear properly to form a distinct matter of litigation. But after the case of *Dawson v. Newsome*, and the observations of Vice Chancellor Stuart, in delivering judgment, there can be little risk for the future, where there is a plain and unquestionable agreement for compromising a suit which has been fairly entered into between the parties, and which does not involve the rights and obligations of third persons, in resorting to the summary expedient of a petition rather than to the slower process of a bill, for the enforcement of the agreement.

COMMON LAW.

ATTORNEY—AFFIDAVIT OF INCREASE—COSTS OF WITNESSES.

Cross v. Durell, 8 W. R., Ex., 630.

This was an application to the Court to order a review of the taxation of the costs which the unsuccessful party had to pay to the other, on the ground that in the affidavit of increase certain of the successful party's witnesses had been alleged to have been paid prior to taxation, whereas at the date thereof such witnesses had not in fact been paid. It appeared that the mistake had probably been made without any corrupt intention on the part of the attorney in the cause, as he had handed to his client a list of the witnesses and the amount due to each, and had received back from him what purported to be receipts from the respective witnesses; and it was alleged that it was on the faith of this representation that the attorney made the affidavit. The Court said that the rule which confines the allowances for witnesses to the expenses actually paid before taxation, was of great importance and must be rigidly enforced. They therefore made absolute the rule for a review of taxation, and in so doing followed the precedent of the Queen's Bench, in the case of *Trent v. Harrison* (2 D. & L. 941).

It should be noticed that in cases of this kind in which the courts have any reason to suppose that the affidavit of increase was wilfully, or even grossly carelessly missworn, very severe language is used. In a recent case the Court of Queen's Bench suspended from practice an attorney who had so misconducted himself; and Lord Campbell took occasion to say:—

“The charge of fraud is answered; therefore the party will

not be struck off the roll. But his conduct has been highly reprehensible in swearing that he had paid money when he had only advanced it for the purpose of being paid, or when at the time of swearing he had only promised it. The practice in swearing these affidavits of increase has often been censured as lax, but has not been reformed” (*Re Flewker*, cited in *Doe d. Mence v. Hadley*, 17 Q. B. 572).

TORT—MEASURE OF DAMAGES—MALICE.

Emblin v. Myers, 8 W. R., Exch., 665.

It was mentioned last week that in case of a bare tort, the actual loss sustained was often, and indeed generally, the true measure of damages; but where the injury is wilful and malicious, this is otherwise. Of the latter branch of this proposition, the present case is an apt illustration. It was an action for pulling down a wall of the defendant in such a negligent way as to injure some of the plaintiff's property; and at the trial words of the defendant were given in evidence, which showed not only that ill will existed between him and the plaintiff (who was his next neighbour), but that he had contemplated and been desirous that the plaintiff's property should be injured by the removing of the wall, in the manner which ultimately turned out to be the case. Under these circumstances, the judge told the jury that they might, in estimating the damage, take into account the malicious animus of the defendant; which they accordingly did, giving a sum of money considerably beyond the actual value of the property injured. It was urged, in seeking to set aside this verdict on the ground of misdirection, that though malice might properly aggravate the damages in actions in which it would be implied by law (such as for a false imprisonment and the like), the same rule did not arise in actions in which (as in the present) it was the province of the jury to decide whether, under the particular circumstances, malice did or did not exist. The Court, however, held that no such distinction existed; but that in every case the jury might properly take the whole of the circumstances under consideration: and if they thought the defendant had been recklessly or maliciously disregarding of the safety of the plaintiff or his property, might give damages with a liberal hand. In the words of Bramwell, B., “there is no reason why the principle of malice being an element in assessing damages, should be limited to actions of *trespass* and should not extend to actions of *negligence*.”

PRACTICE—NOTICES MUST BE IN WRITING.

Woodward v. North, 8 W. R., Exch., 694.

This case supplies a direct authority (though perhaps one is hardly required) for the practice which makes it proper and indeed necessary that every notice from one party in an action to another, which authorises any subsequent step, should be in writing. With respect, indeed, to such notices as are required by any general rule or by the practice of the Court, there is an express rule of Court to this effect—namely, Reg. Gen. H. T. 1833, Pr. r. 161. But the same necessity exists where a notice is not required to be given, but may be given by one party to the other; as where under Reg. Gen. E. T. 1857, the defendant by giving notice that he intends to oppose an application by the plaintiff for costs in actions of contract under £20, in which judgment has been suffered in default—prevents an order for costs being obtained by the plaintiff *ex parte*. The Court held that the rule of H. T. 1853 was a very valuable one, and operated to prevent perjury; and that the subsequent rule of E. T. 1857, was a rule of the practice of the Court, and, therefore, within the previous rule.

Correspondence.

LORD CRANWORTH'S TRUSTEES AND MORTGAGEES ACT.

Will you allow me to address you, in few words, on Lord Cranworth's Act? I have seen a proposal to introduce into deeds and wills a clause declaring that the Act shall be wholly inapplicable to them. I cannot think that this suggestion is a wise one, if it be made merely because of an imperfection in some of the clauses, or a worthy one if it be made on the ground of pecuniary interest. The design of the Act is the same as that of the Lands Clauses and Companies Clauses Acts, and the General Enclosure Act, which contain enactments of great length, rendering unnecessary the insertion

of similar clauses in each particular Act. Such is the purpose of Lord Cranworth's Act, in its application to deeds and wills. If those who have made the above unfriendly suggestion in regard to Lord Cranworth's Act think any of the clauses imperfect, the proper course is to state their objections with the reasons. It may be that some of the provisions are inapplicable. It so, let us see and distinguish these clauses from the others. The several enactments are independent of each other, and the greater number, at all events, will, I apprehend, be found capable of being universally applied.

Let us look at them in detail.

In the earlier sections, trustees who have a power of sale are authorised to sell in lots, either by auction or private contract, at one time or several times, and under such special conditions as they shall think fit, and to buy in and resell; and those who have power to sell may convey; and persons acting under a power of sale are authorised to lay out the money according to the direction in the instrument, or in land. These things are usually provided for in long clauses—and can any of us deny that it is reasonable that trustees should have these powers without the constant repetition of them?

The Act also contains powers to mortgagees to insure buildings, and charge the premiums, and to appoint or obtain the appointment of a receiver; also a power to trustees to apply the income of infants' shares for their maintenance (without inquiring into the ability of their father or their income from other sources), the receipts of persons authorised to sell, and of trustees generally, are to be sufficient; and executors are to be at liberty to compound and submit to arbitration. These provisions also are of great convenience and importance.

All these provisions are set forth with the same particularity which conveyancers use in deeds and wills, and I am not aware of any imperfection that should prevent their being used. If there be such objection, it would be a service to the profession and the public to point it out.

There are some clauses on which solicitors may pause till they have some further assurance. The power (sect. 8) to renew leaseholds may often be very useful, but it is made compulsory on trustees to renew if any person having a beneficial interest require it, even if other persons interested object, and the settlor or testator has given no direction. This may be too strong. The trustees ought perhaps to have discretion to renew or not, unless called on by all the beneficiaries. If there be this imperfection, it would be sufficient to declare in the deed or will, that the trustees shall have power to renew, but shall not be required to do so unless called on by the person or persons interested for the time being.

Sect. 11 enacts that a mortgagee may sell, after the default specified in the clause, on giving six months' notice to any one of the owners. This hardly seems a sufficient security to other part owners, who may never hear of the notice, and it may admit of collusion. This may be corrected by a statement in the mortgage deed that no sale shall take place without a notice being given to the mortgagor, his heirs or assigns, or affixed, &c.

Also, the powers given by the Act to appoint new trustees would not apply except where the appointment is to be made by the surviving trustees of their own authority alone. It is frequently desired that the appointment should be made by, or with the consent of, some other person. In such a case the clause can be set out in the deed or will, as at present; or it can be said that any appointment shall require the consent of, &c.

Now if it is necessary that in some cases these latter powers should be set out as at present, or that a modification should be expressed as above, this should not in the least lessen the use of the Act in other things; seeing (as I have said) that the clauses are independent of each other, and that some may be used if others are not. If there be other objections let them be stated in detail, that they may be removed. This alone is fair dealing with a measure which is intended to improve the practice of conveyancing. Surely your readers approve of the Lands Clauses Act, and Companies Clauses Act, and General Enclosure Act; yet these three Acts apply to transactions not a hundredth part so numerous as the instruments which may be affected by Lord Cranworth's Act.

Besides that which has been the subject of this letter, (viz., that some of the clauses may be thought to be imperfect or partially inapplicable,) I know but of one objection, it is that the legal profits of conveyancing would be unreasonably lessened. It certainly is very much to be wished that the principle of remuneration were altered; but simplified deeds and wills would be better for our clients, even if they paid the same sums for them as before; and if it be acknowledged that

after this Act, long clauses can be left out with perfect safety and even with advantage, can we continue to insert them merely to be enabled to charge for them? And might we not, for the same reason, have gone on preparing assignments of terms and leases for a year, after they had been made unnecessary, or have continued the *verbiage* which we find in the older deeds, but which has happily passed away and would now be offensive to good taste, good sense, and good conscience?

Let us seek for an alteration in the mode of payment of fees; but meanwhile not do so little justice to ourselves and to our profession (which we would call liberal and honourable), as to prefer prolixity and technicality to simplicity and common sense, and thus fail to co-operate with those who are doing their best to make some improvement in our imperfect human doings.

Bristol, Nov. 12, 1860.

JAMES LIVETT.

PROOF OF CANCELLATION OF STAMPS ON AGREEMENTS.

I would suggest, with reference to this, that the stamp should be placed at the foot of the agreement, and that the party should sign his name across it, writing the date below. The proof of the agreement would thus be the proof of the cancellation. It must be borne in mind, however, that the stamp must be cancelled by "every party to the agreement who shall sign the same;" therefore, unless the stamps are large enough for all the persons to sign their names across another plan must be adopted.

A. G. P.

THE COMMON LAW MASTERS.

Allow me to remove the erroneous impression conveyed to your readers by the letter of a "Common Law Managing Clerk" in your last number, as to the work done by the common law masters. During the vacation, Master Gordon has taxed of a morning from seventy to eighty bills of costs, and when he had finished these, he has taken references in order to expedite justice. He took one for us beginning at two o'clock, when the offices closed, and proceeded with it till five; and this upon several occasions. I think it right that so great an error as that committed by your correspondent should be corrected and forthwith.

A CONSTANT READER.

MUNICIPAL LAW.

In November, 1858, A. B. was elected a town councillor for a borough, being on the burgess list and duly qualified. About twelve months ago he left the borough and went to reside permanently at fifty miles distant therefrom, where he has ever since continued to dwell. Upon leaving the borough, and ceasing to be an occupier of premises therein, his name was erased from the poor's rate, and also from the burgess list. Although he so ceased to be a burgess he has continued to hold the office to the present time, and occasionally (about every two months) comes to the borough, attends the meetings of the council, and takes part in the proceedings, considering he has a right to do so—that the 52nd clause of the Municipal Act (5 & 6 Will. 4, c. 76,) applies to his case, and that as he is not absent from the borough for more than six months at a time he is not disqualified from acting; but on the contrary, that in case of his entire absence he would be liable to a fine of £50.

It appears to me that by sect. 28 of the Act, no person is qualified to be elected, or to be a councillor who shall not be entitled to be on the burgess list—and I conceive that sect. 52 does not at all apply to the case, but is applicable only to a person duly qualified, and who neglects his duty by absence.

It is, however, the opinion of some persons that he is qualified and has a right to attend, and act until the expiration of his term of office (three years).—of others, that he is disqualified—which is correct?

A SUBSCRIBER.

SOLICITOR'S LIEN ON FUND IN COURT.

I wish to call your attention to the question which arose in the course of the suit of *Grimsby v. Webster* (8 W. R., 725) as to the right of a solicitor to a lien of £50 upon a fund in court. It appeared that a tenant for life of a trust fund had induced the trustees to commit a breach of trust, by selling out and handing to him a portion of the fund. This advance was secured by a policy of assurance on his life. The ces-

this que trusts in remainder subsequently purchased the interest of the tenant for life for a sum of £200, and debited him with a sum of £50, which he owed to his solicitor for costs and advances. An arrangement was made between the solicitor of the parties, and the solicitor claiming the lien, that the policy should be sold, and the £50 paid out of the proceeds. This arrangement was not, however, carried out, and a bill was ultimately filed on the death of the tenant for life, by some of the parties interested, and the amount of the policy was paid into court. The solicitor claiming the lien, who had no notice of the suit, gave notice of his claim to the several parties, and obtained a stop order on the fund. On the cause coming on to be heard, Kindersley made a declaration in favour of the solicitor's right to the lien, and also gave him the costs of obtaining the stop order. The law of solicitors' lien has not been in a very satisfactory state since the decision of the case of *Shaw v. Neale* in the House of Lords, in which it was held that a solicitor acquired no right of lien upon real estate for his costs and expenses incurred in recovering an estate. A salutary change in the law, however, has recently been made by the Attorneys and Solicitors Act passed last session. The 28th section of that Act—23 & 24 Vict. c. 127—empowers the court or judge before whom any suit, matter, or proceeding shall be depending, to declare the attorney or solicitor engaged therein entitled to a charge upon the property recovered or preserved; and upon such declaration being made, "such attorney or solicitor shall have a charge upon and against, and a right to payment out of the property, of whatsoever nature, tenure, or kind the same may be, for the taxed costs, charges, and expenses of or in reference to such suit, &c.; and it shall be lawful for such court or judge to make such order or orders for taxation of, and for raising and payment of, such costs, charges, and expenses out of the said property, as to such court or judge shall appear just and proper." This and the preceding section allowing a charge for interest upon costs in certain cases, were very properly introduced into the statute to which reference has been made, as solicitors frequently suffered great injustice from the want of such provisions. The decision in the case of *Grimsby v. Webster* was decided previously to the passing of the statute, and seems mainly to have proceeded upon the ground that there was an agreement by all the parties that the costs of the solicitors should be paid out of the proceeds of the policy; but the case is of importance as an authority upon the subject of the law of lien in relation to the profession. W.

The Provinces.

BIRMINGHAM.—On the 27th of August last, the Council of the Chamber of Commerce for Birmingham and the midland district, presented a memorial to the Lords Commissioners of her Majesty's Treasury, praying for the reduction and revision of certain fees payable on the registration of designs under the Copyright of Designs Acts. The memorial was prepared by Mr. Arthur Ryland, Vice-President of the Chamber. On the 3rd inst., the Council received from Mr. G. A. Hamilton, Secretary to the Lords of the Treasury, the following reply to the memorial:—"Gentlemen, with reference to your memorial of the 27th of last August, praying that the fees now charged for registration of designs, under 5 & 6 Vict. cap. 65 and cap. 100, and subsequent Acts, may be revised with a view to their reduction, and also praying that the fees now charged for the registration of designs for metallic goods may be reduced from £3 to £1, I am desired by the Lords Commissioners of her Majesty's Treasury to acquaint you that their Lordships have signified to the Board of Trade their approval of the reduction of the fee on metal designs from £3 to £1. I am at the same time to state that there does not appear to their lordships to be sufficient reason to justify the reduction of the fees on the registration of useful designs.—I am, gentlemen, your obedient servant, GEO. A. HAMILTON."

A case, which has excited a good deal of curiosity in various quarters, was heard before Leigh Trafford, Esq., judge of the county court, on the 7th inst. Mr. J. B. Hebert, who is captain of No. 10 Company of the Birmingham Rifle Volunteers, summoned Lieutenant Jeffries, of the same corps, to show cause why he had neglected to pay a sum of £8, as his share of contribution towards the fund for the maintenance of the band belonging to the battalion. When the case was called on it was intimated to the Court that there was an objection to

the particulars as set forth upon the face of the summons, and it was contended that according to these there was no ground of action. The judge having examined the plaint, observed that no contract was set forth upon the face of it. The contribution might be, and he supposed was, voluntary. He thought the plaintiff must show upon the face of the summons the contract, and if it was a special contract that should also be stated. Time was given to amend the particulars, and the case adjourned until the 5th December.

BRISTOL.—*Bankruptcy Court.*—*Re T. R. Hutton, late official assignee.*—A meeting for hearing claims against the fund derived from the securities of this officer was held on the 7th instant. The following order was drawn up, and signed by Mr. Commissioner Hill:—"This being the day appointed by me for the hearing of applications or objections in reference to the accounts prepared by the late Mr. P. R. Power, of the defalcations of the above-named Thomas Rennie Hutton, the following solicitors, representing various estates included in such account, attended before me—that is to say, Messrs. H. Brittan & Son, by Mr. Henry Brittan; Messrs. Bevan, Girling, & Press, by Mr. Press; Messrs. M. Brittan & Sons, by Mr. Alfred Brittan; Messrs. Whittington & Gribble, by Mr. Gribble; Mr. Wilkes, of Gloucester; Messrs. Bush, Ray, & Co., by Mr. Ray; Mr. Henderson, and Mr. Charles Bevan; and with their assent, I do order that the accounts of the said Mr. Thomas Rennie Hutton with the said several estates be adjusted according to the data furnished by the said Mr. P. R. Power, as contained in the list thereof now signed by me, and that the account of the moneys recovered from the said Mr. Hutton's sureties be audited before me, at a sitting to be held in this court on Friday, the twenty-third day of this instant month of November, to the intent that the net amount of such moneys be divided amongst the said several estates, upon the basis of the before-mentioned account."

FAVERSHAM.—At a meeting of the Town Council on the 9th inst., Mr. Samuel George Johnson, a solicitor of this town, was unanimously re-elected mayor of the borough. At the conclusion of the business of the day, Mr. Alderman Spong, in a highly complimentary speech, on behalf of the council presented Mr. Johnson with a large silver salver, upon which it is intended the following inscription shall be engraved:—"Presented to S. G. Johnson, Esq., on the 9th day of November, A. D. 1860, by Mr. Alderman Spong, on behalf of the council, as a memorial of the honourable manner in which he has filled the office of Mayor of Faversham during the past year."

LIVERPOOL.—The fees of the magistrates' clerks of this borough last year amounted to the sum of £7,197, and after deducting the salaries and other disbursements there was a balance handed over to the borough fund of £4,307.

MANCHESTER.—The Manchester Chamber of Commerce held a meeting on the 14th instant, for the purpose of conferring with Mr. Samuel Morley, of London, and other gentlemen on the prospects of the amendment of the laws relating to bankruptcy and insolvency. Mr. Edmund Potter, president of the chamber, was in the chair. Mr. Morley stated that unless the mercantile interests took some special steps to be represented as creditors in the House of Commons, they had no chance of obtaining a valuable measure of amendment. The principle upon which they were acting was that the property of an insolvent trader, the instant he was discovered to be insolvent, belonged, not to himself, but to his creditors. He believed, however, that such views did not find utterance in the House of Commons. He stated that Sir Richard Bethell was desirous "to do the bidding" of the mercantile interests, provided he had sufficient information conveyed to him in time for the purpose. He then read a letter which had been written by Sir R. Bethell, and which was as follows:—"London, Oct. 22. Dear Sir,—I am very sorry I shall not be in town after to-day until the 1st November. I am very much disgusted by the absurd accusations brought against me of having abandoned the Bankruptcy Bill through ill-humour. I certainly was treated by the members for places most clamorous for the Bill in a manner to provoke ill-humour, after the labour and sacrifices I had made; but the Bill was given up after the most deliberate consideration with Lord Palmerston, and in consequence of the leading law lords having stated that they certainly would not proceed with it if it came up to them after July; and no human exertion, even with the concessions I made so injuriously, could have got the Bill through the Commons before the 5th or 6th of August. The defeat of the Bill is due to the division on Sir H. Willoughby's motion, when the members for Coventry, Nottingham, Birmingham, and many other large towns voted against me in perfect ignorance of the matter."

That lost me nearly three weeks, and was the real cause, joined to the faint support I received, of the loss of the Bill. I do not think you will find a division list in which half of the members pledged to support the Bill were present. Yours faithfully, RICHARD BETHELL."—Several gentlemen having addressed the meeting, the following resolution was moved and carried unanimously:—"That this Chamber has heard with great satisfaction that her Majesty's Government are pledged to introduce, at the commencement of the next Session of Parliament, a Bill to amend the laws affecting bankruptcy and insolvency, and trusts that they will spare no efforts to secure the enactment of a simple practical measure for that purpose; and further trusts that another Session may not be permitted to pass away without the settlement of a question so important to the interests of this community."

WAKEFIELD.—A special adjourned sessions, at which a considerable number of magistrates of the West Riding attended, was held at the West Riding Court House on the 7th inst., to take into consideration the report of a committee, which had been appointed in April last, to act with the Riding solicitor for the purpose of preparing the draft of a Bill for altering the present expensive mode of election of the registrar of deeds for the West Riding, and for paying all future registrars by salary, and not by fees, and for the better regulation of the office. The committee reported that a Bill for the purpose had been prepared by the Riding solicitor, and that they approved of it. Mr. John Marsden, the solicitor to the magistrates, having read the draft of the Bill, considerable discussion ensued as to the manner in which the expense of obtaining the passing of the Act through Parliament should be provided; and it appearing doubtful whether the expense could be defrayed out of the county rates, or that an attempt to pass such a Bill would meet with success, the consideration of the matter was adjourned *sine die*. Mr. Dibb (the deputy registrar of the Riding) stated that if power were given to register wills by affidavit it would result in a saving of from £5,000 to £6,000 per annum to the Riding.

Ireland.

REAL PROPERTY LAW AMENDMENTS OF THE SESSION 1860.

(Continued from p. 9, ante.)

The Landlord and Tenant Consolidation Act (23 & 24 Vict. c. 154), which became law on the 28th August last, and will come into operation on the 1st January, 1861, is more ambitious in its object than most of the current legislation, for it both consolidates and amends a highly important branch of law. The law of landlord and tenant in Ireland was to be found scattered through forty statutes, and it was a useful work to condense and simplify it, and bring it within the compass of one Act of Parliament; for assuredly there are elements of mischief enough, politically and socially, between landowners and their tenants, without the further difficulties arising from uncertain and diffuse laws. Henceforward the new Act will alone be referred to; and by it the numerous Acts dealing with the same subject are repealed, and cleared out of the way, while it also contains some new and useful clauses tending to relieve the landlord and tenant code of much that was feudal in principle and tortuous and obscure in practice.

The new law as contained in this statute, may be divided into three heads.—(1.) The creation, assignment, and surrender of tenancies. (2.) The rights of landlord and tenant, as incident to the tenancy. (3.) The legal remedies available to the landlord.

(1.) *The creation, assignment, and surrender of tenancies.*—The relation of landlord and tenant is henceforward to be considered as founded on *contract* only; and it is not necessary that there should be a reversion in the landlord. All tenancies for more than one year are to be created by writing; and leases and agreements for leases must also be in writing signed by the landlord, or by his agent authorized in writing. (Altering in this respect the law as enacted both by the Statute of Frauds and 8 & 9 Vict. c. 106.) A tenant continuing to hold the premises after the expiration of his lease, is to be taken to be a yearly tenant at his former rent: but after demand in writing of possession by the landlord or his agent, he will be liable to pay double rent. To avoid disputes as to when tenancies commenced, it is declared that yearly tenancies shall (in the absence of evidence) be presumed to have commenced at the last rent-day of the year.

Surrenders can henceforward only take place by deed or writing signed by the tenant, or by operation of law; so that a verbal agreement to surrender, or the cancelling of a lease, will be insufficient. A lease may be surrendered and a renewal obtained without any surrender of the interests of sub-tenants, and the remedies of the head landlord shall not be affected by such renewal. Assignments of leases, which by 8 & 9 Vict. c. 106 must be effected by deed, will now be valid if made either by deed or by note in writing, and if not assigned or otherwise disposed of, a lease shall, on the tenant's death, pass as part of his personal estate to his representatives. Where the lease contains a clause (a frequent one in Ireland) against sub-letting without consent, the landlord's consent by deed or memorandum endorsed shall be requisite to render a sub-lease valid; and the assignee shall be liable to the agreements in respect of sub-letting, &c., as the lessee would be. The covenants, in a lease or contract, are to subsist and remain in force, notwithstanding any devolution of interest from the landlord; and in the same way the benefit of covenants and agreements entered into by the landlord will devolve upon any person upon whom the tenant's interest may legally devolve. No assignee shall be liable in respect of breaches of covenant occurring before the assignment to him, provided that notice in writing of every assignment by a tenant shall have been given to the landlord; and every tenant being an assignee, shall remain liable for the rent due up to the rent day following such notice of assignment. Any landlord assenting to an assignment, shall be deemed to have discharged the original tenant from all actions, &c. Fixtures of trade or agriculture, erected by the tenant, and removable without substantial damage to the premises, may be removed within two months after the tenancy is expired, compensation for damage (if any) being made. In order to obviate disputes as to whether waiver of a covenant has taken place on the part of the landlord, it is enacted that no act of the landlord shall be deemed a dispensation with or waiver of any covenant or condition contained in a lease made after the commencement of the Act, unless the waiver be signified in writing by the landlord or his authorised agent.

(2.) *As to the incidents of a tenancy.*—In every lease or agreement made after the passing of the Act, shall be implied a covenant by the landlord that he has good title and for quiet enjoyment. Tenants holding *perpetual* interests under leases made after 1st January, 1861, are not to be impeachable of waste, except so far as expressly restrained from waste. On the other hand, when the lease is for a term of years, or otherwise determinable in its nature, the tenant shall not, without previous consent in writing, open any mines or quarries or commit any kind of waste. But the tenant holding under any such lease may work mines, &c., already opened, unless restrained in terms by the lease; and the tenant may also work any quarries, already opened or worked, for purposes of agriculture or of necessary building, but not for trade or sale, unless the written authority of the landlord be obtained. In the same way the right of turbary may be enjoyed by the tenant, but only for the use of himself and his lawful sub-tenants. Tenants holding under terminable leases are, by other sections, prohibited from "burning" the land, and from cutting down trees and underwoods, under severe penalties, to be recovered by the landlord at quarter sessions. Where unlawful waste or destruction is apprehended, or is being perpetrated, the landlord may, on affidavit, obtain a "precept" from a magistrate, enjoining all persons to desist from such injury, &c., disobedience to which may be punished by a month's imprisonment. An appeal lies to a judge of assize or to quarter sessions, and costs and compensation may be awarded. Where mines, &c., are reserved by the lease, they may be worked or leased by the landlord, who may enter for that purpose, making compensation for any damage inflicted, such compensation to be (if necessary) assessed at quarter sessions. Two important changes in the law relating to the sudden determination of tenancies are as follows:—Where the tenancy ends by the death or cesser of the interest of the landlord, or by a like uncertain event, the tenant may in lieu of claiming his emblements (as formerly allowed by the law), continue to hold the premises until the last rent-day of the current year, paying rent as theretofore. Again, if any house or building, the subject of the lease, as to rebuilding which there is no express covenant, be destroyed or become ruinous, without default of the tenant, he may surrender forthwith, and on payment of rent due, shall be discharged from further obligation as to rent or covenants thenceforward. Every lease to be made after the commencement of the Act, is to imply agreements by the tenant to pay rent, and to keep the premises in repair, and at

the end of the term to give up peaceable possession, &c. With regard to the payment of rent, the following alterations in the law are made (by sections 47—51), and thereby are set at rest certain fruitful sources of litigation between landlords and tenants. Every receipt for rent shall specify the day of its falling due, otherwise such rent shall, in any action or proceeding whatsoever, be deemed to have been in payment of rent falling due on the rent day next before the date of the payment, and shall be *prima facie* evidence of no arrears being due. In paying rent the tenant may set off all just debts due to him by his landlord. In the event of the landlord's death the rent shall in all cases be apportioned; and lastly, no distress shall be made for rent due more than one year before the making of the distress.

(3.) *Actions and proceedings at law by landlord against tenant.*—This Act provides that in all proceedings, proof of the perfection of the counterpart shall be equivalent to proof of perfection of the original lease; and if no counterpart be forthcoming, proof of a copy may be sufficient as against the tenant, and the next section makes the receipt of rent for one year (provided that such receipt be within three years preceding) *prima facie* evidence of title. The surrender to, or resumption by a landlord, or the eviction of any portion of the demised premises, shall not in any way prejudice his rights as to the residue of the premises. Every person entitled (in his own or any other right) to rent in arrear, whether the tenancy be continuing or not, may recover such rent by action in the superior courts, or, where the amount shall not exceed £100, at quarter sessions. And, where the amount of rent has not been fixed, the landlord may in like manner recover a reasonable sum for use and occupation of the premises. The law of distress remains untouched by this Act, except that, as before stated, one year's arrears only can henceforward be distrained for. But increased remedies of another kind are given in case of non-payment of rent, for where a year's arrears are due the landlord may instantly proceed by ejectment, and he is not now, as formerly, liable to be defeated by reason of the legal estate being in another person, provided he can show that he is beneficially entitled to the rent. The mode of service of the ejectment is also considerably simplified; but the changes in practice are not all for the landlord's benefit. The tenant is allowed to bring forward any defence—legal or equitable—that he may think proper; and even after decree obtained, he is allowed a space of six months for "redemption," within which, on payment of arrears and costs, he may be restored to possession of the premises, and may obtain such relief as a court of equity might have granted. Overholding tenants are made liable to double rent, and where the rent does not exceed £100, a mode of proceeding at quarter sessions is provided for the recovery of the premises; and means rates may also be recovered in like manner. But in the case of deserted premises, possession may be recovered by proceeding at sessions, whatever may be the annual value of the premises. Several other sections deal with the course of practice of the inferior courts in ejectments, &c., under this Act, and do not call for observation. When the title to the premises is in question, the jurisdiction of quarter sessions is altogether excluded by section 101.

There is a separate code for "cottier tenants," or tenants who hold any small plots of ground at monthly rents; these are entitled to have their cottages kept in repair by the landlord; and if dispossessed by him, are entitled to a "fair compensation" for growing crops, to be recovered by process at sessions. On the other hand, if the rent be not paid, or if waste be committed, the cottier tenant is liable to be evicted in a very summary manner.

Such are the outlines of an Act which embodies the whole existing law of landlord and tenant in Ireland, while it also introduces several well-considered changes. As an example of useful "consolidation," it is well worthy of imitation.

The following gentlemen were called to the bar on the 9th inst. :—

Robert Daniel, A.B., T.C.D., third son of Patrick Daniel, Grafton-street, Dublin, merchant. David Ross, A.M., and LL.B., Belfast College, Queen's University, second son of the Rev. Richard Ross, late of Dunbrin, county of Monaghan, deceased. The Hon. Henry Leeson, A.B., T.C.D., third son of Joseph, Earl of Miltown, of Russborough, county of Wicklow. Robert Patrick O'Hara, B.A., Caius College, Cambridge, only son of John O'Hara, late of Raheen, county of Galway, deceased. Isaac Heazle, A.B., T.C.D., eldest son of Wm. Heazle, of Cork. Robert Lyon Moore, A.B., T.C.D., eldest son of William Moore, late of Molenan, county Derry, deceased.

Foreign Tribunals and Jurisprudence.

(From the *Gazette des Tribunaux*, 17th Oct., by WILLIAM HACKETT, Esq., Barrister-at-Law.)

TRIBUNAL OF COMMERCE OF THE SEINE.

FOREIGN ANONYMOUS SOCIETY—ACTION TO NULLIFY SUBSCRIPTION FOR SHARES—INCOMPETENCE.

French tribunals will not take cognizance of an action by or against an anonymous society, having its chief seat of business in a foreign country, where the cause of action concerns the affairs of the society.

M. Panis had subscribed in 1853 for 400 shares of £20 each in the Anonymous Belgian Society of Mines, &c. He now claimed of the society that his subscription should be made null, and the sum of £8,000 recouped to him as the value of the shares. He maintained his claim on the ground that MM. Leclercq and Mouton, the delegated administrators of the society, instead of giving him shares reserved for public subscription, had transferred to him shares which had been given to them personally as the reward of their aid, and argued from this fact that he was not in reality a shareholder of the company, but a purchaser of the shares of the founders, and was entitled to sue them for a nullity of his subscription in a personal action. The defendants objected that the demand being against a company which had its seat at Charleroi, should have been brought before the Belgian tribunals. The Tribunal decided as follows:—

"Considering, that it results from the correspondence produced to the Tribunal, and addressed by Panis to the said Society of Mines, &c., that the said Panis, by undertaking to make the payments to which he was obliged as the holder of the shares, acknowledged himself the subscriber for these shares;

"Considering, that the action now commenced by Panis is in reality only intended to effect the nullity of his subscription; that the dispute is eminently and essentially one concerning the society; and that the society in question has its chief seat at Charleroi (in Belgium); that, therefore, the Tribunal is incompetent to take cognizance of the suit;

"For these reasons, declares itself incompetent; consequently remits the cause and the parties before the judges who ought to have cognizance of it, and condemns the plaintiff in costs."

COUR IMPERIALE DE DIJON.

FRAUDULENT MISREPRESENTATION BY A TRADESMAN.

An action will lie for damages by one tradesman against another for assuming a title (such as agent for a particular purpose), without the license of the person authorised to confer the title.

The Court also, in such a case, will restrain the defendant from issuing advertisements thus founded on falsehood.

Aug. 13.—Boyer, a bookseller at Chalon-sur-Saône, inserted in the journals advertisements in which he styled himself sole agent for the *Chant Lambillotte* adopted by the diocese of Autun. Mulcey, also a bookseller at Chalon, pretending that these announcements contained untrue statements, and that they tended to deceive the public by representing Boyer as invested with an exclusive privilege which did not belong to him, summoned Boyer before the Tribunal of Commerce, claiming damages and the insertion of the judgment in four journals at the choice of the complainant. Boyer, on the other hand, maintained that, seeing that Mulcey did not qualify as the agent of the house of Leclère (the proprietors of the work in question), he had no right to dispute this quality in any one else, that the house of Leclère alone had a right to complain; and that Mulcey had not sustained any damage.

The Tribunal delivered the following judgment:—

"Considering that it is ascertained:

"1. That Boyer has, in repeated announcements, assumed the title of sole agent of the *Chant Lambillotte* adopted by the diocese of Autun.

"2. That this title in no manner belongs to him, since the editor Leclère declares that he has not established agencies of any kind in our city;

"Considering that by thus attributing to himself a privilege which he does not possess, Boyer has committed an act con-

trary to truth and to the usages of commerce, an act capable of injuring other bookselling houses, and for which they, and probably the complainant, have a right to demand reparation;

"That the law has pronounced in a formal manner the condemnation of these announcements founded on falsehood; that it thus made a decision in the Imperial Court of Paris of the 10th February, 1852, in the case of a merchant who, in his circulars pretended that he was the sole proprietor of the principal quarries of La Ferté;

"That it is of small importance that the editor and proprietor of the works in question permits his purchasers to take all the titles which suit them relatively to the said works, that the solution suggested by Boyer and consisting in this that Mulcey might in his turn assume the usurped character of sole agent of the same works, and respond to false assertions by assertions equally false, is contrary to the dignity and good-faith of commerce, and would be sufficient to prove the necessity of coercive measures on the part of the judicature;

"Considering, that a case has been made for the allowance of the conclusions of Mulcey, as relates to the cessation of the advertisements, and the publication of the decree for an injunction (*jugement à intervenir*), but that as concerns the damages claimed, there has not at present been any case made out, and in this respect it will be enough to impose on Boyer the expenses of publishing and of the present judgment."

On an appeal made by Boyer the Court confirmed the judgment and gave 200 francs damages against Boyer.

FRANCE.—Photograph visiting cards are now generally used in Paris by persons in every station of life. Such cards are to be seen in the shop window of every picture shop in Paris. The Imperial law officers, however, have discovered that according to the law of the 17th of February, 1852, no drawing or photograph can be exhibited or exposed for sale without the permission of the Minister of Police in Paris or the Prefects of Departments, under the penalty of imprisonment for a period of from one month to a year, a fine of from 100f. to 1,000f., and the confiscation of the prints so exhibited. MM. Huvier, the stationers in the Rue Laffitte, and Pesme, the photographic artist, were summoned to the Paris police court a few days since for having violated the law of the 17th of February, 1852. M. Pesme in his defence stated that he had never left a visiting card with the Minister. The president told him that as long as he confined himself to executing cards for private persons, and delivered them, it was all very well, but that when he exhibited them for sale he should comply with the law. The Imperial advocate said the law was formal. The president, after hearing counsel for the accused, sentenced MM. Huvier and Pesme to imprisonment for one month each, and to a fine of 100f., the cards to be confiscated.

PRUSSIA. *The Assault Case at Bonn.*—The inquiry instituted by the Court of Discipline (*Disciplinarhof*) into the conduct of M. Möller, the Procurer of Bonn, in the case of Captain Macdonald, has terminated. The investigation was ordered by the superior legal authorities, in consequence of the complaints made of the intemperate language used by M. Möller, while acting as public prosecutor in the charge of assault. The Court of Discipline does not review the facts of the case, only the conduct of the judicial functionary, as far as it is impugned. M. Möller, in explanation, stated that the terms he used did not apply to Englishmen in general, not even to all English travellers, but only to those who by their misbehaviour frequently provoked collisions with the authorities. But, as a question of demeanour and conduct, the superior judges have decided that M. Möller's violent language was unbecoming his judicial functions, and have therefore visited him with a reprimand.

Reviews.

The Practice of Wills and Administrations. By GEORGE S. ALLNUTT, Esq., of the Middle Temple, Barrister-at-Law. Fourth Edition. London: Crockford. 1860.

Of all the branches into which the practice of the law may be divided there is probably none more generally interesting, alike to the legal profession and to the community at large, than that which forms the title to this work. Almost every lawyer could

name some one or department branch of legal practice of which he might be, or perhaps is, contentedly ignorant; while the administration of the law in almost all its branches is *terra incognita* to the laity. So intimately, however, does the law concerning the distribution of a dead man's property enter into the affairs of every-day life, that scarcely anybody above the position of the poorest labourer can pass through life without requiring once and again to consult his legal adviser with reference to his own or some relative's testamentary affairs, and no practising lawyer can fail to be frequently—nay, almost daily—so consulted. No wonder, then, that a subject of such general interest should have frequently called forth the energies of legal writers.

Accordingly, Swinburne, in the preface to his "Treatise of Testaments and Last Wills," long the most esteemed—and, perhaps, the only standard—authority on the subject, thus writes—"Great and wonderful is the number of the manifold writers of the civil and ecclesiastical laws, and so huge is the multitude of their sundry sorts of books, as lectures, counsels, tracts, decisions, questions, disputations, repetitions, cautels, clauses, common opinions, singulars, contradictions, concordances, methods, sums, practices, tables, repertories, and books of other kinds (apparent monuments of their endless and invincible labours), that, in my conceit, it is impossible for any one man to read over the hundredth part of their works, though living an hundred years he did intend none other work."

Let us hope, for the sake of our predecessors, that these observations are slightly exaggerated; yet, taken with the requisite grain of salt, Swinburne could not fail to see that they seemed but a strange sort of recommendation to the perusal of a new treatise. He therefore proceeds—"Wherefore, by the publishing of this testamentary treatise, I may be thought to pour water into the sea, to carry owls to Athens, and to trouble the reader with a matter altogether needless and superfluous. But yet for all this, in case this one little book may serve instead of many great volumes; then I hope that in the equal judgment of such as be indifferently affected, the same is rather to be admitted as commodious than rejected as superfluous."

The esteem with which the work thus prefaced has been handed down to us seems to indicate that the worthy jurist found his hearers "indifferently affected." We hope that Mr. Allnutt—who, we think, might make a similar apology—may have a satisfactory reception for his very useful compendium of testamentary law. This work has, we believe, in its earlier editions become so well known to the profession that we need not enlarge upon its general character. Suffice it to say that it is what it professes to be—a *book of practice*. The preparation, execution, and revocation of wills, and the grant of probate and letters of administration, and the management of the testator's or intestate's estate thereunder, are fully treated. The numerous and complicated questions upon the construction of wills have been intentionally omitted.

The plan of the work is as follows:—

The first book, on the "Preparation of Wills," contains five chapters. The first of these, "On Taking Instructions for a Will," contains many valuable suggestions; some of which, well deserving to be borne in mind by all solicitors, we do not remember to have met with in any similar work. Amongst these we would mention the advice given at p. 15, as to the importance of giving a pecuniary legacy to a residuary legatee—a precaution the neglect of which has disappointed the intentions of many a father, and the reasonable expectations of many a son. The laity have received a hint on this subject from Lord St. Leonards in his *Handy Book*; let us therefore hope that between lawyer and client the rock may be avoided hereafter.

The second chapter, "On Drawing Wills," will be found to contain, interspersed with the text, precedents for all the clauses most usually required in such wills as are commonly prepared without the assistance of conveyancing counsel. The remaining chapters on the execution, revocation, and re-publication require no special comment.

The second and third books, on "Probate and Administration," contain a careful account of the law, modified by recent legislation, with references to all the more important decisions of the Probate Court on points of practice, and, with the appendix, form a convenient book of reference for the use of practitioners in the Probate Court.

The fourth and last book, "On Winding up the Estate," is probably that which has cost Mr. Allnutt most trouble, and will save most trouble to his readers. We cannot help thinking that the author has acquired by personal experience as an executor, some of that knowledge of this part of his subject

which he seeks to communicate. At least, he shows himself well prepared for that, too often, thankless office.

The Appendix contains, at full length, the enactments relating to the wills of seamen, &c. The Wills Amendment Act (1 Vict. c. 26); the Succession Duty Act; (the office forms relating to this tax will be found in their proper place in the body of the book), and the Court of Probate Acts of 1857 and 1858, and all the rules and orders, forms, and table of fees with reference to the business of the Probate Court.

We have only to add that considerable care seems to have been taken, during the preparation of the work, to notice all the more important decisions, so as to bring the law down to the most modern date; and that the cases cited in this little work, containing about 450 duodecimo pages, are nearly 1,200! We recommend the work to "the equal judgment of such as be indifferently affected."

Le Droit Pénal étudié dans ses Principes, dans les Usages et les Lois des différents Peuples du Monde. Par TISSOT, Professeur de Philosophie à la Faculté des Lettres de Dijon. 2 Vols. 8vo. Paris, 1860.

Paulus Pleydell remarked that a lawyer without literature was a mere mechanic, but that politer studies raised him to the rank of an architect. We are afraid that the English lawyers of the last generation were open to the reproach implied in the words of the learned advocate. There is a story told of Lord Eldon, remarking at the beginning of Michaelmas term, with the complacent air of a man who has achieved a wonderful effort, that he had read Milton's *Paradise Lost* during the long vacation. Doubtless his lordship thought that such a literary effort in a lawyer was an event worthy of being recorded among the *ana* of the bar. Whether this habit of ignoring the claims of literature be a necessity of the position of the English lawyer is a question which will find advocates on both sides; but we reserve the discussion of it for another occasion. Certain it is, that in other countries circumstanced not very dissimilarly from our own, as regards the learned professions—Ireland and Scotland for instance—the law is not so jealous a mistress as to banish from her domain the kindred studies of philosophy and history. In the United States the most distinguished statesmen and the most eminent diplomatists are, with few exceptions, members of the legal profession; and in France, up to a recent period, the bar reckoned amongst its members some of the most brilliant orators of the Chamber of Deputies. Whether the French bar is destined to succumb to the depressing influence of Imperial despotism, or whether the subtle mind which now rules France will fail in its endeavours to enslave a great nation, is a problem only to be solved by history. For our part, we can but hope that the sad forebodings of the greatest forensic orator living of France may not be realised, and that, having already lost the freedom of the press, the French nation may not be doomed to see the mouths of her advocates gagged and freedom of speech utterly extinguished.

For the moment, however, we have not to do with the lawyers of the Forum, but with those of the Academy, with those who in the leisure which the life of a college affords study and criticize the laws of all nations and all ages, and who from a comparison of the laws of different times and countries endeavour to establish the principles by which all legislation should be governed. Such has been the intention of the writer of the work which we have named at the head of this paper, and which as its name indicates is a comparison of the principal criminal codes of the world—an inquiry which is of great interest both for the historian and the philosopher. For, the object of the criminal law being the prevention of all acts which violate public order, it would seem that the increase or diminution of these offences is the most exact measure of morality as well as of social prosperity. This idea, by which M. Tissot appears to have been moved, would alone suffice to mark the philosophical and political importance of the work in question. But its worth in a purely juridical point of view is not less. How many lawyers do we not see who, keeping to the letter of the law, do not trouble themselves concerning its spirit, its history, or its developments? How many others are exclusively devoted to the civil law, because they have neither sufficient largeness of mind to seize the great ideas of the criminal law, nor sufficient generosity of heart to study principles which, although touching the gravest interests of mankind, have rarely the privilege of enriching laborious students? M. Tissot repudiates these unworthy tendencies of elevated understandings. The lawyer should know all branches of the law (*magister in utroque jure*), and amongst them espe-

cially that which protects the life, the honour, the liberty of citizens. What would become of the interests regulated by the civil law, without public order, which has its principal foundation in the criminal law? Hence the necessity of a serious study of the principles of criminal law. Jurisprudence, moreover, according to the theories so ably maintained by Rossi, Ortolan, and Mittermaier, is connected with all species of knowledge; all bring to it the tribute of their enlightenment, and become partially incorporated with it. It is, then, true to say, with Nicolini, that it constitutes an immense branch of human knowledge. Now, those sciences which are most intimately connected with the criminal law are philosophy and history, without which it would be nothing more than a tariff of punishments. Nay more, how would it be possible to draw up this tariff without a profound knowledge of man, his nature, his faculties, his wants, his passions; without taking into account the fundamental principles of society, the universal ideas of morality and justice, the origin and precedents of legislation—all things which are peculiarly of the province of history and philosophy?

It is to the close union of the criminal law with these two studies that we owe the comparison which the learned professor just attempted to make; a difficult and bold undertaking, since it implies at once the talent of the historian, the philosopher, and the lawyer. The archives of the criminal law already reckon, independently of numerous commentaries, partial treatises on the origin of law, on the history of law, on its philosophy, as well as on comparative law. M. Tissot desires to do more; he has attempted to condense into one work all the teachings which history, comparative legislation and philosophy present to us, at all times and in all places, concerning repressive law; and this, with the triple object—1, of tracing the progress of mankind by the progress of criminal law; 2, of enlightening, by the labours of the past, those of future legislators; and, finally, of discerning the vices of ancient and existing enactments, ordinances and codes by the light of absolute and immutable rules. It is sufficient to say that the author has not intended to study any particular criminal code; he contemplates universal penal legislation in the principles on which it rests, in the progress which it has made, and in the portion which is equally applicable to all nations, as an assemblage of human creatures, endowed with similar understandings, similar organs, and similar moral or material wants. He thinks, with Vico, that there is a certain part of criminal law which, being essentially founded upon the eternal rules of the immutable reason and nature of man, may be considered as common to all nations, and which, by way of general international law, should contribute to the work of harmonious unity which is the object of civilisation. It no doubt requires enormous labour to extract from the mass of ancient and modern legislation the fruitful and luminous principles of this universal penal law. "In order," says M. Tissot, "properly to apprehend the legislation of a nation, it is necessary thoroughly to understand the nature of that nation; the social, political, religious, moral, intellectual, economical, and physical circumstances which have attended its existence; all these conditions once given, it is easy to determine what, in the legislation of this people, is not founded on reasons drawn from human nature generally, and which consequently can only be explained by exceptional and temporary circumstances; now, as often as human nature, regarded in its essence, in its destiny, is wounded by a positive legislation, consider that this legislation is faulty, is vicious, theoretically speaking, whatever may be the circumstances or necessities to explain it."

Such is the method which the author has applied to the legislation of each nation, carefully and faithfully studied in its order; such is the mode of examination which he has deemed the safest to lead to a sound and rational criticism. No doubt, there is much danger in such an appreciation; but, owing to the cool and logical habits of his mind, to the variety of his historical knowledge, the author has accomplished, with great success and ingenuity, the task which he has undertaken. For the rest, whether we adopt the conclusions of the learned professor, or whether we modify them in whole or in part, certain it is that by the aid of these innumerable comparative investigations, by the aid of this vast *panorama* of the criminal laws of the old world, and the world of our own day, every competent reader may henceforth study, not merely the progress of the civilization of some one nation in particular, but also by comparing together the different states of the criminal law as regards situation and movement, obtain, in each age, a pretty exact general idea of the advance, the immobility or the retrogression, of mankind; in fine, if he wished, on a given point of criminal law, to group together all the opinions of legisla-

tors, it will be possible, enlightened by the experience and the most universal practices of the past, and with perfect knowledge of all the facts, controlled by the science and enlightenment of the present time, to judge of the defects of existing laws, as well as of the improvements which should be made now for the benefit of succeeding times.

We will conclude our notice of the valuable work of the learned professor, by mentioning that the Academy of Moral and Political Sciences has characterized it as exhibiting "a masculine style, deep learning, an understanding accustomed to meditations on the philosophy of law, much and skilful labour, in effect, as being a remarkable treatise in which theory and criticism go hand in hand and mutually aid each other in showing the essence, the rules and the applications, of the criminal law."

Obituary.

MR. ALDERMAN WIRE.

The obituary for the last week contains the respected name of Mr. Alderman Wire, who died on the 9th inst., at his residence at Lewisham. On that very day two years he entered upon the office of Lord Mayor of London, and was soon after seized with an attack of paralysis, consequent it was considered upon the excitement of the occasion. This distemper prevented him from discharging the duties of that important office with his usual energy, and continued to affect him until the period of his death. On the 5th inst., he took part in some civic business, but, on the same night, he suffered a second attack of paralysis, under which he gradually sank, and to which his death is to be attributed.

The deceased gentleman was in the 59th year of his age, and was the son of a hatter in Colchester. He came to London at a very early age in search of position and fortune, both of which he succeeded in attaining by the most honorable means. He entered the office of Mr. Daniel Whittle Harvey, the City Commissioner of Police, but then in practice as a solicitor, and while in Mr. Harvey's office, he became acquainted with a Mr. Dixon, since deceased, then an articled clerk, and the son of a licensed victualler. When Mr. Dixon commenced business upon his own account, Mr. Wire articulated himself to him, and eventually, about thirty-five years ago, became his partner. The firm at that time conducted its business in St. Swithin's-lane, and rose to repute and influence chiefly through Mr. Dixon's connection with the body of licensed victuallers, with whom Mr. Wire also closely identified himself. Upon the death of Mr. Dixon, Mr. Wire conducted business for some time alone, until, being appointed as under-sheriff to Sir James Duke, he entered into a partnership with Mr. Child, whom he had known from boyhood, and which connexion subsisted until the period of Mr. Wire's death. Mr. Wire, from an early age, led a very active life in political, and also in civic matters. He was four times under-sheriff, and was sheriff four years ago. After receiving a requisition signed by almost every elector of the ward of Walbrook, in which he resided, he successfully competed for an aldermanic gown. He took a lively interest in the internal administration of Newgate, and suggested many important improvements in its discipline; and was also chairman of the committee under whose superintendence Holloway prison was built. He was exceedingly energetic in his professional and public functions, and watched zealously the reforms of the corporation, of whose rights he was a firm champion. Mr. Wire was in politics a Liberal, even at his outset in life, when fashion and interest were on the other side; he took an active part formerly in the elections for Colchester, when Mr. Harmer used to sit for that borough, and latterly in the elections for the City of London, in neither of which, nor in any of his public capacities, did he ever hold professional retainers. He sought a public and active life, however, in which he always conducted himself creditably, and with service to the cause which he espoused; and from his disinterestedness, and the absence from his mind of mercenary motives, he was enabled to gratify his desire of a prominent position before the public, to the satisfaction of his friends, and with the esteem of his opponents. He contributed extensively to the daily press in his youth, but did not indulge in recidite studies. Mr. Wire's assistance, both by suggestions and by liberal contributions, was of eminent use to Dr. Reed in the establishment of the Asylum for the Fatherless and for Idiots, as also with regard to the Royal Hospital for Incurables.

The London University engaged a considerable share of Mr. Wire's attention; and he was also a supporter of the local institutions of Colchester. The chief event in his life was his mission as assistant to Sir Moses Montefiore, about twenty years ago, to Rome and Constantinople, on behalf of the Jews, who were accused, at least by rumour, of having murdered not only children, as was the usual gist of the charges against them, but also a priest named Father Tomazo. While the excitement consequent upon these rumours prevailed at Damascus, many Jews were massacred in that city during an insurrection of the people against them. The object of the mission of Sir Moses Montefiore was to have the Turkish authorities of Damascus, who had connived at the massacre, brought to punishment. This was summarily effected by order of the Turkish Government, the governor of Damascus being at once, at the moment of his arrest, beheaded on the spot, without trial or examination. Sir Moses Montefiore succeeded in obtaining satisfactory firmans from the sultan acquitting the Jews of all complicity in the alleged murders, and he likewise at Rome obtained the removal of a record containing an allegation of their having murdered Father Tomazo. Upon Mr. Wire's return to England, the Jews presented him with a piece of plate, as a testimonial for his valuable and effective service to their interests and character. In this, as in all his other non-professional acts, Mr. Wire acted from disinterested motives, prompted to such troublesome avocations by an active mind not entirely absorbed in business, and from an honourable desire of a public position and name. Mr. Wire was the fourth solicitor, we think, who has attained the dignity of chief magistrate within the last twenty years. Alderman Anthony Brown was the last solicitor, before Mr. Wire, who filled the office of Lord Mayor of London. Sir Thomas Wood, and Alderman Harmer, were likewise solicitors. Mr. Wire, during his year of office, was incapacitated by paralysis from discharging the duties of that station, greatly, doubtless, to the loss of the corporation, whose rights and internal administration received such able attention from him while in an unofficial position.

Mr. Wire contested the representation of Boston and of Greenwich, in which it is supposed that he expended a considerable sum of money. In the honorable career of Mr. Wire, the young solicitor may see a guide and model for his imitation. The son of humble but respectable parents comes to London, while yet in early youth, and, by his own unaided industry, gradually obtains the esteem and confidence of his clients and fellow-citizens, and finally fills the highest civic chair.

Almost the only important act, of Alderman Wire during his year of mayoralty, in connection with his profession, was presiding at the dinner of the Metropolitan and Provincial Law Association, of which he was an active member, having been one of the committee of that body.

THE LATE GEORGE MEDD BUTT, ESQ., Q.C.

We regret to have to announce the death of Mr. George Medd Butt, Q.C., formerly M.P. for Weymouth, which event occurred at his residence in Eaton-square on Sunday last. The deceased gentleman was the son of Mr. John Butt, of Sherborne, and in early life practised for some years with great success as a special pleader. In 1830, being then thirty-three years of age, he was called to the bar by the Hon. Society of the Inner Temple, and went the Western Circuit, where he soon rose into reputation, and acquired an extensive practice. In 1845, during the Chancellorship of Lord Lyndhurst, Mr. Butt was made a Queen's Counsel, and shortly afterwards was elected a bencher of the Inner Temple. In July, 1852, he was returned member for Weymouth. It was confidently expected that Mr. Butt would have been raised to the judicial bench during Lord Derby's tenure of office, but his chance never came. In private life and in the profession of which he was a member, Mr. Butt was held in high esteem.

There were 20,531 coroners' inquests held last year, at an expense of £60,920 16s. 6d., being an average of £3 19s. 4d. each inquest in England and Wales.

M. Vatimesnil, the eminent French jurist, died on Tuesday, the 13th inst., after a long illness, at his country residence, near Paris.

Law Students' Journal.

QUESTIONS FOR THE EXAMINATION.

Michaelmas Term, 1860.

I. PRELIMINARY.

1. Where, and with whom, did you serve your clerkship?
2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.
3. Mention some of the principal law books which you have read and studied.
4. Have you attended any, and what, law lectures?

II. COMMON AND STATUTE LAW AND PRACTICE OF THE COURTS.

5. A debtor being about to quit England, it is wished to hold him to bail. What proceedings must be taken?
6. If a person contracts a debt in England, and then goes to France and resides there, is there any, and what, remedy for the creditor?
7. How is an action of ejectment now commenced?
8. In what form must an affidavit be drawn?
9. Within what time must a plaintiff declare, and what are the consequences of his not doing so?
10. When a judgment has been recovered more than six years what steps must be taken to enforce it?
11. In what various ways can an award directing the payment of a sum of money be enforced?
12. If an attorney give an undertaking to appear for a defendant, and omit to do so, are there any, and what, means to compel him?
13. If a contract be made between agents for their respective undisclosed principals, who can sue and be sued; and does it make any difference whether the contract is or is not under seal?
14. What is a charterparty, and what is a bill of lading?
15. What steps are necessary to enable a holder of a bill of exchange to sue the acceptor and the drawer of the bill respectively?
16. Goods of A. B. are in the house of C. D., against whom there is a distress for rent of the house, and also a writ of *fiat facias*. Can the goods be taken and sold either under the distress or writ?
17. What steps are necessary to render a bill of sale available against creditors of the person who gives the bill of sale?
18. If a house and stables are let from year to year under one letting, can the landlord give a valid notice to quit the stables only?
19. When a creditor has a lien on goods or title deeds as a security for his debt, and such debt is afterwards barred by the Statute of Limitations, what becomes of the lien?

III. CONVEYANCING.

20. A. dies seised of estates of the tenure of Gavelkind, and of the tenure of borough English. He left three sons. To whom do the estates respectively descend?
21. What covenants and powers are usually inserted in a mortgage? Is there any, and if any, what, recent legislation on the subject?
22. What length of title is a purchaser of fee-simple estates entitled to require? Give a reason for your answer.
23. By what assurance may estates tail in copyholds be barred?
24. What powers are usually inserted in family settlements of real estate, and by whom, and under what authority, are they to be exercised?
25. A. takes a beneficial lease, and afterwards assigns it to a purchaser. Do he and his executors remain liable to the rents and covenants? and if they do, how may they be most effectually protected against them?
26. What are the ordinary duties and the usual course of proceeding of a solicitor acting for a purchaser of real estate, from the signing of the purchase contract to the completion of the purchase?

27. A. makes a mortgage to B. in fee, and then dies without heirs and intestate—who is entitled to the equity of redemption of the mortgaged estate?

28. A. contracts to sell his fee-simple estate, but dies before completion of the sale, having made his will giving the purchase-money to a charity. Is the gift good? Give a reason or authority for the answer.

29. Mortgagee in fee dies intestate. In whom do the estate and the mortgage-money respectively vest?

30. A. is seised of an advowson—the incumbent dies—then A. dies without having presented to the living. Who, on A.'s death, is entitled to present?

31. Devise to A. B. without words of limitation. What estate does A. B. take under the devise? Give the authority for your answer.

32. By what Act of Parliament was effect given to the creation of entails?

33. A. and B. are seised in fee of three estates, numbered 1, 2, 3. They hold the estate No. 1 as tenants in common; the estate No. 2 as joint tenants; the estate No. 3 as coparceners. Can A. and B., or either of them, by will devise their undivided shares in these three estates, or any, and if any, which, of them?

34. In whom would the legal estate vest under the four following conveyances of fee-simple estates, viz.:—

1. Feoffment to A. and his heirs, to the use of B. and his heirs.
2. Statutory release and grant to C. and his heirs, to the use of D. and his heirs.
3. Bargain and sale (enrolled) to E. and his heirs, for the use of F. and his heirs.
4. Appointment under a power to G. and his heirs, to the use of H. and his heirs.

IV. EQUITY AND PRACTICE OF THE COURTS.

35. State in short detail the steps to be taken for the first amendment of a plaintiff's bill in chancery, after answer, and within what time must the amendment be made?

36. What steps should be taken to appeal from the certificate of a judge's chief clerk (approved by the judge) made under a decree?

37. A. desires to marry a female word of court—what steps must be taken to obtain the sanction of the court, and on what terms will it be granted?

38. How is an order of the Court of Chancery for payment of a sum of money to the plaintiff to be enforced against a defendant?

39. What are the proper steps to be taken to enforce against a defendant an order to deliver up possession of real estate?

40. In what cases will a court of equity relieve against breaches of covenant by a lessee?

41. State the different modes in which a plaintiff in equity can prove his case by witnesses with a view to a decree after bill filed and answers put in?

42. A married woman is entitled to money in the Court of Chancery, which she desires shall be paid to her husband—how is this to be done, and with what formalities?

43. Suppose the husband to be insolvent, and the wife wishes to have the fund appropriated to her own benefit, as far as may be—to what extent will the Court give effect to her wish?

44. Describe the different modes of commencing suits in equity, and to what class of cases each mode is more particularly applicable.

45. Within what time after service must a defendant appear to a bill in Chancery?

46. A. having sold his expectant interest in real estate and received the purchase money, afterwards files a bill to set aside the sale, on the ground of fraud, which he succeeds in proving,—on what terms will the Court grant him relief?

47. A patentee files his bill against one whom he charges with an infringement of his patent by the manufacture and sale of articles protected by the patent. What must he prove to support his case? and to what relief will he be entitled if he succeed?

48. Under what circumstances will an agreement to purchase real estate be enforced by the Court of Chancery where the agreement is not in writing?

49. In what cases can a court of equity award damages?

V.—BANKRUPTCY AND PRACTICE OF THE COURTS.

50. Define the principle and object of the bankrupt law.
51. If a debtor, who is a trader, has not committed any act of bankruptcy, and a creditor is desirous of making him bankrupt, state the proceedings necessary to be taken by a creditor for that purpose, and the times allowed for the proceedings before the adjudication can be made.
52. Can a trader obtain an adjudication in bankruptcy against himself, and how can he do so?
53. Can there be an adjudication in bankruptcy against one, two, or three out of four or more partners in a trading firm?
54. Explain the rights of joint and separate creditors in respect of proofs of debts as against the joint estate of a bankrupt firm, and against the separate estates of the persons composing such firm.
55. Are there any, and what, classes of persons creditors of a bankrupt who are entitled to be paid in full?
56. Is it necessary, in order to support an adjudication in bankruptcy against partners, that an act of bankruptcy should be committed by each partner?
57. State the mode of making a joint stock trading company bankrupt, including all the details of the proceedings till adjudication.
58. What effect upon the bankrupt's proceedings has the death of a bankrupt after adjudication?
59. Under what circumstances might a bankruptcy be annulled? and give some instances.
60. What is the final court of appeal in bankruptcy?
61. What are the consequences to a bankrupt, if the Court refuse to grant him a certificate?
62. Is a bankrupt under any, and what, circumstances, after having obtained his certificate, liable to be sued on a promise to pay a debt, from which his certificate has discharged him?
63. What effect has a bankrupt's certificate upon the debts due by him jointly with other persons, with regard to the liabilities of such other persons?
64. Define the right of stoppage *in transitu*, and when may such right be exercised?

VI. CRIMINAL LAW, AND PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

65. Is there any, and what, limit to the time for preferring an indictment for a criminal offence?
66. What allegations in an indictment must be proved?
67. What is the rule as to joining several persons in one indictment?
68. Can a defendant be charged in the same indictment with different offences, either in the same count, or in different counts?
69. Is the finding of a coroner's inquest, in any, and what, respect, equivalent to the finding of a grand jury, and can the accused be tried on such inquisition?
70. If a man be indicted for stealing from the person, and it should appear from the evidence that force was used sufficient to constitute a robbery, what will be the consequence?
71. What is the law as to larceny by lodgers and the amount of property stolen for which a conviction may take place?
72. When goods are lost, and they are found and taken possession of by a person who has reasonable grounds for believing that the owner may be discovered,—is this larceny?
73. Describe the offence of embezzlement, and the evidence necessary to support the charge.
74. Describe a nuisance, and state the evidence necessary to support the indictment?
75. What is the general rule as to the nature of the evidence to be adduced on a criminal trial?
76. What is the rule as to hearsay evidence, and are there any, and what, exceptions to such general rule?
77. State generally the usual nature of presumptive or circumstantial evidence, and its effect against the accused?
78. Before whom may an information be laid for an offence for which a summary conviction may be obtained?
79. What is the course of proceeding on an information being laid before a justice of the peace?

ADMISSION OF SOLICITORS.

MICHAELMAS TERM, 1860.

The Master of the Rolls has appointed Monday, the 26th of November, 1860, at the Rolls Court, Chancery-lane, at four in the afternoon, for swearing solicitors.

Every person desirous of being sworn on the above day, must leave his Common Law Admission, or his Certificate of Practice for the current year, at the Secretary's Office, Rolls-yard, Chancery-lane, on or before Saturday, the 24th of November, 1860.

ADMISSION OF ATTORNEYS.

The following days have been appointed for the admission of attorneys in the Court of Queen's Bench:—

Saturday Nov. 24 | Monday.....Nov. 26

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Monday, Nov. 19.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Friday, Nov. 23.

At the public examination of the students of the inns of court, held at Lincoln's-inn Hall, on the 30th and 31st of October and the 1st of November, 1860, the Council of Legal Education awarded to William Willis, Esq., a studentship of fifty guineas per annum, to continue for a period of three years; Robert Daniel, Esq., a certificate of honour of the first class; Andrew Thomson, Esq., Thomas Maguire, Esq., Joseph Burgin, Esq., Thomas Child Hayllar, Esq., Henry Colville Marindin, Esq., Harry Tichbourne Davenport, Esq., Alfred Henry Say Stonhouse Vigor, Esq., Paul Panton, Esq., Walter Yeldham, Esq., William Henry Deverell, Esq., Edward U. Bullen, Esq., certificates that they have satisfactorily passed a public examination.

Court Papers.

Queen's Bench.

NEW CASES.—MICHAELMAS TERM, 1860.

SPECIAL PAPER.

Sp. case.	Dollman, Executor, &c., v. Patching.
Dem.	Holmes v. Pemberton.
Sp. case.	The Irish Peat Company v. Phillips.
Dem.	Scott and Others v. Pilkington and Another.
"	Munroe and Others v. Pilkington and Another.

NEW TRIAL PAPER.

Middlesex.	Saward v. Walkden.
"	Mackley v. Pattenden.
London.	Lane and Others v. Tindal.
"	Paterson v. Harris.
"	Havill v. Hamber.
"	Tamvaco v. Lucas.
"	Somes and Others v. Ford and Another.
"	Laurie v. Parker.
"	Lane v. Seymour.
"	Pow v. Davis.
Essex.	Dickinson and Another v. Land.
"	Scott v. Sikes.
Sussex.	Stevens v. Austin.
"	Sinden and Others v. Banks.
Surrey.	Moody v. The London, Brighton, and South Coast Railway Company.
"	Ogle v. O'Flynn.
"	Goff v. The Great Northern Railway Company.
Leicester.	Packe v. Mee.
Derby.	Marples v. Hartley.
Oxford.	Gardner v. Harrapp.

Worcester.	Anderson v. The Midland Railway Company.
Gloucester.	Bennett v. White.
York.	The Queen v. Leatham.
"	The Queen v. The Inhabitants of South Crossland, &c.
"	The Queen v. Bradley.
"	The Queen v. Boyes.
"	Laverack v. Johnson.
Northumberland.	Gibson v. Chater.
Liverpool.	Mayer v. Spence and Another.
"	Mayer v. Firth and Others.
Glamorgan.	Jones v. Jones.
Chester.	The Stockport Waterworks Company v. Turner and Others.
Hants.	Pennell and Others v. Logan.
Wilt.	Scammell v. Glass.
Devon.	Snow v. The Bristol and Exeter Railway Company.

Common Pleas.

NEW CASE.—MICHAELMAS TERM, 1860.

DEMURRER PAPER.

Case Nisi Prius.	{ Cahill v. The London and North Western Railway Company.
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Exchequer of Pleas.

NEW CASES.—MICHAELMAS TERM, 1860.

Appeal.	Trew and Another v. The Railway Passengers Assurance Company.
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SPECIAL PAPER.

Dem.	Tapling and Another v. Seymour.
"	The Lancashire Wagon Company v. Fitzhugh.
Appeal under 20 & 21 Vict.	{ Read, Appellant; Storey, Respondent.
Dem.	Oxenham v. Smythe.
Sp. case by order of Crompton, J.	{ Blackburn v. Manders and Others.
Dem.	Rogers v. Hadley.
Sp. case by order of Martin, B.	{ Hutchinson v. Barrow.
Dem.	Hengh and Another v. Escombe and Another.
Sp. case by order of Channell, B.	{ Pennington and Others v. Cardale and Another.
"	Pye v. Bradbury.
Dem.	Tugelles and Another v. Smith.
"	Hengh and Another v. Escombe and Another.
County court app.	Gee and Others v. The Lancashire and Yorkshire Railway Company.
Appeal under 20 & 21 Vict. c. 43	{ Ellis, Appellant; Kelly, Respondent.
Sp. case under award.	{ Hamer v. Knowles and Others; Stroyan and Another v. Same.
Sp. case by order of Willes, J.	{ Swinfen v. Bacon; Swinfen v. Lewis.
County court app.	Horsford v. Smith.
Dem.	Kerrick v. Peto, Bart.

NEW TRIAL PAPER.

FOR ARGUMENT.

Middlesex.	Irwin v. Lever, M.P.
"	Toppin v. Bull.
"	Morgan v. Ravey and Another.
London.	The Anglo-Californian Gold Mining Company v. Lewis.
"	Parnell, Administrator, &c., v. Stock.
Bedford.	Hoggo and Others v. Norris and Berrington.
York.	Dudgeon v. Owen.
"	Bower and Another v. Hinchliffe.
Durham.	Cowley and Wife v. The Mayor, &c., of Sunderland.

Newcastle-on-Tyne.	Wilson v. The North Eastern Railway Company.
Liverpool.	Horridge v. Bell and Another.
"	Pott and Another, Assignees, &c., v. Lomas.
"	Bradley v. Dunipace.
"	Irlam v. Dunn and Another.
"	Hernaman and Others v. Wilson.
"	Holmes v. Clark.
Exeter.	Pring and Another v. Pring and Another (Ejectment).
Wells.	Burridge v. Nicholetts.
Chelmsford.	Richards v. Leigh.
Maidstone.	Hole v. The Sittingbourne and Sheerness Railway Company.
Guildford.	Hutton v. Hamlin.
Nottingham.	Smith and Ux., Executrix, &c., v. Wilson.
Stafford.	Bust v. Gibbons.
"	Taylor v. Meeson.
Gloucester.	Rogers v. Hadley and Another.

Exchequer Chamber.

SITTINGS IN ERROR.

The following days have been appointed for the argument of Errors and Appeals:—

QUEEN'S BENCH.

Tuesday ... Nov. 27 | Wednesday ... Nov. 28

COMMON PLEAS.

Thursday ... Nov. 29 | Friday Nov. 30

EXCHEQUER OF PLEAS.

Saturday Dec. 1 | Monday Dec. 3.

SELLING BEER AT FAIRS AND RACES.—Messrs. J. and S. Langham, solicitors, of Hastings, in a letter which appeared in the *Times* of the 10th instant, called the attention of licensed victuallers and others, who have been accustomed to set up booths at fairs and races, for the purpose of retailing beer, to the recent statute, 23 & 24 Vict. c. 113, s. 37, which they considered rendered retailing beer at any other place than at the house and premises specified in the license, an offence against the inland revenue laws, and would subject the offender to a penalty of £20 for each offence. In reply to this letter, Mr. G. C. Oke, the assistant clerk to the Lord Mayor, and the able and learned author of the "Magisterial Synopsis," and other works, in a communication, which appeared in the same journal on the 12th instant, states that the persons alluded to have no fear of a prosecution by the inland revenue board, and refers to an extract from a recent communication of the board to the clerk to the magistrates at Carmarthen on the subject. The following is a copy of the extract referred to:—"The board are advised that it was not intended by the 37th section of the 23 & 24 Vict. c. 113, to repeal the privilege, expressly granted by former Acts, of selling beer without licence at legally constituted fairs and races, and that such privilege and exemption still exist."

It is fortunate for our county court judges that they do not live in Texas. We read in the *Nacarro* (Texas) *Express*, the following paragraph: "On Thursday morning, the 2nd instant, four respectable citizens of this county, all members of the county court, were found hung in the public square of this town. Various are the conjectures as to the causes of this unfortunate affair. We presume, however, that it was owing to the fact that they were members of the county court. In saying this we must here enter our declaration that we know of no conduct of theirs which deserved such a severe penalty. It is thought the presence of the Chief Justice could have saved them from such a fate. As we shall hereafter speak more of this matter, we withhold comment until we are in possession of all the facts connected with this melancholy affair." We are no longer surprised at the commonness of the phrase—"To h—ll or Texas."

ACTS OF PARLIAMENT.—The number of public general acts that passed in the late session, which commenced on the 24th of January, and ended on the 28th of August, was 155, and the local acts 202; total, 357.

Births, Marriages, and Deaths.

BIRTHS.

- AYRTON—On Nov. 14, the wife of Alfred Ayrtton, Esq., of Doctor's-commons, of a daughter.
- BENNETT—On Nov. 10, the wife of J. C. G. Bennett, Esq., of a son.
- CHILD—On Nov. 8, the wife of Henry Child, Esq., Solicitor, of a daughter.
- FISHER—On Nov. 11, the wife of William Richard Fisher, Esq., Barrister-at-Law, of a son.
- MACNAGHTEN—On Nov. 14, the wife of Edward Macnaghten, Esq. of a daughter.
- SMITH—On Nov. 8, the wife of Edward Hart Smith, Esq., of Clement's-inn, Solicitor, of a son.
- SULLIVAN—On Nov. 11, at Dublin, the wife of William Sullivan, Esq., Solicitor, of a son.
- WILKINSON—On Nov. 10, the wife of Walter M. Wilkinson, Esq., of Kingston-on-Thames, Solicitor, of a son.
- WINTERBOTHAM—On Nov. 8, the wife of Lindsey W. Winterbotham, Esq., Solicitor, Strand, of a son.

MARRIAGES.

- FIRTH—BRANSON—On Nov. 7, Charles Henry Firth, Esq., to Adelaide, youngest daughter of Thomas Branson, Esq., Solicitor, of Sheffield.
- HERBERT—RIGBY—On Sept. 13, at Murree, Charles Edward Herbert, Esq., son of the late Charles Herbert, Esq., of the Middle Temple, Barrister-at-Law, First Fiscal of British Guiana, to Elizabeth, daughter of Colonel Rigby, Her Majesty's Bengal Engineers.
- INMAN—HAYGARTH, INMAN—BLADES—On Nov. 3, Robert Inman, Esq., Solicitor, to Isabella, daughter of the late James Haygarth, Esq., both of Garsdale, Sedburgh, Yorkshire. Also, at the same time, Wm. Inman, Esq., to Agnes, third daughter of the late John Blades, Esq., both of Garsdale.
- SCOTT—GRAY—On Nov. 10, William Duncan, second son of the late William Scott, Esq., of Great Tower-street, to Maria, daughter of John Gray, Esq., of the Temple.

DEATHS.

- LUSHINGTON—On Sept. 25, at Poore, Stephen, the third son of Right Hon. Dr. Lushington, aged 30.
- POWLES—On Nov. 13, at Leasbrook, near Monmouth, aged 32, Mary Anne, wife of J. Endell Powles, Esq., Solicitor.
- WIRE—On Nov. 9, at Lewisham, from an attack of paralysis, in his 59th year, Mr. Alderman Wire, late Lord Mayor of London.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

- BIRKETT, Rev. WILLIAM, Clerk, Great Hurley, Oxford, & JONATHAN PEEL, Merchant, Friday-street, £1,431 : 4 : 6, 3 per Cents.—Claimed by WILLIAM BIRKETT.
- DAWNEY, Rev. THOMAS, Ashwell, Rutlandshire, £16,560 13s. 6d. Reduced 3 per Cents., and £10,460 16s. 9d., £3 5s. per Cents.—Claimed by Hon. PAVAN DAWNEY, the surviving executor.
- GATTY, GEORGE, Esq., Crowhurst-place, Sussex, and GEORGE HOPER, Esq., East Grinstead, Sussex, £176 18s. 3d. Consols.—Claimed by GEORGE GATTY, the survivor.
- LINGARD, ELLEN SOPHIA CHARLOTTE, Widow, Gutter-lane, Cheapside, £700 Consols.—Claimed by ELLEN SOPHIA CHARLOTTE LINGARD.
- PAUL, SAMUEL PAUL, Vicar, JOHN WILLIAM BIEDERMANN, & JOHN ALLAWAY, all of Toddbury, Gloucestershire, £105 3 per Cents.—Claimed by ROBERT ALLAWAY.
- RIVERS, WILLIAM, & JOSEPH ALLEN, Esqs., both of Greenwich Hospital, £41 : 7 : 7 3 per Cent. Consols.—Claimed by JOSEPH ALLEN.
- TISOU, ELIZABETH, Widow, Brixton-place, Surrey, £240 Reduced 3 per Cents.—Claimed by ELIZABETH TISOU.

Heirs at Law and Next of Kin.

Advertised for in the London Gazettes and elsewhere.

- CAIN, OLIVIA, formerly Olivia Burke, daughter of John H. Burke, of Dramma in the county of Leitrim, afterwards the wife of James Cain, formerly of Drumshambo in the county of Leitrim (afterwards of the city of Dublin, and then afterwards residing in the neighbourhood of Manchester.) Next of kin to apply to W. R. Buchanan, Esq., Solicitor, 13, Basinghall-street, London.
- LEONARD, JOHN, late of No. 20, Lower King-street, Southsea, in the county of Southampton, Quartermaster-Sergeant of the 47th Regiment of Foot, (who died on or about the 27th day of August, 1860). Next of kin to apply to the Solicitor to the Treasury, Whitehall.
- MORRIS, JANE, who was many years ago housekeeper to a gentleman, and afterwards kept the Blue Anchor Tavern, in Coleman-street, City, is Entitled to a Legacy. Apply to Messrs. Groville & Tucker, Solicitors, 29, St. Swithin's-lane, City.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	98 5/8	Shrs. Stock Ditto A. Stock	115
3 per Cent. Red. Ann..	91	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann..	93	Stock Great Western	72 1/2
New 3 per Cent. Ann..	91 1/2	Stock Lancash. & Yorkshire ..	118 1/2
New 2 1/2 per Cent. Ann..	91	Stock London and Blackwall ..	61 1/2
Consols for account ..	93 1/2	Stock Lon. Brighton & S. Coast ..	114
India Debentures, 1858.	96 1/2	Stock Lon. Chatham & Dover ..	52
Ditto 1859.	96	Stock London and N.-Westm..	99 1/2
India Stock	103 1/2	Stock London & S.-Westm..	94
India 5 per Cent. 1859..	103 1/2	Stock Man. Sheff. & Lincoln..	46 1/2
India Bonds (£1000) ..	10 1/2	Stock Midland	131 1/2
Do. (under £1000).....	10 1/2	Stock Ditto Birm. & Derby ..	104
Exch. Bills (£1000)....	10 1/2	Stock Norfolk	65
Ditto (£500).....	3	Stock North British	62 1/2
Ditto (Small) ..	..	Stock North-Eastn. (Brwek.) ..	101 1/2
RAILWAY STOCK.		Stock Ditto Leeds	57 1/2
Shrs. Stock Birk. Lan. & Ch. June.	40	Stock Ditto York	88
Stock Bristol and Exeter....	96	Stock North London	104
Stock Cornwall	64	Stock Oxford, Worcester, & Wolverhampton ..	..
Stock East Anglian	17 1/2	Stock Shropshire Union	51
Stock Eastern Counties	51 1/2	Stock South Devon	43
Stock Eastern Union A. Stock	40	Stock South-Eastern	84
Stock Ditto B. Stock	99	Stock South Wales	67
Stock Great Northern	111 1/2	Stock S. Yorkshire & R. Dun ..	79
		Stock Stockton & Darlington ..	41
		Stock Vale of Neath	70

London Gazettes.

Windings-up of Joint Stock Companies.

UNLIMITED, IN CHANCERY.

TUESDAY, NOV. 13, 1860.

HERALD LIFE ASSURANCE SOCIETY.—The Master of the Rolls will proceed on Friday, Nov. 23, at 2, to settle the list of contributories of this company.

MITRE GENERAL LIFE ASSURANCE, ANNUITY, AND FAMILY ENDOWMENT ASSOCIATION.—The Master of the Rolls, on Nov. 9, appointed Robert Palmer Harding, 5, Serle-street, Lincoln's-inn, Interim Manager of this company.

FRIDAY, NOV. 16, 1860.

UNLIMITED IN CHANCERY.

MITRE GENERAL LIFE ASSURANCE, ANNUITY, AND FAMILY ENDOWMENT ASSOCIATION.—The M.R. will on Dec. 5, at 12, appoint an official manager or official managers of this Company.

LIMITED IN BANKRUPTCY.

NORTON DISTRICT UNION COBN MILL COMPANY, LIMITED.—Creditors to prove their claims on Nov. 30, at 11; Leeds. Com. West.

Professional Partnership Dissolved.

FRIDAY, NOV. 16, 1860.

SMART, HENRY, & JOHN CHARLES TOMPKINS, Solicitors, 18, York-place, Portman-square, Middlesex, and Worthing, Sussex. Nov. 12, by mutual consent.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, NOV. 13, 1860.

BARCLAY, ROBERT CAMPBELL, Major in the 68th Regiment of Bengal Native Infantry, Kurratad Lee Buxor Clarke & Morrice, Solicitors, 29, Coleman-street, London. Jan. 31.

BEVAN, HENRY AUGUSTUS, Merchant, 9, John-street, America-square, London. Atkins, Andrew Atkins, & Irvine, Solicitors, 5, White Hart-court, Lombard-street, London. Dec. 31.

BRADSHAW, JAMES, High Constable of the Holborn Division of the Hundred of Ossulston, 7, Lewis-street, Victoria-road, Kentish-town, Middlesex. Ingie & Goody, Solicitors, 37, King William-street, London. Dec. 31.

HICKSON, THOMAS, Gent., Lincoln. Moore, Solicitor, Lincoln. April 5.

HUTCHINSON, THOMAS, Gent., Brotton, Yorkshire. Weatherill, Solicitor, Gainsborough. Jan. 5.

JOHNSON, JOHN, Joiner & Cartwright, Sowerby, near Thirsk, Yorkshire. Richardson, Solicitor, Thirsk, Yorkshire. Jan. 1.

KING, JAMES, Colliery Bailiff, Bilson-green, East Dean, Gloucestershire. Carter & Gould, Solicitors, Newnham, Gloucestershire. Dec. 10.

THORP, HENRY, Farmer, Knotting Grange, Bedfordshire. Margetts, Solicitor, Huntingdon. Dec. 31.

FRIDAY, NOV. 16, 1860.

BOYCE, JOHN, Gent., High Church-street, otherwise London-street, Whittlesey, Isle of Ely. Smith, Solicitor, Whittlesey. Dec. 31.

CAMMILLER, JOSEPH, a Captain in her Majesty's Royal Navy, 12, Medina-villa, Clifton Villa, Brighton. Robinson & Hine Haycock, Solicitors, 32, Charter-house-square, Middlesex. Dec. 27.

CARR, WILLIAM, Carpenter, 1, Oak Cottage, Waddington-road, Stratford, Essex. Brightwell & Son, Solicitors, Surrey-street, Norwich. Jan. 18.
 COLEMAN, ELEANOR, Widow, 1, Arundel-terrace, Barnsbury-road, Islington, Middlesex. Broughton, Solicitor, 48, Finsbury-square. Dec. 31.
 FOX, WILLIAM HENRY, Engineer, formerly of 36, Compton-street, Clerkenwell, Middlesex, afterwards of 1, Forest-row, Kingsland, Middlesex. Walters & Son, Solicitors, 36, Basinghall-street, London. Dec. 26.
 FROST, HENRY, Esq., Drayton-grove, Brompton, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, E.C. Dec. 15.
 IVE, WILLIAM JAMES, Gent., 4, Park-villas, Crouch End, Hornsey, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, London. Jan. 1.
 JACQUES, JAMES, Farmer, Sweet Knowle, Preston-on-Stour, Gloucestershire. Hancock & Hiron, Solicitors, Shipston-on-Stour, Worcestershire. Jan. 1.
 POWELL, RICHARD, Surgeon, Bath-street, Bristol. Abbott, Lucas, & Leonard, Solicitors, Albion-chambers, Bristol. Jan. 15.
 RAY, WILLIAM, Hostler & Printer, Manor-place, Upper Holloway, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, London. Jan. 1.
 ROWLAND, BRIERLEY, Esq., formerly of Oldham, Lancaster, but late of Highfield House, Altrincham, Chester. Bower, Son, & Cotton, Solicitors, 46, Chancery-lane. Feb. 1.
 SKINNER, JOHN, Farmer, Sheephead, Leicestershire. Morley, Solicitor, Thurland-street, Nottingham. Dec. 12.
 WHITEHURST, MARY, 7, Portdown-road, Maida Hill, Paddington, Middlesex. Sawbridge, Solicitor, 126, Wood-street, Cheapside, London (within two calendar months).
 WILLIAMS, BENJAMIN, Chemist & Druggist, Fore-street, London. Robinson & Haycock, Solicitors, 32, Charterhouse-square, Middlesex. Dec. 5.
 WILLIAMS, ELIZABETH MARY, Widow, 9, Norfolk Villas, Westbourne-grove, Middlesex. Parker & Lee, Solicitors, Saint Paul's Church-yard, London. Dec. 16.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, NOV. 13, 1860.

BATTS, JOHN, Esq., Limehouse and St. John's-terrace, Regent's-park, Middlesex. Blyth v. Fleming, M. R. Dec. 10.
 DODS, GEORGE DOUGLAS, Surgeon in her Majesty's 71st Regiment of Foot, late of Woolwich, Kent, and afterwards of Charles-street, Chelsea, Middlesex, and formerly of Glasgow, Hutcheson v. Dods, V. C. Kindersley. Dec. 8.
 GARDNER, JOSEPH GOODWIN, Carcase Butcher, Farmer, & Grazier, Aldgate High-street, London. Garliver v. Bullas, M. R. Dec. 13.
 HALL, LEWIS, Plumber, 16, John-street, Limehouse, Middlesex. Heiser v. Streeter, V. C. Wood. Dec. 4.
 HAND, PETER, Farmer, Burwell, Lincolnshire. Hand v. North, V. C. Kindersley. Dec. 1.
 HARRIS, CHARLES, Manoforte Maker, late of Pratt-street, Lambeth, Surrey, and formerly of New-street, Vincent-square, Westminster. Harris v. Harris, V. C. Kindersley. Dec. 10.
 JONES, JOHN, Clerk, Little Marcle, Herefordshire. Jones v. Jones, V. C. Stuart. Dec. 6.
 MOORE, JOHN, Provision Dealer, Chorley, Chester. Moore v. Moore, V. C. Wood. Dec. 3.
 TOMO, SARAH, Spinster, North Leyerton, Nottinghamshire. Nicholson v. Tong, M. R. Dec. 3.
 WINN, THOMAS, Esq., Lincoln. Nicholson v. Carline, V. C. Wood. Dec. 10.
 YARD, LEVI, Beer Retailer, Five Bells-lane, Rochester, Kent. Wilson v. Kichman, M. R. Dec. 5.

FRIDAY, NOV. 16, 1860.

ENTWISTLE, WILLIAM, jun., a Cornet in her Majesty's 2nd Regiment of Life Guards, Knightsbridge Barracks, Middlesex. Cutler v. Entwistle, V. C. Stuart. Dec. 15.
 FROG, WILLIAM, Livery Stable Keeper, Oxford. Wheeler v. Wadlow, V. C. Kindersley. Jan. 5.
 KIRK, JOHN, Land Steward, Brecon, Brecknockshire. Kirk & Another v. Sellars, M. R. Dec. 14.
 MICKLETHWAIT, WILLIAM, Gent., Madcira Cottage, Shanklin, Isle of Wight. Birks v. Micklethwait & Others, M. R. Dec. 7.
 PEPPER, JANE, Spinster, 25, Devonshire-street, Queen-square, Middlesex. Grayson v. Peppin, M. R. Dec. 3.

Assignments for Benefit of Creditors.

TUESDAY, NOV. 13, 1860.

CHANDLER, JOHN CULL, Linen Draper, Canterbury. Oct. 29. *Sols.* Sankey & Son, Canterbury.
 COX, FRANCIS, Cheesemonger, 7, Lower-road, Islington, Middlesex. Nov. 1. *Sol.* Handell, 17, Gracechurch-street, London.
 MURRELL, GIBBS HOWES, Farmer, & Brick & Tile Manufacturer, Surlingham, Norfolk. Oct. 22. *Sols.* Keith, Blake, & Keith, the Chantry, Norwich.
 HAWTHORN, JAMES, Burnley, Lancaster, CALER LANCASTER, Colne, Lancaster, & JOSHUA LANCASTER, Burnley, Lancaster, Cotton Spinners (Lancaster & Company). Oct. 17. *Sol.* Holmes, Burnley.
 THOMPSON, ROBERT, Butcher, Newcastle-upon-Tyne. Oct. 29. *Sols.* Hodge & Harle, Wellington-place, Pilgrim-street, Newcastle-upon-Tyne.
 THOMAS, GEORGE, Builder, Burton-upon-Trent, Staffordshire. Nov. 7. *Sol.* Goodger, Burton-upon-Trent.

FRIDAY, NOV. 16, 1860.

ARMSTRONG, WILLIAM JAMES, WILLIAM FRANCIS, & JAMES HOOVER, Tanners, Spa-road, Bermondsey, Surrey. Oct. 20. *Sol.* M. Abrahams, 17, Gresham-street, London.
 CARTER, BENJAMIN JOSEPH, Shipwright, Ship Chandler, & Grocer, Broad-street, Portsmouth. Oct. 31. *Sol.* Stealing, 18, Chapel-row, Portsea.
 COLEMAN, JOHN, Tailor, Broughton, Northamptonshire. Nov. 12. *Sols.* Murphy & Sharman, Wellingborough.
 CREASER, EDWIN, Chemist & Druggist, Great Driffield, York, Nov. 7. *Sols.* Conyers & Jennings, Driffield.
 FAYRAM, AMOS, Accountant, Rotherham, York. Oct. 29. *Sols.* Hoyle & Son, Rotherham.
 HARKER, JOHN, Farmer, Mains Farm, Masham, York. Nov. 6. *Sol.* Teale, Leyburn.
 PHILLIPS, JAMES, General Grocer, Worthing, Sussex. Nov. 3. *Sols.* R. & G. Holmes, Arundel.
 ROBERTSON, ROBERT, Farmer, Eglington, Northumberland. Nov. 14. *Sol.* Wilson & Middlemas, Alnwick.
 STEELE, ALEXANDER, Canvas & Sacking Factor, Great Saint Helens, London. Oct. 17. *Sols.* Wilkinson, Stevens, & Co., 4, Nicholas-lane, Lombard-street, London.
 WOODS, JAMES, Boarding-house Keeper, Warrington, Lancashire. *Sols.* Shepherd & Moore, Warrington.

Bankrupts.

TUESDAY, NOV. 13, 1860.

BIGGS, HENRY, Grocer & Straw Plait Merchant, Markyate-street, Hertford. *Com.* Fane: Nov. 23, and Dec. 27, at 11.30; Basinghall-street. *Off. Ass.* Cannon. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook. *Pet.* Aug. 11.
 FOTHERGILL, MARK, Chemical Manure Merchant, 201, Upper Thames-street, London. *Com.* Holroyd: Nov. 27, at 12.30; and Dec. 18, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Chidley, 10, Basinghall-street; or Mayhew, 11, Argyll-place. *Pet.* Nov. 6.
 JOHNSON, JOHN, RICHARD CLARKSON, & FREDERICK FURNESS, Tailors & Woollen Drapers, Ashton-under-Lyne, Lancashire (Johnson, Clarkson, & Co.) *Com.* Jemmett: Nov. 30, and Dec. 30, at 12; Manchester. *Off. Ass.* Herniman. *Sol.* Toy, Ashton-under-Lyne. *Pet.* Nov. 8.
 HICKS, THOMAS JOHN, Russia Mat, Rope & Twine Merchant, 49A, Worship-street, Finsbury-square, Middlesex. *Com.* Evans: Nov. 22, at 12; and Dec. 27, at 1; Basinghall-street. *Off. Ass.* Bell. *Sol.* Sorrell, 19, Mark-lane. *Pet.* Nov. 9.
 NIXON, THOMAS, Boot & Shoe Maker, Stoke-upon-Trent, Staffordshire. *Com.* Sanders: Nov. 29, and Dec. 21, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* Smith, Birmingham. *Pet.* Nov. 12.
 RITCHIE, GEORGE, Grocer, Newcastle-upon-Tyne. *Com.* Ellison: Nov. 20, at 12; and Dec. 19, at 11.30; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Mathews, Carter, & Bell, 102, Leadenhall-street, London; or Hoyle, Newcastle-upon-Tyne. *Pet.* Nov. 6.
 ROBINSON, EDWARD, Woollen Manufacturer & Merchant, Sheepridge, Huddersfield. *Com.* West: Nov. 23, and Dec. 21, at 11; Leeds. *Off. Ass.* Young. *Sols.* Bond & Barwick, Leeds. *Pet.* Nov. 7.
 TWEEDIE, WILLIAM, Oil & Colour Man, Liverpool. *Com.* Perry: Nov. 22, at 12; and Dec. 14, at 11; Liverpool. *Off. Ass.* Cammone. *Sols.* Gregory & Gregory, York-buildings, Dale-street, Liverpool. *Pet.* Nov. 6.
 WILLIAMS, THOMAS, Printer & Publisher, Newport, Monmouthshire. *Com.* Hill: Nov. 26, and Dec. 31, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Blakey, Newport; or Bevan, Girling, & Pross, Bristol. *Pet.* Nov. 12.

FRIDAY, NOV. 16, 1860.

BROFIELD, THOMAS WILLIAM, Builder, 34, Leather-lane, Holborn, Middlesex, and Lenness Heath, Kent. *Com.* Evans: Nov. 27, at 12; and Dec. 27, at 2; Basinghall-street. *Off. Ass.* Bell. *Sols.* Pocock & Poole, Bartholomew-close. *Pet.* Nov. 13.
 BROWNE, NEVILLE, Hotel Keeper (Ivée's Coffee House, Fleet-street, London). *Com.* Goulburn: Nov. 26, at 2; and Dec. 24, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Linklater & Hackwood, 7, Walbrook, London. *Pet.* Nov. 7.
 CHACE, GEORGE HENRY, Boot & Shoe Maker, 142, Oxford-street, Middlesex. *Com.* Holroyd: Nov. 27, at 3; and Dec. 23, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Allen & Son, 17, Carlisle-street, Soho-square, London. *Pet.* Nov. 14.
 COLEMAN, CHARLES, Seed & Flour Merchant, Halcavor Mills, near Bodmin, Cornwall. *Com.* Andrews: Nov. 26, and Dec. 31, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Commins, Bodmin, or Turner & Hirtzel, Exeter. *Pet.* Nov. 8.
 COLLS, JAMES, Coal Merchant, Commission and Insurance Agent, Thrapston and Denford, Northamptonshire. *Com.* Goulburn: Nov. 26, at 2; and Dec. 24, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Tooke & Holland, 39, Bedford-row, London, for William Tenant, Thrapston. *Pet.* Nov. 15.
 CUDBY, CHARLES JAMES, Grocer & Cheesemonger, 39, Goldington-street, Saint Pancras, Middlesex. *Com.* Fonblanque: Nov. 28, at 11.30; and Dec. 28, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Kays, 2, New-inn, Strand, London. *Pet.* Nov. 13.
 FENTON, THOMAS JOSHUA, Wine Merchant, 46, Lime-street, London, and 24, Saint Mary-le-Strand-place, Old Kent-road, Surrey. *Com.* Evans: Nov. 27, at 12.30; and Dec. 29, at 11; Basinghall-street. *Off. Ass.* Bell. *Sol.* Stophor, 36, Coleman-street. *Pet.* Nov. 15.
 HANFIELD, WILLIAM, Marble Merchant & Commission Agent, 10, Earl-street, and 45, Milbank-street, Westminster. *Com.* Holroyd: Nov. 30, and Jan. 1, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Mayhew & Salmon, 30, Great George-street, Westminster. *Pet.* Nov. 15.
 HALL, JOHN PARKER, Broker & Commission Agent, Liverpool, Lancashire. *Com.* Perry: Nov. 30, and Dec. 17, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Harris, Liverpool. *Pet.* Nov. 14.
 JONES, BENJAMIN, Painter & Paper Hanger, St. John-street, Cardiff, Glamorganshire. *Com.* Hill: Nov. 27, and Dec. 31, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Thomas, Neath, or Abbott, Lucas, & Leonard, Bristol. *Pet.* Nov. 6.

MURRELL, THOMAS ROBERT, Farmer & Brickmaker, Hedenham, Norfolk. Com. Fonblanque: Dec. 4, at 11.30, and 28, at 11; Basinghall-street. Off. Ass. Graham. Sols. Ashurst, Son, Morris, 6, Old Jewry, London. Pet. Oct. 31.

PHILLIPS, JAMES, Chemist, Druggist, & Seedsman, Church Stretton, Salop. Com. Sanders: Nov. 29, and Dec. 21, at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, Birmingham, or C. Davies, Shrewsbury. Pet. Nov. 10.

ROBINSON, GEORGE, & ROBERT WITT, Licensed Victuallers, Five Bells Public-house, Bermondsey-square, Bermondsey. Com. Evans: Nov. 27, at 11.30, & Dec. 27, at 11; Basinghall-street. Off. Ass. Johnson. Sols. Walter & Moqjen, 8, Southampton-street, Bloomsbury-square. Pet. Nov. 13.

ROBINSON, GEORGE, Hotel Keeper, Lincoln. Com. Ayrton: Nov. 28 & Dec. 19, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sol. Hebb, Lincoln. Pet. Nov. 14.

SALT, JAMES JONES, Glass Dealer & Patent Coffin Manufacturer, Birmingham. Com. Sanders: Nov. 26 & Dec. 17, at 11; Birmingham. Off. Ass. Kinneir. Sol. Smith, Birmingham. Pet. Oct. 31.

SEKINGTON, EDWARD, & JAMES JOHN CLUTTERBUCK, Leather Dressers 15 & 16, Russell-street, Bermondsey, Surrey. Com. Fonblanque: Nov. 28, at 12.30, & Dec. 28, at 12.30; Basinghall-street. Off. Ass. Graham. Sol. Bennett, 181, Tooley-street, Southwark. Pet. Nov. 12.

STEWART, ROBERT, Draper, Wells, Somersetshire. Com. Hill: Nov. 27, and Dec. 21, at 11; Bristol. Off. Ass. Acraman. Sols. Bevan, Girling, & Press, Bristol. Pet. Nov. 14.

TODD, JOHN, Cheesemonger & Butterman, Pleasant-place, Holloway. Com. Goulburn: Nov. 26, at 1.30, & Dec. 24, at 11; Basinghall-street. Off. Ass. Pennell. Sols. Pocock & Poole, 59, Bartholomew-close, London. Pet. Nov. 14.

WARD, ROBERT CLAKE, Linen Draper, Queen's-terrace, Marlborough-road, Chelsea, Middlesex. Com. Fonblanque: Nov. 28, at 12.30, & Dec. 28, at 1; Basinghall-street. Off. Ass. Graham. Sols. Lawrance, Smith, & Pawdon, 12, Bread-street, London. Pet. Nov. 14.

WILSON, JOHN BLACKWOOD, Draper & Hawker, 22, John-street, Penton-street, Pentonville, Middlesex. Com. Fane: Nov. 30, at 12.30, & Dec. 27; Basinghall-street. Off. Ass. Cannan. Sol. Cattlin, 22, Ely-place, Holborn. Pet. Nov. 14.

BANKRUPTCIES ANNULLED.

FRIDAY, NOV. 16, 1860.

STRAIGHTBERO, THEODORE, Walnut & Fancy Wood Merchant, 21, Wilson-street, Middlesex. Nov. 6.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, NOV. 13, 1860.

DICKINS, WILLIAM, Shoe Manufacturer, Daventry, Northamptonshire. Dec. 5, at 2; Basinghall-street.—GINGOLD, MORRITZ, Merchant, Manchester. Dec. 5, at 12; Manchester.—HASELL, JAMES, Soap and Candle Manufacturer, Bristol. Dec. 6, at 11; Bristol.—LATTIMORE, JOSUA, Timber Merchant, Sandridge, St. Albans, Hertfordshire. Dec. 6, at 11; Basinghall-street.—LEBLIS, ROBERT, Merchant, 19, Abchurch-lane (Cheape & Leslie). Dec. 7, at 12.30; Basinghall-street.—LOWE, JOHN, Merchant & Commission Agent, Manchester. Dec. 4, at 12; Manchester.—MASON, EDWARD, Commission Agent, 67, Piccadilly, Manchester. Dec. 5, at 12; Manchester.—SHARP, JOSEPH, Cattle Dealer, Metheringham, Lincolnshire. Dec. 6, at 11.30; Nottingham.—SHERB, JAMES, Boot & Shoe Maker, Portsea, Southampton. Dec. 8, at 11; Basinghall-street.—WHITAKER, JOHN, Cotton Manufacturer, Bridge End, Newchurch, Rossendale, Lancashire. Dec. 4, at 12; Manchester.

FRIDAY, NOV. 16, 1860.

BURTON, JOHN TOWRY, Wholesale Hardwareman & Gun Flint Manufacturer, 35, Bucklersbury. Nov. 28, at 1.30; Basinghall-street.—FOX-CROFT, WILLIAM, & GEORGE WELLOCK, Cotton Spinners, Heckmondwike, York. Dec. 7, at 11; Leeds.—GAWTHORPE, JOSEPH, Cloth Miller, Horbury Bridge, Wakefield. December 7, at 11; Leeds.—MARTIN, JAMES, Licensed Victualler, King's-head Inn, High-street, Borough, Surrey, & Fruit Salesman, Borough-market, Surrey. Dec. 11, at 11; Basinghall-street.—PENNY, ALFRED, 2, Richmond-villas, Holloway, Middlesex, late of Wharf-road, City-road, Coal Merchant, and of Lloyd's Coffee-house, London, Underwriter. Dec. 11, at 1; Basinghall-street.—REDDALL, FREDERICK, Merchant, 1, Philpot-lane, Nov. 28, at 12; Basinghall-street.—RUMFORD HENRY, Wholesale Stationer, 5, Queen-street, Cheapside. Dec. 10, at 11; Basinghall-street.—TURNER, JOHN, Grocer, Halifax, Yorkshire. Dec. 7, at 11; Leeds.—LAURENCE, THOMAS, & WILLIAM YORKSHIRE, Leather & Hide Factors, St. Mary Axe, London. Dec. 14, at 11; Basinghall-street. Joint estate of all the bankrupts. Same time, Joint estate of Thomas Lawrence and William Mortimore, and separate estate of Thomas Lawrence, and separate estate of Francis Benjamin Schrader.—WILSON, BENJAMIN, Money Scrivener, Bill Broker, & Discount Agent, 16, Gresham-street, London. Dec. 11, at 1; Basinghall-street.—YOUNG, THOMAS, Tea and Coffee Dealer, 8, Temple-court, Liverpool. Dec. 10, at 12; Liverpool.

BINDING.—The Publisher of the SOLICITORS' JOURNAL and WEEKLY REPORTER is prepared to bind any volumes which subscribers may send to him, neatly, expeditiously, and strongly. Orders sent to the office will be immediately attended to, and in town volumes will be fetched and returned when bound without any expense. — Half Calf, 4s. 6d., and Cloth, 2s. 6d. per volume. — Office, 62, Carey-street.

PARLIAMENTARY NOTICES (Public or Private Bills) for insertion in the *London Gazette*, the Daily, Local, and County Newspapers, in compliance with the Standing Orders, promptly and carefully undertaken by HENRY GREEN, of 3, CHANCERY-LANE, Advertisement Agent, Contractor, &c., whose experience for upwards of 17 years in this specialty may be relied upon.

CERTAINTY IN LIFE ASSURANCE.

The conditions and limitations contained in Ordinary Life Policies deprive them of present value, and make their ultimate effect dependent upon the result of future investigations, to be commenced only after the death of the assured life.

THE INDISPUTABLE LIFE ASSURANCE COMPANY of SCOTLAND was instituted for the purpose of obviating these defects, and granting indefeasible Policies of complete security.

TRUSTEES.

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Samuel Hay, Esq., Banker, Edinburgh.
Henry Moffat, Esq., of Eldin.

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Henry Moffat, Esq. The Rev. Wm. Robertson.

John Turnbull, Esq.

MEDICAL ADVISER.

Professor John H. Bennett.

AUDITORS.

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Thomas Scott, Jun., Esq., Chartered Accountant.

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Messrs. J. & J. Turnbull, W.S.

BANKERS.

The Union Bank of Scotland.

SECRETARY.

Alexander T. Niven, Esq., Chartered Accountant.

MANAGER.

Alex. Robertson, Esq.

CHIEF OFFICES:—

13, Queen-street, Edinburgh; 32, Moorgate-street, London.

"CASE FOR THE OPINION OF COUNSEL."

"This Company was formed for the purpose of granting Life Assurance Policies which should be absolutely Indisputable, and the following form of Policy has been adopted. (Copy Policy).

"The Opinion of the ATTORNEY-GENERAL and Mr. J. NAPIER HIGGINS is requested.

"Whether a Policy in the above form would be Disputable by the Company upon any ground whatever, and if so, upon what ground."

"WE ARE OF OPINION THAT (assuming the Assured to have an Insurable Interest in the Life within the Provisions of 14 Geo. III., c. 48) A POLICY IN THE FORM STATED ABOVE WOULD BE INDISPUTABLE BY THE COMPANY, BOTH AT LAW AND IN EQUITY.

"RICHARD BETHELL, Attorney-General.

"J. NAPIER HIGGINS."

"IT IS QUITE COMPETENT to stipulate that the money assured shall be paid, on the sole condition that the party whose life was assured was alive at the date of the Policy, and thus exclude the questions which have so frequently occurred as to the truth or falsehood of the representations which led to the contract. I AM OF OPINION THAT THE FORM OF POLICY SUBMITTED TO ME DOES ACCOMPLISH THIS OBJECT.

"J. MONCREIFF, Lord Advocate,

and Dean of the Faculty of Advocates of Scotland.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, PALM MALL, LONDON, S.W.

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CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

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E. LENNOX BOYD, Resident Director.

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ERRATUM.—The name of Mr. Thomas Crawhall Alcock, solicitor, Sunderland, was erroneously inserted in the list of solicitors who had been elected mayors of municipal boroughs which appeared in our Journal last week.

THE SOLICITORS' JOURNAL.

LONDON, NOVEMBER 24, 1860.

CURRENT TOPICS.

All the courts of equity will rise on Monday next, the last day of term. They will sit again on Tuesday, the 4th day of December, which is fixed as the first seal day after term. About the usual amount of ordinary business has been got through since the courts met after the long vacation, while an unusually large number of appeals has been disposed of; the Lord Chancellor having sat uninterruptedly throughout the term, and heard and decided numerous important appeals.

The Court of Divorce appears still to be the most flourishing of all our courts, in point of business. It appears that there are at present about 200 cases in the paper for hearing, which—taking into account the very large number disposed of before the last long vacation—would lead us to expect a permanently large amount of divorce business.

The courts of common law have been all kept tolerably well occupied during the present term, but few cases of any considerable importance have been heard this term in Westminster Hall.

Mr. Samuel Morley, who appears to be the chairman and factotum of some society for the Amendment of the Mercantile Law, has been going about the country making speeches in favour of the Attorney General's Bankruptcy Bill. As the result of Mr. Morley's labours some resolutions have been passed pledging certain local bodies to the principles enunciated by the Bill. We have only to remark that the utility of such adventitious aids is extremely doubtful, and so Sir Richard Bethell seems to think if we may judge from a recent letter from him on this subject. Unless the grievances complained of are sufficient of themselves to cause those whom they affect to cry out, when the Bill comes before Parliament it will be found that factitious clamour will be unavailing. There is no occasion now-a-days to get up extensive organisations, and to retain peripatetic orators, for the purpose of bringing about any real amendment of the law. Law officers of the crown, and cabinet ministers are generally but too glad to take in hand the remedying of any legal grievances affecting a considerable portion of the community; and there is always some danger of mis-legislation in attempting reforms of law which are suggested by small but active bodies of men who have made such grievances a *specialité*.

It would be far better that mercantile men throughout the provinces, in their chambers of commerce, should discuss the forthcoming Bill amongst themselves and without any bias from the eloquence of Mr. Morley, although for our own parts we are disposed to agree in the main with the views propounded by him.

Mr. Serjeant Pigott has been elected member to represent the borough of Reading in Parliament.

The Hon. Society of Lincoln's Inn have appointed as Chaplain to the Society the Rev. Charles John D'Oyly, M.A., son of the late Rev. Dr. D'Oyly, formerly Rector of Lambeth.

M. BERRYER ON ADVOCACY IN FRANCE.

A conflict has lately occurred in France between the public ministers of justice and the bar, respecting the limits of the liberty of defence, which has resulted in a grave usurpation on the part of the former, a corresponding loss of independence in the latter, and a great detriment to the public in respect of its rights of defence. M. Ollivier, as counsel for the defence on a recent trial, having designated the charge of the official prosecutor as an appeal to the most irritating passions, was pronounced guilty of a want of respect to the public administration of justice, and his condemnation was subsequently confirmed by the Court of Appeal.

The decision is understood as declarative of a right on the part of the public ministers of justice to a peculiar exemption from comment or imputation on the score of motives or passions, and has been received by the bar with a strong feeling of protest. A well-written pamphlet has been published "on the relations between the public ministry of justice and the bar," directed chiefly to the question of the liberty of defence, with an introductory letter by M. Berryer, the veteran advocate of fifty years' standing, who pronounces "the publication of such a work both opportune and even necessary, after the opinions and judgments that have been recently expressed in judicial quarters."

An attempt is made (writes M. Berryer) to invent new principles and apply them in the courts of criminal and correctional jurisdiction, for regulating the conditions of the contest, and the very modes of address between the prosecution and the defence. The extreme deference, the attitude of subordination which it is pretended to impose on advocates towards their opponents, the superior authority attributed to the latter, would make serious inroads upon the rights of defence, and the independence and dignity of the bar—those indispensable guarantees of the impartial distribution of justice. In losing freedom of speech we lose also freedom of thought; just complaints are suppressed, the voice of conscience is stilled, our past life is extinguished. *Memoriam quoque cum voce perdidissemus.*

The strong line of demarcation in France between the law officers of the State and the independent portion of the bar—involving such peculiar relations and conflicts—has no correspondence amongst the counsel representing the Crown and the rest of the bar in this country. Here, the prosecuting counsel are retained from the rest of the bar for the occasion only; the highest law officers are distinguished from the bar only by their connection with the Government for the time being, and no distinction exists on which a greater license or dignity need be attributed to those who act on behalf of the State as against private interests. Indeed, in criminal cases, the practice is governed by sentiments of a quite opposite character, and the counsel for the Crown is expected to act with a moderation and reserve which would be out of place in his opponent struggling for the life or liberty of his client.

It is remarkable, however, that the bar in France and in England were originally in a very similar position with respect to the State service, and it is instructive to observe the causes and growth of the changes which have since occurred in the former country. In the early days of the bar in France, as in England, no distinction existed between its members as serving the State or serving private persons. The King selected from the rank of advocates the most eminent and the best qualified to conduct the law business of the Crown, under the titles of *procureurs* and *avocats du roi*, or *avocats généraux*. The public business was assigned to these exclusively, though they might employ their leisure in the affairs of private persons. The rest of the bar were restricted to the conduct of private business.

These permanent retainers by the Crown were the origin of the subsequently highly-organised public ministry of justice. The duties of the Crown lawyers gradually extended over all the public department of

justice, and were regulated in a strictly official form. Under this head were comprised the magistracy, the functions of the Crown in respect of prosecutions, and all the proprietary and executive rights of the Crown in connection with the law. The public ministers of justice who fulfilled these functions were members of the local parliaments or courts of justice, and irremovable. They thus held an independent position, which enabled and interested them in asserting the pre-eminence of the law against usurpations and infringements, from all quarters. Their official position superseded that of the mere barrister, and in course of time the law officers were forbidden to undertake private business. Nevertheless, they retained their connection with the order of advocates, amongst whom they took precedence at the head of the list. They obeyed its internal rules of discipline, and were zealous to maintain its privileges and independence, and contributed chiefly, by the dignity and authority of their offices, to raise the *noblesse de la robe* to a higher point of social and political importance than has been attained by the bar in any other country.

Such was the connection between the bar and the public ministry of justice under the ancient regime. The modern principles of government subsequent to the Revolution effected a complete change. The local parliaments, with their magistracies, law officers, and advocates, which had for so long formed an effective safeguard for law and justice, were all swept away by the Revolution; and the administration of justice was re-constituted upon the bureaucratic principles which have since prevailed. The public ministry of justice was re-organised strictly as a department of the Government. Its officers were made removable at will, and brought entirely under the control of the central power. They were cut off from their ancient connection and sympathy with the bar, and stripped of the independence which they formerly vindicated as members of that profession. Napoleon hated advocates, and would have dispensed with them altogether. In a characteristic ebullition of temper he called them a set of conspirators, who did nothing but hatch crimes and treasons. "I should like," said he, "to cut out the tongue of the advocate who acts against the Government." Under the Empire, the order of advocates was re-constituted with very attenuated rights and liberties. After the Restoration it was again invested with its ancient usages and discipline, and enabled to resume its duties with suitable independence and dignity.

The policy of organising the conduct of all the public law business in an official form has thus led to an entire separation between the bar and the law officers; or, rather, has cut off from the bar, properly so-called, all employment in public business, leaving it exclusively to the conduct of private interests. In criminal matters, its office is confined to the defence. Notwithstanding the long historical connection between the public ministry of justice and the rest of the bar, accompanied with such brilliant results, the two bodies now appear directly opposed to one another, both in interest and in spirit. The one is considered as the advocate of the interests of the State and of justice, while the other is treated as a public enemy. The former have, in fact, become the mere servants of a despotic authority, while the latter are the last representatives of individual liberty, and are engaged in a struggle to maintain their very existence.

M. Berryer thus writes of this relation between the bar and the public officers of the law, which we have endeavoured above to explain:—

There is a tendency manifest in the present day fraught with great danger to the State, to diverge from the manners and principles which formerly in France united the magistracy and the bar. It is well to recall these to mind, and to point out the common origin whence arose both the order of advocates and the great and wise institution of the public ministry of justice. In early times the advocates were fre-

quently called upon to appear for the Crown and for the State, without ceasing to plead in private causes, and thus, their service of the Crown being restricted to the occasion only, they lost nothing of the spirit of their order, or of zeal for its independence. When, in later times, these functions were constituted into offices, the most illustrious of our magistrates deemed it an honour to have risen from the bar, and the most eminent of these great men were the most eager to respect our traditions and liberties. So long as our advocates shall remember what De Mesmes, De Vair, Pasquier, Talon, Sequier, d'Aguesseau, spoke and wrote concerning the prerogatives and dignity of their profession, they will remain fully instructed as to the limits both of their rights and duties.

The melancholy contrast which now presents itself to the sentiments which the crown officers formerly entertained towards the order of advocates, can be attributed only to the new conditions of the appointment, advancement, and discipline of the magistracy.

The policy of an official organization of all the functions of the State, notwithstanding it appears to be fraught with such disastrous consequences to liberty, seems to find favour with French jurists, and to be in harmony with the national idea of government. M. Berryer, as seen above, describes the public ministry of justice, whose encroachments he is combating, as "a great and wise institution;" and we find the same institution spoken of in the pamphlet before us, in the following terms of admiration:—

France may lay claim to the public ministry of justice as an institution eminently national. What idea could be more noble or more Christian than to remove the prosecution of crimes from the hands of private vengeance; to pursue evildoers with the terrors of the law, without exposing honest men to the greedy attacks of common informers; to secure the punishment of crimes at the same time that the denunciation of them is made honourable?

Now that the proposal for a system of public prosecution happily finds favour in England, it may be well to notice the extreme effects of the policy in question as illustrated by the recent encroachments on the French bar; and to be warned in time so to mould the institution as to avoid the danger of setting up a body of officials armed with authority, and imbued with a spirit, hostile to the advocacy of private interests, and to the rights of defence. It is but recently that the English law has fully recognised the right of the accused to meet his accuser on equal terms, by allowing him to appear by counsel; and under the present system we are at least sure that liberty of speech on behalf of the defence is safe in the hands of the advocates, by whom it is so liberally exercised throughout the country.

The second empire is actuated by the same spirit of enmity to the independence of the bar as the first, but is conducted with more temper and address. It has succeeded in clipping the tongues which the first Napoleon vainly longed to cut out by the roots. The recent decision of the French courts places the advocate on terms of inequality and inferiority to his official opponent. All comment on the motives or actuating spirit of the prosecution is forbidden as a contempt of public justice. The *argumentum ad hominem* is interdicted; and the defence is restricted to the dry syllogisms of logic. The advocate is thus not only deprived of his most dangerous offensive weapon, but is stripped of his most effectual armour of defence; and in this manner does he enter the lists against the full panoply of the champion of Government. Upon what unequal terms is the French subject reduced to contend with the Government for his life and liberty, property, and honour?

Perfect equality in the presence of the judge seems the first axiom of justice; yet in the France of the present day it is judicially denied, and the following able and eloquent arguments of M. Berryer serve only as a protest against its denial:—

In the interests of all, it is impossible to mistake the right

and necessity of a perfect and reciprocal liberty of discussion between the advocate and the organ of public justice. In forensic contests, particularly before criminal tribunals, where the lives of men, or those possessions most dear to them, honour and liberty, are disposed of, the general interests of society are divided. If it is important to the authority of the law that the vigilance of the magistrate should preserve society from the misdeeds which threaten its peace, and that a just punishment should fall upon the authors of crimes which have carried desolation and ruin into its bosom, it is no less important to the safety of all that unjust accusations should be repelled, that a man should not be deemed guilty simply because he is accused, and that he should be energetically defended against the errors, the passions, the ignorance, and the weaknesses of his judges, be they magistrates or juries. How astonished we should be to see the organ of Government, prosecuting for some great crime—a horrible attempt, some dastardly treason or foul libel—open his case without boldness or indignation, and without an urgent appeal for public vengeance? Ought not the question of guilt or innocence, the evidence of right or wrong, the manifestation of truth or falsehood, to arouse an equal passion in the hearts? Do not they claim the same authority of speech, the same energy of language? When the lists are once opened between the prosecution and the defence the contest should be fought with equal arms.

In the barbarous ages of judicial combats, when a gentleman appealed a villain, he was bound to present himself on foot with staff and buckler; and if he came mounted with the arms of his rank, his arms and horse were taken from him; he was stripped to his shirt, and was compelled to fight in that condition against the villain. This impartial practice of a rude equality, in the contest which established innocence by victory, betokens even in that ignorant age an instinctive sentiment of fairness, and a simple desire to ascertain the truth which we no longer find in the phraseology of modern writers, who claim to invest one of the champions in the judicial arena with a greater authority, to assign to him a greater liberty, and to impose upon the judges of the contest a greater deference for his convictions and opinions, than is to be accorded to his adversary.

Such claims are quite incompatible with the free scope required by the advocate for the exercise of his vocation, and far exceed what is fairly due by the mere rules of decency and courteous intercourse. A proper respect and courtesy towards his opponent are the willing homage of every advocate who claims himself to be respected, and impose no constraint upon the freedom of his thought or language. M. Berryer speaks with the authority of a master in describing what are the liberal requirements and the wide limits necessary for the practice of his vocation.

Quick repartee, vehement apostrophe, home-thrust argument, sarcasm, even invective, are the vivifying and sustaining breath of forensic eloquence when she wings her loftiest flights. Nay, they are the emanations of conviction, the unprepared and unexpected evidences of a clear conscience, the response of the devotion and zeal due from the advocate to the cause which he has promised to sustain. How many are persuaded that an objection is unanswerable which is not repeated with a startling burst of energy?

Truth reaches not the understanding unaided; God has not granted to every judge the eye which sees, the ear which hears, *oculum evidentem et aurem audientem*. What efforts are often necessary to force open the understanding? Truth must be borne constantly forward, and all obstacles must be crushed before it. *Fit via vi*. Obstacles are innumerable. Bossuet, who knew all the weaknesses of men and of human institutions, turns his observant eyes upon the judges assembled in their tribunal. "One," says he, "disturbs your thoughts with his precipitation, another damps your spirits with his unsettled and doubtful countenance; this one puts on an habitually good-humoured look and lets his thoughts wander, so that you cannot arrest his distracted attention; that one, harder still, has his ears closed with prejudice, and incapable of expanding to the reasons of another's mind, listens only to what is passing in his own. Not to speak of the shame and reproach of corruption, we may also mention the cowardice or the license of that arbitrary justice which, without rule or maxim, turns itself about to serve the will of the power which befriends it." It has always been the task of the orator at the bar to encounter and subdue these

obstacles of the head and of the heart; and now that the contest between the prosecution and the defence is conducted before a jury, with whom it is so easy and natural to reconcile their consciences by obeying the voice of Mr. Attorney-General, who would dare to prescribe for the defending counsel an attitude of timorous deference towards his antagonist, or compel him to abandon any portion of his true dignity, and of the force of his convictions? What would become of justice? What would become of the sacred liberty of defence?

M. Berryer draws a melancholy picture of the present state of advocacy, sitting in solitary grandeur amongst the ruin of liberties, in France.

When the tribune is mute, or its voice heard only in imperfect echoes; when the censorship of the press undisguisedly interposes its official warnings; when the journals are subjected to the fear of summary suspension or suppression; when the right of petition is placed under the protection of the senate, just as under the first empire the liberty of the individual and of the press were entrusted to senatorial commissions; when ministerial responsibility is abolished, and criticism of public acts may be at once construed into outrage or attack upon the head of the State, from whom all things proceed, and to whom all things turn; when the hopes of promotion corrupt the independency of the magistracy; when impatience for the success of prosecutions denounces judicial moderation or indulgence, as paralyzing justice, and ruining the cause of morality—the independence of the bar remains the only bulwark to the citizen against the angry assaults of power, the violation of rights, and groundless persecution. The worst may be feared if this is mutilated; nothing need be despaired of if it is maintained and respected. My hope is, that through the bar will triumph the persevering efforts of sound reason, the spirit of justice and of public virtue. I may, at least, say with d'Agnesseau, through the bar will be heard the last cry of expiring liberty.

CRIMINAL PROCEDURE.

We lately printed a paper which was read by Mr. J. Campbell Smith, advocate, at the recent meeting of the National Association in Glasgow, the design of which was to contrast the modes of criminal procedure adopted in England and in Scotland respectively. It was, moreover, Mr. Smith's object to point out that each country might borrow with advantage from the jurisprudence of the other; and we believe that every unprejudiced person who considers the subject cannot fail to arrive at the same conclusion. Both systems have in fact their acknowledged excellences, and their undoubted defects. These have been thoroughly tested by centuries of experience, and the obviously wise course would now be to assimilate, as far as possible, the criminal procedure of the two countries by retaining the good and rejecting the bad in each. We are aware that many popular prejudices must be overcome before this much to be desired consummation is likely to be attained. But looking to the great and beneficial changes which have recently been effected in the law, we entertain sanguine hopes that steps will be taken before long for assimilating in its most important features the system of criminal procedure in the two countries.

Mr. Smith appears to consider that the great defect of the English system is the want of public prosecutors duly authorised to act on the part of the Crown, and to take the necessary steps to bring offenders to justice. It is but a short time since we called the attention of our readers to this anomaly in English jurisprudence. We pointed out the serious consequences resulting from it, and referred to the various plans that have from time to time been suggested for its removal. We need hardly say, therefore, that we entirely concur in Mr. Smith's views as to the superiority of the Scottish system in this respect. Let us take for example the case of the Road-hill murder, which is now exciting so extraordinary an amount of interest throughout the kingdom; all the investigations which have

taken place respecting it, with the exception of the coroner's inquest, have been of the most anomalous description. From the arrival of Mr. Whicher, the detective, on the scene, until the latest exhibition of Mr. Saunders, all the proceedings have been singularly irregular, if not wholly unprecedented in our criminal annals; and yet they have obviously arisen from the necessities of the case. The coroner's inquest having failed in pointing out the guilty person it was literally the duty of no one in particular to pursue the matter any further. Hence the interference of the executive authorities became not only justifiable, but inevitable under the circumstances. In Scotland, had the murder taken place there, no such necessity would have existed. It would have been the duty of the officer upon the spot, the procurator fiscal, to have examined every witness who could throw any manner of light upon the subject, and to have continued his investigations so long as a chance remained of getting at the truth. Had such an officer existed in England, there would have been no reason for the appointment of Mr. Slack to perform the duties of a public prosecutor, and we should have heard nothing of the extraordinary proceedings of Mr. Saunders. We entirely agree with what the Recorder of Warwick, Sir Eardley Wilmot, publicly stated the other day regarding this case—viz., that it was another striking instance, if, indeed, one were wanting, of the necessity which existed for the appointment of such an officer in England.

But while admitting that Scotland has the advantage of us in respect of her possessing a public prosecutor, we cannot help thinking that there is one privilege possessed by that officer which is to the last degree unconstitutional and unjust. We all know what the practice is in England when a person is brought before a magistrate charged with any crime. After the witnesses have all been heard, the prisoner is asked whether he has anything to say in his defence, but with the caution that whatever he does say may be used in evidence against him: but until the whole case against him has been heard, no one has a right to put a question to him. It is otherwise in Scotland. Mr. Smith informs us that,—“As soon as possible after his apprehension, and before he can take advice, *which, indeed, is shut out from him*, the accused is taken before the sheriff or other magistrate, who tells him what the crime is with which he is charged; that the procurator fiscal, who is present, is to ask him questions about his participation in that crime; and that he need not answer them unless he please, but that his answers will be taken down and may be used as evidence against him.” This treatment of a suspected person is certainly opposed to all our English notions of justice and fair play. Why, in the first place, should he be debarred from all advice while undergoing his preliminary examination? Upon what principle should counsel be denied to him when he is before the magistrate and allowed to him when he is before the judge? In truth he has more need of legal advice during the first stage of the proceedings than during the last. He is questioned by the public prosecutor while before the magistrate, but at the trial he undergoes no such ordeal. As to the questioning process of a person suddenly accused and compelled on the moment either to answer everything, or to wear by his silence, at least, the appearance of guilt, it is a species of moral torture which is a standing reproach to the law of Scotland. It may be said that the practice is conducive to the interests of truth, but we have grave doubts upon this point. Guilty persons, and more especially old offenders, often exhibit the utmost coolness and self-possession in courts of justice, while the innocent are as often bewildered and confused, and may by their unguarded answers insure their conviction. Mr. Smith expresses himself strongly upon this blot, as he justly terms it, upon the law of Scotland; and we sincerely trust with him that it will soon be swept away.

Mr. Smith would also follow the example of England in creating a court of criminal appeal. In the absence of such a tribunal he tells us that the criminal law of Scotland is in a state of singular confusion and uncertainty. Indeed, we can hardly understand how such a state of things can continue to exist in any country where law bears the semblance of a science. “One set of judges,” he says, “decide that an attempt to steal is not a crime, and another that an attempt to pick pockets is a crime. The High Court decides that selling a pledged article without authority is not theft, and a judge on circuit lays it down to a jury that it is theft. One judge tells a jury that before they can convict a mother of infanticide, there must be proof of complete living birth, as the judges of England always do, and the woman is acquitted; and another judge does not lay down that law, and, after evidence precisely the same as that on which the other was acquitted, a poor wretch is convicted and sentenced to penal servitude or to death, &c.” If such is the uncertainty of Scotch criminal law, we do not wonder that Mr. Smith should advocate the creation of a court of appeal.

Scotland might also borrow with advantage from England the ancient and important institution of coroners inquests. It has been said, indeed, that these investigations would be superfluous in a country which maintains an efficient staff of public prosecutors. But we have heard Scottish lawyers of experience express a strong opinion to the contrary, and we can easily perceive that in cases of murder the coroner and the public prosecutor might mutually aid each other in arriving at the truth. Upon the whole Scotland has much more to borrow from England with reference to criminal procedure, than England has to borrow from Scotland. If our neighbours can shew us how to establish an efficient system of public prosecutors, we shall be greatly obliged to them. If, on the other hand, they would borrow more largely from our principles of criminal law, create a court of criminal appeal, and introduce coroners inquests, we cannot but think that their system of jurisprudence would be vastly improved.

THE LAW OF JUDGMENTS—(23 & 24 VICT. c. 38).

A brief review of the law of judgments, as it was at the time of the passing of this Act, is indispensable to explain the nature of the changes introduced by the recent statute (23 & 24 Vict. c. 38).

The rights of judgment creditors against the lands of their debtors are wholly statutory, and had no existence at common law, which limited execution to goods and chattels, and to the growing profits of lands. For these the respective writs of execution were those of *fiery facias* and *levari facias*. The 13th Edward 1, St. 1, c. 18 (Westminster 2) conferred on judgment creditors their first powers over realty, and enabled them by a writ of *elegit* to extend one half of the debtor's land, and to hold it until their debt was satisfied out of the produce of the land, according to the estimate of the extent. A judgment thus became a lien upon lands subsequently bought by the debtor, and continued to bind his lands even after their alienation to a purchaser. The statute was passed at a time when the alienation of land was not legal. Hence arose a neglect of the rights of purchasers without notice, after the alienation of land was legalized by the statute *quia emptores* in the same reign. To obviate this defect in the statute of Westminster 2 has been the chief object of most of the subsequent statutes upon this branch of the law, and the sole aim of the enactment which we are now considering. The confusion into which the law of judgments has run has been owing to the piecemeal and inconsistent legislation to which they have been subjected

Judgment creditors have been held not to be purchasers; not to have either *jus in re* or *jus in rem*, but a *tertium quid*, a lien hovering over the estate, the nature of which a purchaser or his lawyer could not understand; but, at the same time, could by no means disregard. The remedy for this anomaly is to treat judgments either as purchases *pro tanto*, and charges upon lands, of equal force with mortgages, or to rank them as regards land only as simple contract debts. Why should not judgment creditors be protected as purchasers by those who profess to have the interests of purchasers in view? But to those who exclaim against the continuance of such a mode of encumbering land we offer, on the other hand, no opposition. If the law opposes a form of contract which individuals prefer, these will readily discover some other mode of securing their creditors, if not of defeating the supposed statute. What is desirable is certainty in the legal relations of judgment creditor and debtor. Let these relations be extended so as to constitute judgment creditors mortgagees, as is the law in Ireland, or let all the statutes from that of Westminster 2 to the recent Act be repealed. We have no predilections or prejudices in the matter. We desire certainty, or as near an approach to it as reasonable diligence in the work of legislators may produce, and, as a prelude to that desideratum we deprecate all legislation that does not aim at accomplishing somewhat of a consistent harmony of the legal relations which it endeavours to control.

Judgments, as determined in their operation by the statute of Westminster 2, bound freeholds, impropriate rectories and tithes, leaseholds, and reversions. But equitable freeholds, copyholds, advowsons in gross, estates in joint tenancy, and estates tail after the death of the conuzor, unless put in settlement by the tenant in tail after the rendition of the judgment, were not so bound. The writ of *elegit* under this statute extended only one half of the land. By dividing the debt into two sums, however, and thus taking two judgments of the same term, the entire of the land might be extended. The judgment, however, became a general lien upon all the lands which the debtor owned or possessed, either at the time of the rendition of the judgment, or subsequently; and this lien was so conclusive that it bound the land even after its alienation by the debtor to a purchaser for valuable consideration without notice. (2. Cru. Dig. 49.) The guarantees of Jersey, as described *ante*, vol. iv., p. 905, resemble in their operation the legal powers of judgments, as they were determined by the statute of Westminster 2. The law of judgments, as thus settled, was wholly in favour of the conuzees, and wholly against subsequent purchasers from the conuzor. Upon this point there was no mistake or ambiguity, and so far the statute was valuable. The Statute of Frauds enlarged the rights of judgment creditors, so as to render equitable estates of freehold extendible. But the statute did not apply to equities of redemption, nor to any trusts but such as were clear, nor to trusts of terms.

We now enter upon a review of a series of enactments operating mainly in a different direction, relieving purchasers, and so far injurious to the conuzees, yet only effecting partial and incomplete changes, and, on the whole, injurious as raising an indefinite amount of litigation. The first relief given to purchasers from conuzors of judgments, in contravention of the statute of Westminster, was given by the 14th and 15th sections of the Statute of Frauds, which provided that judgments should be deemed to date, *quoad* the purchasers from the conuzors, only from the time that they should be signed, and not from the legal date, viz., the first day of the term in which they were recovered. The 16th section of the same statute also relieved the purchasers of goods, under

which denomination terms of years in land were held to be comprised, unless execution had been issued prior to the purchase. Attendant terms, however, were of course bound, as interests of a freehold nature, and the 10th section of the same statute bound freehold estates held in trust for the conuzor at the time of execution sued. The Docketing Act of William and Mary was intended to give a *quasi* relief to purchasers, by facilitating their search for judgments.

We go on to the 1 & 2 Vict., c. 110, which applied retrospectively, and extended the rights of the judgment creditor, so as to constitute him a purchaser in every sense, except that he could not avoid the voluntary grants of the conuzor. This Act, by its 11th section, applies to leaseholds, copyholds, customary freeholds, and all other hereditaments, and extends the writ of *elegit* to the entire of the lands of the conuzee. By the 13th section of this Act, a judgment was also constituted an equitable charge, so as to give the creditor a direct *locus standi* in equity, and was even rendered binding upon issue in tail and remaindermen, so that a judgment creditor of a tenant in tail was in a better position than the mortgagees of the same, as the latter class of creditors might be defeated by the issue in tail. A judgment had thus a disentailing operation *pro tanto*. The rights of judgment creditors, therefore, under this statute, appear to have been most complete and conclusive. As the title of a conuzor might be in tail, and not in fee, a judgment ought, in all cases of doubt, during the period of the operation of that statute, to have been regarded as a more indefeasible security than a mortgage. It would appear that, as a will by a tenant in tail is, as to such an estate, inoperative, an estate tail could be virtually disentailed, if expedition were necessary, by the rendition of a judgment equal in value to that of the estate, and by the settlement of the trusts of such a judgment (supposing such to be required). The issue in tail could not avoid the judgment, and the conuzee trustee would be estopped from disputing the rights of his *cestuis que trust*, and could not avail himself of the benefit of the statute *De Donis*, issue in tail being the only persons intended to be aided by that statute. Decrees and orders of courts of equity, ordering the payment of sums certain, were, by the 18th section of the 1 & 2 Vict. c. 110, rendered equally binding in all the foregoing respects with judgments. The 19th section relieved purchasers against all judgments not registered. Judgments of inferior courts were, by the 22nd section of the same Act, rendered of equal force with judgments of the superior courts after being removed into the latter courts, but only when a writ of execution was actually given to the sheriff. The 2 & 3 Vict. c. 11, rendered the re-registration of judgments necessary every five years, so as to affect purchasers, mortgagees, or creditors. The 5th section of this Act further secures purchasers, without notice, to such an extent as to repeal, as regards them, the whole of the 1 & 2 Vict. c. 110, and to give even to registered judgments against such purchasers only the effect of docketed judgments before that Act. A *lis pendens* was required by the 7th section of the 2 & 3 Vict., and crown recognizances by the 8th section of the same Act, to be registered, in order to bind purchasers with or without notice.

These enactments, while increasing the remedies of judgment creditors, yet, as they left the other statutes affecting judgments unrepealed, a creditor, if he neglected to register his judgment, as the last statute 2 & 3 Vict. c. 11 required, might, nevertheless, extend half the debtor's land under the statute of Westminster. The law of the registration of judgments, as it stands, operates as a bounty against diligence, for the purchaser is only affected by the registration if he search. If he does not search, he is exempt from all the effects which

registration gives a judgment. Of what use then is the law requiring registration? Registration, as a mere ceremony, wants what alone legitimates all legal ceremonies, viz., their tendency to cause deliberation in the minds of the contracting parties, an effect which ceremonies subsequent to the contract cannot have. The Irish law renders registration, both of deeds and judgments, notice to all, and such an effect may have been at first intended by the substitution of registration for docketts. It now acts directly as a tax upon the conuzors. The only merit of the recent Act is that it aims at a simplification of the law of future judgments as to all estates in land, both real and personal. All legal reforms should aim at this abstract assimilation, which alone can render their operation practically useful. The more generic, the less special, our law is, the wider is the natural application of its provisions, and the less likely is it to work mischief in particular cases. Differences in contracts will always, naturally, exist; but the effort of legislation should be to create neither artificial differences nor unnecessary intricacies of its own. Its branches should in number approach as nearly as possible the minor limit of the varieties of the principles of perfect obligation, and this scientific reduction of its features to the harmony of a system, it should endeavour to realize in all its details. There is no essential difference between insolvency and bankruptcy, between commercial and other contracts; there is no difference in the nature of things between conveyances or limitations of estates in land, and incumbrances upon the same. The tenant for life is but an annuitant upon the fee simple. The judgment creditor is essentially of the same character. He is virtually a rent-charger for a term, as he may by an *elegit* extend the land of his debtor for a term to be computed by the proportion of the yearly value of the land to the amount of the debt. Why, then, should the law create of its own accord rights and remedies which tend to widen the natural differences of the legal relations of different specialty creditors to their debtors? Or why profess to facilitate the deduction of title by complicating the rights of those parties, into whose claims a purchaser must inquire? All changes in the law should be complete, and not only reduce to a common legal measure the legal interests affected, but also endeavour to render that legal measure of the particular class of rights as homogeneous as possible with the other leading branches of the national jurisprudence. If it be only partial it can, of course, have neither recommendation.

The Act which we are considering, leaving the old law untouched as to judgments entered before the 23rd of July, 1860, has so far left all the previous difficulties that beset the conveyancer untouched, while it adds a new set of its own. These, however, as we shall presently endeavour to show, effect nothing very useful. The 1st section of the Act, which recites, "that it is desirable to place freehold, copyhold, and customary estates on the same footing with leasehold estates in respect of judgments, statutes, and recognizances, as against purchasers and mortgagees," enacts "that judgments, statutes, and recognizances, shall not bind lands in the hands of such either with or without notice, unless a writ of execution shall have been issued and registered before the execution of the conveyance, and the payment of the purchase-money," and also unless the said writ be actually executed within three months from the time when it shall have been registered. As the Mercantile Law Amendment Act of 1854 has required that writs of execution shall not bind the purchasers of goods as to trade, unless the purchaser have notice of the

delivery of the writ of execution to the sheriff, so the present Act appears to have aimed at the registration of the execution, to correspond with the notice required by the former Act as to sales of personal chattels. However, registration not being notice, this provision of the statute must be nugatory in this respect. The whole effect of the Act, therefore, is to create expense, which ultimately falls on the borrower, and its whole object could have been attained by an enactment that judgments should be re-registered, not every five years, as hitherto, but every three months, the vexatious absurdity of which is apparent at a glance. Now, surely all judgment creditors will secure their rights as fully as they can, and there is nothing to prevent them from issuing an execution after the entry of the judgment, registering the execution, and re-registering it every three months. To say that such a proceeding would be illegal and contrary to the policy of the statute, is to maintain the absurd alternative that the Act intended that every judgment creditor who dared to issue an execution should elect to put that identical execution in force, or forego his claim altogether, or otherwise, obtain a new judgment, for the consideration of having given time to repay the debt secured by the former one. The effect of this section, then, is to prescribe that executions affecting land be after the first registration re-registered every three months. The Act may thus be wholly neutralised, while it does not apply to judgments entered up before the 23rd July, 1860, nor to the existing law of judgments as regards the conuzor, his volunteers, representatives, or other judgment creditors. A judgment confessed by a tenant in tail will at present, therefore, operate as a disentailing incumbrance against the issue, but not against remaindermen. Such partial legislation cannot be too much discountenanced, and we are sorry that the *prestige* of Lord St. Leonards' name is lent to such an incomplete performance.

To sum up, a judgment prior to 23rd July, 1860, binds, by force of the statute of Westminster 2 and the Statute of Frauds, half the legal and equitable interest of the conuzor in land even after its alienation to a purchaser without notice; and by force of the 1 & 2 Vict., c. 110, a judgment of the same period binds the entire of the conuzor's interest, whether legal, equitable, copyhold, or customary freehold; an estate tail, or an equity of redemption, unless it be aliened to a purchaser without notice, who is protected by a saving clause in the 1 & 2 Vict., c. 110, and by the several statutes since passed. A judgment prior to the date mentioned also binds the leaseholds of the conuzor, whether his interest in them be legal or equitable, and all claiming under him, except purchasers for valuable consideration without notice, who are protected by the saving clause in 1 & 2 Vict., c. 110, and by the subsequent enactments, and in their hands the terms cannot be extended, even for a moiety: as, by the several statutes passed since the 1 & 2 Vict., c. 11, the latter statute has been wholly repealed as to this class of purchasers, and the law settled as it stood prior to that statute, viz., as regulated by the Statute of Frauds, which enacted that terms should not be bound until after the delivery of the writ of execution to the sheriff. To this common measure, with the addition of the registration of the writ of execution, is reduced the law of all judgments entered up after the 23rd July, 1860. The Act which is the subject of these observations states *in globo* that the law of judgments as to freeholds shall be the same as the law that at present regulates the operation of a judgment upon leaseholds. As so far a reduction to uniformity, it deserves praise. But it is only a step in a direction which requires a much more rapid progress; while as it leaves existing judgments unaffected,

it cannot aid the deduction of title until all judgments prior to the 23rd July, 1860, shall have become extinguished, a period which we prefer recommending to the contemplation of the astronomer rather than to our readers. Registration is in no case a substitute for notice, although it is indispensable to bind land in the hands of purchasers with notice. It is a formality which has no intrinsic force, and is the mere shadow of what registration should be, viz., notice to all. The 3rd and 4th sections of Lord St. Leonards' Act supply *casus omisi* in the Registration Act, which did not give heirs and executors the protection afforded by the Docketing Act. When this latter was repealed, an executor became bound to discharge all judgment debts, of which he might not have had notice, in priority to simple contract debts. These sections, however, afford no room for comment, as illustrating no general principle, except that, in this respect, registration operates as notice.

It is a curious coincidence that so much litigation has been occasioned by two statutes passed in the same session of a reign so remote as that of Edward I.; yet all family settlements are at this day based upon the statute *De Donis Conditionalibus*, 13th Edward I., c. 1, a statute which originated fines, recoveries, and an indefinite amount of legal difficulty, both as to deeds and wills, while the difficulties which beset judgments, a statutory product of the same Parliament, we need not repeat. If entails were reduced to ordinary freeholds, as base fees, that is, if the statute *De Donis* were repealed, and if all the statutes relating to the operation of judgments upon realty were in like manner wholly repealed, we should be saved much of the trouble that is occasioned at present by the diligence of our legislators in repairing these ancient bulwarks of the legal art.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

(Sittings in Banco, before Lord Chief Justice COCKBURN, and Justices HILL and BLACKBURN.)

Nov. 19.—*Ex parte Crawshay*.—This was an application on the part of George Crawshay, for a rule calling upon John Baxter Langley, the proprietor and publisher of the *Daily Chronicle* and *Newcastle Advertiser*, to show cause why a criminal information should not be filed against him for certain misdemeanours. Mr. Crawshay had formerly been Mayor of Gateshead, and the present application was made by him against Mr. Langley in consequence of certain articles which had appeared in his newspaper, in the month of August last, to procure persons in England to enlist in the army of General Garibaldi, and for other acts done by him for the purpose of inciting persons to enter into the service of the General.

Mr. Boeill, Q.C., who appeared for the applicant, having made a few preliminary observations,

Lord Chief Justice COCKBURN interposed, and inquired whether this was a case in which it was competent for a private person to come forward and ask for the interposition of the Court. Was there any precedent for the application? If it was an offence, it was an offence against the State, and it was for the Attorney-General to take it up; but his lordship said he never heard of a private person coming forward to make such an application, founded on an article in a newspaper.

After some discussion between the learned counsel and the Court,

Lord Chief Justice COCKBURN said this was a case of a private individual applying to the Court, but there was no precedent for the interference of this Court by criminal information in such a case; and that the Court ought not to grant a criminal information at his instance, but leave him to the ordinary remedy of the law. The applicant might bring the matter under the attention of her Majesty's law officers, who would decide whether it was necessary to interfere. But all this

Court said was, that they could not grant a criminal information at the instance of a private individual; but he must be left to prefer his bill of indictment, or to take some other proceedings.

Mr. Justice HILL and Mr. Justice BLACKBURN being of the same opinion, the rule was refused.

Nov. 23.—*Ex parte Lieutenant Allen*.—This was an application for a writ of *habeas corpus*. The circumstances of the case are stated *ante*, p. 4.

The LORD CHIEF JUSTICE said that, unless it were shown that the prisoner had been removed under the order of the proper officer, as required by the 41st section of the Mutiny Act, namely, the officer commanding the district garrison, or colony, they would be bound in law to discharge him. On this state of the facts, the Court doubted not that Lieutenant Allen was illegally in prison, and must be discharged. The Court was clearly of opinion that this imprisonment could not be legally maintained. If, however, the learned Solicitor-General could show that any proper authority for the removal of Mr. Allen had been given, this decision would not be final.

The Solicitor-General said he had no reason to believe that he could produce any such authority.

COURT OF PROBATE AND DIVORCE.

(Before Sir C. CRESSWELL.)

Nov. 21.—*Allen v. Allen and D'Arcy*.—In this case a jury had found that Mrs. Allen, the respondent, had been guilty of adultery, but that the petitioner had connived at the adultery, and that he had been a party to a conspiracy against the respondent, and the Court therefore dismissed his petition with costs. The costs having been taxed by the Registrar, a rule nisi was obtained on behalf of the respondent for a review of that taxation, on the ground that the common law principle of taxation as between party and party, upon which the Registrar had proceeded, was not applicable to the costs of a matrimonial suit.

Cause having been shown against the rule,

The learned JUDGE said the taxation must certainly be reviewed. In taxing costs in matrimonial suits the Court was bound to adopt, as far as it could, the principles formerly acted on in the ecclesiastical courts. He was informed that in those courts the principle of taxation as between party and party was adopted, but the words as "between party and party" had a very different construction in those courts from that which was placed upon them in the common law courts. In the common law courts costs only of those issues which were found in favour of the parties receiving them were allowed, but he thought that the only limitation which could with propriety be put upon the allowance of the costs of different issues raised in this court must be that where the taxing-officer was satisfied that an issue had been vexatiously put on the record, he should not allow the costs of that issue. The number of witnesses called to prove a particular fact, for whom an allowance was to be made, was a question for the discretion of the Registrar, and must depend upon the question whether there was reasonable ground for calling them. The expenses of the journeys of witnesses for the purposes of identification, and of other matters were not allowed in the common law courts. He thought it desirable that in cases of this nature the rule of the ecclesiastical courts should be followed, and allowances should be made for the expenses of necessary journeys. The taxation would be sent back to the Registrar to be reviewed upon these principles.

Arrears of Business.—His Lordship mentioned, in disposing of an application to fix a time for the trial of a probate cause, that there were 200 petitions for dissolution of marriage now set down for hearing, besides a large number of judicial separation suits, and rather a long list of probate causes.

MIDDLESEX SESSIONS.

The November adjourned General Sessions of the Peace for the county of Middlesex commenced on the 19th instant, at the Guildhall, Broad Sanctuary, Westminster, before Mr. Bodkin, assistant judge, Mr. Payne, deputy, and several magistrates.

The Assistant-Judge delivered the charge to the grand jury.

Mr. Edwin Hooper, of West Bromwich, one of the coroners for the county of Stafford, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by mar-

ried women, in and for the county of Stafford; and also a commissioner to administer oaths in the High Court of Chancery in England.

The following gentlemen were called to the bar on Saturday, the 17th inst.:—

Lincoln's Inn.—Henry Selfe Page Winterbotham, Esq., London, LL.B. (certificate, first class); Daniel Alexander Freeman, Esq. (certificate of honour, first-class); Thomas Wilkinson John Dent, Esq., M.A., Cambridge; Alfred Henry Say Stonhouse Vigor, Esq., B.A., late of Cambridge; Robert Allan Fitzgerald, Esq., B.A., Cambridge; the Hon. John Byrne Leicester Warren, B.A., Oxford; Edward James Athawes, Esq., B.A., Cambridge; Thomas Bonville Were, Esq.; George Charles, Esq., late of Oxford; Francis Noel Mundy, Esq.; George Dickson Atkinson, Esq.; Henry Colville Marindin, Esq., B.A., Oxford; Edward F. A'Beckett, Esq.; Horatio Henry Shirley, Esq., B.A., Cambridge; Farrer Herschell, Esq., B.A., London; John Giles Pilcher, Esq.; Matthew Pilcher, Esq.; Samuel Thomas Staughton, Esq.; Henry Stuart Drewry, Esq., M.A., Cambridge, and George Parker Bidder, jun., Esq., B.A., Cambridge.

Inner Temple.—Wm. Rolles Fryer, Esq., B.A.; Fred. Sam. Child, Esq.; Henry Thos. Braithwaite, Esq., M.A.; Rd. Battye, Esq., B.A.; Archibald Levin Smith, Esq., B.A.; Robert Marsden Latham, Esq., Harry Tichbourne Davenport, Esq., M.A.; Joshua Dean, Esq.; Frederick Bridgman, Esq.; Joseph Hartley, Esq.; Henry Francis Gillett, Esq.; M.A.; and John Henry William Fenton, Esq., M.A.

Middle Temple.—Edward Bullen, of 2, Brick-court, Temple, Esq.; George Burnett Barton, of Sydney, Esq.; Christopher James Davison, Ingledew, of Northallerton, Esq.; George Frederick Robinson Jervis, of Exeter College, Oxford, Esq.; Cornelius Walford, of 1, Elm-court, Temple, Esq.; and Clement James Wolseley, of Castletown, county of Carlow, Esq.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; *Common Law*, by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

PRACTICE—ADMINISTRATION SUITS.

Penney v. Francis, 9 W. R., M. R., 8.

The practice in administration suits where two or more bills have been filed by creditors for the administration of the same estate, was very unsettled until recently, and there was considerable doubt as to the course which ought to be adopted for the purpose of staying unnecessary suits. Lord Cranworth, however, in the case of *Duffort v. Arrowsmith*, 7 De G. M. & G. 434, s.c. 5 W. R. 241, considered that the proper course of proceeding in such a case was that the Lord Chancellor or Lords Justices (see Consol. Ord. vi., R. 1) should transfer the cause in which no decree for administration had been made to the branch of the court in which such decree had been made; so that the judge who had made the decree could, if he thought proper, stay proceedings in the transferred cause. It should be borne in mind, however, that the consent of the judge from whose, and of the judge to whose court, it is proposed to transfer the cause, ought to be obtained. Previously to the decision in *Duffort v. Arrowsmith*, the cases conflicted upon the point whether where a decree had been made in one suit, and none in the other, the judge in the latter suit, or the judge in the former, should be called upon to stay all further proceedings in the suit in which no decree had been made. The general order above referred to appears to favour the view of those who argue that a judge of one court of equity ought not to have the power to prevent the prosecution of a suit before another judge; but this difficulty is altogether removed by adopting the course suggested by Lord Cranworth in *Duffort v. Arrowsmith*, and applying for the transfer of the cause as above-mentioned. A more recent case of *Harris v. Gandg*, 8 W. R. 32, before the full Court of Appeal, is, however, to the effect that where a decree has been first obtained by means of an unfair advantage, the Court will refuse to transfer another suit for administration of the same estate, to the court where a decree has been obtained. The case named at the head of these observations was one in which there had been three suits by creditors for the administration of the same estate, two before the Master of the Rolls, and one before one of the Vice-Chancellors; and in one of the former the usual

order was made at chambers on the day before an order was made by the Vice-Chancellor in the suit before him. Upon an application on behalf of a creditor to the Master of the Rolls, to restrain the drawing up of the Vice-Chancellor's order, his Honour refused to make any other order than to give the creditor leave to transfer into the Rolls Court any cause which the Vice-Chancellor might think right. The following observations of his Honour in this case are worthy of attention with regard to the conduct of causes of this kind. "He was not in the habit of giving facilities to strangers to the estate—creditors for instance—having the conduct of such causes, because they were generally regardless of expense. He much preferred to give their conduct to residuary legatees, who were interested in reducing the expenses as much as possible; all other persons being at liberty to attend and assert their claims. It was very important that administration suits should be conducted in a friendly spirit."

SOLICITOR AND CLIENT—LONDON AGENT—LIEN.

Waller v. Holmes, V. C. W., 9 W. R., 32.

In *Waller v. Holmes*, Vice-Chancellor Wood has decided that where a client has paid his country solicitor in a suit his bill of costs, papers belonging to the client in the hands of London agents cannot be retained by them for the amount due to them in the suit. His Honour's decision appears to have proceeded upon the ground that there is no privity between the client and the London agent, so as to give the latter any right of lien as against the client; and that as the country solicitor, when he was paid his bill, could not enforce such lien, neither could the town agent do so. Some dicta of judges at common law (namely, per Bayley, J. *Moody v. Spencer*, 2 Dow. & Ry. 8, and per Coleridge, J., in *Anderson v. Passman*, 7 Carr. & P. 796), are to the same effect as the judgment of the Vice-Chancellor in *Waller v. Holmes*. There appears to be, however, some difficulty in the way of the conclusion that there is no privity between a client in the country and the London agent of the country solicitor. The name of the London agent is upon the record, and for all purposes of the suit his acts bind the client as effectually as if the agent were directly employed by the client. There is no doubt, however, that it is pretty well settled that on the one hand the country solicitor alone and not the client is liable to the agent for his bill of costs, and on the other the client cannot proceed in a summary manner against the agent as he could against his own solicitor. At the same time it may be doubted whether upon the principle of the doctrine of lien a town agent should be compelled to relinquish the possession of papers which came properly into his possession, and which he clearly would have been entitled to retain, but for the act of a party between whom and the town agent there was *ex hypothesi* no privity. If the client requires of his country solicitor the delivery up of papers on the payment of the bill of costs, and is unable to obtain them by reason of their being in the possession of the town agent, that would be a reason for refusing to pay the bill of costs; and so long as it remains unpaid the lien of the town agent remains good; but it appears unreasonable to enable a client to defeat this lien, it may be merely for the advantage of the country solicitor or his creditors.

A case of *Hughes v. Rogers*, mentioned in the note in the 8th vol. of Mr. Beavan's Reports, 487, seems to be an authority for the proposition that a town agent in a suit may obtain a stop order on a sum directed to be paid to the country solicitor.

COMMON LAW.

THE NEW ATTORNIES' AND SOLICITORS' ACT—COUNTIES PALATINE, PRACTITIONERS IN.

Ex parte Watson; *Ex parte Abbott*, 9 W. R. Q. B. 13.

It so happens that the very first case reported from the Queen's Bench in the present volume of the *Weekly Reporter*, raises a point of some interest upon the Solicitors' and Attorneys' Act of last session. It is the following one:—

By the Act of 1843 (6 & 7 Vict. c. 73) it is provided (s. 43) that all persons duly admitted and enrolled attorneys or solicitors of the courts of the counties palatine, *previously to the date of that statute*, might be admitted and enrolled as solicitors or attorneys in the High Court of Chancery or the superior courts of law at Westminster, in pursuance of the provisions of that Act, *without examination*, on payment of the proper duty. The effect of this provision was tested in the same year in which the Act was passed, in the case of *Patrick* (1 D. & L. 696), a practitioner in the county palatine of Durham, and the

application to admit him, not only without examination, but also without requiring a *term's notice* of his intention to apply, was granted by Mr. Justice Patteson without any hesitation: There is also another clause in the 6 & 7 Vict. c. 73, which refers to attorneys of the counties palatine, viz., sect. 3; the concluding part of which exempts any such attorney or solicitor from the examination required from other candidates for admission and enrolment in the superior courts of Westminster, provided he has duly served the full period under articles, and provided also he shall satisfy the judges of the superior courts at Westminster of his being qualified to act as attorney or solicitor.

Such being the state of the law up to the passing of the late Act, there are inserted therein two clauses which affect the status of the county palatine practitioners. The 13th section establishes for the first time the requirement of examination as well as of due service under articles, before any person can be admitted and enrolled as an *attorney* of a county palatine court. On the other hand, the 14th section recognizes the right already existing under the previous statute, and extends it so as to include any person duly admitted and enrolled in the county palatine courts *prior to Trinity term, 1861*, and allows such persons to be admitted and enrolled, in the superior courts at Westminster without examination.

As to the future, therefore, there seems to be no great room for question. The evident intention of the new Act is to ensure that the county palatine practitioners shall be subjected (as they manifestly ought to be), to the same strictness of examination as other candidates; and it is therefore somewhat difficult to understand the observations of the court (as reported), which would appear to throw some doubt as to this being the effect of the new Act. The immediate question before them, however, was as to whether a "*term's notice*" was required from one who was qualified by the date of his admission and enrolment in the county palatine courts, to make the application for admission and enrolment in the courts at Westminster. No such notice seems to have been required under the previous Act, and the judges refused to impose any such necessity on the present applicants.

BILLS OF SALE, AFFIDAVITS RESPECTING—DESCRIPTION, REQUIREMENTS OF.

Dryden v. Hope, 9 W. R., Exch. 18.

In two recent cases in the Court of Exchequer, the necessary points in the affidavit of an attesting witness of a bill of sale under the 17 & 18 Vict. c. 36, have undergone considerable discussion, and the state of the decisions upon this subject, in the other courts, carefully sifted. The first of the two cases above referred to is that of *Pickard v. Bretz* (5 H. & N. 9), which established that under the Act, the affidavit of execution *itself* must describe the occupation of the party giving the security, and that an affidavit defective in this respect is not aided by the occupation of the grantor being fully set forth in the bill of sale, though to that instrument the affidavit expressly refers. For the Act requires three things to be stated in the affidavit itself. 1. The date of the security given. 2. The residence of the party giving it. 3. His occupation. And the omission of any one of those is fatal.

The other case is that of *Wilcoxon v. Searby* (29 L. J. Ex. 154), which shows on the other hand, that a *positive* allegation in the affidavit that the occupation of the grantor is so and so, is not essential, provided the affidavit recites and incorporates the occupation given in the bill of sale.

The question raised, however, in the present case was not as to the sufficiency of the statement of the occupation of the grantor of the security, but as to the sufficiency of the description of the *attesting witness* in the affidavit of execution. The description relied on was simply that the instrument was attested by one "W., of Y., Gentleman," the attesting witness describing himself in the attestation clause of the instrument as being clerk to one "T., solicitor of B., in the county of Y." The description thus given in the affidavit of execution was held insufficient according to the principle of the first of the above cases. For the description itself being bad (no residence being given) could not be helped out by the good description contained in the attestation clause of the bill of sale; which the affidavit of execution did not recite and incorporate in itself, as was done in the other case of *Wilcoxon v. Searby*. As to the sufficiency of the description of an attesting witness (being an attorney in practice) as "*gentleman*" if his residence be properly added, see *Tuson v. Sunoni* (6 W. R., Exch. 545).

MUNICIPAL CORPORATIONS—STATUS OF MAYOR—5 & 6 W. 4, c. 76, s. 97.

Ex parte Mayor of Birmingham, 9 W. R., 34.

The question raised in this case was by no means an unimportant one, nor was it (as is submitted) at all free from doubt. Yet it was dismissed by the Queen's Bench without any argument whatever; and a decision given by that Court which, whether right or wrong, will, as it becomes known throughout the country, produce confusion if not unseemly quarrels in many provincial towns.

The 57th section of the Municipal Corporation Act (5 & 6 Will. 4, c. 76) provides for the status of the mayor of each borough. It makes this officer (unless otherwise disqualified) a magistrate during office, and for a year afterwards, and it then proceeds to enact that, "such mayor shall, during the time of his mayoralty, have precedence in all places within the borough." The meaning which common usage has hitherto attached to those words, has been that the mayor as such is entitled to preside at all meetings in the borough, whether of magistrates to administer justice, or of the corporation for the transaction of borough business; and indeed he usually takes the chair at *all* public meetings whatever held in the borough. The Court of Queen's Bench, however, decided in this case, that the precedence thus accorded him, so far as regards the meetings of the magistrates, at all events, (for with regard to meetings for the transaction of borough business other than magisterial, the Court does not express an opinion) is merely by way of courtesy; and that the only precedence in the borough to which he is entitled by law is a *social* precedence, whatever that may import. According to this decision, therefore, a mayor is no longer the *chief magistrate* of his town; though to whom that title more properly belongs it seems difficult to pronounce an opinion. It may be observed that by sect. 103 of the same Act, in any borough which has a separate quarter sessions, the *recorder* of such borough "shall have precedence in all places within the borough of which he may be the recorder next after the mayor thereof." It is very difficult to suppose that this provision, also, refers merely to precedence at social parties and the like; and yet if there be no *magisterial* precedence in the case of the mayor, what is to become of that of the recorder, which depends on that of his superior official?

Correspondence.

THE ATTORNEYS' AND SOLICITORS' ACT, 1860.

Supposing a barrister has been called ten years, but has never practised, and then is disbarred, and has been an attorney one hour, is he or not (under the 16th section) eligible for the Solicitorship to the Ordnance, the post of taxing master, or any other office? It seems to me he is. X. Y. Z.

THE COMMON LAW—JUDGES' CHAMBERS AND MASTERS.

I observe a letter in your impression of the 17th, from which it is to be inferred that a gentleman who calls himself "*A Constant Reader*," is of opinion that the masters are hard worked and unable to afford the time to assist the judges by disposing of minor summonses, as suggested by one or more of your correspondents. All I can say is, that of the Queen's Bench masters only two could be found in attendance for several days after the long vacation had terminated—at last a third was found, and I conclude a fourth was in court. As three are recent appointments, there was the less reason for their absence. Only last Tuesday, one who had made several special appointments before him was not to be met with when one was attended and another master declined to take it in his absence. A COMMON LAW CLERK.

PROTECTION FROM ARREST.

Referring to the article in the *Solicitors' Journal* of the 10th instant, on this subject you will, I am sure, allow me to make a few observations on the practical working of the 23 & 24 Vict. c. 147, which extends the Gentleman's Act to Debtors in actual custody. You say in your excellent remarks, "that arrest and imprisonment for debt are still the law of the land," but it seems to me that the Act alluded to has been passed for the purpose of eluding those laws, and to enable a dishonest

man to cheat his creditors; for, under the provisions of this Act, the creditors whose names are inserted in the petition of the debtor are not required (as in all other proceedings in the Court of Bankruptcy) to make oath of the debts due to them before voting for the petitioner; but the debtor having inserted their names in his petition, and without even the petitioner swearing to the truth of his petition, the creditors may out of court assent to the proposal, and sign an authority to vote, and the debtor is thus enabled to obtain his end, protection from arrest. The practical working of this measure, therefore, is, that a non-trader owing, say £1000, to creditors who have probably proceeded to judgment, imagines he owes £2,500 to certain other persons. A petition with a proposal to pay probably 2s. 6d. in the pound, is prepared, signed by the friendly creditors, no proof of debt nor oath of petitioner being necessary, and presented to the Court. The Court, considering the creditors the best judges of the proposal, forthwith confirms it, and the unfortunate *bona fide* creditors are sacrificed.

Surely creditors are entitled to some protection as well as debtors.

A. S. M.

The Provinces.

BRISTOL.—At the opening of the police court at Lawford's Gate on Thursday the 15th inst., the Rev. W. Mirehouse being the only magistrate present, Mr. P. Edlin, barrister, applied for the adjournment of an affiliation case, in which he was engaged as counsel for the defendant, in order that the attendance of certain witnesses for the defence might be procured. It appeared that Mr. Mirehouse had been applied to at his private residence for summonses for these witnesses, and (as stated by Mr. Edlin) had declined to grant them. Mr. Mirehouse, however, denied that he had refused to grant the summonses. The application for the adjournment was made in order that those summonses might be issued. Mr. Edlin then applied for the summonses, and having again asserted that it was for the purpose of bringing together witnesses, who but for his (Mr. Mirehouse's) refusal to grant summonses, would have been present, and also expressed an opinion that such refusal was not consistent with the usual legal course, the following altercation ensued between the bench and the counsel:

Mr. Mirehouse.—I am surprised that a gentleman should so contradict me. I say I never did refuse the summons; but what I did was this:—A person brought a summons to my house, where I am not obliged to do anything, and wished it to be signed and issued by me then. He said it was to summon a person whom he believed to have had some connexion with the girl. I said, "Sir, it is a perilous course." He then said, "If I get a party who will prove that he had a connexion with her, that will put an end to the whole affair, won't it?" I then ordered him out of my house.

Mr. Edlin.—You forget to state that you were about to sign the summons. If you were about—

Mr. Mirehouse.—I am not to be cross-examined by you—

Mr. Edlin.—But—

Mr. Mirehouse.—Be kind enough to hold your tongue.

Mr. Edlin.—You told me that you were on the point of signing the summons, and that you desired him to leave your house. I say that that is a refusal.

Mr. Mirehouse.—I did not refuse.

Mr. Edlin.—You must have refused, or—

Mr. Mirehouse.—I am not going to argue with you.

Mr. Edlin.—You are so intemperate, sir, that professional gentlemen find it difficult to present anything to you in a courteous spirit. You may forget what is due from you as a magistrate sitting on that bench, but I shall not forget what is due from me as counsel in this case.

Mr. Mirehouse.—You do forget. You are the only barrister, and I have had scores—I have had Mr. Stone times out of number to appear in cases that I have heard—that ever I had an unpleasant word with, but you think that you are going to direct and dictate as you think proper.

Mr. Edlin.—I venture to say there is not one of your brother magistrates who would say that of me.

Mr. Mirehouse.—I do say that you choose to dictate to the Court in an arbitrary way.

Mr. Edlin.—I find it necessary to keep you in order.

Mr. Mirehouse.—That you shall not do; and I will not adjourn the case.

Mr. Edlin.—Then I will wait till your brother magistrates are here.

Mr. Mirehouse.—I will not adjourn the case, if I sit here till four o'clock.

The learned counsel here left the court, and was absent for a short time. On his return he made another application for the summonses, but again failed; he then left the court, but shortly afterwards returned and said, "I wish before retiring from this case, which I am now about to do, to state that, not having succeeded in obtaining those summonses, which we are by law entitled to, notwithstanding repeated applications made for them, I, and those connected with me in the case, are about to retire at this stage of the proceedings, and we shall seek our remedy in a superior court." Mr. Edlin, accompanied by Mr. Clifton, his client, then withdrew. Mr. Mirehouse was afterwards joined by another magistrate, and the case was gone into in the absence of the defendant; the magistrates eventually deciding against him with costs. At the conclusion of the case Mr. Mirehouse observed that had the case stood, as, but for the retirement of the parties for the defence it would have stood, he should have been prepared to give a very different judgment.

HUDDERSFIELD.—On the 19th instant the tenant-right holders on the estates of Sir John Ramsden held another aggregate meeting at which, amongst others, the following resolution was proposed and carried without dissent:—"That the stringency of the covenants and conditions necessarily contained in the proposed ninety-nine years' lease, added to the fact that those who have erected edifices under the unquestionable conviction and positive assurance that they were 'never to be disturbed in their possession,' are to be evicted without compensation or equivalent at the termination of 99 years, render any satisfactory settlement of the question between Sir John William Ramsden and the tenant-right owners, under the 'Ramsden Estate Leasing Act, 1859,' wholly impossible; and that, considering the position and circumstances of the tenant-right owners, brought to light through the operations and exertions of the Tenant-right Defence Association, this meeting is of opinion that no lease satisfactorily acceptable to the tenant-right owners can be offered by Sir J. W. Ramsden, except on the basis of a 999 years' term." The tenant-right holders have entrusted the protection of their interests to the Chairman of the "Defence Association."

NEWCASTLE.—The necessity for the appointment of a stipendiary magistrate to conduct the business of the borough police court was clearly exemplified by the condition of that court on the morning of the 12th inst. On that morning the prisoners, the attorneys, the clerks, the police, the reporters, and the public were kept waiting above an hour because one of the magistrates on the rota was absent. In the meantime messengers were running all over the town in search of a magistrate qualified and willing to act. The first that made his appearance was Mr. Alderman Laycock, who was willing but unqualified; and the next was a county gentleman, who was duly qualified but unwilling. Lastly came Mr. Plummer the absentee, and at twenty minutes past noon the business which ought to have commenced at eleven o'clock was proceeded with. It is stated that this is not the first time that the proceedings of the court have been delayed by the absence of magistrates.

STOCKTON.—At the next council meeting several gentlemen will be proposed as additional magistrates for this borough to be recommended by the council to the Lord Chancellor for his approval.

WALES.—PWLLHELI.—At a meeting of the town council of this borough, held on the 9th instant, Mr. Griffith Thomas Picton Jones, solicitor, was unanimously elected mayor for the ensuing year.

Reviews.

The Common Law Procedure Act, 1860 (23 & 24 Vict. c.126), with practical notes; and an Introduction explanatory of the new equitable powers conferred on the Courts of Law; and of the Alteration in Procedure and Practice effected by the Statute. By JAMES STEPHEN, Esq., LL.D., Recorder of Poole; Editor of "Lush's Common Law Practice." Butterworths, 1860.

An edition of the Common Law Procedure Act, 1860, by Mr. Stephen, can hardly fail to be a useful contribution to our current legal literature. The work now before us, moreover, comprises a valuable introduction to the statute, in which Mr.

Stephen gives an account of the Common Law Commission 1850, and of its several reports, having regard especially to the fusion of law and equity, as contemplated in the Law and Equity Bill presented to the House of Lords by the Lord Chancellor last Session, and which after the vigorous opposition which its "fusion" clauses there evoked eventually subsided into the Common Law Procedure Act, 1860. Although it is in this shape of comparatively slender importance, instead of being one of the greatest reforms of the law ever adopted by Parliament—as its noble author characterized the Bill before its fate was ascertained—there are nevertheless in the Act as it passed many provisions of great importance to those engaged in the practice of the law. Mr. Stephen has appended to most of the sections some valuable observations showing the effect of the new enactments upon the law as it formerly stood. We can recommend this edition of the Act, as being carefully and well done.

The Practice of the Court of Probate in Common Form Business. By HENRY CHARLES COOTE, F.S.A., Proctor in Doctors' Commons, author of "The Practice of the Ecclesiastical Courts," &c., &c. Also, *A Treatise on the Practice of the Court in Contentious Business.* By THOMAS H. TRISTRAM, D.C.L., Advocate in Doctors' Commons, and of the Inner Temple. Third Edition. Butterworths, 1860.

The fact that an entire edition of a law book has been sold in the course of a year is the best commendation of its merits. The second edition of the work, the title of which is given above, was published only last year, and as it is well known to the profession as a very compendious and reliable manual of the practice of the Court of Divorce, it is not necessary that we should attempt any detailed account of it. The new edition contains about eighty pages of additional matter, and includes all the statutes, rules, and orders to the present time, together with a collection of original forms and bills of costs. The general division is into the two heads of non-contentious, or common form, and contentious business, Mr. Coote taking the former subject, and Dr. Tristram the latter. Both these gentlemen have accomplished their book in a manner altogether satisfactory. There are about a hundred pages of precedents for common form business, being a very large increase in the portion of the work devoted to this branch.

Metropolitan and Provincial Law Association.

THE ABOLITION OF OATHS.

The following paper on the Abolition of Oaths and the Substitution of an Affirmation in all Cases, was read by Mr. C. A. Smith, of Greenwich, at the late Meeting of this Association:—

It is a satisfactory indication of the general prevalence of religious feeling at the present day, that whenever any important alteration is suggested in our laws having any bearing, however remote, upon religious or moral considerations, the first inquiry to which all minds are directed is the teaching of the Holy Scriptures on the subject. The question "What is written in the law—how readest thou?" must be answered ere the discussion is permitted to take a wider range, and when due allowance is made for the various circumstances attending the cited example which may detract from its value as an authority on the particular subject of comparison, such a course is wise and profitable; for if the Scriptures of truth speak with no uncertain sound upon any question of doubt, we can have no better sanction for our guidance; while, on the other hand, if the holy oracle be silent, or vague, we can only legitimately refer to it by way of analogy, and not as a dogmatical exposition beyond the scope of argument.

As to the lawfulness of oaths in courts of justice, whatever reliance may be placed by the quakers and other literal interpreters of Scripture upon the words "Swear not at all," an injunction having evidently by the context no reference to judicial oaths, but merely to the indiscriminate and unnecessary use of oaths on ordinary occasions, there are sufficient instances related in the Bible of adjurations for judicial and other purposes to justify the supporters of the existing practice in quoting Scripture in its favour. These instances are scattered throughout the sacred writings,

and consist mostly of references implying the existence of the custom of swearing, rather than giving any special directions on the subject, or prescribing any particular ceremonies with which the act was to be accompanied; thus, under the Jewish law as laid down in the 6th chapter of Leviticus, a trespass offering is required of him who may "have found that which was lost, and lieth concerning it, and sweareth falsely." Again, at an earlier period of Jewish history, when Abraham commissioned his servant to seek a wife for his son Isaac among the patriarch's kindred in Mesopotamia, the ceremony of an oath is set forth with great distinctness and particularity; "Put I pray thee thy hand under my thigh, and I will make thee swear by the Lord the God of heaven and the God of the earth. . . . and the servant put his hand under the thigh of Abraham his master, and sware to him concerning that matter." The iniquitous proceedings of Jezebel in working the destruction of Naboth (although no specific mention is made of an oath) discloses the mode then in use of conducting judicial proceedings, the two men wickedly suborned by the queen's subservient ministers for the purpose being represented as set before the accused in the presence of the people, to give evidence on the false charge of blasphemy.

And on the solemn arraignment of our Lord before the high priest on a similar charge, two false witnesses are in like manner brought forward to secure an unjust conviction; and it is remarkable that on that occasion the high priest himself tendered the oath of expurgation in a settled form of words—"I adjure thee by the living God that thou tell me whether thou be the Christ," and the answer appears to be framed upon the model of the usual reply to such a summons from an authorised functionary, "Thou hast said."

It is, however, not necessary to insist further upon scriptural authority, as while it may be admitted that a sanction is to be found in the Bible for the practice of swearing on proper occasions, no one will be hardy enough to assert that it is anywhere prescribed as a matter of duty, or of universal obligation.

In addition to the authority for oaths to be derived from the teaching or silence of scripture, the customs of all nations in all times may no doubt be quoted in favour of the practice, and these preliminary admissions are made in order to disembarass the subject from any considerations other than those connected with grounds of social necessity and expediency.

Trying the matter then by this standard, the question arises, Is the practice of swearing as at present sanctioned by our laws necessary or expedient with reference to the general security and well-being of the community at large?

The recent abolition of oaths in connection with many matters not of a judicial character, and the substitution of a solemn declaration, while it has placed on record a Parliamentary admission of the policy of abolishing unnecessary oaths, has at the same time done much towards remedying the evils which formerly existed in this respect; but the practice still prevails in courts, both of civil and criminal jurisdiction, as well as in matters relating to the customs, excise, taxes, and other subjects of an extra-judicial character.

It is argued by the supporters of the present system that the abolition of the ceremony of an oath in all cases would unsettle the minds of weak and ignorant persons, and induce many whose moral perceptions are not very clear or delicate to indulge in simple untruth, when they would shrink from incurring the responsibility of breaking an oath, to which early associations and long habit have attached a superstitious reverence.

A few such instances might probably occur at first, although it may well be doubted whether in general the individual who would deliberately, from some corrupt motive, utter an untruth, would be deterred therefrom by a religious scruple or by any stronger inducement than the apprehension of detection and punishment, and in the event of oaths being abolished, the penal consequences of untruth would of course remain; a conviction of falsehood being followed by the penalties for perjury. Is it, however, fair to the sensitive and truth-speaking Christian to impose upon him a painful ceremony, in order that the ignorant and superstitious may be, like children, frightened into veracity; and, on the other hand, is it wise or expedient, as regards the latter class, to preserve a system fitted for a barbarous age, and thereby keep their minds depressed to the ancient level of superstitious dread, instead of enlightening their intellects, and imbuing them with the right principles upon which a due

regard to truth at all times and on all occasions, great or small, important or trivial, should be based?

It would be out of place to dwell upon the various modes and ceremonies by which men's consciences are supposed to be influenced against the temptations to falsehood in different countries, and which, in the case of foreigners, are not unfrequently exhibited in our courts of justice, whether this ceremony consist in breaking a tea-cup, as with the Chinese, or be accompanied by putting on the hat, as in the case of the Jews; and however we may feel struck with the apparent absurdity of such practices, we should not forget that the act of kissing a book appears, doubtless, to those whose corresponding usages we deride, as equally worthy of ridicule from their point of view. With reference to this branch of the subject, the practical irreverence of our own system is vividly portrayed in the pungent lines of a member of the legal profession (Anstey) in his Bath Guide:—

"Here, Simon; you shall—silence, there!
The truth, and nothing but the truth, declare;
The truth, and all the truth, be willing
To speak. So help you—a shilling!"

If this quotation be not remarkable for reverential feeling, it should be remembered that the irreverence is chargeable to the practice thus wittily described, and not to the satirist. If it be an unexaggerated representation of the practice, the objectionable lineaments are not attributable to the mirror, which only too truly reflects the features of the original.

In suggesting an alteration of a law and practice which have existed from time immemorial, it may be fairly urged that the onus of proof of the necessity and expediency of the change lies upon the author of the suggestion, and that the advocates of the continuance of the present system may content themselves with the prescriptive authority derived from ancient usage.

But this general liability is much weakened in the present instance, by the fact that the existing system is wanting in that integrity and universality which would entitle it to plead the claim of uninterrupted usage.

It is really a mere fragment, and when a deduction is made for the numbers claiming exemption from its operation, as Quakers and Moravians, and that large and increasing class who, entertaining conscientious scruples as to taking oaths, shelter themselves under the provisions of the recent acts on the subject, the members of the community who will remain under the degrading stigma of being unworthy of belief save when subject to the religious duress of an appeal to the Divine Being, cannot be quoted as the representatives of a system alleged to be sacred and unalterable, on the ground of antiquity and unvarying custom.

Does not the present partial system involve the inconsistency that, while those who cannot take advantage of our exceptive laws in this respect are subjected to the ceremony of appealing to the Divine Being as a test of their truthfulness, other persons, however loose their religious or moral principles, are admitted to legal credibility upon a mere individual declaration? This course of proceeding offers a premium to dissent from established institutions, and it is a fact that before the passing of the last Oaths Relief Act some persons were induced to continue within the pale of Quakerism for the express purpose of enjoying the immunity from taking oaths in courts of justice, which that profession secured to them.

If urged to specify any particular instances of mischief arising out of the existing practice, it may be difficult to answer the appeal, because the influences of such laws and usages is not open to general observation, and is incapable of being illustrated, like many other questions, by the quotation of a case in point. Its influence is subtle, and in a sense speculative, but it is not the less real, nor less appreciable by those who watch closely the improving progress which is now rapidly making in the moral and religious sentiments of the community.

The retention of merely material forms and ceremonies appealing to the grosser elements of our intellectual constitution, and founded upon a basis of superstitious adherence to certain outward acts, however fitted for a primitive state of civilization, must tend to retard the gradual improvement of the spiritual and moral perceptions, and prevent their attaining that sensitiveness which has a beneficial co-action upon all the best faculties of man, and the only question appears to be whether, after what has been already done in the way of abolishing the ceremony of swearing, the time has not arrived to fill up the complement of the measure by

substituting an affirmation for an oath in all cases, without any exception. It may be said that the entire abolition of oaths has not been advocated by judges and other functionaries engaged in the administration of justice, but it is no less true than trite, that those employed in any special pursuit are the last to see and admit the objections and anomalies which are apparent to others who look on without any professional bias; and one benefit to be derived from the proposed abolition of swearing in courts of law would be the cessation of that painful mode of confusing a witness now often resorted to by reiterating to him the insulting remark, "Now, remember, sir, you are upon your oath."

It may also be said that, as in most of our national improvements, a gradual course of partial alteration from time to time should be adopted in this matter, so as not to shock the feelings of the community by too sudden a change; but, on the other hand, it is contended that the gradual process has already been exhausted, and the period has now arrived when the final blow may be safely given to an objectionable, although ancient system connected with our judicial arrangements.

It would moreover be unwise and mischievous, in matters the subject of judicial investigation, to retain in some cases the distinction between the effect of an appeal to the Deity, and a simple affirmation as the test of credibility, and to abolish it in others; as such a course might induce ignorant and ill-instructed persons to imagine that such a distinction rendered an untruth in the latter case more venial than in the former, thereby obscuring their perception of the universal moral obligation that every one should speak truth to his neighbour at all times and under all circumstances. As an additional confirmation of the views herein expressed, it may be stated that the relaxation which has hitherto taken place in the practice of oath-taking has not been followed by any injurious consequences, and that in the prosecutions for perjury which have occurred from time to time, no case, it is believed, will be found to have occurred with reference to mere affirmations, but solely in transactions involving a testimony given on oath in the customary manner.

These views are the result of a lengthened experience in various public capacities, in which the administration of oaths forms a material item of duty, and the frequent adjuration which such functionaries are officially obliged to pronounce on many comparatively trivial occasions, must be felt as a painful and irksome task. The most hopeful endeavours towards rendering the moral sense of individuals more sensitive, and free to act without the support of material aids, must be based upon the education of the younger members of the community, as, although the mature and aged suffering from the defects of early training, and encrusted with the prejudices of long habit, may occasionally stumble at the threshold of truth, without the assistance of the old-fashioned ceremony of an oath, the inculcation upon youth of the importance of truthfulness for its own sake, without reference to such weak appliances, may tend to nurture a succeeding race in more refined and comprehensive notions of the proper sanctions upon which the duty of speaking truth should be established.

These and other similar movements may, it is hoped, gradually bring about a state of things more nearly approaching to the simple principles and motives which we attribute to the original state of man in Paradise.

Should this be accomplished, the time may arrive when in every part of the world the character of a Briton for veracity may be so well established, that his simple word will have more weight as a test of truth than any elaborately contrived ceremonious appeals to the Deity which the blind distrust of barbarous times has invented, and which the obstructive dislike to innovation of succeeding generations, has continued as a substitute for the enduring influences of Christian principle.

Societies and Institutions.

JURIDICAL SOCIETY.

This society held its first meeting of the present season on Monday, the 12th instant. The ATTORNEY-GENERAL presided. Mr. WALKER MARSHALL read a paper entitled, "Is a Judicial Tribunal, either of the last resort or otherwise, bound by the principles laid down by itself on previous occasions?"

After referring to the difference of opinion upon this ques-

tion entertained by the judges, and the different considerations by which it is affected, according as it is considered, with relation to a tribunal of final or intermediate jurisdiction, Mr. Marshall thus continued:—There is a lax morality that much delights in saying that truth is just what each man supposes to be the case. And so it might be said that law is just what a constituted tribunal declares it to be: and so it continues until reversed, and then, but not till then, it ceases to be law. The latter notion I believe to be as erroneous as the former. It is an old definition, that law is the perfection of reason. In almost every question of pure law the premises are settled. If all the Courts were always to reason with perfect correctness, no decision would be reversed, no judgments overruled—all would arrive with the utmost certainty to the same conclusion. Bad law is in many instances nothing else than bad logic. But a conclusion which has been attained by a course of false reasoning, or by the omission of a necessary element to correct reasoning, is never otherwise than a false conclusion. It is not the less a false conclusion because it is the judgment of a Court of competent jurisdiction. Moreover, its falsity may at any time be demonstrated. It is binding on the parties, in some cases upon all the rest of mankind; but does expediency or convenience require that it should be binding on the Court itself in all future cases? I take it to be abundantly clear that the three superior courts of common law exercise an independent judgment upon any matter brought before them; and that although the same point may have been decided in either or both of the other Courts, the duty of such Court is to consider for itself; and it is at liberty to arrive at a different conclusion, and to give judgment against the party in whose favour the other Court would, acting upon its own decision, have decided. The instances of conflict between the decisions of these tribunals are too numerous to admit of doubt being entertained of the fact:—cases of conflict which do not arise from each Court so deciding ignorant of the judgment of the other, but where the one has repudiated the doctrine which it knows to have been laid down by the other tribunal. Thus, in a recent case the Courts of Queen's Bench and Common Pleas construed the word "may" in the County Courts' Act as permissive; the Court of Exchequer, with full knowledge of this decision, held that it was not permissive, but obligatory. An Act of Parliament settled the difference. Without the exercise of much industry many examples would be found in which one Court in Westminster Hall has decided differently from another. The same observation applies to the equity judges of co-ordinate jurisdiction; each exercises an unfettered judgment, and sometimes decides the same point differently. Not a little of the value of a multiplicity of Courts consists in this independent action. The decision of each is a guide and a light to the others, but not a command.

Suppose this were otherwise. There would be no anomaly if the Courts who, in these matters make a law for themselves, were to respect and yield to the decisions of each other, in the same way and to the same extent as to the decisions of a court of error. If they were to say, So long as this principle, laid down by such a court of coordinate jurisdiction, is unreversed and not overruled by a Court of Error, we regard it as binding upon us, would it be convenient to act upon this theory? Would it be in accordance with the principles of justice? The function of a court is to apportion to each suitor that which is his due, according to the law of the land. *The decisions of our Courts are not themselves law.* They are valuable as expositions of the law; an exposition of the law by a Court of Error must be acted upon by the inferior tribunals upon the clearest and simplest ground, namely, that if it were not to act upon it, the suitor against whom judgment was given would certainly take the case to the Court of Error and have the judgment reversed. There is the strongest coercion upon the inferior tribunal from this cause to follow the decisions of that which reviews its judgments. But there is no such moral force in the case of a decision of a court of coordinate jurisdiction. In that case the Court is at liberty to say This decision is in our opinion mistaken; it is an erroneous exposition of the law; it is not law, according as we understand the law to be, drawing our inspirations from its own sources from general or special custom, from the imperishable logic of sound reason or the language of the legislature.

After endeavouring to shew that the law could not be altered by an erroneous judgment Mr. Marshall proceeded to discuss the question in its relation to previous decisions of the tribunal itself being binding upon it.

I confess (he said), I am unable to see any valid distinction in point of principle between a decision of the Court itself and

one of co-ordinate jurisdiction. The notion that a decision once arrived at imposes a binding obligation upon the Court to decide in future in the same way, appears to me to be founded on this fallacy, namely, that in so deciding the Court laid down *the law*, and therefore, that to decide in accordance with law, it must adhere to that principle in all future cases. If this were true, law with us would be more protean in its form than the most scurrilous of its libellers have asserted. There would be one law in the Court of Queen's Bench, another in the Common Pleas, and a third in the Exchequer. One law in Lincoln's-inn and another in Roll's-yard. The cases are not few in which our Courts do conflict, and if every unreversed decision is part of the law of the land, then indeed is the uncertainty more than proverbially glorious. Our system would, if that were true, enjoy the pre-eminence over every other, of laying down propositions diametrically opposed and each equally authoritative.

But I can imagine it to be said it is not on the ground that the previous decision is "law," that the tribunal is bound by it, but upon this reasoning:—It is its own exposition of the law; the court was as wise then as it is now; it was equally assured then that the principle it propounded was correct, as it could now feel assured it would be if it were to lay down a different doctrine: therefore it is more expedient that it should adhere to the principle once laid down, than expose the administration of justice to scandal, by deciding one way in this case and another way in that.

"That in point of fact there may be a change of judicial opinion does not admit of question. A court may as clearly see the infirmity in the reasoning by which a false principle has been established by itself as by another court. A false principle, it may be, propounded at a time when the court consisted of an entirely different set of judges. In all cases in which it reconsiders the principle, it has at least one new light, for in examining critically the prior judgment, it has an aid in solving the question that the court did not enjoy in the first instance. But it may have more than this, the earlier decision may never have been accepted by the profession; it may, as it is expressed, have met with the disapproval of Westminster Hall; the other courts may have decided the contrary—upon what principle should the court be bound to persist in error?"

Several cases were cited in the paper as instances in which the superior courts of law had deliberately overruled their own previous decisions. The extent to which courts of final jurisdiction, and particularly a tribunal of ultimate appeal, ought to be bound by their own previous judgments was then discussed. The opinions of the present Lord Chancellor and of Lord Eldon to the effect that the House of Lords cannot decide contrary to a principle it has judicially applied in a previous case, was contrasted with the opinions expressed by Lord St. Leonards and by Lord Cottenham that it may; and the constitution in this respect of the courts of final appeal, of France and Prussia was examined. To affirm (said the learned reader) that the decisions of the House of Lords are binding for ever after, until repealed or altered by the legislature is to make this judicial tribunal act in a legislative capacity. No two functions can be more distinct than that of the legislative and the judicial, *judicis est jus dicere non dare*. The nature and effect of that which is propounded by the law maker differs widely from that which is propounded by the judge. The legislator lays down a rule founded upon the most general reasons, derives his knowledge from every possible source, avails himself of every example, is at liberty to ransack every store of knowledge and experience, to consult history and philosophy, consider the spirit of the age, and listen to the opinion of citizens of her own or any other state. The rule laid down by him is framed purposely to meet all cases within the object of the enactment. The judge, on the other hand, has only one particular example before him, considers that only, hears no evidence beyond that, and frames or applies a rule applicable to it alone; consequently he has not the same means of making a law, or rather he has none of the means which are absolutely required to make a law. And to assert that the decisions of the supreme tribunal are binding on itself, as it is undoubtedly on all other tribunals, is to say that its decisions are in effect laws. Instances were cited in which inconvenience had ensued from the House acting upon the rule that it had no power to review a previous decision; and the learned reader expressed an opinion that the balance of advantage lay in holding that the house was not absolutely concluded by every rule or principle it had at any time laid down.

The ATTORNEY-GENERAL thought that the question was propounded in too limited a form. How is a court of primary jurisdiction bound by its previous decisions? Only when and because the decision becomes a precedent—when it is recognised by other tribunals, and in fact becomes incorporated with the general body of the law. Then the obligation in a court to follow the precedent is founded on public policy. One important element in coming to a conclusion on the present question was omitted in the paper, viz., the value of certainty in advising upon questions of law. One peculiarity of our law is important in this respect. A decision would be of no great importance, where it was the exposition of a written law; but our law is mostly unwritten, and is nowhere else to be found than in the decisions. The principle to be recognised in courts of final jurisdiction is different. Lord St. Leonards went so far as to say that the House of Lords is not bound by its own decisions, even where the circumstances are identical. In theory, no doubt, it is equally competent for the House of Lords as for inferior courts to differ from its own former decisions; but it is certainly more conducive to public interests to consider that the decision of the House of Lords finally settles the law.

Mr. WILLCOCK, Q.C., Mr. C. CLARK, Mr. E. WEBSTER, and Mr. DANIEL, Q.C., also spoke on the subject.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. GEORGE WIGMAN HEMMING, on Equity, Monday, Nov. 26.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, Nov. 30.

CANDIDATES WHO PASSED THE EXAMINATION.

MICHAELMAS TERM, 1860.

Candidates' names.	To whom articulated, assigned, &c.
Arnold, Charles Thomas	George Abraham Crawley.
Audender, Thomas	T. Harding (decd.); J. Powell.
Aston, Frederick Tucker	Laundy Walters; H. Terrell.
Baker, Thomas Mathias	John Baker; C. F. Fisher.
Beatty, Wm. Henry Randall	G. M. Evans; G. W. C. Dean.
Beavan, Edward	Thomas Pearson.
Billion, Alfred	William Billion, jun.
Bowiby, Anthony Garthwaite	Thomas William Bowlby.
Temple	John Stringer Falkner.
Bryan, William	John Cutts.
Burt, Henry Mattock	Joseph Dyer Sympson.
Busby, Silas	John Callaway; Robt. Furley.
Callaway, William Parker	Joseph Cannock.
Cannock, John Careless	John Lee.
Carriek, John	Philip William Newsam.
Chadwick, Thomas	William Challis.
Challis, Frederick	James Eldridge.
Chamberlain, William	Philip Smith Cox.
Collins, Henry	Philip Richard Falkner.
Conquest, John Carrington	Montague R. Leverson; Wm.
Cooke, William	W. King; G. Holman, jun.
Cooper, Samuel Herbert	S. Cooper; T. Maynard How;
	William Hughes Brabant.
Coulson, John	Christopher Carter Footitt.
Dalrymple, William Charles	Charles Frederick Robinson.
Davis, Thomas	Timothy Tyrrell; T. Paine.
Dixon, Septimus	William John Williams.
Dunn, George Whitby	L. P. Gibbon; E. F. Burton.
East, George Edward	John William Howard.
Farrington, John	R. Baverstock Brown Cobbett.
Field, Basil, B.A.	Edwin Wilkins Field.
Fitch, Richard	John Mayhew.
Fletcher, George Rutter	Thomas Micklem.
Folder, John	Charles Baker.
Forshaw, John	William Ascroft.
Foster, John, jun.	John Foster.
Gamon, John	John Hignett.
Gardner, James	Robert Swan.
Geach, Robert Edgar	C. H. Stedman; G. Hillyer.
Gerrard, Joseph	M. Dawes; P. Catterall, jun.
Gold, Charles Edmund	Nicholas Charles Gold.

Candidates Names.	To whom articulated, assigned, &c.
Gordon, Paul Joshua	Richard Boswell Beddome.
Gould, William	William Wake.
Greetham, Thomas	Francis Johnson Jessopp.
Gudgeon, James, jun.	James Gudgeon.
Hall, William Tayton	William Henry Green.
Halse, Richard William Davis	
Clarence	Robert Thomas Head.
Hart, Robert	Henry Charles Chilton.
Hartley, Francis	Robert Handsley.
Hawkins, Frederick James	Henry Forshaw.
Hellard, Joseph Augustus	Charles Bettesworth Hellard.
Henderson, Edward	Joseph Addison McLeod.
Holt, James	John Blackwell Helm.
Horton, Samuel Stone	John Rawlins.
Hughes, Frederick James	John Hughes.
Humphrys, Arthur	Ellis Cunliffe.
Iveson, Albert	Arthur Iveson, sen.
Jackson, Arthur	Edward Jackson.
Jackson, George Palmer	Thomas Paine.
Janeway, Geo. Wm. Howard	William Janeway.
Jefferson, James William	Henry John Coleman.
Jehu, Richard	Richard Cattarns.
Jewesson, Robert Hatfield	Alfred Goddard.
Jobson, Thomas	Minshall & Sanders; G. J. Robinson.
Jones, John Henry Locke	John Jones.
Kane, Edward	John Endell Powles.
Kempson, Edward Fleetwood	W. B. Young; R. Jackson;
	Thomas Plews.
Knocker, E. Wollaston Nadir	E. Knocker; J. M. White.
Lee, James Blacklock	William Carrick.
Leech, Samuel	Edward Gamble.
Leslie, Lewis John	Charles Beville Dryden.
Lindo, Gabriel	William Bush Cooper.
Linton, Henry Piper	John Buchanan.
Mann, George	N. C. Gold; H. Richardson.
Marsden, George William	John Marsden; Charles Bell.
Marshall, Edward Field	John Hough Marshall.
Medcalf, William	Thomas Francis Robins.
Mellor, Wm. Chandley John	W. J. Mellor; J. S. Torr.
Miller, Dalton Thomas	B. F. Burton.
Molecey, J. Molecey Twigge	Moore & Penke.
Montgomery, John	M. Allan; R. M. Allan.
Mossop, Samuel Septimus	C. Mossop; R. F. Bartrop.
Nevett, Francis	Charles Dixon Craig.
Newbold, Thomas Henry	James Clifford Newbold.
Oliver, Edmund Ward	Thomas Oliver.
Oliver, Frederick Wm., M.A.	William Elliott Oliver.
Partridge, Samuel Steads	George Toller.
Payne, Edward	Samuel Carter.
Phillips, William	Thomas Phillips, sen.
Powell, Edward Evans	John Powell; Henry Hawkes.
Price, William Scarlett	J. S. Price; Wm. H. Trinder
	(decd.); R. H. Peacock.
Richardson, William George	J. P. Bolding; B. W. Simpson.
Rodham, William Were	William Rodham.
Rogers, William	James Johnston.
Ronney, Churchill	A. Sproule; C. W. Moore.
Russell, John	Stanley & Wabrough.
Ryalls, Charles Wager	John Ryalls.
Scott, Joseph	T. Robinson (decd.); J. Greene.
Smith, Thomas Siviter	Thomas Smith James.
Stanford, Alfred	Charles Nicholas Cole.
Steedman, Henry	Lindsey Wm. Winterbotham.
Stocken, William	Frederick West.
Stocks, John	J. Williamson Westmoreland.
Stockton, James	William Munton.
Tattershall, Edward Geo.	W. T. Clarke; J. Singleton.
Taylor, William	Charles Frederick Darwall.
Terry, John	William Melton.
Thomas, Edward Faithful	John Walker.
Thompson, Arthur	B. B. Thompson; H. Marshall.
Tinkler, George Samuel	Charles Hinnell.
Tomkinson, Frederick William	Richard Heaton.
Topham, Christopher	T. Topham; R. H. Horne.
Tredgold, Robert Samuel	Algernon Wells.
Trustring, William Prince	W. D. Gaches; Leonard Hicks.
Urquhart, John	J. H. Hulme; F. S. Austin.
Wadham, George	Hare & Wadham.
Wadsworth, Frederick	John Wadsworth.
Wagstaff, Fras. Wm. Bentley	Edward Henry Pace.
Walker, Hugh	R. F. & C. J. Welchman.
Walsh, Percival Lewis	F. J. Coleridge; Joseph Leech.

Candidates Name.	To whom articulated, assigned, &c.
Warman, William	John Hughes Warman.
Watson, Robert, jun.	Robert Watson.
Watson, Samuel	William Henry Watson.
Webber, Edwin Huish	John Huish Webber.
Walton, William Woodard ...	George Moor.
Western, George Adolphus ...	E. Western; J. A. Young.
Whitefield, Henry Francis ...	J. Weymouth; S. T. G. Downing; T. Nicholls.
Wigglesworth, William.....	J. Bagshaw; J. Bagshaw, jun.
Willaume, Thomas Butts Tanqueray, jun.	W. Murray; T. B. T. Willaume
Williams, John	Richard David Williams.
Wilson, Langford	J. E. Lawton; W. Gregory.
Wood, William John.....	William Kinsey.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

MICHAELMAS TERM, 1860.

At the examination of candidates for admission on the roll of attorneys and solicitors of the superior courts, the examiners recommended the following gentlemen, under the age of 26, as being entitled to honorary distinction:—

Frederick James Hawkins, aged 25, who served his clerkship to Messrs. Forshaw and Goodman, of Liverpool.

Richard Finch, aged 21, who served his clerkship to Mr. John Mayhew, of Wigan, and Messrs. Sharpe, Jackson, and Parker, of London.

Arthur Jackson, aged 21, who served his clerkship to Mr. Edward Jackson, of London and Wisbeach.

Frederic William Tomkinson, aged 22, who served his clerkship to Mr. Richard Henton, of Burslem.

The council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Hawkins, the prize of the Honourable Society of Clifford's Inn.

To Mr. Finch, one of the prizes of the Incorporated Law Society.

To Mr. Jackson, one of the prizes of the Incorporated Law Society.

To Mr. Tomkinson, one of the prizes of the Incorporated Law Society.

The examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

Thomas Matthias Baker, aged 21, who served his clerkship to Mr. John Baker, of Great Yarmouth, and Mr. Charles Francis Fisher, of Ventnor, Isle of Wight.

William Charles Dalrymple, aged 25, who served his clerkship to Mr. Charles Frederick Robinson, of London.

Joseph Augustus Hellard, aged twenty-two, who served his clerkship to Messrs. Hellard, of Portsmouth, and Messrs. Williamson, Hill, and Co., of London.

Gabriel Lindo, aged 22, who served his clerkship to Messrs. Cooper and Hodgson, of London, and Mr. Nathaniel Lindo of London.

William Rogers, aged 23, who served his clerkship to Mr. James Johnston, of London.

Henry Stedman, aged 23, who served his clerkship to Mr. Lindsey William Winterbotham, of Stroud, and Messrs. Lewis, Wood, and Street, of London.

The council have accordingly awarded them certificates of merit.

The examiners have further announced to the following candidates that their answers to the questions were highly satisfactory, and would have entitled them to prizes or certificates of merit, if they had been under the age of 26.

Basil Field, B.A., aged 26, who served his clerkship to Messrs. Field & Roscoe, of London.

Richard William Davis Clarence Halse, aged 32, who served his clerkship to Messrs. Head and Venn, of Exeter.

Robert Hart, aged 26, who served his clerkship to Messrs. Chilton and Burton, of London.

Edward Fleetwood Kempson, aged 26, who served his clerkship to Mr. Wm. Blackman Young, of Hastings; Messrs. Sharpe, Field, and Jackson, of London; and Messrs. Lawrence, Plews, and Boyer, of London.

Dalton Thomas Miller, aged 30, who served his clerkship to Messrs. Chilton and Burton, of London.

James Stockton, aged 33, who served his clerkship to Mr. Wm. Munton, of Banbury.

William Wigglesworth, aged 31, who served his clerkship to Messrs. Bagshaw and Son, of Manchester.

The number of candidates examined in this Term was 146; of these, 130 were passed, and 16 postponed.

Court Papers.

Court of Chancery.

SITTINGS.—AFTER MICHAELMAS TERM, 1860.

LORD CHANCELLOR.

Tuesday, Dec. 4	{ The First Seal.—Appeal Motions and Appeals.
Wednesday ... 5	{ Petitions and Appeals.
Thursday ... 6	
Friday ... 7	
Saturday ... 8	{ Appeals.
Monday ... 10	
Tuesday ... 11	
Wednesday ... 12	
Thursday ... 13	{ The Second Seal.—Appeal Motions and Appeals.
Friday ... 14	
Saturday ... 15	
Monday ... 17	{ Appeals.
Tuesday ... 18	
Wednesday ... 19	
Thursday ... 20	{ The Third Seal.—Appeal Motions and Appeals.
Friday ... 21	{ Appeals.
Saturday ... 22	{ Petitions and Appeals.

LORDS JUSTICES.

Tuesday, Dec. 4	{ The First Seal.—Appeal Motions and Appeals.
Wednesday ... 5	{ Appeals.
Thursday ... 6	
Friday ... 7	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday ... 8	
Monday ... 10	{ Appeals.
Tuesday ... 11	
Wednesday ... 12	
Thursday ... 13	{ The Second Seal.—Appeal Motions and Appeals.
Friday ... 14	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday ... 15	
Monday ... 17	{ Appeals.
Tuesday ... 18	
Wednesday ... 19	
Thursday ... 20	{ The Third Seal.—Appeal Motions and Appeals.
Friday ... 21	{ Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday ... 22	{ Appeals.

The days (if any) on which the Lords Justices shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

MASTER OF THE ROLLS.

Tuesday, Dec. 4	{ The First Seal.—Motions.
Wednesday ... 5	
Thursday ... 6	{ General Paper.
Friday ... 7	
Saturday ... 8	{ Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday ... 10	
Tuesday ... 11	{ General Paper.
Wednesday ... 12	
Thursday ... 13	{ The Second Seal.—Motions.
Friday ... 14	{ General Paper.

Saturday	15	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.
Monday	17	
Tuesday	18	{ General Paper.
Wednesday	19	
Thursday	20	{ The Third Seal.—Motions.
Friday	21	{ General Paper.
Saturday	22	{ Petitions, Short Causes, Adjourned Summonses, and General Paper.

Unopposed Petitions will be taken first, and must be presented and Copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard.

Vice-Chancellor Sir RICHARD T. KINDERSLEY.

Tuesday, Dec. 4	{ The First Seal.—Motions and General Paper.
Wednesday ... 5	{ General Paper.
Thursday	6
Friday	7
Saturday, Dec. 8	{ Petitions.
Monday	10
Tuesday	11
Wednesday ... 12	{ General Paper.
Thursday	13
Friday	14
Saturday	15
Monday	17
Tuesday	18
Wednesday ... 19	{ The Second Seal.—Motions and General Paper.
Thursday	20
Friday	21
Saturday	22

Vice-Chancellor Sir JOHN STUART.

Tuesday, Dec. 4	{ The First Seal.—Motions and General Paper.
Wednesday ... 5	{ General Paper.
Thursday	6
Friday	7
Saturday	8
Monday	10
Tuesday	11
Wednesday ... 12	{ General Paper.
Thursday	13
Friday	14
Saturday	15
Monday	17
Tuesday	18
Wednesday ... 19	{ The Second Seal.—Motions and General Paper.
Thursday	20
Friday	21
Saturday	22

Vice-Chancellor Sir W. P. WOOD.

Tuesday, Dec. 4	{ The First Seal.—Motions and General Paper.
Wednesday ... 5	{ General Paper.
Thursday	6
Friday	7
Saturday	8
Monday	10
Tuesday	11
Wednesday ... 12	{ General Paper.
Thursday	13
Friday	14
Saturday	15
Monday	17
Tuesday	18
Wednesday ... 19	{ The Second Seal.—Motions and General Paper.
Thursday	20
Friday	21
Saturday	22

Winter Assizes, 1860.

BRAMWELL, B.

Leicester	Dec. 3	Warwick	Dec. 12
Lincoln	Dec. 5	Chelmsford	Dec. 19
Northampton	Dec. 10		

BYLES, J.

Maidstone	Dec. 1	Exeter	Dec. 15
Winchester	Dec. 8		

HILL, J.

Newcastle-on-Tyne	Dec. 3	York	Dec. 8
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BLACKBURN, J.

Chester	Dec. 6	Liverpool	Dec. 11
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KEATING, J.

Durham	Dec. 5	Liverpool (criminal business)	Dec. 11
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WILDE, B.

Cardiff	Dec. 1	Worcester	Dec. 10
Gloucester	Dec. 5	Stafford	Dec. 14

Queen's Bench.

NEW CASES.—MICHAELMAS TERM, 1860.

CROWN PAPER.

Salop.	Henry Davies, Appellant; The Right Hon. Richard Baron Berwick, Respondent.
Hampshire.	James Tayler, Appellant; Edward Routledge, Respondent.
Warwickshire.	William Chandler, the younger, Appellant; John Ratcliff and Another, Respondents.
Gloucestershire.	The Queen on the Prosecution of the Churchwardens, &c., of Mangotsfield, Respondents; The Churchwardens, &c. of Tiverton, Appellant.
Surrey.	The Queen on the Prosecution of the Parish of St. Mary, Lambeth, Respondents; The Governor and Committee of the Licensed Victuallers Society, Appellants.
Hampshire.	The Queen on the Prosecution of the Mayor, &c., of Southampton v. The Commissioners acting under 43 Geo. 3, c. 21, and 50 Geo. 3, c. 168.
Worcestershire.	The Queen v. Isaac Aulton.
Devon.	The Queen v. Thomas Facey.
Leeds.	The Queen v. The Leeds, Bradford, and Halifax Junction Railway Company.
Northamptonshire.	The Queen v. The Inhabitants of Banbury, Oxfordshire.
Gloucestershire.	The Overseers of East Dean, Appellants; John Everett, Respondent.
Dover.	Stephen C. Tucker, Appellant; Rowland Rees, Respondent.
Cheshire.	The Queen v. William Pickford.
Warwickshire.	The Queen v. The Guardians of the Cambridge Union and The Inhabitants of the Parish of St. Edward.
Chester.	The Queen v. The Inhabitants of the Parish of Ruyton of the Eleven Towns, Shropshire.
Bedfordshire.	Francis Davis, Appellant; John Toller, Respondent.
Birmingham.	The Queen on the Prosecution of the Town Council of Birmingham, Respondent; The Birmingham Waterworks Company, Appellants.
Cheshire.	William Tunstall, Appellant; Jane Lloyd, Respondent.

SPECIAL PAPER.

Demurrer.	Aubert v. Gray.
Special case.	Gordon v. The North Staffordshire Railway Company.
"	Cazenove and Another, Assignees, &c. v. Lister, P. O. &c.

This Court will hold Sittings on Tuesday the 27th, and

Wednesday the 28th days of November inst., and will at such sittings proceed in disposing of the cases then pending in the Crown and Special Papers.

Common Pleas.

NEW CASE.—MICHAELMAS TERM, 1860.

DEMURRER PAPER.

Special verdict. Marshall v. The Bishop of Exeter.

Exchequer of Pleas.

Sittings at Nisi Prius in Middlesex and London before the Right Honourable Sir FREDERICK POLLOCK, Knt., Lord Chief Baron of her Majesty's Court of Exchequer, after Michaelmas Term, 1860.

Middlesex.

Tuesday	Nov. 27	} Special juries and common juries.
Wednesday	" 28	
Thursday	" 29	
Friday	" 30	
Saturday	Dec. 1	
Monday	" 3	
Tuesday	" 4	
Wednesday	" 5	
Thursday	" 6	} Special juries and common juries.
Friday	" 7	
Saturday	" 8	

London.

Monday	Dec. 10	} Special juries and common juries.
Tuesday	" 11	
Wednesday	" 12	
Thursday	" 13	
Friday	" 14	
Saturday	" 15	
Monday	" 17	
Tuesday	" 18	
Wednesday	" 19	} Special juries and common juries.
Thursday	" 20	
Friday	" 21	
Saturday	" 22	
Monday	" 24	

The Court will sit at ten o'clock.

There will be a second court for the trial of common jury causes when necessary.

NEW CASES.—MICHAELMAS TERM, 1860.

SPECIAL PAPER.

Appeal under 20) The Queen v. Youle.
& 21 Vict. c. 43)
Dem. The Welland Railway Company v. Berrie.
" Lyall and Another v. Edwards and Another.

NEW TRIAL PAPER.

Guildford. Terry v. Reynolds.
Nottingham. Searson, Administrator, &c., v. Robinson.

ENDORSEMENT OF CHEQUES BY PROCURATION.—The following observations upon this subject are extracted from the city article in the *Times* of the 20th instant:—The question raised some time back as to the responsibility of bankers in paying checks drawn to order on the signature of a person pretending to hold a procuration, is likely to remain without a definitive settlement. The facts which induced public attention to the matter were as follows:—An action was brought against the Bank of England to recover the amount of a check drawn payable to order, and endorsed by a person purporting to sign by procuration from the payee, but which procuration was denied. The claim was based upon the view that the 19th section of the Act 16 & 17 Vict. c. 59, which protects bankers from responsibility in paying checks purporting to be endorsed by the payee, did not extend to checks purporting to be endorsed by another person by procuration. The action came on for trial at the London sittings in July last, when Mr.

Baron Martin held, without argument, that the enactment referred to extended as well to cases of endorsement by procuration as to those purporting to be by the payee in person, the object of this proceeding being to obtain a decision of the full Court upon the question of law in the current term. It appears, however, that the plaintiff has decided not to carry the case further, and that the law must, therefore, remain in its present unsatisfactory state. At the same time it may be remarked that few persons can doubt that the immunity to the bankers conferred by the Act was intended to be complete. The clause which, in contradiction to the entire spirit of the statute law of the kingdom, exempts bankers from a liability to which all the rest of the community are bound to conform, furnishes the worst example of petty class legislation witnessed in recent times, but so long as it is permitted to remain it will be advisable for the public to regard it in all its stringency.

The Commissioners of the Board of Inland Revenue have decided that, according to the recent statute 23 and 24 Vic., c. 90, persons may pursue and kill hares by coursing with greyhounds, or by hunting with beagles or other hounds, in Ireland, as well as in England and Scotland, without a game certificate.

A gentleman, an old Harrovian, has just given £1,000 to the governors of the Harrow School. The interest is to form a prize or scholarship for such a scholar as shall distinguish himself by his attainments in scriptural knowledge.

Births, Marriages, and Deaths.

BIRTHS.

COLLIER—On Nov. 18, the wife of John F. Collier, Esq., Barrister-at-Law, of a daughter.
ELCUM—On Nov. 18, the wife of Hugh W. Elcum, Esq., Solicitor, of a son.
GRIDLEY—On Nov. 15, the wife of H. Gillett Gridley, Esq., Barrister, of a son.
HANSELL—On Nov. 15, at Norwich, Mrs. P. E. Hansell, of a son.
POWER—On Nov. 16, the wife of David Power, Esq., Q.C., of a daughter.
STOKER—On Nov. 21, the wife of W. C. Stoker, Esq., Solicitor, of a son.
WHITE—On Nov. 21, the wife of Fredk. T. White, Esq., of Lincoln's-inn, Barrister-at-law, of a son.

MARRIAGES.

BENNETT—SHEBBEARE—On Nov. 17, William Henry, son of the Rev. Henry Bennett, of the Hall, Sparkford, Somerset, to Helen Charlotte, daughter of Charles John Shebbeare, Esq., of Lincoln's-inn, Barrister-at-Law.
JOHNSON—HICKS—On Nov. 8, William Johnson, Esq., to Lydia, eldest daughter of the late Christopher Hicks, Esq., Solicitor, of Shrewsbury.
LOVIBOND—HASSELL—On Nov. 17, at Neuchâtel, Switzerland, Matthew Lovibond, Esq., of Burrow-bridge, Somerset, to Anne Hassell, daughter of Mrs. Elizabeth Hunt, of Blomfield-road, Paddington, and widow of the late William Hassell, Esq., Solicitor, formerly of Cheltenham.

DEATHS.

BODEN—On Nov. 20, aged 40, Catherine, the wife of George Boden, Esq., Barrister-at-Law.
BUTT—On Nov. 11, aged 63, George M. Butt, Esq., Q.C., formerly M.P. for Weymouth.
GIBSON—On Nov. 10, Mr. Robert Gibson, for fifteen years clerk in the office of Henry Story, Esq., Solicitor, Newcastle-on-Tyne.
GUNNING—On Nov. 12, at Ashcombe, aged 69, Elizabeth, widow of the late John Francis Gunning, Esq., of Bath, Barrister-at-Law.
HARLE—On Nov. 13, at Burley, near Leeds, Wm. Henry, youngest son of H. B. Harle, Esq., Solicitor, of Leeds.
MOSS—Recently, Bernhard Martin, youngest son of William Henry Moss, Esq., Solicitor, Hull, in the fifth year of his age.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

ASSENDER, JOSEPH, Cheesemonger, New-road, St. George's-east, JOSEPH JAMES ASSENDER, Grocer, Bermondsey, Borough, and GEORGE HENRY ASSENDER, Cheesemonger, St. George's-east, £2,330 Reduced Three per Cents.—Claimed by JOSEPH JAMES ASSENDER, and GEORGE HENRY ASSENDER.
BROWN, SOPHIA, Spinster, Woodstock, Oxon. £500 Reduced Three per Cents.—Claimed by HANNAH EVANS, wife of George Evans, and JANE CALDWELL, wife of Samuel Caldwell, administratrixes.
MANFIELD, ANN, Spinster, Dorchester, £200 Consols.—Claimed by WILLIAM MANFIELD, the Administrator.
MARTIN, THOMAS JOHN, Esq., Shenfield, Essex, and JOHN ATKINS, Solicitor, White Hart-court, Lombard-street, £61 6s. 3d. Consols.—Claimed by JOHN ATKINS, the survivor.

MARTIN, EDWARD HALL, Land Agent, Henuall, Nantwich, and SAMUEL BOLSHAW, Farmer, Church Minshall, Middlewich, £345 9s. 1d., New Three per Cents.—Claimed by EDWARD HALL MARTIN, and SAMUEL BOLSHAW.

Their at Law and Next of Kin.

Advertised for in the London Gazette and elsewhere.

COFFEY, JAMES, late of Bristol, Wheelwright, who died on or about the 25th day of July, 1851. Next of kin to apply to the Solicitor for the Treasury, Whitehall, London.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	234	Shrs. Ditto A. Stock	111½
3 per Cent. Red. Ann..	91½	Stock Ditto B. Stock	124
3 per Cent. Cons. Ann..	92	Stock Great Western	72
New 3 per Cent. Ann..	92	Stock Lancash. & Yorkshire	114
New 2½ per Cent. Ann..	77½	Stock London and Blackwall.	61
Consols for account ..	93	Stock Lon. Brighton & S. Coast	113
India Debentures, 1858.	96½	25 Stock Lon. Chatham & Dover	52
Ditto 1859. ....	..	Stock London and N.-Westm..	99
India Stock .....	..	Stock London & S.-Westm..	93
India 5 per Cent. 1859..	103½	Stock Man. Sheff. & Lincoln..	47
India Bonds (£1000) ..	..	Stock Midland	132
Do. (under £1000).....	..	Stock Ditto Birm. & Derby	106
Exch. Bills (£1000)....	5 dis.	Stock Norfolk	55
Ditto (£500).....	5 dis.	Stock North British	62½
Ditto (Small) ..	5 dis.	Stock North-Eastn. (Bruck.)	102½
RAILWAY STOCK.		Stock Ditto Leeds	59
Shrs. Stock Birk. Lan. & Ch. June.	83	Stock Ditto York	88½
Stock Bristol and Exeter....	96	Stock North London.....	104
Stock Cornwall	6½	Stock Oxford, Worcester, &	..
Stock East Anglian	17½	Stock Wolverhampton ..	..
Stock Eastern Counties ..	52	Stock Shropshire Union ...	51
Stock Eastern Union A. Stock	40	Stock South Devon	44
Stock Ditto B. Stock	29	Stock South-Eastern	84½
Stock Great Northern	111½	Stock South Wales	66
		Stock S. Yorkshire & R. Dun	79
		25 Stockton & Darlington	40½
		Stock Vale of Neath	63

London Gazettes.

Windings-up of Joint Stock Companies.

FRIDAY, NOV. 23, 1860.

LIMITED IN BANKRUPTCY.

PATENT STARCH COMPANY, LIMITED.—Creditors to prove their claims on Dec. 7, at 11.30; Basinghall-street. Com.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claims.

TUESDAY, NOV. 20, 1860.

ELSTON, HENRY, Gent., 89, Park-street, Grosvenor-square, Middlesex. Lucas, Solicitor, 20, Great Marlborough-street. Jan. 15.
FARR, LOUISA, Spinster, 3, Southcott-place, Bath. Stone, Chamberlain, & King, Solicitors, Bath. Dec. 31.
PEEK, HENRY HOWARD, Gent., formerly of Kingsbridge, Devonshire, and afterwards of 21, Wickham-place, Lewisham, Kent, but late of Auckland, New Zealand. Ellis, Parker, & Clarke, Solicitors, 2, Cowper's-court, Cornhill, London. Feb. 1.
WOODRUFF, SARAH, Widow, Greenwich, Kent. Hallet, Executor, Navy Agent, 14, Great George-street, Westminster. Jan. 1.

FRIDAY, NOV. 23, 1860.

BARNARD, WILLIAM, Miller, Farmer, Land Agent, & Valuer, formerly of Shottisham, Norfolk, and late of Bracon Ash, Norfolk. Winter, & Son, Solicitors, Norwich. Dec. 31.
BARRON, GEORGE, Innkeeper, Upper Wortley, Leeds. North & Son, Solicitors, 9, Park-row, Leeds. Jan. 21.
BROOKS, HARRIET, Spinster, formerly of Westmorland-place, Southampton-street, Camberwell, Surrey, and late of 18, Clarence-place, Camberwell. Lewis & Watson, Solicitors, 25 Clement's-lane, London. Jan. 5.
DIXON, GEORGE, Agent, Newcastle-upon-Tyne. Mather & Cockerell, Solicitors, 14, Grey-street, Newcastle-upon-Tyne. Jan. 24.
FRANCIS, JAMES OGDON, Surgeon, Ipswich, Suffolk. Alfred & Abraham Kershaw Francis, Executors, Colchester. Dec. 17.
GOODSON, MISS HARRIETT, 18, Bedford-place, Clapham, Surrey. Buschell Hayne, & Hall, Solicitors, 24, Red Lion-square, Holborn, Middlesex. Dec. 15.
JEFFERSON, THOMAS, Gent., formerly of the Excise Office, Old Broad-street, London, late of Devonshire-street, Queen-square, Middlesex. Remnant, Solicitor, 52, Lincoln's-inn-fields. Jan. 24.
KINGDOM, MARY, Widow, 29, Imperial-square, Cheltenham. Rains, Solicitor, 15, Fish-street-hill, London. Dec. 20.
MCCALLAN, JOHN, Tailor, 41, Thurloe-square, Old Brompton, Middlesex,

and 5, St. James-street, Piccadilly. Carew, 45, Bloomsbury-square, London. Dec. 31.
ORCHARD, THOMAS, Gent., Hatton-garden, and Finchley, Middlesex. Anderson, Solicitor, 30, Stonegate, York. Dec. 26.
ROSELLI, PELLEGRINO, Merchant, formerly of Mortimer Villas, De Beauvoir Town, and 43, Lime-street, London, but late of 28, Paul's Grove, Middlesex. Coles, Administratrix, 26, St. Paul's Grove Middlesex. Dec. 19.
TANNER, ALFRED, Master Mariner, formerly of Stanley-street, Pimlico, Middlesex, and late of Wellington-place, Walworth-common, Surrey. Champion, Solicitor, Moira-chambers, 17, Ironmonger-lane, Cheapside, London. Dec. 31.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, NOV. 20, 1860.

COVEY, JOHN, Carpenter & Joiner, Highfield, South Stoneham, Hants. Covey v. Covey, V.C. Wood. Dec. 10.
CRAUFORD, WILLIAM PETRIE, Adjutant-General & Deputy Paymaster-General of Her Majesty's Forces, formerly of Mount-street, Grosvenor-square, Middlesex, and of Upper Berkeley-street, Portman-square, same county, and late of Paddington, same county. Robertson v. Crauford, V.C. Kindersley. Jan. 2.
LAKE, JOHN, Sugar Planter, formerly of the Island of Trinidad, West Indies, and late of Tulse-hill, Brixton, Surrey. Lake v. Lake, V.C. Kindersley. Feb. 8.
LUSBOCK, SOPHIA, Eaton, Norwich. M.R. Dec. 15.
PAUL, CHARLOTTE ARCLARIUS, Spinster, Orpington, Kent. Chaffers v. Chaffers, V.C. Kindersley. Dec. 15.
SEAMAN, JOHN, Bixley, Norfolk. Seaman v. Seaman, V.C. Stuart. Dec. 20.
WILLIAMS, CHARLES, Cowkeeper, Park-road, Paddington, Middlesex. Atkins v. Williams, V.C. Kindersley. Dec. 8.

FRIDAY, NOV. 23, 1860.

BUCKLEY, JOHN, Gent., Upper Mill, Saddleworth, Yorkshire. Buckley v. Whitehead, M.R. Dec. 15.
DAVIES, JOHN LLOYD, Esq., Blaendyffryn and Alltiroddin, Cardiganshire. Phillips v. Davies & Others, M.R. Dec. 22.
MAYER, JOSEPH, Gent., Hanley, Stoke-upon-Trent, Staffordshire. Johnson v. Abington, M.R. Dec. 17.
PRATT, JOSEPH, Farmer & Grazier, Potters Marston, Leicestershire. Pratt v. Pratt, V.C. Kindersley. Jan. 3.
RICKARD, SOPHIA, Saffron Walden, Essex. Rickard v. Robson, M.R. Dec. 17.

Assignments for Benefit of Creditors.

TUESDAY, NOV. 20, 1860.

BALLARD, HENRY JAMES, Tailor & Outfitter, Southampton. Sol. Sharp, Mason, & Sharp, Southampton. Oct. 22.
BRAY, RICHARD, Tailor and Draper, Pottergate-street, Norwich. Sol. Sadd, Theatre-street, Norwich. Oct. 22.
CORHAM, ROBERT, Tailor & Draper, Accrington, Lancashire. Sol. Jackson, Chancery-place, Manchester. Oct. 20.
MOSS, EPHRAIM, Shopkeeper, Mowley, Lancashire. Sol. Toy, Ashton-under-Lyne. Nov. 9.
SMYTH, HENRY, & SAMUEL SMYTH, Coach Masters, Portsea, Southampton. Sols. Lowe & Marshall, Portsea. Nov. 15.
TOWNSEND, BENJAMIN, Brewer, Hastings, Sussex. Sols. Beecham & Son, St. Leonards. Nov. 14.
WHITE, JOHN, Gravesend, Kent. Sol. Reed, 2, Gresham-street, London. Nov. 5.

FRIDAY, NOV. 23, 1860.

ANDREWS, GEORGE, Tailor, 9, Cork-street, Westminster. Sols. Lindsay & Mason, 84, Basinghall-street. Oct. 26.
CORDER, JOHN, Builder, The Bricklayer's Arms, Bedford-street, Seven Sisters-road, Holloway, Middlesex. Sol. Jewitt, 138, Leadenhall-street, London. Nov. 20.
EVANS, WILLIAM, Tailor & Draper, Shoplatch, Shrewsbury. Sol. Gordon, Shrewsbury. Oct. 22.
HOLEYWELL, WILLIAM HENRY, Gunmaker, Peterborough, Northamptonshire. Sol. Rutland, Peterborough. Oct. 29.
HOOPER, WILLIAM FREDERICK, Builder, Oakley-square, Chelsea, Middlesex. Sols. Wild P Barber, 104, Ironmonger-lane, Cheapside. Nov. 6.
JOHNSTON, GEORGE, Draper, Liverpool. Sol. Husband, 18, Bassett-street, Liverpool. Oct. 15.
MADDISON, WILLIAM, Boot & Shoe Maker, Horncastle, Lincolnshire. Sols. L. & W. Thompson, York. Oct. 31.
MATRAVERS, STEPHEN FLETCHER, & HENRY BAILY, Drapers, 83, Southgate-street, Gloucester. Sol. Jones, 15, Sise-lane, London. Nov. 12.
MOORE, JAMES, Painter & Glazier, Hay, Breconshire. Sol. Thomas, Hay, South Wales. Oct. 30.
PRATT, HENRY ROBERT, Cook & Confectioner, Ryde, Isle of Wight. Sol. White, Ryde. Nov. 10.
PEARCE, WILLIAM, Grocer, New Brentford, Middlesex. Sols. Wright & Bonner, 15, London-street, Fenchurch-street. Oct. 23.
PICKSTOCK, ANN, Milliner, 94, Bold-street, Liverpool. Sols. Langford & Macdon, 49, Friday-street, Cheapside. Nov. 1.
POWELL, JAMES, Boot & Shoe Maker, 106, Commercial-street, Newport, Monmouthshire. Sol. Farr, Newport.

RUSSELL, FREDERICK, Boot & Shoe Maker, Folkestone. *Sol.* Minter, Folkestone. Oct. 29.
STANBRO, JOHN EASITT, Broker & Hardwareman, Ipswich. *Sol.* Aldous, Ipswich. Nov. 1.
VINING, CHARLES MOGO, Baker, Wincanton, Somersetshire. *Sol.* Balch, Bruton, Somersetshire. Nov. 19.

Bankrupts.

TUESDAY, Nov. 20, 1860.

ANSELL, EDWARD, Draper, 37, South-street, Manchester-square, Middlesex. *Com.* Evans: Nov. 27, and Dec. 28, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Jones, Sisco-lane, London. *Pet.* Nov. 19.
AUBREY, ALFRED & CHARLES POWELL, Ship and Insurance Brokers & Wine Merchants, 17, St. Mary Axe, London (Partridge & Co.). *Com.* Evans: Nov. 30, and Dec. 28, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Hughes, Kearsey, & Masterman, Bucklersbury. *Pet.* Oct. 10.
BROWNING, JOHN, Grocer & Cheesemonger, Corn, Flour, & Coal Dealer, 1, Northumberland-terrace, Bagnigge-wells-road, Middlesex. *Com.* Holroyd: Dec. 1, and Jan. 1, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Lawrence, Flew, & Boyer, 14, Old Jewry-chambers, London. *Pet.* Nov. 14.
GODFREY, WILLIAM HENRY, Bookseller & Stationer, Hart-street, Henley-on-Thames, Oxfordshire. *Com.* Fonblanque: Nov. 30, Jan. 1, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Peek & Downing, 10, Basinghall-street, London, and Ledard, Henley-on-Thames. *Pet.* Nov. 15.
JENKINGS, JOHN, Printer, Gough-square, Fleet-street, London. *Com.* Fane: Dec. 1 & 27, at 12.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Van Sandau & Cumming, 13, King-street, Cheapside. *Pet.* Nov. 10.
JENKINS, WILLIAM OWENS, Horse Dealer, Uggeshall, Suffolk. *Com.* Fane: Dec. 1 & 28, at 12.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* White, Borrett, & White, 6, Whitehall-place, or Crabtree & Cross, Halesworth, Suffolk. *Pet.* Oct. 30.
LEACH, JOHN, Manufacturer, Bingley, Yorkshire. *Com.* Ayrton: Dec. 10, and Jan. 7, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Weatherhead & Burr, Keighley, or Bond & Barwick, Leeds. *Pet.* Nov. 13.
NORTH, THOMAS, Contractor, 1, Edwin-place, Brighton. *Com.* Goulburn: Nov. 30, and Dec. 31, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* Nov. 16.
PHILLIPS, EDWARD, Boot & Shoe Maker, Pontypool, Monmouthshire. *Com.* Hill: Jan. 1, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Smith, Vassall, & Pope, Bristol. *Pet.* Nov. 7.
FRITCHARD, JAMES, Saddler & Harness Maker, and late Innkeeper, Newnham, Gloucestershire. *Com.* Hill: Dec. 4, and Feb. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Wilkes, Gloucester. *Pet.* Nov. 17.
SOLOMON, JAMES, Grocer, 41, Blackfriars-road, Surrey. *Com.* Holroyd: Dec. 4, and Jan. 1, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Hodgkinson, 17, Little Tower-street, London. *Pet.* Nov. 19.
STEDMAN, JOHN BURN, Surgeon & Apothecary, Cinderford, East Dean, Gloucestershire. *Com.* Hill: Dec. 3, and Jan. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Whitley, Newnham; or Abbot, Lucas, & Leonard, Albion-chambers, Bristol. *Pet.* Nov. 17.
FRITCHARD, SARAH, Widow, Wellington, Somersetshire. *Com.* Andrews: Dec. 5, and Jan. 2, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Lovibond, Bridgwater; or E. J. H. W. Clarke, Exeter. *Pet.* Nov. 7.
WHELDON, DAVID, Iron Ore Merchant & Coal Merchant, Northampton. *Com.* Fonblanque: Nov. 29, at 11; and Jan. 1, at 1; Basinghall-street. *Off. Ass.* Graham. *Sols.* Metcalfe, Solicitor, 4, Furnival's-inn, Holborn; and Becke, Northampton. *Pet.* Nov. 19.

FRIDAY, Nov. 23, 1860.

BARTON, THOMAS, Publisher, Newsvender, & Advertising Agent, 35, Wellington-street, Strand (Abbott, Barton, & Co.). *Com.* Evans: Dec. 6, at 1.30; and Jan. 8, at 11; Basinghall-street. *Off. Ass.* Bell. *Sols.* Linklater & Hackwood, Walbrook. *Pet.* Nov. 22.
BASSETT, DAVID, Corn Merchant, Uxbridge, Middlesex. *Com.* Goulburn: Dec. 5, at 1; and Jan. 7, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Ford & Lloyd, 4, Moomebury-square, London. *Pet.* Nov. 17.
BURKE, WILLIAM, Painter & Paper Hanger, Kingston-upon-Hull. *Com.* Ayrton: Dec. 12, and Jan. 16, at 12; Kingston-upon-Hull. *Off. Ass.* Clerk. *Sols.* Holden & Sons, Kingston-upon-Hull. *Pet.* Nov. 10.
HARRIS, JOHN, Builder, of the Lodge, Hornsey-road, Hornsey, Middlesex. *Com.* Goulburn: Dec. 3, at 11; and Jan. 7, at 2; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Grentorax, 59, Chancery-lane, London. *Pet.* Nov. 21.
HENSHAW, CHARLES CHRISTOPHER, Mast and Block Maker, 5, Stony-lane, Toulsey-street, Surrey. *Com.* Evans: Dec. 6, at 12.30; and Jan. 3, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Reed, 1, Guildhall-chambers. *Pet.* Nov. 21.
LUCRET, OTTAVIA, Coffee-house Keeper, 5, Leicester-square, Middlesex. *Com.* Fane: Dec. 7, at 12.30, and Jan. 11, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* H. P. Hindley, 10, Old Jewry-chambers, Old Jewry. *Pet.* Nov. 15.
NORTH, JOSEPH, Carrier & Contractor, Montague-street, Brighton. *Com.* Goulburn: Dec. 8, at 12.30, and Jan. 7, at 2.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Linklater & Hackwood, 7, Walbrook, London. *Pet.* Nov. 13.
PARTRIDGE, JOHN CHARLES, Boot & Shoe Manufacturer, 21, Langley-place, Commercial-road, Middlesex. *Com.* Fane: Dec. 7, at 11.30, and Jan. 11, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Harrison & Lewis, 6, Old Jewry. *Pet.* Oct. 6.
FRITCHARD, JAMES, Saddler & Harness Maker, and late Innkeeper, Newnham, Gloucestershire. *Com.* Hill: Dec. 4, and Jan. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* G. P. Wilkes, Gloucester. *Pet.* Nov. 17.

REES, THOMAS, Ironmonger, Castle Bailey-street, Swansea, Glamorgan-shire. *Com.* Hill: Dec. 4, and Jan. 1, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* Nov. 23.
RUSSELL, GEORGE, Hotel Keeper, Leamington Priors, Warwickshire. *Com.* Sanders: Dec. 12, and Jan. 16, at 11; Birmingham. *Off. Ass.* Kinneer. *Sols.* Sherwood, Leamington, or Hodgson & Allen, Birmingham. *Pet.* Nov. 14.
SILVESTER, BENJAMIN, Draper, Stretford New-road, Hulme, Manchester. Dec. 6 & 27, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Sulton, Marsden-street, Manchester. *Pet.* Nov. 19.
SMITH, WILLIAM JOYCE, Commission Agent, Newcastle-upon-Tyne. *Com.* Ellison: Dec. 4, at 11.30; Jan. 10, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Joel, Newcastle-upon-Tyne, or Mathews, Carter, Bell, & Hoyle, 102, Leadenhall-street, London. *Pet.* Nov. 16.
WELLS, JAMES, Toy Dealer, Bold-street, Liverpool. *Com.* Perry: Dec. 5, at 12; and 24, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Harvey, Jevons, & Harvey, 12, Castle-street, Liverpool; or Steinberg, 61, Watling-street, London. *Pet.* Nov. 16.
WHITFIELD, HENRY, Lined and Woollen Draper & Laceman, 111, Tottenham Court-road, Middlesex. *Com.* Goulburn: Dec. 5, at 12; and 31, at 3; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Stophor, 36, Coleman-street, London. *Pet.* Oct. 19.
WOODHALL, ANNE, Felt Manufacturer, Barns Cray, Kent. *Com.* Holroyd: Dec. 7, at 2; and Jan. 8, at 1; Basinghall-street. *Off. Ass.* Lee. *Sols.* Ashurst, son, & Morris, 6, Old Jewry, London. *Pet.* Nov. 21.

BANKRUPTCIES ANNULLED.

FRIDAY, Nov. 23, 1860.

GUTTMANN, ISAAC, Watchmaker, Jeweller, and Silvermith, Sheffield. Nov. 17.
POVEY, JOSEPH, Innkeeper, Warwick. Nov. 19.
POWELL, THOMAS, Hosier & Shirt Maker, 24, Milk-street, Cheapside, London, and 7, Hackney-road, Middlesex. Nov. 19.
RIDLEY, RALPH EMMINGTON, Merchant, 34, Great Saint Helen's, Bishopsgate-street, London, and 26, Broad-chare, Newcastle-upon-Tyne (John Ridley & Sons). Nov. 21.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Nov. 20, 1860.

ABRAHAM, BENJAMIN, Jeweller, Fore-street, Taunton, Somersetshire. Dec. 6, at 12; Exeter.—**BRIGGALL, JONATHAN**, Dyer, Manchester. Dec. 14, at 12; Manchester.—**BRIMLOW, JOHN**, **RICHARD DANIELS**, & **SAMUEL DANIELS**, Silk Manufacturers, Bedford, Lancaster. Dec. 14, at 12; Manchester.—**CHALKERS, JOHN**, Tea Dealer & Draper, Cirencester, Gloucestershire. Dec. 20, at 11; Bristol.—**GILES, CHARLES HENRY**, Ironmonger & Gun Manufacturer, 3, Union-row, Tower Hill, and 327, Wapping, Middlesex. Dec. 20, at 12; Basinghall-street.—**GROSE, GEORGE**, Carrier & Leather Seller, Sheffield & Wath-upon-Dearne, Yorkshire. Dec. 15, at 10; Sheffield.—**GROSE, NICHOLAS MALE**, Wine & Spirit Merchant, Wadebridge, Cornwall. Dec. 6, at 12; Exeter.—**HASSELL, JAMES**, Soap & Candle Manufacturer, Bristol. Dec. 13, at 11; Bristol.—**HEARD, DAVID, JUN.**, Smack Owner, Carpenter, & Builder, Barking, Essex. Dec. 13, at 11; Basinghall-street.—**HUNT, WILLIAM**, Silk & Cotton Manufacturer, 118, Market-street, Manchester, and of Tongue, near Middleton, Lancaster. Dec. 14, at 12; Manchester.—**JONES, GEORGE WORRELL**, Banker, Crickhowell, Breconshire. Jan. 10, at 11; Bristol.—**PALMER, THOMAS**, & **SAMUEL PALMER**, Drapers, 30, Old Town-street, Plymouth. Dec. 3, at 12.30; Plymouth.—**RAWL, GEORGE**, Tanner, Portlock, Somersetshire. Dec. 13, at 12; Exeter.—**ROLLS, JOHN JAMES**, Grocer & Ironmonger, Cerne Abbas, Dorset. Dec. 13, at 12; Exeter.—**ROSS, JOHN**, Draper, Truro, Cornwall. Dec. 13, at 12; Exeter.—**SAMPSON, JAMES**, Picture Dealer, Carver and Gilder, and Print-seller, 10, Park-street, Bristol. Dec. 13, at 11; Bristol.—**SCHEMBEL, GIUSEPPE LUIGI**, Merchant, 150, Leadenhall-street, London (Portelli Schembri & Co.). Dec. 20, at 11; Basinghall-street.—**SURWASQUO, WILLIAM**, Builder, Taunton, Somersetshire. Dec. 5, at 12; Exeter.—**STONE, ROBERT**, Innkeeper, Cerne Abbas, Dorsetshire. Dec. 5, at 12; Exeter.—**SETTER, GEORGE THOMAS**, Confectioner, Weymouth & Melcombe Regis, Dorsetshire. Dec. 5, at 12; Exeter.

FRIDAY, Nov. 23, 1860.

DILWORTH, JOHN, **ROBERT MORLEY ANTHURTON**, & **HENRY BIRKET**, Bankers, Lancaster. Dec. 13, at 12; Manchester. Sep. est. of John Dilworth, same time.—**ERLAM, GEORGE**, Woollen Draper, 27, Upper-street, Islington, Middlesex. Dec. 13, at 11.30; Basinghall-street.—**HARRIS, THOMAS JARVIS**, Mercer, Plymouth, Devon. Dec. 31, at 12.30; Plymouth.—**HOLME, ARTHUR**, Ship Owner, Commercial-wharf, Old Swan-lane, Upper Thames-street. Dec. 13, at 2; Basinghall-street.—**MATSON, SYLVESTER**, Butcher & Ship Store Dealer, 60, Regent-road, Liverpool. Dec. 14, at 11; Liverpool.—**MCDONALD, JOHN CAMPBELL**, & **ANDREW THOMPSON HONESTON DALZIEL**, Wine and Spirit Merchants, & Licensed Victuallers, Liverpool. Dec. 17, at 11; Liverpool.—**GASKELL, HENRY BROADBENT**, Broker, Liverpool. Dec. 13, at 11; Liverpool.—**LAMBERT, MILES**, Tailor & Draper, Liverpool. Dec. 17, at 11; Liverpool.—**MARRIS, WILM**, Nottingham. Dec. 20, at 11; Nottingham.—**M'MAHON, ROGER DIVINE**, Apothecary, St. Austell, Cornwall. Dec. 19, at 12; Exeter.—**MERRON, JOHN**, & **THOMAS BECK INGRAM**, Glass Manufacturers, St. Helens, Lancashire (John Merron & Co.). Dec. 20, at 11; Liverpool. Same time, separate estate of John Merron.—**PARRY, DANIEL BEST**, Whitesmith, Locksmith, & Bell Hanger, Liverpool. Dec. 17, at 11; Liverpool.—**PHILLIPS, JOSEPH**, Milliner & Dealer in Fancy Goods, Newcastle-upon-Tyne. Dec. 12, at 11.30; Newcastle-upon-Tyne.—**POOL, LEWIS ROBERT**, & **SAMUEL BRYAN**, Boot & Shoe Manufacturers, 504, New Oxford-street, Middlesex. Dec. 5, at one, Basinghall-street.—**RUSHTON, JOHN**, Plasterer and Cementer, Plaster of Paris and Cement Manufacturer, Carlisle, Cumberland. Dec. 18, at 12; Newcastle-upon-Tyne.—**STEVENS, JOHN LEE**, Dealer in Iron, 1, Fish-street-hill, London. Dec. 17, at 1.30; Basinghall-street.—**SWANN, JOHN WESLEY**, Indian Rubber Manufacturer. Dec. 19, at 12; Manchester.—**TOYNEBE, EDWARD**, Agricultural Merchant and Manufacturer (Edward Toynebe & Co.) Dec. 5, at 12; Kingston-upon-Hull.—**TURPIN, WILLIAM**, Draper, 10, Drake-street, Plymouth. Dec. 31, at 12.30; Plymouth.—**WALE, ALFRED**, Hosier, Nottingham. Dec. 20, at 11; Nottingham.

LAW STUDENTS' DEBATING SOCIETY, AT THE LAW INSTITUTION, CHANCERY LANE.

This Society meets every TUESDAY EVENING, for the Discussion of Legal and Jurisprudential Questions.

QUESTIONS FOR DISCUSSION.

For Tuesday, November 27th, 1860. President—Mr. LAWRENCE.

XC.—Should judicial officers be authorised in Criminal Cases to interrogate the accused?

Mr. MATTHEWS is appointed to open the debate, and Messieurs HALE, W. WESS, and A. H. MILLER to speak on the question.

For Tuesday, December 4th, 1860. President—Mr. WINCKWORTH.

259.—A. being assignee of a lease demises for the whole of his term at an increased rent. Can he recover such rent by distress? *Barrett v. Rolfe*, 14 M. & W. 348; *Pollock v. Stacey*, 9 Q. B. 1033.

Affirmative—Mr. MACKINTOSH and Mr. TREDGOLD.

Negative—Mr. EYLES and Mr. H. E. BATT.

For Tuesday, December 11th, 1860. President—Mr. WINGATE.

260.—Is a Railway Company, which has taken all usual precautions to prevent the escape of sparks from their locomotives, responsible for damage occasioned by a fire arising from such sparks? *Vaughan v. The Taff Vale Railway Company*, 7 Weekly Reporter, 130; 8 Weekly Reporter, 549; 4 Jurist, N.S. 1302; 5 Jurist, N.S. 899.

Affirmative—Mr. O. L. HILLS and Mr. CHAMPION.

Negative—Mr. ELEY and Mr. LE RICHE.

For Tuesday, December 18th, 1860. President—Mr. GREEN.

XCI.—Is the Foreign Policy of the present Government worthy the confidence of the Country?

Mr. PLASKETT is appointed to open the debate, and Messieurs J. PRACHEY, JUNR., CAUMPT, and T. HEWITT to speak on the question.

The SOCIETY will ADJOURN until TUESDAY, 8th JANUARY, 1861.

Members will be good enough to send in questions.—Copies of the Rules, and all requisite information, will be furnished by the Secretary, with whom gentlemen desirous of becoming Members are requested to communicate.

GEO. L. WINGATE, Secretary,
9, Copthall-court, E.C.

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THE SOLICITORS' JOURNAL.

LONDON, DECEMBER 1, 1860.

CURRENT TOPICS.

The unexpected death of Mr. Coulson, Q.C., will enable the law authorities to reconsider the very important question of Parliamentary drawing—or, in other words, the preparation of Bills for the different Government departments—in sufficient time to devise some suitable plan before the meeting of Parliament. We want no more committees, general or select, of either House of Parliament; nor does any one (except, perhaps, some expectant commissioner) desire to see anything like a revivification of the happily defunct statute law commission. All the information that can possibly be desired on the subject generally is contained in numerous blue books, some of them of recent date. Indeed, one of them alone, namely the minutes of the evidence taken before the Select Committee on the Statute Law Commission, three or four years ago, contains abundant information not only on the evils and the peculiar methods of our Parliamentary law-making, but also some admirable and practical suggestions for the introduction of an improved system. It has been proposed that Parliament should appoint an officer, or a board, whose duty it should be either to prepare or revise, and to report upon all Bills, and to watch them during their progress through the two houses. Another suggestion is that such functionaries should not be appointed or officially recognised by Parliament, but that they should be officers either of the Lord Chancellor or the Attorney General; or else that one such officer should be attached to each of the principal departments of government. Any scheme which would interfere with the free action of Parliament, would, of course, require parliamentary sanction, and will necessarily be attended with considerable difficulty. But no such obstacles would be in the way of improvements in the mere preparation of Government Bills. The duties of Mr. Coulson were extremely ill defined, and of a very multifarious character. It appears to have fallen to his lot, in theory at least, to draw all the Bills originating in the Home Department, the greater part of those belonging to the Colonial and Foreign departments, and a considerable number of the Treasury Bills. He was, moreover, liable to be called upon to draw or revise bills for other departments, especially where there was no standing legal staff, as, for instance, the Board of Control; and he had to frame the annual report on expiring laws, which is properly the business of a committee of the House of Commons. It requires little reflection to be convinced that Mr. Coulson's task was too great to be satisfactorily accomplished by any human being; and therefore nobody blamed him for what was so completely beyond his power, namely, the frequent obscurity, uncertainty, and verbosity of the language of our statutes, the general absence of logical or convenient arrangement of their subject matter, the unintentional repeal and re-enactment of former Acts, the forgetfulness of the differences of forms of procedure in England and the sister countries, and the many other miserable characteristics of our modern English legislation. Without waiting for the realisation of any such grand scheme as the appointment of a parliamentary board or great functionary, the Lord Chancellor and the Attorney-General no doubt have it in their power to re-

organise the system of Parliamentary drawing, so as to ensure to every important department of State the careful preparation of Government Bills affecting such department, and their skilful revision in their passage through both Houses of Parliament. The £2,000 a-year paid to Mr. Coulson would not nearly be sufficient to accomplish this most desirable object; but the whole sum required would be trifling compared with the great advantages that would be gained from the carrying out of such a scheme as we have proposed.

A correspondence has taken place between Mr. Huddleston, Q.C., and Mr. Cookson, the president of the Incorporated Law Society, in reference to certain statements made by the former upon the trial at Worcester of a case for breach of promise of marriage, to the effect that Mr. Clutterbuck, the plaintiff's attorney, had got up the action for his own profit, and that he had on a previous occasion extorted the sum of £20 from another defendant at the suit of the same plaintiff, the action not having gone further, as Mr. Huddleston stated, than the delivery of the writ and declaration. It appears that no evidence whatever was attempted to be offered in support of this aspersion upon the character of Mr. Clutterbuck; and of course he had no opportunity allowed him of refuting the calumny. Mr. Clutterbuck, however, properly regarding the statements made as injurious to his personal and professional character, demanded an explanation of Mr. Huddleston, which was declined, whereupon Mr. Clutterbuck submitted the matter to the Incorporated Law Society, and placed in the hands of that body a vindication of his character. It appears from this document that Mr. Huddleston's statements were incorrect in some very material particulars. In the first place, instead of the costs in the former action amounting to twenty pounds, it appears that they amounted only to £12 12s. 2d.; secondly, that instead of nothing more having been done than the delivery of the writ and declaration, the action in fact had proceeded to issue; and that notice of trial had been given, subpoenas issued, and the jury panel obtained. Mr. Clutterbuck, moreover, states that he had actually prepared briefs, which were ready to be delivered to counsel, when the action was compromised.

These important facts having been embodied in a memorial to the Incorporated Law Society, which was forwarded to Messrs. Rickards & Walker, an eminent and highly respectable firm, who acted as the town agents of Mr. Clutterbuck, Mr. Cookson, wrote to Mr. Huddleston the following letter:—

"Incorporated Law Society, Sept. 12.

"Sir—The Council of the Incorporated Law Society have received from Mr. Thomas Clutterbuck, of Worcester, attorney-at-law, through his London agents, Messrs. Rickards & Walker, who are members of the society, a memorial addressed to the council praying that, for the vindication of his character, they will inquire into the facts connected with a statement which he alleges was made by you in a cause of *Davis v. Bomford*, tried at the Worcestershire assizes on the 16th and 17th July last, to the effect that Mr. Clutterbuck, in an action brought by the same plaintiff against a person named Skinner, had exacted from Skinner the sum of £20 for his costs in the action simply for writ and declaration.

"The Council infer from the statement made to them that no evidence was offered in support of the charge, and that Mr. Clutterbuck had no opportunity of disproving it at the time, and that the charge was not in issue in the cause.

"The Council desire me to inform you of the statement made by Mr. Clutterbuck, and to draw your attention to the letter of the defendant Skinner, and to request you will have the goodness to say whether the statement is in any respect inaccurate.

"The Council will especially feel obliged by your informing them whether the inference they have drawn from the statement of Mr. Clutterbuck is correct that no evidence was offered in support of the charge, and that he had no opportunity of dis-

proving it at the time, and that the charge was not in issue in the cause.

"I have the honour to be, sir, your very obedient servant,
(Signed) "WM. STRICKLAND COOKSON, President.
"J. W. Huddleston, Esq., Q.C., Temple."

The following is Mr. Huddleston's reply:—

"2, Paper-buildings, Temple, Nov. 7.

"Sir—I beg leave to acknowledge the receipt of your letter of the 12th of September, which should have received earlier attention from me had I not been absent from town during the long vacation.

"I entertain the greatest respect for the Council of the Incorporated Law Society; but on full consideration of your letter I must decline to answer the questions put to me by that body.

"Were I to do so I feel that I might be recognising the right of the Council of the Incorporated Law Society to inquire into the course taken by an advocate during the progress of a trial; and I cannot permit a privilege of counsel established for the benefit of the client to be impaired by any step which I might otherwise be disposed to adopt.

"I the more readily adhere to this conclusion, as it is obvious that the Council of the Incorporated Law Society can obtain from other sources the information which they seek to obtain from me.

"I have the honour to be, Sir, your obedient servant,
(Signed) "J. W. HUDDLESTON.

"W. Strickland Cookson, Esq.,
President of the Incorporated Law Society, &c., &c."

Mr. Huddleston, in this letter, appears to assume that the not uncommon trick of counsel's abusing the attorney of the other side has by force of usage become "a privilege of counsel established for the benefit of the client." We take issue with him, however, upon this point, and deny that counsel have any more right to make injurious observations upon the attorney of the other side—unless such observations are relative to the issue, and are supported by evidence—than they would have to do so in the case of a perfect stranger to the cause. It may be equally injurious, and is no doubt generally intended to be *more* injurious, to the party on the other side than it is to his attorney, although the latter is ostensibly the direct object of attack; but it is intolerable that counsel should claim the privilege of irresponsibility for untrue statements publicly made to the injury of an attorney in the cause, especially where such statements are irrelevant to the issue, are wholly unsupported by anything like evidence, and are moreover introduced for the manifest purpose of prejudicing an adversary's case.

During the late session of Parliament a committee of the House of Commons was appointed to inquire into the nature of the burthens affecting merchant shipping. Its report has been lately published. It treats of a variety of topics, the discussion of which in this Journal would be out of place. There is one, however, occupying a prominent position in the report which cannot fail to interest the professional reader. We allude to the legal liabilities at present imposed upon the British shipowner, partly through the operation of Lord Campbell's Act (9 & 10 Vict. c. 93), and partly through the operation of the Merchant Shipping Act of 1854. There can be little doubt that the responsibility incurred under these statutes is frequently of an oppressive and even ruinous character. In its zeal for the protection of the public the Legislature appears to have dealt too hardly with the rights of the shipowner. To do justice to both is the problem to be solved, and the committee has done its best to solve it. We shall on a future occasion explain how it proposes that this should be done. In the meantime Mr. W. S. Lindsay is in the United States, endeavouring to obtain the sanction of the American Government to certain international arrangements respecting the liabilities in question; and the Chamber of Commerce of New York has

passed resolutions approving of this proposal, which, if carried into effect, will prove of equal advantage to both countries.

The first resolution relates to the subject of collisions at sea. It affirms the principle that the liabilities of the ship-owners of both countries should be uniformly the same, and recommends that actions against them in the courts of either country should be governed by the laws of its own; that the actual value of a defaulting vessel should determine the liability; and that the same rule of the road should be adopted in both countries. The committee also recommends the assimilation of the laws of England and the United States in reference to crimes committed at sea, and that the consuls of both countries should have jurisdiction over all petty crimes and offences committed on board the vessels of either, whether in port or at sea.

The State of New York, by its constitution of 1846, established an elective judiciary with short terms of office; and the startling precedent was speedily followed in many other States of the Union. After a short trial of fourteen years this rash defiance of all experience, ancient and modern, has already shown itself to be mischievous in the extreme. It has been found, according to the testimony of a New York contemporary, that all the better class of lawyers, the men who by years and service merit the honours of the profession, shrink from the nomination to the bench as if it involved contamination. The class of men who from time to time as vacancies occur offer themselves as candidates for the judicial office are becoming worse and worse. At a recent election for judges at Brooklyn, the great majority of the delegates named by one of the political parties for the purpose of ensuring the election of their own partisans was composed of convicted thieves and fellows of the pugilistic trade. The District Attorney of King's County, U. S., in a speech to a political meeting of the opposite party, thus describes these delegates:—

"I hold in my hand a list of the delegates who purport to have been elected to the convention. In the first ward, two delegates are named who have recently been indicted and convicted of crime since the 1st of January, who are well known to the police; and who nevertheless seem to have become essential to the representation of the first ward in democratic conventions. Then, glancing at the list of the sixth ward, there is a delegate who has been arrested over and over again for crime in this city, indicted and punished, well known as a disreputable character—an outlaw dangerous to society in every way—and yet he has become so important in our local government that he is sent to a convention to select our judges, sheriffs, and other officers."

And so he goes on at considerable length to describe numerous other delegates who are men of similarly bad repute, and he adds:—

"Here is a convention come together to nominate a city judge, to whose hands are to be entrusted the highest and most sacred responsibilities. A man could not have got a nomination unless he stood well with these dangerous classes, and that is a bad premonitory symptom, as the doctors would say. To obtain their good-will he must have catered to their tastes, and taken pains to stand well with them, in order to get their support as against respectable men. He is thus demoralized from the start, and entirely unfitted for the faithful discharge of the judicial duties. I do not believe in the election of judges; it is one of the greatest wrongs ever inflicted on a free society, at the best. But what does it become when judges are nominated by these men whom I have described from the criminal records? What is his position if elected? Why, he is in the hands of the Philistines. Mark the career of such a judge. You will find him yielding and conceding to the criminal element in our community, instead of administering justice."

It must be borne in mind that this is a picture drawn by an enemy; but it is nevertheless too well corroborated by unimpeachable testimony from all quarters to be

seriously doubted as to its general truth. Even the Americans themselves are beginning to be startled at the lamentable social results which have already arose from their system of elective judgeships. A very trenchant letter upon the subject, from Judge Edmonds, of New York, has just been published, and caused some sensation in that State. It appears that the office of Recorder of the city of New York is the most important and remunerative in the State; and the judge, who is a lawyer of unquestionable merit, had been asked to put up as a candidate for the office, which is now vacant. In reply, after other reasons, he says, "My tenure of office would be only three years: while on the bench I should of course be withdrawn from political action, and could not resort to the usual means to secure my continuance in it; while on the other hand, ambitious aspirants for the position would be restrained by no such consideration, and would easily oust me long before I could give any permanency to the character I should aim to give my Court." To this cause Mr. Edmonds attributes the fact that only four out of fourteen justices of the superior courts have been re-elected; while there is not a single instance of the re-election of a justice of the supreme court or a recorder. Besides, he adds, "the shortness of the term would continually subject me to the imputation of shaping my decisions in reference to a re-election. I experienced this at the close of my judicial career, and I had abundant cause to know that I was thereby shorn of my independence, and my usefulness was impaired. I felt this so keenly that I then resolved never to undergo it again." We could add other testimonies on this subject to the same effect as that of Mr. Edmonds and the District Attorney of King's County, but we have already dwelt rather long upon this topic. We shall only add, that the case bearing on the rights of proprietors of horse railways, which will be found elsewhere in these columns, was decided by a tribunal which has not yet been subjected to the deleterious influence of popular election, the State of Massachusetts being one of the few States in the Union which have resisted the bad precedent set by the State of New York. As a matter of fact, perhaps we might say as a consequence, the decisions of the Supreme Court of Massachusetts are better worth the attention of English lawyers than those of most other tribunals of the United States.

The Liverpool Law Society has published its report for the past year. One of the most important subjects that has occupied its attention recently has been the appointment of a second stipendiary magistrate which the committee has left no means untried to effect, without success however for the present. The Society recommends the establishment of a professional Exchange to facilitate the communication of members; and a Law Clearing House for the settlement of members' accounts. The report contains a review of the various important measures of last session, with remarks thereon by the committee; and the following observations relate to some important points of practice:—

"Your committee carefully considered the question of the extent of the right of the solicitor for the mortgagee to refuse to produce the deeds in his possession, except to abstracts furnished by himself, and they considered it to be the practice that the mortgagee's solicitor was entitled to furnish an abstract of all deeds in his possession, but not an abstract of deeds not in his possession and covenanted to be produced, and they accordingly considered that he would be justified in refusing to produce the deeds for examination, with an abstract furnished by any other party; but exceptional cases of this kind may probably arise."

The committee also discusses the question which was raised two or three years ago in the well-known case of *Viney v. Chaplin*, (6 W. R. 562), as to whether a vendor's or mortgagee's solicitor is entitled to receive

the purchase or mortgage money, by virtue of his office, and of his having in his possession the deed of conveyance or mortgage with endorsed receipt:—

"The subject of giving an authority to solicitors to receive purchase and other moneys in the settlement of transactions when their clients were not personally present, but had signed receipts on the deeds, has been discussed at great length, and your committee have communicated with the Incorporated Law Society, and the Metropolitan and Provincial Law Association, on the subject. The London practice is, almost invariably, to require it, and the council of the former body are desirous to adhere to that practice; but the committee of the Metropolitan and Provincial Law Association consider that it would be productive of an inconvenience to lay down an absolute rule to require such an authority in all cases. Your committee think that the law should be changed in that respect, and that the delivery of the receipted document by the solicitor (the recognised agent of his client) should discharge the person paying the money from any responsibility; however, as this question of law is again raised, and is now waiting the judgment of the Court of Exchequer, your Committee have thought it desirable to take no further steps until that judgment be known, particularly as they understand that the parties intend to take the decision of the Court of Error."

It is expected that the new orders in Chancery relating to evidence will be issued before Hilary Term. We believe they have been already drawn, and that they are now under the consideration of the Lord Chancellor, and the other equity judges. The expectation is general that with the next term we shall see the introduction into chancery proceedings of *voir dire* evidence in open Court.

The Middlesex magistrates propose, under the provisions of the 23 & 24 Vict. c. 116, to offer the coroners for the county salaries in lieu of fees, mileage and allowances calculated upon an average of the last five years. Three of the coroners attended the meeting of the magistrates at which this proposition was made, and objected to it, Mr. Wakley threatening an "appeal to a higher authority," whatever that may mean.

The Inns of Court Rifle Volunteers will be inspected by Colonel Mc Murdo, in Richmond Park, to day at 3 o'clock. Should, however, the weather prove unfavourable, the inspection will take place in Gray's-inn-square, at the same hour. We believe that it is proposed that the Corps should entertain Colonel Mc Murdo, this evening, at the Albion, Aldersgate street.

THE CASE OF *SHEDDEN v. PATRICK*.

A case which has occupied for fourteen days the attention of a court, where a heavy mass of business is depending, may naturally be supposed by hasty readers of the daily newspapers to be of a difficulty proportioned to its length. But really the case of *Shedden v. Patrick* involved no very perplexing question either of fact or law; and it is principally remarkable for the ability displayed by the female petitioner who conducted her own and her father's case, and for the unusual indulgence which allowed this lady to be occasionally assisted by counsel while still supporting the main burden of long and intricate statements and examinations of witnesses by her own retentive memory and ready tongue. Miss Shedden is certainly the most eminent of the ladies who of late years have rather frequently undertaken to be their own advocates. It is to be feared that this practice is a growing one, and that the course of business in our courts will be obstructed, and the temper of the judges tried, by an increasing number of vehement, and perhaps eloquent, but discursive and almost endless

speeches on the model of those to which Sir C. Cresswell and his two associates have listened during so many tedious hours of the last term. Notwithstanding the desponding anticipations of the presiding judge, the statements and evidence in the case did actually reach their end on Tuesday last, the fourteenth day. There was a great deal of relevant matter to consider, but it had been mixed throughout the hearing with a great deal more that was irrelevant, and so the Court had had time enough to make up its mind during the hearing, and accordingly judgment was forthwith delivered to the effect that the petitioners had wholly failed in making out their case.

The suit was instituted under the Legitimacy Declaration Act of 1858, to obtain a declaration that the father and mother of the elder petitioner, Mr. Shedden, were lawfully married prior to his birth, and that he was their legitimate son and heir, and a natural born subject of the British Crown. The younger petitioner, Miss Shedden, was Mr. Shedden's daughter, and as it was stated that she has a brother living, it appears that her surprising efforts in the conduct of the case have been sustained by feeling rather than by interest. She seems to have devoted herself, with the ardent enthusiasm and imperfect logic of her sex, to the task of rescuing the memory of her grandmother from what she will no doubt believe to her last hour to be a calumnious and wicked imputation. Evidently she has taken up a conviction of the purity of her family history which will not be shaken by the most patient hearing and the most exhaustive arguments of adverse judges. So long as Miss Shedden lives she will assert that injustice has been done her in the Divorce Court; but we think that impartial spectators of the proceedings will be of opinion that, neither personally nor by counsel, was there any hope of her satisfying the Court of the truth of the allegations of the petition. The case which she propounded was, that William Shedden, her grandfather, the owner of certain estates in Ayrshire, went about the year 1770 to North America, where he married his first wife, who soon died. The petitioners alleged that in 1790 William Shedden married at New York his second wife Ann Wilson, and lived with her as her husband till his death in 1798. He had two children by Ann Wilson, a daughter still living, and the elder petitioner. It was common ground that William Shedden was married to Ann Wilson on his death bed. The respondents alleged that this was done in order to legitimize, as far as possible, the issue of an illicit intercourse. The petitioners undertook to prove that this ceremony was performed for the purpose of giving notoriety to a previous private marriage; that William Shedden and Ann Wilson had never lived together otherwise than as man and wife, known and visited as such by the best society in New York; and that his children were for all purposes legitimate, and inasmuch as he had adhered to the royalist side in the American war, and had retained his character of a British subject, they also were entitled to all the rights of natural born British subjects. The principal opponent of this claim was a nephew of William Shedden, named William Patrick, one of the children of the marriage of William Shedden's sister with John Patrick, who now holds certain estates in Ayrshire, by the title of heir to William Shedden, and which title of course depended upon the illegitimacy of the children of Ann Wilson. The main question in the cause, therefore, was whether these children were born in lawful wedlock, and it does not seem to us that this question was so much involved in doubt as might have been expected at so great a distance both of time and space. The principal respondent, although ninety years of age, is still in possession of his faculties, and there are several important witnesses yet living at an advanced age.

The respondents relied not only upon the evidence which they produced to prove that Ann Wilson was the mistress, and not the wife, of William Shedden, but

also upon three previous judgments of competent tribunals, which, as they alleged, had conclusively decided in their favour. There had been in 1801 a proceeding in the Scottish Court of Session by the guardian of the elder petitioner, then an infant, in which it was determined that he was not a legitimate son of William Shedden; and this decision was affirmed on appeal by the House of Lords. There had been in 1848 a further proceeding by the elder petitioner in the Court of Session, in which it was declared that the decree in the former suit had not been obtained by fraud, and which upon the merits re-affirmed the sentence of illegitimacy; and this decision also was sustained on an appeal to the House of Lords in 1854. And lastly, there had been a proceeding in the Court of Session as a consistorial court, which was dismissed. Upon the legal effect of these three judgments as a bar to the claim of the petitioners, Miss Shedden would have been allowed the assistance of counsel if it had been necessary. The Court, however, decided in favour of the petitioners, without hearing any argument on their side, on the ground that by the statute the Attorney-General was a necessary party to the present proceeding, and as he was not a party to the former suits, the respondents' plea of *res judicata* could not prevail. It had been further contended that the present proceeding was barred by the 10th section of the statute, under which it had been instituted. That section, however, only provides that no proceeding "to be had" under the Act shall affect any final judgment already pronounced, and does not say that no proceeding shall be had which may affect any such final judgment. Under the statute, therefore, the petition might be presented, and if the evidence in support of it were sufficient, a declaration might be obtained as prayed; but whether such a declaration could alter the right to property was at least doubtful. If the petitioners succeeded in making out their case, the respondents might then fall back upon the judgments of the House of Lords; but they could not set them up as a preliminary bar to the investigation. The Court, therefore, proceeded to hear all the evidence, material and immaterial, that was offered to it on several weary days; and although we may lament this great consumption of public time, it was nevertheless desirable that the case should be fully heard, and decided, as it has been, upon its substantial merits.

One of the principal features in the evidence was a letter alleged to have been written by William Shedden to the respondent William Patrick, in 1798, a few days before his death. That letter contained this passage:—"I am now going to quit this world. I have married Miss Ann Wilson, which is approved by my friends here, and which restores her and two fine children I have by her to honour and credit." If that letter was genuine there was an end of the whole case; and there really does not seem to be any ground to doubt its genuineness. It is seldom that a case which necessarily or unnecessarily has been protracted over many days can be brought to such a simple point; and when the controversy is thus reduced to its true dimensions we are filled with amazement and consternation at the enormous amount of time occupied by it. The combination of party and advocate in the conduct of the petitioners' case was of course an exceptional indulgence. It appears to be an excellent contrivance for wasting valuable time. If fatigue stops the party the counsel takes up the talk; and if the counsel is restrained by the habit of only speaking when he has something material to say, the party has no such scruples. In the present instance, both the course of the proceedings and the resolution and energy of the female petitioner have been such as are not likely to become common in our courts. But even after making every requisite allowance for these peculiarities, it is an alarming symptom of the rise of the tide of talk that fourteen days should have been occupied by a case that does not admit of any reasonable doubt.

STATISTICS OF THE COUNTY COURTS FOR 1859.

Our present County Courts were established by the 9 & 10 Vict. c. 95, but the jurisdiction conferred by that statute has since been frequently extended, as to the amount for which suits may be instituted, also to matters of insolvency, the arrest of absconding debtors, contested cases of probate of wills, charitable trusts, and to the protection of the property of married women deserted by their husbands. Prior to 1846, the jurisdiction of the then county courts extended only to 40s. But that amount was much more valuable when these courts were founded by Alfred the Great than the same denomination of coin is at present; so that the Act of 1846 may be considered as having restored, rather than created, the monetary jurisdiction of these courts. The denomination or value of 40s. runs through all our early legal records, as indicating almost a distinction of caste. The judges of these courts were the freeholders, presided over by the Earl. There existed prior to 1846, many other courts by prescription, and also manorial courts, having a jurisdiction as to claims of a small amount; upwards of 100 courts of request and courts of conscience were likewise established from time to time by statute, 46 of these being under separate local Acts. The Act of 1846 did not abolish these courts; but, as it defined the jurisdiction and procedure, and settled a moderate scale of the fees and costs of the county courts, it has, with the exception of the few instances hereafter noticed, virtually superseded the other courts. The Friendly Societies Act of 1855, the Summary Procedure on Bills of Exchange Act, 1855, and the Joint Stock Companies Act, 1856, have been extended to the county courts. The expense of maintaining the county courts, which amounts to almost the yearly sum of £250,000, is defrayed, with the exception of the salaries of the ministerial officers, by an annual vote. The Court is now by statute a court of record, and has an equitable, as well as a legal jurisdiction. It has a *quasi* exclusive jurisdiction as to claims under £20, with a few exceptions, and also as to cases under the "Protection Acts," and in some matters relating to Friendly Societies, in all which cases the judge's decision is final. It has a concurrent jurisdiction for claims not exceeding £50, but the judge's decision is open to appeal. It also has jurisdiction in cases of replevin, and ejectment between landlord and tenant. By sect. 23 of 19 & 20 Vict. c. 108, the parties—except in cases of criminal conversation—may by consent confer a jurisdiction upon the county courts. They have also a jurisdiction as to cases of partnerships, distributive shares on intestacy, and legacies up to £50. But when the claim exceeds £5, either party may require a jury to determine the action.

The plaints entered in the county courts in 1859 (including 61 cases sent from the superior courts) amounted to no less a number than 714,623. Of these 373,657 were adjudicated upon, of which only 988 were determined by a jury. No very conclusive inference can be drawn from the paucity of cases in which the parties exercised their right of having the aid of a jury, as to the less urgent necessity supposed to exist for such a tribunal in civil matters; because, as the claimant for a jury should pay the expense of this aid in the first instance, the smallness of the amount disputed, or the poverty of the opposite party, might be a sufficient motive to deter a party from such a course, even though he should prefer it. Moreover, as the parties themselves often conduct their cases in the county courts without professional aid, they may not be mindful of their right to claim a jury.

The procedure of these courts being practically of an almost exclusively executive character, used to enforce claims "rather than to determine disputed liabilities," we cannot, notwithstanding the confessedly general impression as to the uselessness of a jury as a method of trial in all civil cases, infer that the statistics of the county courts furnish any evidence of the actual influence of such an opinion on the conduct of persons who really had some important question of fact to be adjudicated upon. One peculiar circumstance also tends to vest the entire jurisdiction in the judge. He possesses a power not vested in the judges of the superior courts, of ordering that a judgment, when recovered by the plaintiff, if under £20, shall be paid by instalments. The Act appears to be silent as to the power of the judge to direct interest to accrue until the last instalment be paid. Yet this is an important element for the satisfactory exercise of such a discretion in the judge. The total number of judgments was for the past year 442,500; for the plaintiff, 285,984; for the plaintiff by consent, 137,978; for plaintiff by default, 588; of non-suit, 8,861; for defendants, 9,089. Of judgment summonses to enforce payment by commitment, 118,872 were issued, of which only 55,082 were heard, the issuing of the rest having probably produced the desired effect. The number of warrants of commitment issued was 27,284; of debtors imprisoned, 9,003; of executions issued against goods, 98,589, and of sales, 3,776. The total amount for which plaints were entered was £1,754,971; the amount for which judgments were obtained by plaintiffs on original hearings was, for debt, £851,732; for costs, £37,628. The total amount of fees on all proceedings was £215,623. The want of a *bonâ fide* defence in most of the cases that fall within the cognizance of these courts is shown by the facts noticed as evidence for this in the report, that more than one-half (52·2 per cent.) of the cases entered were settled without being brought before the Court, and that 64·6 per cent. of the judgments were for the plaintiff, and 31·2 per cent. were by consent for him also, the terms of payment, when settled, being capable of being enforced by the Court, so that in 96 cases nearly in the 100 the issue was for the plaintiff. Of the remaining cases, 2 per cent. ended in a non-suit, so that in 2 per cent. only was the issue for the defendant. Recourse was seldom had to extreme remedies on these judgments.

The commitments for debt did not exceed 2·2 per cent. The sales on executions did not exceed 0·8 per cent. The total amount sought to be recovered was £1,754,971, being an average of £2 9s. 1d. for each case. Judgments were obtained for rather less than half of the former sum. The nature of the litigations in these courts, as is observed by the report, is shown by the judgments, 250,189 of which were in cases of 40s. and under; 72,829 for sums from 40s. to £5; 26,790 for sums from £5 to £10; 11,225 for sums from £10 to £20; 3,631 for sums from £20 to £50; and 16, by consent, for sums above £50. It would be an important improvement in the statistics of these courts if the returns distinguished the legal from the equitable cases. We could thus infer how far the legal machinery of the superior courts of common law was adequate to the requirements of the community; for, although the amount for which claims are sought to be enforced in the two classes of superior and county courts is necessarily different, the average character of the causes of action may be fairly presumed to be the same.

Under the Charitable Trusts Act 140 cases were heard, in 137 of which relief was granted. Protection orders to married women deserted by their husbands were registered in 719 cases; in 6 such cases the orders were, on hearing, dis-

charged. The cases of insolvency were 1,944 ; of protection, 1,782. There were only two cases under the Probate Act.

Of the Borough Hundred Manorial Courts, and the courts held under local acts, only 33 are in active operation or demand, and in but 9 of these did the total of the amounts claimed exceed £1,000. But in 3 of these courts suits were instituted for the following large amounts, viz., in the Court of the Sheriff of London 9,677 plaints were entered for a total of £31,979 ; in the Manchester Court of Record, 3,225 writs were issued for a total of £42,253, and in the Court for the Hundred of Salford, 1,658 writs were issued, for a total of £21,368. In the Lord Mayor's Court, London, which has a varied and peculiar jurisdiction in matters connected with the City customs, foreign attachments, sequestrations, apprenticeships, &c., as well as in suits for debt, and in matters of equity, the total number of proceedings was 3,754 ; the total amount of claims, £392,978 ; and the total amount of fees, exclusive of costs, £1,869. In the Stannaries Court of Devonshire and Cornwall, which has an exclusive jurisdiction as to suits affecting the miners there, except as to land or life, decrees on the equity side were, in the past year, obtained for a total of £6,345, with £534 costs, and £208 court fees ; and on the civil side plaints were entered for a total of £1,150, and judgments obtained for a total of £442.

The county courts adjudicated upon more than half of the total of petitions filed under the Insolvency Acts during the past year, and upon nearly one-half of the petitions filed under the Protection Acts.

As statistics, however, are valuable only when complete, we shall defer stating the statistics of the county courts as to insolvency until we come to consider the statistics in insolvency generally, when a consideration of the several items, one with another, may best help us to form our estimate of the working of this species of jurisdiction, as also of the policy of the law generally which allows imprisonment to be inflicted upon debtors. It may, however, be here stated that in cases of absconding debtors, 69 warrants to arrest were granted ; the debt and costs were paid in 73 cases, (there is probably a mistake in these figures) ; and in 16 cases the warrant was suspended.

The statistics of so many warrants of commitment, and of such a number of actual imprisonments, under the ordinary jurisdiction of the county courts, suggest serious considerations as to the policy of the law in allowing commitments for debts of small amount. In Ireland the minimum amount for which a debtor may be committed is, we think, judiciously settled at £10. A similar rule in England (if, indeed, imprisonment for debt should not be wholly abolished), would not affect any proper credits, and would prevent the loss entailed upon the unhappy debtors by the present system, as also the expense of prisons *pro tanto* upon the public. The small ratio of the commitments to the warrants for commitment does not prove a healthful action of the system ; as the debtors, who thus at last paid their debts may have been either very litigious, and should not have been trusted, or, if unable to pay previously, had, perhaps, finally to borrow at a still higher rate of usury or overcharge, in order to resist this undue pressure of the law. Both these classes, the litigious and the oppressed, probably return, in some fixed cycle, to swell the statistics for each year ; as the same criminals, unreformed by punishment, return to the cells from which they often before issued.

Imprisonment for small debts is aggravated still more in its severity by the fact that it does not operate as a satisfaction of the debt, which may be sought to be enforced by subsequent executions against the goods of the debtor, or by his re-commitment, if, having acquired the means of pay-

ment, he will not discharge his liability, upon all of which facts the decision of the judge is conclusive.

The number of appeals was only 20, of the result of which the statistics do not inform us ; of orders to stay proceedings, 64 ; and of writs of *certiorari* to remove proceedings, 135. The statistics of these courts do not give the number of days on which the judges sat in each court, nor a general average of their sittings ; yet, this is a most important element in all considerations relating to the future improvement of these courts.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH, WESTMINSTER.

(Sittings in Banco, before Lord Chief Justice COCKBURN and Justices HILL and BLACKBURN.)

Nov. 26.—Ex parte Howard.—In this case an application was made for a rule calling upon Thomas Hinton, the publisher of the *Portsmouth Guardian*, to show cause why a criminal information should not be filed against him for a series of libels published in that journal, imputing to the applicant, Mr. Howard, the town clerk of Portsmouth, corruption in his office. A series of articles had been published in that newspaper commencing in August last, and continued to the 22d inst., imputing to the applicant that he had taken advantage of his position as town clerk to get the money of the ratepayers expended in publishing advertisements and lists in a journal in which Mr. Howard had some interest to the exclusion of other journals published in the same town, and read by a larger number of the working classes, whose money was so spent.

Lord Chief Justice COCKBURN intimated that he did not think that the case was one for the interposition of the Court. The town clerk might very properly apply to the town council to liberate him from any imputation, but the Court could not interfere.

Rule refused.

COURT OF COMMON PLEAS, WESTMINSTER.

(Sittings in Banco, Michaelmas Term, before Lord Chief Justice ERLE and Justices BYLES and KEATING.)

Nov. 26.—Shadwell v. Shadwell.—The Court to-day gave judgment in this case which was an action brought by the plaintiff, a Chancery barrister, against the representatives of his uncle deceased, on a written promise made by his uncle to allow him on his marriage £150 a-year until such time as he should make £600 a-year by his profession. The annuity was paid for thirteen years, and five years arrears were due. The plaintiff averred that he never had made this amount by his profession. The defendant demurred to the promise set out in the declaration on the ground that it was without consideration, and also pleaded that the plaintiff was to continue in his profession as the ground of the promise, and averred that he had left it, except to practise as a revising barrister.

The Court gave judgment for the plaintiff, but Mr. Justice Byles differed in thinking that there was no consideration for the promise to support the action.

Nov. 26.—Bulmer v. Morris.—This was a consolidated appeal from a decision of the revising barrister for the West Riding of Yorkshire, who had decided against the claim of a member of a joint-stock company to be placed on the register of voters for the county in respect of his interest in the corporate property of the company of which he was a member. The Court affirmed the decision of the revising barrister.

COURT OF EXCHEQUER.

(Sittings in Banco, before the Lord Chief Baron, Mr. Baron BRAMWELL, Mr. Baron CHANNELL and Mr. Baron WILDE.)

Nov. 26.—Fidley v. Oxlade.—This was an action, by an attorney, to recover costs, arising out of an action which he brought for the defendant against another person, under the Bills of Exchange Act. The twelfth day allowed by the statute to

sign judgment fell upon a Sunday, when the plaintiff signed on the following day.

The judgment was set aside by a judge at chambers, on the ground that Sunday ought not to have counted as one of the twelve days.

The defendant in the present action pleaded the signing by the plaintiff as negligence, when the under-sheriff before whom the case was tried told the jury that he was bound by a decision of the Lord Chief Justice to the effect that Monday was too soon, and therefore, the judgment was wrongly signed, whereupon the jury found for a much smaller amount than the plaintiff claimed.

A rule was moved for and obtained on the 3rd inst (*ante* p 4) on the ground that the judgment was rightly signed, and, if not, then there was neither negligence in law nor fact. It was stated to be a matter of importance to the plaintiff, who carried on an extensive agency business, to know whether the twelve days were inclusive or exclusive of Sunday.

The defendant in person now showed cause against the rule.

The LORD CHIEF BARON intimated that, inasmuch as there existed a difference of opinion on the bench as to whether the judgment was rightly or wrongly signed, under the circumstances detailed, and, as the question was one of considerable importance to the profession as well as the public generally, it was advisable that some settled rule should be arrived at on the matter. The rule, therefore, with the consent of both sides, was enlarged till next term.

CENTRAL CRIMINAL COURT.

Nov. 25.—The sittings of the above court were resumed on this day. The court was opened at 10 o'clock by the Right Hon. the Lord Mayor, who presided for the first time in that capacity. Mr. Russell Gurney, Q.C., the Recorder, Mr. Robert Malcolm Kerr, judge of the Sheriffs' Court, Aldermen Challis, Finnis, Sir R. W. Carden, Rose, Phillips, and Conder, Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Lusk, Mr. Under-Sheriff Eagleton, and Mr. Under-Sheriff Gammon. The calendar was much lighter than usual.

Mr. James Mason, of No. 42, Chalcot-villas, Haverstock-hill, has been appointed a London commissioner to administer oaths in the High Court of Chancery.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; *Common Law and Criminal Law* by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

TRUSTEE—SOLICITOR.

Pollard v. Doyle, V. C. K., 9 W. R. 28.

This case affords one of the harshest illustrations of the rule which deprives solicitor-trustees of their costs. A solicitor was the executor of a plaintiff in a suit to satisfy a judgment debt, to which the judgment creditors were parties. The plaintiff having died, the executor (the solicitor) revived the suit in his own name, and conducted it in a most beneficial manner, as it appeared, for the parties interested. The assignee of the judgment creditor, who resisted the payment of profit costs to the solicitor, it was admitted obtained the assignment subsequent to, and with notice of, a decree directing the taxation and payment of costs. The Vice-Chancellor held, however, that as between the plaintiff and the judgment creditors—although there appeared to have been no reason originally for making them parties—nevertheless, that between them a fiduciary relation existed, and, therefore, that the solicitor should be allowed no profit costs. This case is mainly useful as settling the point that there is no distinction between the case of a solicitor who is an express trustee, and one who is a trustee merely by construction of law; nor between the case of a solicitor-trustee and his *cestui que trusts*, and that of an executor and the parties beneficially interested in the estate of the testator. The latter

point, however, appears to have been assumed as unquestionable by Lord Lyndhurst, in what may be considered the leading case on the general rule—namely, *New v. Jones*, 1 M. N. & G. 668 (n).

RAILWAY COMPANY—PARTIES.

Hare v. The London and North-western Railway Company, V. C. W., 9 W. R. 33.

An interesting question, as to the necessary parties to a suit instituted against a railway company and its directors, arose in this case. The bill was filed by a stockholder, for the purpose of setting aside as illegal and void an agreement entered into (in 1856) between the directors of the defendant's company, and six other companies, for the purpose of regulating the Scotch through traffic. An objection was taken upon the case being opened, that the suit could not proceed in the absence of the six other companies, who had been acting upon the agreement during the four years since its execution. The leading case upon the subject of parties, where any transaction of a public body, or of any of its members, is impeached in the Court of Chancery is the case of the *Attorney-General v. Wilson*, 1 Cr. & Ph. 1, in which Lord Cottenham laid it down, that where a liability arises from the wrongful act of several parties, each is liable distinctly from the others. In that case an information and bill was filed by the Corporation of York for the purpose of making five of its members personally liable to make good certain funds which it was alleged had been wrongfully dealt with by the defendants: for whom it was argued that the acts complained of were done by direction of the corporation; that persons acting in a corporate character are not personally liable; and that it would be unjust to fasten a liability upon five individuals out of a large number who had joined or acquiesced in the impeached transaction. Lord Cottenham held, however, that the suit was properly framed, and decreed the relief to the plaintiffs which they sought against the five individual defendants, in the absence of the other persons, who, it appeared, had joined or acquiesced in the transaction complained of. His Lordship, referring to the older case of the *Charitable Corporation v. Sutton*, 2 Atk., 400, said, "It was urged that as the injury had arisen from the misconduct of many, each ought to be answerable for so much only as his particular misconduct had occasioned;" but Lord Hardwicke said, "If this doctrine should prevail it is indeed laying the axe to the root of the tree. But if upon inquiry there should appear to be a supine negligence in all of them by which a gross complicated loss happens, I will never determine that they are not all guilty; nor will I ever determine that a court of equity cannot lay hold of every breach of trust; let the person guilty of it be either in a private or a public capacity." "In cases of this kind," Lord Cottenham continues, "where the liability arises from the wrongful act of the parties, each is liable for all the consequences, and there is no contribution between them, and each case is distinct, depending upon the evidence against each party." In the present case, applying the principle laid down by Lord Cottenham, a suit might probably have been maintained against the directors individually, or such of them as were parties to the impeached agreement, if it could be shown that they had been guilty of a wrongful act which caused damage to the plaintiff; but the agreement having been acted upon by the six other companies for a period of four years, and the plaintiff seeking to set it aside altogether, and not merely to get compensation for the wrong which had been done, it was necessary to make the six other companies parties to the suit, inasmuch as they had a clear interest in the subject matter of litigation. The Vice-Chancellor, therefore, allowed the objection; and the case is useful as showing one important limitation to the rule laid down by Lord Cottenham in the *Attorney-General v. Wilson*.

COMMON LAW.

PROPRIETARY CHAPELS—RIGHT OF ENTRY. LAW AS TO.

Bosanquet v. Heath, Q. B., 9 W. R. 35.

Every parishioner has an undoubted right to resort to his parish church for the purpose of attending divine worship there; and cannot be compelled to leave it so long as he conducts himself there with propriety. And if the churchwardens or others (in or out of authority) cause him on any pretext—short of his improper behaviour therein—to be removed against his will from the edifice, he is entitled to sue them at law, and

recover damages for the assault. It is, however, important to remember that this right extends only to the *parish* church; and not to any other place of worship within its boundaries which has been dedicated and devoted by the proprietor thereof to the service of God, according to the rites and ceremonies of the Church of England; or which is used for such worship by a dissenting congregation. Such buildings (though in the case of a Church of England chapel they must be duly *licensed* by the bishop) retain their character of being private property; and the owners thereof may justify the removal of any person who, against their permission, persists in entering, though for the purpose of joining in divine worship. And in the present case, accordingly, the defendant in an action brought against him for removing the plaintiff from a proprietary chapel, successfully justified as the owner. It is apprehended that the law on this point with regard to *district* churches, which under the New Parishes Acts are the legalized places of Church of England worship for the inhabitants of a district, constituted for ecclesiastical purposes a new parish, is somewhat different; and that to such a church a resident within the district has a right to resort, concurrently with his common law right also to resort to the church of that parish to which he is assessed to the poor rate. But this is a point upon which it is not intended to express here any decided opinion. (See *Ball v. Cross*, 1 Salk. 165. *Dent v. Robs.* (You. & L. 1.)

ARBITRATION, LAW OF—AMENDMENT—ORDER OF REFERENCE "ON THE USUAL TERMS."

Thompson v. Bowyer, C. P., 9 W. R. 35.

Where an order of reference is made at the trial by consent "on the usual terms," one of such terms is as follows, "That the arbitrator shall have all the powers as to certifying and amending pleadings and proceedings and otherwise of a judge at *nisi prius*." Such a clause appears to form one of the usual terms from the book of practice (see Chitty's Forms of Practical Proceedings, 7th ed. p. 869); and that it is, in practice, usually inserted in such orders when fully drawn up, is common learning. In the present case an order agreed to be on the "usual terms," seems to have been inadvertently drawn up *without* the insertion of an amending clause which was afterwards, at the instance of the referee, inserted under a supplementary order. One of the parties to the reference opposed such order being allowed to stand, contending that its insertion varied the terms of the reference; and if it had so operated, the Court would have set it aside, for an order of reference cannot be varied (see *Morgan v. Tarte*, 11 Exch. 82). But the Court held that the original order being directed to be "on the usual terms," a power of amending co-extensive with that of a judge at *nisi prius*, became thereby vested in the referee without any express clause to that effect.

CRIMINAL LAW.

ABDUCTION OF GIRLS FROM THE POSSESSION OF THEIR PARENTS—9 Geo. 4, c. 31, s. 20.

Reg. v. Timmins, C.C.R., 9 W. R., 36.

The abduction of a child (whether male or female) under the age of *ten years* from its parents or guardian, either with the intent to deprive them of its possession or to steal any article on its person, is dealt with by 9 Geo. 4, c. 31, s. 21, and is thereby made a *felony*; and it is punishable with penal servitude or imprisonment. And by the preceding section of the same statute, the taking of an *unmarried girl*, under the age of *sixteen years*, "out of the possession" of her parents or guardian is made a misdemeanour punishable by fine or imprisonment, or both, though no intent can be shown, so that the taking be "unlawful."

The present case was an indictment under the last section, and it appeared that the prisoner had taken the girl in question (aged 14 years and 4 months) from her home, where she was living with her parents, for the purpose of having connection with her (with her own consent and without the knowledge of her father), intending at the time that the taking should be *temporary* merely. The time of her absence was three days. The question reserved for the judges was whether a temporary taking away, was sufficient to constitute an offence under the statute.

The Court held that under the particular circumstances of the case, the offence had been committed; the taking of the girl away for so long a period as three days, being inconsistent with her father's possession of her. But the Court

confined themselves to the particular case before them, and declined to express any opinion as to what would be the effect of merely causing the girl to pass her father's threshold for an immoral purpose. It may be remarked that it has been, in several cases, held that the girl's consent in these cases is not material.—(See further as to the proper construction of this section of 9 Geo. 4, c. 31; *Reg. v. Meadows*, 1 Car. & Kir., 399; *Reg. v. Robins* ib. 456, and *Manktelow's Case*, 1 Dears. C. C. R. 159.)

EMBEZZLEMENT, WHAT CONSTITUTES AN.

Reg. v. Guelder, C. C. R., 9 W. R., 38.

The question for the Court here was whether the following facts constituted the crime of embezzlement.

It was the duty of the prisoner, as the servant of certain overseers, to collect rates; and on receiving them, to pay them into a bank to the account of the overseers, obtaining in return from them a receipt in respect of the sums so paid in. It was also his duty to enter in a book kept by himself the various sums he received, thus charging himself at the half-yearly audit by his own book, and discharging himself by the overseer's receipts. The prisoner appropriated to his own use certain monies he so received; and then obtained from the overseers their receipts in respect of the same sums, by falsely asserting he had paid them into their account; and by this means he successfully passed through the next audit, though prior to such audit he properly entered into the book which he kept himself, the various sums he had in fact received and appropriated. The Court, without calling on the counsel for the Crown, held that on these facts the prisoner had been rightly convicted of embezzlement; inasmuch as he could not purge himself from the offence of appropriating to his own purposes monies he had received, by afterwards charging himself with their receipt in his book.

There does not, in truth, seem the least ground to doubt of the propriety of the conviction in this case, though the propriety of reserving such a point for the consideration of the Court seems more questionable. Surely a clearer case has seldom been tried; or one in which the facts proved amounted more conclusively to that offence of embezzlement as defined in the books—namely, "a crime which is distinguished from *larceny* as being committed in respect of property which is not at the time in the actual or legal possession of the owner." (See *Reg. v. Gill*, 1 Dears. C. C. R. 289.)

Correspondence.

EXONERATION OF DEVISED MORTGAGED ESTATES FROM THE MORTGAGE DEBT.

Until the 17 & 18 Vict. c. 113, commonly known as Locke King's Act, the devise of a mortgaged estate was generally entitled to have the mortgage debt paid out of the testator's personalty in exoneration of the devised land. This rarely accorded with the testator's intention, and was frequently productive of hardship, the testator's widow and children being often left unprovided for, in order that the devisee of the mortgaged estate might take the property free from the incumbrance. To remedy this state of things the above-mentioned Act was passed, by which the mortgaged property is made primarily liable to its own burden, unless a contrary intention is expressed by the testator. What is a sufficient indication of a contrary intention becomes, then, a very important question. The first case in which it arose was that of *Woolstencroft v. Woolstencroft*, 8 W. R. 405, where the testator directed that "all his debts should be paid by his executors out of his estate." And Sir J. Stuart, before whom the case came, decided that mortgage debts were, by virtue of this direction, made payable out of the personalty in exoneration of the devised mortgaged land; for how, argued the learned Judge, could a testator more clearly indicate his intention that the devisee of the mortgaged estate should not be called upon to pay the mortgage debt, than by directing that it should be paid by somebody else? The next case was *Pembroke v. Friend*, 1 John. & H., 132, in which there was simply a direction that the testator's debts should be paid, but without saying by whom; and Vice-Chancellor Wood held that this was not sufficient to throw the mortgage debt on the personal estate. And the testator, said the Vice-Chancellor, added the words "by my executors," there would have been something on which to build the conclusion

that he meant to express an intention that the general statutory rule should not apply; and, on the ground that there were no such words, he distinguished the case before him from *Woolstencroft v. Woolstencroft*, of which, however, he intimated no disapproval. The question next came before Vice-Chancellor Kindersley in *Stone v. Parker*, 8 W. R., 722, where the testator directed that his trustees should hold his residuary real and personal estate, "subject, in the first place, to the payment of his debts, &c.," upon the trust therein mentioned. And the Vice-Chancellor, following and approving of *Woolstencroft v. Woolstencroft*, held that the mortgage debts were thrown on the general residue in exoneration of the mortgaged land. Another case still remains to be mentioned, namely, that of *Smith v. Smith*, 10 Ir. Ch. R., 89, before the Master of the Rolls in Ireland, where the testator directed that his debts and legacies should be paid out of his residuary personal estate. And this was held sufficient to entitle the devisee of mortgaged property to have the mortgage debt discharged out of the residuary personalty. The last-mentioned case is particularly valuable, because the opinion of the judge was not founded on the preceding cases, which either were not then decided, or were not cited, but was arrived at quite independently of authority. We have, therefore the express decisions of three equity judges—Vice-Chancellor Stuart, Vice-Chancellor Kindersley, and the Master of the Rolls of Ireland, that a direction by a testator that his debts should be paid, or that they should be discharged out of his personal estate, is sufficient to throw mortgage debts primarily on the personalty; and although reliance cannot be placed on *Pembroke v. Friend* as sanctioning the same doctrine, yet Vice-Chancellor Wood certainly intimated no disapproval of it in that case. The doctrine, fortified by such authority, might reasonably have been considered as settled; but unfortunately it may now almost be said, slightly varying the old proverb, "*Quot judices et sententia*;" and no reliance can be confidently placed except in the decisions of the Court of ultimate appeal. The case of *Woolstencroft v. Woolstencroft*, as will be seen by referring to 9 W. R. 48, has been reversed by the Lord Chancellor. *Pembroke v. Friend* was referred to as the only other case which had occurred since the Act; and it is very much to be regretted that the case of *Smith v. Smith* was not mentioned, because the Lord Chancellor evidently had some hesitation in making up his mind; and that case might have turned the scale in favour of the Vice-Chancellor's decision. The authority of the Lord Chancellor's judgment is certainly much diminished by the fact that that case was not brought to his notice; and, although his decision is binding on all inferior courts, yet it is submitted that there are strong grounds for contending that it would not be upheld in the House of Lords. It is a rule of construction, now firmly settled, that the words of a testator should have their ordinary meaning, unless we can discover from the will that he has used them in a different or more limited sense. Now the word "debts," in its ordinary signification, includes debts of every description—debts by simple contract, debts by specialty, and mortgage debts; the only difference existing between these several kinds of debts consisting in the more or less extensive remedies which the creditor has for their recovery. Consequently, when a testator directs his debts to be paid by his executors or out of his personal estate, we are bound, according to the above-mentioned rule, to consider this as a direction that his mortgage, as well as other debts, should be thus paid, unless we can discover on the face of the will that the testator used the word "debts" in a more limited sense. There was nothing in *Woolstencroft v. Woolstencroft* to sanction such an hypothesis; the testator probably did not really intend to throw the mortgage debts on the personalty, but this is not the question. We have only to interpret his words; and it is our duty to give those words their full and ordinary meaning, unless it is clear from the four corners of the will that they were not used in this sense. The Vice-Chancellor's decision gave full effect to the direction that the debts should be paid by the executors, which, if the word "debts" includes mortgage debts, are no longer merely expressive of what the law would otherwise imply. The Lord Chancellor's judgment, however, puts a forced construction on the word "debts," reading it to mean "debts exclusive of mortgage debt;"—and renders the whole of the direction that the debts should be paid by the executors objectless and of no effect. It seems, therefore, to offend against two well settled rules of construction, one of which tells us to read the words of a testator in their ordinary sense, and the other which directs us to give full effect, if possible, to every word and clause in a testator's will.

A. B.

TRUSTEES RIGHT TO BE RECOUPED IN RESPECT OF BREACH OF TRUST.

Previously to the marriage of A. with B. a sum of £1,200 was settled upon the husband and wife and their issue, and ought to have been invested in the trustees' names in the public funds upon the trusts of the settlement.

This was unfortunately not done, and the husband prevailed upon the trustees from time to time to advance him various sums of money to pay his debts and extricate him from his embarrassments, and he has in the aggregate received the whole of the trust fund.

The trustees, being liable to make good the same will pay the amount into court when required so to do in a suit instituted by one of the family, an infant, against them and their father for the due administration of the estate.

I shall be glad if any of your correspondents can inform me whether on application to the Court by the trustees against the husband, or otherwise, for payment by him into court of the amount received by him would be entertained and successful; and if they can refer me to any precedent on the subject it will be more agreeable.

M. A.

ROAD MURDER.

One of the grounds of the application of the Attorney-General for quashing the inquisition is that it was made on paper instead of parchment; surely this is untenable. Had the inquisition found that A. B. did murder the child, then undoubtedly parchment should have been used, as it would have at once become matter of record, upon which A. B. would have been indicted. The return of wilful murder against some person or persons unknown never could have become so, whatever further investigations might bring to light; in the latter case, therefore, paper would be sufficient, and granting this difference, the absurdity is not so great as the *Times* proclaims.

J. S.

THE TRUSTEES MORTGAGEES, &c., ACT.

The powers by this Act made incident to mortgages and charges, are by the 11th section conferred upon "The person to whom such money shall for the time being be payable his administrators, executors, and assigns." This is, of course, an imitation of the not unusual proviso in a mortgage-deed, that the power of sale may be exercised by any person entitled to give a receipt for the purchase money. The effect of this appears to be that if the apparent mortgagee be agent or trustee for another, or assign the mortgage debt, and the mortgagor receive notice that he is no longer authorized to receive the money, he will cease to fill the character to which the powers are annexed, and they will henceforth be exercisable (if at all) by his principal *cestui que trust* or assignee. Whereas, in an ordinary mortgage deed, the powers are merely equitable. This mode of defining the person by whom they are to be exercised is found to work well, because, although the exercise of the powers by persons to whom the money was not properly payable would not be of any effect between persons with notice, yet a purchaser for value without notice would be safe, provided nothing appeared on the deeds to show that the powers had been exercised by, or the mortgage money repaid to other than the right person. But whenever the mortgagor in a mortgage under this Act shall have the legal estate in him at the time of creating the charge, the 15th and 19th sections will confer legal powers; and it is by no means clear that this vesting of legal powers in a person defined by a purely equitable test will work equally satisfactorily. These legal powers were apparently introduced to enable a legal owner of real estate to confer all the powers of a legal mortgagee by a simple deed of charge, not requiring a reconveyance. But if I am right in holding that as soon as a mortgagor learns that he cannot properly repay the mortgage money to the apparent mortgagee on his sole receipt, the latter ceases to have this power, it is clear that no title can be considered good in which the dissolution of the legal estate depends on this power having been exercised by the proper person; and the only question remaining for consideration is whether a purchaser in possession of the legal estate conveyed by the mortgage deed is safe from the consequences of these powers being kept alive by circumstances of which he has no notice. If a mortgagor or purchaser under a power of sale pay the mortgage money to an apparent mortgagee, with notice that he is not authorized to receive the purchase-money, and through fraud or accident

it fail to reach the hands of the proper person, the mortgaged estate would, but for the protection given in equity to purchasers for value without notice, and for the Statute of Limitations, always continue liable to pay the money over again. The person, then, to whom the money was properly payable previously to the improper payment still satisfies that description, and is therefore still entitled to exercise the legal powers of conveying the property after a sale, and of collecting the rents through a receiver; and as these powers extend to "all the estate or interest, which the person who created the charge had power to dispose of," they will take precedence of the legal estate conveyed by the same deed.

The courts of law will probably struggle to put some more limited construction on the words "the person to whom, &c.," but as a satisfactory construction must include "assigns" of the mortgage debt, and must be independent of any legal estate in the mortgaged property, this will be difficult, and any such limited construction will make the equitable powers conferred by the Act less extensive than those of an ordinary mortgage deed.

It is not unusual to convey property to a trustee upon trusts for sale, and for securing loans to more than one lender. In these cases each lender will have all these powers, and as they all arise under the same deed, many curious questions as to priority may arise, if the various lenders quarrel and try to exercise their powers.

Of course, the Act should be expressly excluded from every deed for securing the repayment of money, and in case a clause to that effect should be omitted, care should be taken to preserve satisfactory evidence that the mortgage money was repaid to the proper person, as it is possible that, without such evidence, the fact that a mortgage to which the Act applied had affected the legal estate might be held a valid objection to the title.

H. R. D.

The Provinces.

LIVERPOOL.—The Liverpool Association for the Promotion of Social Science held its first meeting on the evening of Tuesday the 20th inst. at the Lecture Hall of the Royal Institution. Thomas Stamford Raffles Esq., stipendiary magistrate, in the chair. The following papers were read at the meeting,—*"The Relation of Statistics to Social Science"* by Mr. Danson, and on *"The Treatment of Adult Criminals,"* by Mr. George Melly. Considerable discussion ensued upon the reading of the latter paper in which the institution of a Court of Criminal Appeal was strongly advocated.

Foreign Tribunals and Jurisprudence.

(Condensed from the Boston, U.S., Monthly Law Reporter.)

SUPREME COURT OF MASSACHUSETTS.

COMMONWEALTH v. IRA TEMPLE.

The legislature, exercising the sovereign power of the State, either by general law or special enactment, have control of all public easements and accommodations for the general benefit.

The right of every one to use the highway is equal, but each is bound to a reasonable exercise of his absolute right.

Where a driver of a waggon made use of the track of a horse-railroad for the wheels of his waggon, and upon the approach of the car behind him, refused to move off the track when requested by the conductor of the car, although he had room and opportunity so to do:

Held, that he was liable to indictment therefore.

Held, also, that if the driver wilfully intended to follow his own convenience, in violation of the equal rights of others, it would be sufficient proof of a malicious motive on his part.

A novel question arose in this case as to the rights of the owners of a street railway—

The following judgment of Shaw, C.J., sufficiently discloses the facts, and is interesting to English lawyers on account of the propositions of law which it contains.

SHAW, C.J.—Since horse-railroads are becoming frequent in and about Boston, and are likely to become common in other

parts of the Commonwealth, it is very important that the rights and duties of all persons in the community, having any relations with them, should be distinctly known and understood, in order to accomplish all the benefits, and, as far as practicable, avoid the inconvenience arising from their use. This is important to proprietors and grantees of the franchise, who expend their capital in providing public accommodation, on the faith of enjoying with reasonable certainty the compensation in tolls and fares which the law assures to them; to all mayors, aldermen, selectmen, commissioners or surveyors especially appointed by law for the care and superintendence of streets and highways; to all persons for whose accommodation in the carriage of their persons and property these ways are specially designed; and to all persons having occasion to use the ways through or across which these horse railroad cars may have occasion to pass. These railroads being of recent origin, few cases have arisen to require judicial consideration and no series of adjudicated cases can be resorted to as precedents to solve the various new questions to which they may give rise.

But it is the great merit of the common law, that it is founded upon a comparatively few, broad, general principles of justice, fitness, and expediency, the correctness of which is generally acknowledged, and which at first are few and simple; but which, carried out in their practical details, and adapted to extremely complicated cases of fact, give rise to many, and often perplexing questions; yet these original principles remain fixed, and are generally comprehensive enough to adapt themselves to new institutions and conditions of society, new modes of commerce, new usages and practices, as the progress of society in the advancement of civilization may require.

In the first place, all public easements, all accommodations intended for the common and general benefit, whatever may be their nature and character, are under the control and regulations of the legislature, exercising the sovereign power of the State, either by general law or special enactment. It may be done by a charter, or a special act of incorporation, in case of a bridge over broad navigable waters; or where the necessity for its exercise is of frequent recurrence, it may be by the delegation of power to special tribunals, or municipal government, by general laws.

Again, when the entire public, each according to his own exigencies, has the right to the use of the highway, in the absence of any special regulation by law, the right of each is equal; but as two or more cannot occupy the same place at the same time with their persons, their horses, carriages, and teams, or other things necessary to their use, each is bound to a reasonable exercise of his absolute right in subordination to a like reasonable use of all others; and not to encumber it over a larger space, or for a longer time, to the damage of any other, than is reasonably necessary to the beneficial enjoyment of his own right. If an adjacent proprietor has occasion to stop at his own gate with a carriage or team, if he has occasion to deliver wood, coal, or other necessities; or if he is a trader, to deliver or receive merchandise, he must place his team or carriage, for the time being, in such manner as to obstruct the way for the use of others as little as is reasonably practicable, and remove the obstruction within reasonable time to be determined by all the circumstances of the case.

So in the actual case of the highway. Each may use it to his own best advantage, but with a just regard to the like right of others. Persons in light carriages, for the conveyance of persons only, have occasion, and of course a right, when not expressly limited by law, to travel at a high rate of speed, so that they do not endanger others. But all foot passengers, including aged persons, women, and children, have an equal right to cross the streets, and all drivers of teams and carriages are bound to respect their rights, and regulate their speed and movements in such a manner as not to violate the rights of such passengers. So in regard to drivers of fast and slow carriages; each must respect the rights of the other. Take a single illustration: if a heavily loaded ox-team be passing along a street wide enough for only one carriage, say fourteen feet, and other fast carriages follow, these last must, for the time being, be restrained to their speed, because this necessity results from these circumstances,—the narrowness of the way, and the ordinary slowness of the ox-team ahead. If parties thus travelling in the same direction should come to a portion of the way wide enough for carriages to pass each other, say twenty feet wide, it is obvious that if the driver of the heavy team would turn to either side, it would give the fast team room to pass, whereas, if he should keep the middle, the five or six feet on either side would not permit any carriage to pass.

Now, supposing no impediment should intervene, and no circumstance should render it dangerous for the driver of the slow team to bear off, in our opinion it would be his duty to do so, although it might suit his convenience better to keep in the middle; and his refusal thus to bear off would be an abuse of his own equal and common right, for which, if injurious to another, an action would lie; and, if it was a public highway, the party would subject himself to a public prosecution.

In some few cases, the regulation of the use of the highway is important enough to require a rule of positive law, requiring each traveller, when meeting, to turn to the right of the centre;—in some states to the left. But the circumstances, under which travellers may be placed in relation to each other are so various, that it would be impacticable to prescribe any positive rule approaching nearer to certainty than the rule of common law, that each shall reasonably use his own right in subordination to the like reasonable use of all others.

With these views of the law regulating the use of public ways, we will examine the present case, as it appears on the exceptions.

We understand that a horse-railroad and cars are a modern invention, designed for the carriage of passengers, and though not moving with the speed of steam-cars, yet with the average speed of coaches, omnibuses, and all carriages designed for the conveyance of persons.

The accommodation of travellers, of all who have occasion to use them, at certain rates of fare, is the leading object and public benefit, for which these special modes of using the highway are granted, and not the profit of the proprietors. The profit to the proprietors is a mere mode of compensating them for their outlay of capital in providing and keeping up this public easement.

A franchise for the railroad, which the defendant was accused of obstructing, had been duly granted to the proprietors, which grant included the right to lay down tracks on a public highway, and also to use and maintain horse-cars thereon for the carriage of passengers.

Every grant, by an obvious and familiar rule of law, carries with it all incidental rights and powers, necessary to the full use and beneficial enjoyment of the grant; and when such grant has for its object the procurement of an easement for the public, the incidental powers must be so construed as most effectually to secure to the public the full enjoyment of such easement.

It appears that the proprietors of the horse rail-road having received a franchise, had laid down a railway track, and had procured horse-cars, with suitable conductors, and were in the actual use of the track. The defendant, with a heavily loaded team,—it does not appear whether an ox team, or a horse team,—was on the public street driving from Charlestown to Boston, with one of his wheels on the railroad track, when the cars came up behind him. The defendant's team was moving at the usual rate for teams of that class, but at a less rate of speed than the cars were in the habit of moving. There was room outside the track for either vehicle to pass the other. When the cars came up, the conductor asked the defendant if he would remove his team from the track; he did not, but continued upon it, at the same rate of speed, several hundred feet, and then turned off.

Several things are here to be observed. The cars could only pass on one precise line. The waggon could deviate to the right or to the left, within the limits of the travelled part of the road. The public by the grant of the franchise had granted the right to move on that precise line, and had given to all passengers the right to be carried on that line at the usual rate of speed at which passengers are carried by horses, subject only to occasional necessary impediments. The cars cannot so move and the passengers cannot be so carried, whilst the waggon moves on the track. No impediment is shown to prevent the waggon from turning out. The waggon, therefore, is, for the time being, an unnecessary obstruction of the public travel, and therefore unlawful.

It is stated among the above-mentioned circumstances in the bill of exceptions, as if the two vehicles were upon an equality in this respect, that there was room on either side for either vehicle to turn out, but this is mere illusion, the waggon could turn out, the cars could not: *ad impossibilia lex non cogit*.

It is said above that it is usual for those in charge of heavy and slow teams to drive them with one wheel on the track, and that they could be driven much more easily in that place than in any other part of the street. This is no justification. Whilst the track was not required for the cars, perhaps the teamster had a right so to use it. But when required for the cars, which could pass in no other mode, he had no legal right to

consult his own convenience, to the great inconvenience, the actual injury, of the equal rights of another.

It is no excuse that the defendant did not get upon the track in the first instance with the intention of obstructing the passage of the cars, or that he did not slacken his rate of speed on their approach; it is a nuisance, if, for his own benefit, he violates the rights of others; and if this consists in the violation of a public right, indictment is the appropriate remedy for its vindication and redress. Nor is express malice, a disposition or desire to cause damage to another, as in case of malicious mischief, necessary to the completion of the offence. It is a nuisance if one wilfully seeks and pursues his own private advantage, regardless of the rights of others, and in plain violation of them; it is a wrong done. And as every man must be presumed to intend all necessary, natural and ordinary consequences of his own acts, it is a wilful and intended wrong; it is malice,—a thing done *malo animo*,—in the sense of the law and no other malice need be proved, to show the act to be a nuisance.

If it be said that the obstruction in this case was very slight, that the cars were delayed but a very short time,—the answer is, that this is very true, and the injury may be trifling in itself, but vindicated and justified as it is in the argument, on the ground of right, it tests a principle of very great importance. If the driver of a heavily loaded truck or wagon may, for his personal convenience, use one rail of the track, wilfully, for a few hundred feet, others may use the other rail for the like purpose, and for any distance which suits their convenience. Cars, which at the ordinary speed of horses in carriages would pass a given space in one hour, may be three or four in accomplishing it. Passengers whose business requires them to be at the place of destination at a fixed time, and who expect, and have a right to expect, that it will be reached in that time, may find their business greatly deranged.

Men who, relying on the establishment of horse-cars for their daily passage, have fixed their domicile in one place and their ordinary place of business in another, may find their plans of life thus defeated. Indeed, without pursuing the effect of the right contended for into all its consequences, the establishment of such a principle might essentially impair the value of real estate in many situations.

FRANCE.—The Civil Tribunal was on Monday called on to decide another case relative to the arrest of a foreigner for debt. The Prince of Salm-Salm was on the 27th of March last lodged in the Debtors' Prison, in the Rue de Clichy, for the non-payment of a sum of 865*fr.*, due to tailors of the names of Bulson and Lange; and on the 23rd of April following another man named Cornet lodged a detainer against him for 2,022*fr.*, in virtue of two judgments of the Tribunals of Commerce obtained in 1859. Yesterday the Prince called on the Civil Tribunal to order his release, on the ground that the tailors had caused him, as a foreigner, to be arrested "provisionally," as it is called—that is, on a simple declaration that he owed them money—but had neglected within a week after to take proceedings to obtain a definite judgment against him, as required by Art. 15 of the law of 1832, relative to arrests for debt; and on Cornet's claim he also applied to be set at liberty because the judgments which that person had obtained had omitted to say how long, in the event of his not paying he was to be kept in prison,—an omission which he contended to be fatal under the said law. The Tribunal, after hearing arguments, decided that the Prince must be set at liberty from the tailor's arrest, but that his other demand could not be granted, a law of 1848 having modified that of 1832 with regard to the point raised.

Metropolitan and Provincial Law Association.

ON THE DEFECTS OF OUR JURY SYSTEM.

The following paper was read at a meeting of the Newcastle meeting of this association by Mr. THOMAS GEORGE GIBSON.

The substance of the paper was prepared for the meeting of this society held last October, but a press of other matter prevented its being then read.

The delay is not altogether regretted by the writer, as the publication in the early part of this year of the third report of her Majesty's commissioners for inquiring into the process, &c., of the superior courts of common law, encourages him to direct attention to the subject with a degree of confidence which was before wanting on his part.

It will be generally admitted that a feeling widely prevails that the practical results of our jury system do not entirely harmonise with the expectations which a consideration of the theory would seem to justify. So strongly, indeed, has this been felt in some quarters, that the institution of "trial by jury" has more than once of late years been called upon for its defence.

The common law commissioners entered very elaborately into this general question in their second report presented in 1853. The conclusion they arrived at is expressed as follows:—

"While, however, we feel that there are cases in which a jury may be dispensed with, yet being of opinion that trial by jury on the whole works well and enjoys the confidence of the public, we do not think ourselves warranted, except in cases of mere account, to recommend that trial by jury should be superseded, unless the parties themselves prefer that the case should be tried by a judge."

This decision, however, was not accepted as final, for in the course of last year a learned gentleman, well-known in the profession and much respected, published his views on "The Dark Side of Trial by Jury," in which he informs his readers that,—

"After long reflection on the numerous and heavy grievances which flow from the unlimited application of this form of trial, he is convinced that it is not adapted to the refinement of the age we live in, that it has had its day, and it must soon be thrown aside into the huge heap of antique legal lumber, or limited in its application to a very confined class of cases."

This essay has already been ably answered by Mr. Best and Mr. Fitz-James Stephens (see Juridical Society's Papers, vol. ii. part iii.), and it is not quoted here out of any sympathy with the author's conclusions, but as evidence of that general feeling of dissatisfaction spoken of above, which the writer believes may be in great measure justified without impugning the institution of "Trial by Jury," or any portion of the law as it at present stands on the subject.

The real defect was well and clearly pointed out in the Common Law Commissioners Second Report already referred to, and the existence of this defect has been admitted in every subsequent defence of the jury system that has come under the writer's notice. The commissioners say on

THE CONSTITUTION OF JURIES.

While, however, we are prepared to maintain trial by jury in all cases where facts of a more complicated nature are to be dealt with, we are not blind to the fact that in many instances juries are not so constituted as to insure such an average amount of intelligence as might be desired. A jury of London or Liverpool merchants may be, as we believe them to be, an excellent tribunal to try a commercial cause; or a jury of country gentlemen to try a question relating to a watercourse or the boundaries of an estate; but it must be admitted that in the agricultural districts the common juries are sometimes composed of a class of persons whose intelligence by no means qualifies them for the due discharge of judicial functions. Such persons are unaccustomed to severe intellectual exercises, or to protracted thought, and used to an active out-door life and employment; when shut up for hours in a jury box, bewildered by law terms, by conflicting evidence and the disputations of contending advocates, who appeal to their prejudices, sometimes pronounce verdicts which bring the institution of juries into disrepute; we are of opinion that the standard of qualification of jurymen in the country which is at present as low as a rating on a value of £20 should be raised; and further, that on every trial there should be an admixture of jurymen of the class from which the special juries are now taken. *This is indeed now the law*, though in practice the names of persons qualified to be special jurors are not placed on the common jury panel. There is every reason why jurors of the higher class should assist in the administration of justice to the same extent as those who constitute the common juries. We think the higher class of jurors should bring the assistance of their more cultivated minds and superior intelligence to the decision of cases which, though they may not admit of the general expense attendant under the present system on having a special jury, may not be the less important to the parties whose interests are involved. At the same time it should be understood that we do not propose to abolish the right which now exists of having a special jury as at present appointed. What we recommend is, that the general jury panel should be made up indiscriminately from all persons qualified to serve on either jury. The same commissioners in their third

report, published this year, make the following observations on the same subject:—

"We make it right to avail ourselves of this opportunity to invite renewed attention to our former observations respecting the constitution of juries. More especially we would urge the consideration of that part of our recommendations which relates to securing the attendance on common juries of the class of persons who now serve exclusively on special juries with a view to the improvement of the former by the admixture of persons of higher education and intelligence. We are strongly persuaded that a very great improvement would by this means be effected in the constitution of juries, and as we do not propose to do away with the right of parties to resort to a special jury; or to deprive special jurors when serving as such of the additional remuneration which they are in the habit of receiving, we can see no ground why the liability of such persons to serve on common juries, which already exists in law, though it is not so required in practice, should not be enforced."

The object of the present paper is to call attention to the statutable authority for the assertion that special jurors are by law liable to serve on common juries, and to fix the responsibility of the present defective practice upon the undersheriffs; and secondly, to express a hope that inasmuch as these gentlemen are members of our common profession, some means may be devised by this Society at its present meeting to induce these gentlemen to act in future up to the spirit of the law instead of keeping as at present barely within its letter.

The law of jurors is mainly regulated by the Act of 6 Geo. 4, c. 50. By the first section of this statute it is provided:—

"That every man except as hereinafter excepted between the ages of twenty-one years and sixty years, residing in any county in England, who shall have in his own name, or in trust for him within the same county, £10 by the year above reprises in lands or tenements, of freehold, copyhold, or customary tenure . . . or who shall have within the same county, £20 by the year above reprises in lands or tenements, held by lease or leases for the absolute term of twenty-one years, or some longer term . . . or who being a householder shall be rated or assessed to the poor-rate, or to the inhabited house duty in the county of Middlesex, on a value of not less than £30, or in any other county on a value of not less than £20, or who shall occupy a house containing not less than fifteen windows, shall be qualified and shall be liable to serve on juries for the trial of all issues, joined in any of the King's Court of Record at Westminster, and in the superior courts, both civil and criminal of the three counties palatine, and in all courts of assize, nisi prius, oyer and terminer, and gaol delivery, such issues being respectively triable in the county in which every man so qualified respectively shall reside; and shall also be qualified and liable to serve on grand juries in courts of sessions of the peace, and on petty juries for the trial of all issues joined in such courts of sessions of the peace, and triable in the county, riding, or division in which every man so qualified respectively shall reside."

In Wales the qualification is one-third lower, but in every other respect the liability is the same.

Section 2 exempts peers, judges, clergymen, ministers, teachers, lawyers, medical men, and a few public officers. Sections 4-11 relate to the preparation of the list of persons qualified and liable to serve on juries. It is provided that the clerks of the peace are to issue their process to the high constables, by which the former are to command the latter to issue their precepts to the churchwardens and overseers of the poor requiring them to prepare and make out the lists; the churchwardens and overseers for their assistance in the preparation of the lists are given liberty to inspect the tax-assessments; after allowance by the justices, the lists are to be received by the high constables, and delivered by them to the courts of quarter sessions. Section 12 provides—

"That the clerk of the peace shall keep the lists so returned by the high constable to the Court of Quarter Sessions . . . and shall cause the same to be fairly and truly copied in a book to be provided for that purpose . . . and shall deliver the same book to the sheriff of the county or his undersheriff . . . which book shall be called the 'Jurors Book for year —' (inserting the calendar year for which such book is to be in use), and that every sheriff on quitting his office shall deliver the same to the succeeding sheriff, and that every juror's book so prepared shall be brought into use on the 1st day of January after it shall be so delivered by the clerk of the peace to the sheriff or his undersheriff, and shall be used for one year then next following."

Section 14 provides that every sheriff upon the receipt of every writ of *venire facias*, and precept for the return of jurors, shall return the names of men in the juror's book for the current year and no others.

Section 30 provides that the courts may order special juries to be struck.

Section 31 provides "That every man who shall be described in the juror's book for any county in England, Wales, or for the county of the city of London, as an esquire or person of higher degree, or as a banker or merchant shall be qualified and liable to serve on special juries in every such county in England and Wales, and in London respectively, and the sheriff of every county in England and Wales, or his undersheriff, and the sheriffs of London, or their secondary, shall within ten days after the delivery of the juror's book for the current year to either of them take from such book the names of all men who shall be described therein as esquires or persons of higher degree, or as bankers or merchants, and shall respectively cause the names of all such men to be fairly and truly copied out in alphabetical order, together with their respective places of abode, and additions in a separate list to be subjoined to the juror's books, which list shall be called 'The Special Jurors' List.'"

Section 35 provides "That no juror who shall serve upon any special jury shall be allowed to take for serving on any such jury more than such sum of money as the judge who tries the issue shall think just and reasonable, and which shall not exceed the sum of £1 ls., except in cases wherein a view is directed."

This being the state of the law, let us now consider how it is commonly applied by the undersheriffs in the execution of precepts for the return of jurors.

The general, if not universal practice in this respect is, and has been for many years, to summon the persons on the "Special Jurors List" only for the trial of issues of an exceptional and special nature, to wit, the issues raised in what are called "special jury actions." By this arrangement, the common jury, which, by a recent writer is said to dispose of nine-tenths of the trials, civil and criminal, which occupy the courts of law, is drawn exclusively from a class of persons to whom no injustice can be done in saying that it comprises the least elevated and least educated portion of the whole body of qualified jurors.

The provision of the statute is that all the persons in the jurors' book are to be liable to serve on juries for the trial of *all* issues, but in point of fact the only persons who are summoned for the trial of all issues (that is to say, all kinds of issues) are the residue of those names contained in the jurors' book after striking out all the persons qualified to be on the special jurors' list.

The practice in question is not contrary to the letter of the statute, for it only directs the sheriff (sec. 14) to return as jurors the names of men in the jurors' book and no others; and it leaves him a wide discretion as to the selection of jurors within this limit. But it can scarcely be doubted by any one who will read the statute that it was the intention of the legislature to lay the burden of trying in general language all issues upon the general list of persons constituting the jurors' book, and to impose by way of additional duty upon the higher and better educated class, including esquires and persons of higher degree, merchants and bankers, the further task of trying by themselves the more difficult and complex cases.

This is strongly borne out by the nature of the section in the Act, authorizing the payment of special jurors; in fact, the only rational ground on which this provision can be supported consistently with the nonpayment if the common jury, is that every qualified person, without exception, is supposed to take an equal amount of duty upon the common jury; but that the special jury service was intended to be an extra and additional duty performed by a few. Under any other aspect the payment of the special jury, at the same time as you compel the common jury to serve gratuitously, is at once illogical and unjust, while with this key it may be at once reconciled with both reason and justice.

It would be neither difficult nor uninteresting to trace the effects on the administration of justice which *a priori* considerations might lead us to expect from a system which should throw an overwhelming amount of influence into the hands of any one class of the community, and to compare these results with the objections commonly urged against trial by jury. But

to do so would be foreign to the object now in view, which is simply to draw attention to the law as it stands, and the mode in which it is commonly carried out.

The authority of the Common Law Commissioners, four of whom are judges now on the bench, must be taken as conclusively establishing that the present practice is erroneous and objectionable, and there can be very little doubt that it is doomed, and will be altered by authority, if not voluntarily amended by the under sheriffs.

We all profess to be law reformers, and our first duties in law reform, as in all reform, must concern ourselves rather than our neighbours.

It is not often that we, as a profession, have the opportunity of effecting any general legal improvements by our own unaided efforts. Such, however, is really the case in the present instance. The defect pointed out by the commissioners is not in the law but in the practice of the undersheriffs, members of our common profession. And the writer submits, in conclusion, that it is a defect peculiarly within the province of this meeting to discuss with a view to the initiation of some amendment.

The National Association for the Promotion of Social Science.

ON THE APPELLATE JURISDICTION OF THE HOUSE OF LORDS.

A paper on this subject by Mr. JAMES ANDERSON, Q.C., was read by that learned gentleman in the Jurisprudence department of the recent Congress at Glasgow. After an historical sketch of the Appellate Tribunal of the Scottish Parliament before the Union, Mr. Anderson proceeded to consider the improvements which might still be made in the present tribunal of ultimate appeal in Scotch cases, as follows:—

1. The chief objection to its *constitution* is, that it is deficient in permanent judicial strength. The only member whose duty it is to attend is the Lord Chancellor for the time. There may be no other law lords who can attend, or, if there be, their attendance is voluntary, and this is highly objectionable. There ought to be a permanent judicial bench. Each Chancellor should, on taking the seals, be elected a member of this bench. He should remain, notwithstanding he might cease to be Chancellor; and if there were not ex-Chancellors enough to form, with the Lord Chancellor, a Court of at least five, competent persons should be appointed so as to secure always that number.

2. The *forms of procedure* might be materially simplified. Among other things—

(1.) The petition of appeal and the answer of the respondent should be dispensed with. They are entirely useless. Instead of the petition, the party aggrieved by any judgment should be enabled to appeal by lodging with the Clerk of Parliament a printed copy of the record and proceedings, including the judgment complained of, and by serving on the opposite party a notice that he had done so. On a certificate that this notice had been served on the respondent, the appeal should be set down for hearing,—neither party being obliged to lodge any appeal case.

(2.) The House ought to meet for judicial business when necessary, notwithstanding that Parliament was at the time prorogued or not sitting.

(3.) The notice of appeal should not operate as a stay of execution for more than a limited time—say fourteen days—unless ordered by the Court.

(4.) Incidental questions, when they arise, should be disposed of by motion on notice, instead of by the present expensive and tardy system of petition; and these motions ought to be disposed of at once, either in chambers or at the bar, of the house, instead of being detained for months until an appeal committee is convened, as incidental petitions now are.

(5.) All house dues should be abolished. At present a tax is levied on every step that is taken in an appeal cause—very burdensome to the individual suitor, and productive of very little revenue.

But an important question remains. Can any element be introduced to secure a better knowledge of the law of Scotland in disposing of appeals? Many schemes have been suggested for accomplishing this object.

First, It has been proposed to establish in Scotland an intermediate court of review, so that parties might have the benefit of a deliberate judgment of this intermediate court before incurring the expense of an appeal to the lords. I cannot help thinking that there are already too many intermediate courts—that it is wrong in principle to give parties so many opportunities of having their causes heard and reheard. The court would be more efficient, and more respected if its decisions were conclusive between the parties, subject only to an appeal to the last resort; and I think that either party should be entitled, as soon as the record was closed, to remove it into the Inner House for judgment; and if this were not done, but the judgment of the Lord Ordinary taken, that the unsuccessful party should be at liberty to appeal at once to the House of Lords, as a suitor may in the Court of Chancery from a decree of a Vice-Chancellor without going to the Court of Appeal in Chancery. This would save both time and expense. A judgment of the House of Lords would be obtained as soon as a judgment of the Inner House on a reclaiming note. There is no reason why an appeal to the House of Lords should not be disposed of within three months, during session, after the notice of appeal, which I have suggested, is given.

Second, Another scheme is that a court of last resort should be instituted in Scotland, the jurisdiction being altogether removed from the House of Lords. This project was discussed at the Union, and found favour with many of the commissioners, and so late as 1823, the minister of the day—the Earl of Liverpool—was prepared to bring in a measure for carrying it into effect, and he had the support of a noble lord connected with Scotland, the Earl of Aberdeen. The immediate occasion which led to this measure, was the disproportionate number of appeals from Scotland, which were not unjustly regarded as the main cause of the arrears, not only in the House of Lords, but also in the Court of Chancery. According to returns presented to Parliament, it appeared that, for many years previous to 1823, the average number of appeals each session from England was 5, from Ireland between 8 and 9, and from Scotland 40; in other words, about 75 per cent. of the whole appellate business was from Scotland. A temporary remedy was at that time applied, viz., the appointment of a deputy speaker, Lord Gifford, to dispose of the arrears of Scotch appeals, and the general measure was postponed. Public opinion was opposed to it, and it was justly consigned to oblivion.

A court of last resort to be effective must be the supreme power of the State. No attempt to establish a special tribunal inferior to this power has ever been successful; and the Court of Session, previous to the union, which, in effect, was a court of last resort, is not an exception to the contrary. Probably history does not disclose a more tyrannical, or a more servile and corrupt, tribunal than the Court of Session of 1675, after it had established its claim to supremacy.

The uses of a court of last resort are threefold—1. To decide the particular controversy, so that justice may be done between the parties: 2. To expound the legal principles involved in the cause, so that the law may be rendered clear and certain, and sound precedents established for the decision of future questions. And, in this respect, no one has contributed more to illustrate and enrich the law of his country than the noble and learned president of this Association: 3. But the indirect, though not less important, use of an appeal court consists in the moral influence it has in checking and controlling inferior judges in the administration of their office. The more exalted in rank and dignity, and the higher in power and authority the Appellate Court is, the greater will be this moral influence.

Third. But suggestions have been made for retaining the jurisdiction of the House of Lords, and improving it by the introduction, in various ways, of Scottish lawyers.

(1.) It has been proposed that the Scotch judges should be summoned and be present at the hearing of Scotch appeals, as the English judges are on writs of error. They would have neither vote nor voice in the disposal of the cause, but would merely deliver their opinions, which might or might not be followed. I think that this scheme is in many respects objectionable, and that the precedent of the English judges is unsound and ought not to be followed. The House has ample facilities for obtaining the opinions of the Scotch judges, by remit, when thought necessary.

(2.) A proposal has been made that two Scotch judges in rotation should attend, during each session, to inform the House on points of Scotch law, as they might arise; and this scheme received the sanction of a committee of the House of Lords about the year 1813. (See *Andrew v. Murdoch*, 2 Dow 425.) Nothing could be more unsatisfactory than this system of rotation. The Scotch judges, when they were becoming familiarized with their position, would be relieved from attendance, and fresh minds introduced.

But, irrespective of this consideration, what effect was the opinion of these judges to receive? Was the House to adopt the opinion implicitly, or was it to exercise its own judgment, and act upon the opinion, or reject it, as the House thought right? If the latter course was to be followed, every non-adoption of the opinion would be a censure on the judges as advisers. If the former, the judgment would be the judgment not of the House, but of the two Scotch judges as assessors. The House would merely record their assessors' judgment, and it would be respected according to the degree of respect in which the two judges for the time being were held. Again, what was to be done where the two judges differed in opinion with each other?

(3.) Another modification of this scheme is to have one permanent assessor, who should be detached altogether from the Court of Session. This course is open to the most formidable of the objections last considered. There would indeed be permanency, and no danger of division of opinion; but, on the other hand, the confidence which the public had in the tribunal would altogether depend on the confidence the public reposed in the assessor.

Fourth. There remains for consideration a proposal, which has had the largest amount of support from those who think that a Scotch lawyer should be introduced into the House, viz., that a peerage should be conferred on one who, besides his eminence as a Scotch lawyer, had displayed judicial qualities on the bench, and that this judge should be present on the hearing of all Scotch appeals. It is not suggested that he should sit alone, or that the attendance of the Lord Chancellor or the other law lords should be dispensed with. On the contrary, it is allowed that the House, even as now constituted, with all its imperfections, or supposed imperfections, would form a better court of review than a single Scotch judge, or any number of Scotch judges, sitting either in London or Edinburgh. But what is maintained is, that, by the addition of this Scotch judge, the tribunal would be improved, that the other members of the House would be well informed of any peculiarities in Scotch law which might arise in any given cause, and that much time and labour would thus be saved.

Would this really "improve" the tribunal? Very much the reverse, and it would be no less damaging to the Court below. It would introduce into it a disturbing element. The mind of a judge ought to be perfectly even and calm—free from all external influences, whether for favour or for fear. His office should not only be independent, but permanent and stationary. He should consider himself as having reached the goal of all his aspirations—the zenith of his ambition—having nothing to dread, and nothing to hope for, from the crown or the government.

But this could not be, if he were eligible for promotion to an exalted place, not merely of judicial rank and dignity, but of political power and influence. What a temptation would be thrown out, to the whole bench, so to act as to ingratiate themselves, politically and otherwise, with the minister of the day, and what a temptation to the minister, to select, for this promotion, the judge who should sympathise most with him in political feeling, and who would be most useful as a partizan, irrespective altogether of professional acquirements, or judicial qualifications.

It is contended, however, that much time and labour would be saved. Now it is undoubtedly a feature in the hearing of Scotch appeals, that much more time is occupied and labour undergone than in the hearing of English or Irish appeals, or of the same causes in the Court of Session. Is this time wasted? Is this labour thrown away? Would it be any benefit to the suitor or to the law, if it were avoided or saved? It might indeed be a relief to the law lords. For, to their credit be it spoken, they have not hitherto shrunk from the toil and trouble they found necessary for acquiring a thorough apprehension of a case, however technical. It is worth while to dwell a little on this feature which it is now proposed to obliterate.

Mr. Anderson then referred to the opinions of Lord Hardwick, Lord Eldon, and Lord St Leonards, and continued:—

By the scheme under consideration, the law Lords are to be relieved of all this fatiguing labour, and in lieu thereof, they are to be "informed" of the technical rules of Scotch law by a judge from Scotland. Will this be satisfactory to the country? Will public confidence in the tribunal be increased?

Again, would time be saved? If the hearing be properly conducted, the advocate must address himself to the least informed of his audience, if he wishes to carry them all along with him. The same inductive method, of investigating Scotch peculiarities, must be continued for the Lords other than the Scotch judge; and how is he to be placed on a level with them in matters in which they are his superiors? The house is an Imperial Tribunal, dealing with Scotch and English law alike as matter of law. How is the Scotch Judge, who has been taught to regard English law as fact, to become master of an English point, when it arises, in mixed questions, which are not unfrequent, or when he sits with his colleagues on English or Irish appeals? Again, would any amount of time compensate for the disadvantage he labours under from the want of that practical training in comparative jurisprudence, which his colleagues enjoyed before their elevation?

There is indeed a danger. Where a tribunal consists of more judges than one, there is always a risk of divided responsibility, even where all are placed on a footing. But where one of the number is specially appointed, by reason of some peculiar acquirement, the shifting upon that member the whole responsibility is inevitable. Let it be assumed, according to the conditions of our argument, that a jury of merchants was a fitter tribunal, for enquiring into a disputed question of chemical science, than a jury of chemists. They would, by time and labour, acquire a knowledge of the technicalities of the question, and be possessed of all the materials necessary for a decision, and the verdict would be their verdict. But suppose a chemist were to be added to this jury, in order to explain to his fellow jurors the mysteries of chemical science, time and trouble might indeed be saved; but whose would the verdict be?

Just so in questions of recondite Scotch law; and the higher the reputation of the Scotch Lord for learning, the greater would be the danger. He would consider elementary, explanations proper and necessary for the other law Lords to enable them, step by step, to form conclusions for themselves. He could not fail to indicate his impatience, and the other Lords would, in spite of themselves, avoid the labour which their colleague did not require, and would take from him, whether right or wrong, the results at which he had arrived. Their presence might be dispensed with, and the Scotch law Lord might sit alone in the House, or, what would be better, he might sit in Edinburgh, for he would not have occupation enough in London to fill up his time, or to keep up his familiarity with the law of Scotland. Better at once to declare the judgments of the Court of Session to be final and conclusive.

Further, assuming that there was no undue deferring, suppose that the law Lords should form an opinion of their own, opposite to that expressed by the Scotch judge, would it not be considered that the judgment proceeded on English notions, and was opposed to the law of Scotland, as expressed by the Scottish authority placed there for the purpose of expounding that law?

It was at one time in contemplation to confer a peerage on the late Lord Corehouse, with the view of his assisting in the hearing of Scotch appeals. Probably no person in modern time was more eminently qualified for the judicial office—an accomplished scholar, a profound lawyer, having, in the highest degree, the quality of judicial discrimination, the faculty of seizing at once the strong points of an argument. The opinion of this sound thinking man on such a question is of the greatest value, and we are fortunately in possession of it. Sir John Romilly, in his evidence before the Appellate Jurisdiction Committee of the House of Lords in 1856, informs us:—"I remember his (Lord Corehouse) telling me that he thought nothing had been more advantageous to the law of Scotland than the fact that, since the time of Queen Anne, there had been an appeal to the House of Lords; that it had exercised a most beneficial influence. I asked him whether it would not have been better if there had been a Scotch lawyer in the Court of Appeal? He said no; he was of opinion that it would have been worse. I remember distinctly his stating to me his view, that the effect produced by the Appellate Jurisdiction of the House of Lords, had been most beneficial with respect to the administration of the law of Scotland.—*Report*, p. 161.

Is there, then, no other way of infusing into the tribunal a better knowledge of Scotch law? What is the cause of the ignorance which is said to prevail? It is that the members of the tribunal have not been educated in the law of Scotland. Why should this cause not be removed?

I think the time has come when English law should cease to be regarded in Scotland, and Scotch law in England, as foreign law, to be proved like any matter of fact. When one considers the great and growing intercourse, social and commercial, of the two countries, the ties by which the people are bound together, it is perfectly unaccountable how the present system should have been tolerated so long. No English law is taught in your schools in Scotland, nor Scotch in England. The law of Scotland is a sealed book to the English, and the law in England to the Scotch lawyer. Nay more, ignorance of the law of the sister kingdom is positively encouraged and inculcated by both systems. It is the duty of an English lawyer, when he meets with a Scotch point, in advising a client, to abstain from meddling with it, and the same duty is incumbent on the Scotch lawyer in reference to points of English law.

In like manner, if we except the Appellate Tribunals, judges in the courts of both countries scrupulously avoid dealing, each with the law of the other. They require only results to be verified, and any knowledge of the law, thus thrust upon them, is got merely with a view to the disposal of a particular question, and is discharged from the mind and memory as soon as that question is disposed of. The consequence is that the mind of the lawyer runs in one groove—that of the municipal law of his own country. Whereas, if there were an education in both systems—if the Scotch lawyer were educated in the knowledge of English law, and had to inquire into it, when it arose, according to principle and authority, he would acquire the more liberal views which are imparted by the study of comparative jurisprudence; and the English lawyer, when he was engaged in appeals from Scotland, would have more confidence in himself. He would be guided in his preparation by the systematic knowledge he had acquired, and, ultimately, the Appellate Tribunal would consist of members entirely free from the imputation of having had no education, and no experience, in the law of Scotland, before their elevation to their high office.

And what reasonable objection can there be to the education of the English lawyer in Scotch law, and the Scotch in English. It has been said that it would tend to confound the principles and confuse the boundaries of the two systems. If by this is meant that there would be a progressive assimilation, it does not strike me that the confusion would be much to be lamented. And there can be no doubt that the differences and contrasts of the two laws are aggravated and prolonged, by the ignorance, of lawyers, reciprocally, of the laws of the sister kingdom. Nor would there be any danger of the Scotch law being merged into the English. On the contrary, I think that there would be a larger adoption of Scotch law in England, than of English law in Scotland; for in many respects the law of Scotland is more simple, and more logical, than the law of England.

But the objection appears groundless in fact. There will be no difficulty in preserving the boundaries of the two laws, or in distinguishing between their respective rules and principles. As well may it be said that a geographer should be confined to the study of only one of the hemispheres, in case he might confound the Alps with the Andes, or Lake Superior with the Lake of Geneva.

The course of modern legislation has tended to aggravate this mischief. By a recent Act of Parliament, the Scotch Court is enabled to refer for the decision of a Court in England, any question of English law arising before it, and *vice versa* an English Court may take the same course for the decision of a point of Scotch law. This is undoubtedly an improvement on the old system of examining lawyers as witnesses, assuming always that the law, to be inquired into, is to be regarded as foreign, or as matter of fact. But it is an alteration in the wrong direction. It removes further from the Bench and Bar of either country a knowledge of the law of the other. Under the former system, when there was conflicting testimony of lawyers, the reasons of their opinion, and the authorities by which these were supported, were given, and became evidence, and the investigation of these reasons and authorities led the judge to enquire for himself what was a right decision according to principle and authority. The masterly judgment of Lord Stowell, in *Dalrymple v. Dalrymple*, is a striking instance in point. Although it be merely the conclusions deducible from a body of evidence, yet nowhere is there to be found a more lucid exposition of the

principles, or more accurate examination of the authorities, of the law of Scotland as to the constitution of the marriage contract.

I have thrown out these suggestions in the hope that such improvements may be effected, in the constitution of the tribunal, and its procedure, as will secure to it, the three great properties—the cardinal virtues of a Court of Justice—certainty of decision, simplicity, cheapness, and vnder it, if not perfect as an institution, of least worthy of being the last resort in the administration of that law, whose greatest glory is, that it is no respecter of persons—that while the mightiest are not beyond its power, the meanest are not beneath its protection.

BELLIGERENT RIGHTS OVER PRIVATE PROPERTY AT SEA.

A paper on the above subject was read at the Glasgow meeting of this Association, by Mr. W. J. LAMFORT.

The declaration of the congress of Paris in 1856, to the effect that "the flag shall cover the cargo," or, in other words, that an enemy's property shall be held free from capture when carried in a neutral ship, excited little attention at the time; or, so far as it excited attention, was regarded as a step forward in civilization.

But an unsuspected, though when once pointed out extremely obvious consequence has since been perceived to follow from it.

No sooner did disturbances in continental politics make it possible that England might be entangled in war, than it became evident that British ships were henceforth at a disadvantage in competition with ships sailing under the flags of countries not expected to be drawn into hostilities. Merchants in foreign and colonial ports, where a choice of flags could be made, immediately avoided British ships, and gave their cargoes to ships of other nations, influenced by the immunity from capture enjoyed in the neutral ship compared with the liability to capture in the British ship. Instances were even known in which American ships were chartered in England by English merchants to bring cargoes home from ports in British India at rates of freight double those obtainable for British ships at the same time.

Temporary loss thus flung upon British shipowners opened their eyes to the still more serious prostration and ruin which they may have to encounter when war actually breaks out.

The question might at first sight seem to be one for the shipowner only. But, once stirred, the commercial and monetary interests all over the country became suddenly roused to an identity of danger; and merchants and bankers both at home and in the colonies made common cause with shipowners.

Memorials and deputations to the Government followed. It was hopeless, were it desirable, to undo what the congress of Paris had done, and the prayer was, that yet another step forward might be taken, and that at the then shortly expected congress of the great powers, the representative of this country might be instructed by her Majesty's Government to support a proposition to the effect that ships and their cargoes, not being contraband of war, shall hereafter be held altogether free from capture, except when attempting to break a blockade.

The press, with a marked and powerful exception, has for the most part pronounced in favour of this proposition. The late select committee of commons on merchant shipping has reported in a sense favourable to the same side of the question. And, significantly enough, some of the loudest cries in its favour have come from mercantile bodies in foreign countries whose shipowners might have been expected to seek their interest in the maintenance of the existing state of the law.

I attempt simply to place before the section a sketch of the present state of the discussion. I pretend to no originality of statement or argument.

The following tabular statement is intended to show the legal position of merchant ships and cargoes, the property of subjects of belligerent states, not contraband of war, nor attempting to break a blockade, under three different states of the law:—

1. Under the law as it stood before the Paris declaration of 1856.
2. Under the law as it stands altered by the Paris declaration.

3. Under the law as it will stand, when, by the further alteration now sought for, such ships and cargoes shall be held free from capture.

1. (PAST).	2. (PRESENT).	3. (FUTURE.)
Ships and cargoes were liable to capture under any flag.	Ships are liable to capture. Cargoes are liable to capture under a belligerent flag, but free from capture under a neutral flag.	Ships and cargoes will be free from capture.

GENERAL RESULTS AS TO SHIPS.

Ships of the most powerful naval belligerent sailed under convoy. Ships of the least powerful naval belligerent were laid up in port in order to avoid almost certain capture.	Ships of both belligerents are laid up in port.	Ships of both belligerents will traverse the seas unmolested.
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GENERAL RESULTS AS TO CARGOES.

Cargoes were carried in belligerent and in neutral ships almost indifferently, as in time of peace, so far as they could be carried at all. But the sea commerce of the least powerful belligerent was almost extinguished.	Cargoes are carried in neutral ships.	Cargoes will be carried in belligerent and in neutral ships almost indifferently, as in time of peace.
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Looking, then, at the probable results of a war from our own point of view, as being that of the belligerent possessing at once the most powerful war navy and the largest mercantile marine, it would seem that the effect of the declaration of 1856 has been—1st. To deprive England of the superiority which her more powerful war navy would otherwise give her in protecting her own sea commerce and in destroying the sea commerce of her less powerful enemy—and, 2nd. To deprive her shipowners of the use of their ships, and her commercial and consuming population of the benefit of the competition of those ships with neutrals; thus depriving England of the vantage ground she occupied in former wars, and reducing her in these respects to the level of any inferior opponent.

On the other hand, if private property at sea be altogether secured against capture, the effect (and so far as I know the only positive and proximate effect) will be, that the legitimate commerce of belligerents, when not interrupted by blockade, may be carried on in belligerent as well as in neutral ships, and that the merchantseamen of belligerents may be employed on board merchant ships under their respective national flags, instead of on board neutral merchant ships, or in their respective war navies. England will thus recover the advantages derivable from her larger mercantile marine, while her manufacturing and consuming interests will still retain all advantages in respect of uninterrupted commerce already conferred on them by the Paris declaration. The power given her in former wars by her more powerful war navy to annihilate the commerce of her enemy will, it is true, continue to be lost to her. That power was deliberately parted with in 1856, and cannot now be recalled.

I contend, then, that of all nations England suffers and will suffer most from the present state of international law on this subject, and will derive most benefit from the perfect immunity of floating private property from capture.

Yet we have been told, on authority heavy with the weight of eminent names, that England is vitally concerned in the maintenance of the present state of the law; and that to change it in the sense proposed will be to abandon our power to inflict disaster on the commerce of our enemies. The arguments brought forward in opposition to the change, so far as I have been able to apprehend them, are the following:—

1. The object in war is to injure an enemy. So far as we give up the power to do this, so far we cripple ourselves.

I reply, that the power proposed to be given up in this case is no longer worth retaining. The power to injure an enemy in respect of floating property was virtually given up in 1856, save in so far as the enemy's merchant ships may be surprised at sea by the outbreak of war, and captured before they can get into port. Ships and cargoes found thus floating, once disposed of by capture, destruction, or escape, the merchant ships of the belligerents will thenceforward lie safe in port, while their cargoes will be carried with immunity under neutral flags.

The right proposed to be abandoned is consequently a merely nominal right. On the other hand, let the change now advocated be made, and our naval preponderance, with the right of blockade, will still enable us to exclude or to shut up the enemy's merchant ships from or in the enemy's ports, while our own merchant ships can traverse the seas unmolested. Even the temporary destruction of property when war first breaks out will inflict on England more loss than she can inflict on an enemy. She has interests afloat larger than those of any other nation, and these will be exposed to the ravages of steam cruisers, against which no preponderance of naval power can effectually guard.

This is a mercantile and ship-owning question. The trading classes must be content to suffer for the benefit of the whole community.

It remains to be shown how the community will benefit by this loss to the trading classes; or how the community can escape when the trading classes suffer.

3. Private property found on land by an invading army is not thus respected.

In all recent European conflicts, private property has been respected on land, except in so far as it may have been required to supply the immediate necessities of an invading army. We never hear of prize-money derived by the soldiers of an army from the confiscation of private property.

4. Our naval officers and seamen must have the prospect of prize-money to stimulate them to exertion.

Our army require no such stimulus. Moreover, the declaration of Paris has already taken away the prospect of prize-money from our navy, except in respect of captures made of ships surprised by the outbreak of war.

5. The compulsory inactivity of British merchant ships will throw a much needed supply of seamen into the British war navy.

The enormously high freights which neutral shipowners will earn by the sudden withdrawal of the whole British mercantile marine from competition in the carrying trade, and the inability of neutral nations all at once to supply native crews for the extra tonnage called into existence by this demand for neutral ships, will enable and induce neutral shipowners to bid successfully against the British war navy for the services of British merchant seamen. America will probably supply the largest amount of neutral tonnage, and owing to identity of language and habits, British seamen are more likely than Continental seamen to be absorbed into American ships. The British navy is more dependent on a mercantile marine for a continuous supply of seamen than is the navy of any continental power, and will suffer more from an interruption of that supply; especially as this interruption will be lasting, inasmuch as boys will cease to be trained for the British merchant service when all British ships are laid up in port.

6. The continental powers will not agree to alter the law.

In a message to the United States' Congress in 1856, President Pierce stated that the Emperor of Russia entirely and explicitly approved of a proposition that private property on the high seas shall be exempt from seizure; and that similar assurances had been received of the disposition of the Emperor of the French. Austria is interested in the change by her large mercantile marine compared with her small war navy. The disposition of Prussia is probably indicated by favourable opinions already expressed in other parts of Germany.

7. America will never agree.

This very proposition was formally made by America in 1856, though it was afterwards withdrawn. But the concurrence of America is not important, except in the case of war with America, a contingency in the highest degree improbable.

8. An agreement so made at an European congress will not be kept when war breaks out.

Then why enter into the agreement involved in the Paris declaration of 1856? The same declaration abolished privateering.

I have not yet met with any reasonings on the opposite side which cannot be resolved into one or other of these arguments. I may possibly hear others more convincing to-day. If not, I earnestly commend to the consideration of the association

the proposition "that ships and their cargoes, not contraband of war, shall hereafter be held free from capture, except when attempting to break a blockade." The prospect of an early European congress has for the present passed away. But so has the apprehension of immediate war. Time and calm are thus afforded for a complete and temperate discussion of the subject.

Reviews.

A Treatise on the Law of Marriage, and other Family Settlements, with Precedents and Practical Notes. By JAMES PEARSE PEACHEY, of the Inner Temple, Esq., Barrister-at-Law. London: H. Sweet. 1860.

A new work on the law of marriage and family settlements has been long demanded by the profession. The long promised volume on that subject in the Jarman and Bythewood series, still, as far as we know, exists only in promise, and it appears now to be doubtful whether it will ever become an actual existence. Mr. Peachey, therefore, in undertaking a task of great magnitude and importance, had the satisfaction of knowing that its accomplishment was a professional desideratum. The amount of the labour involved may be conceived from the fact that Mr. Peachey's book contains more than 1000 pages, of which 648 are devoted to the treatise, the remainder consisting of precedents and an index. We can hardly pretend, with justice to the author, to offer any detailed criticism of such a work, and shall therefore content ourselves with giving some account of its general plan and scheme. Starting with a slight sketch of the origin of settlements of real estate, Mr. Peachey proceeds to consider the restrictions upon the general capacity to make settlements, and the validity of settlements of real and personal estate when made by infants. He then treats of marriage agreements, and of the Statute of Frauds, and fraud and misrepresentation generally, as affecting them. From marriage agreements he goes on naturally to the subject of settlements pursuant to marriage articles, and executory trusts and wills. Next we have a chapter on settlements in derogation of marital rights, followed by one on the equity of a wife to a settlement. Then comes a chapter on settlements as affected by the 13 Eliz. c. 5, and by the bankrupt laws, followed by one on settlements as affected by 27 Eliz. c. 4. These include the whole subject of fraudulent preference and voluntary conveyances. The subjects of the wife's separate use, and of pin money, finish what appears to be the first part of Mr. Peachey's general division, and may be considered in some sense as introductory to the actual work of a conveyancer in drawing marriage settlements. That being so, having thus led up to the actual draft, Mr. Peachey next shapes his course by its requirements; and we have accordingly chapters on limitations, powers to jointure, portions, and on the covenants usually found in such deeds. Proceeding upon this plan, having said all that he had to say upon the subject involved in the draft itself, he proceeds to the subjects of the rectification of settlements, and of family arrangements and resettlements; and fitly enough, especially according to modern experience, winds up his entire treatise on marriage settlements by a chapter on deeds of separation. If we selected any part of this very elaborate treatise as being most creditable to Mr. Peachey—which assuredly the entire work is—we should especially mention the chapters on Portions and on Double Portions, which are extremely well done; and as original contributions will be very acceptable to lawyers.

The precedents are, perhaps, not the least valuable portion of the book; they are carefully selected, and have been framed with regard to the many recent alterations of the law affecting settlements.

There are throughout the work very abundant evidences of the laborious industry and care of the author; and the reported cases appear to have been noted by him down to the date of publication.

A Manual of the Statutes of Limitation, showing the time within which the ownership of property must be asserted and exercised, or a writ or suit commenced, to prevent the operation of these statutes, viz., barring, the remedy for obtaining, or extinguishing the right to such property. By

JAMES WALTER, Esq., Solicitor, and Member of the Incorporated Law Society. Shaw and Sons, London, 1860.

This very useful manual is accompanied by a chart or table of statutes which may be hung up in an office, and will be found extremely convenient for reference. Mr. Walter's observations on the various statutes are those of a thoughtful and sensible practitioner, and are always pertinent.

The Act to further amend the Law of Property (23 & 24 Vict. c. 38) with introductions and practical notes, and with further notes on 22 & 23 Vict. c. 35. By SYLVESTER JOSEPH HUNTER, of Trinity College, Cambridge; and of Lincoln's-inn, Esq., Barrister-at-law. Butterworths. 1860.

Mr. Hunter is already well known to the profession, as the author of an edition of Lord St. Leonards' Law of Property Act, 1859, and of several other useful works.

The brochure now before us contains an edition of Lord St. Leonards' Act of last session, with explanatory observations and references to authorities bearing upon the points under consideration.

Obituary.

WALTER COULSON, ESQ., Q.C.

This gentleman died on the morning of the 21st instant. He was called to the bar by the Honorable Society of Gray's Inn in November, 1828, but practised chiefly as a conveyancer. Many years since he was appointed Parliamentary Counsel to the Home Office, and in 1851, was appointed one of Her Majesty's Counsel.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Monday, Dec. 3.

Mr. GEORGE WINGHAM HEMMING, on Equity, Friday, Dec. 7.

Court Papers.

Judicial Committee of the Privy Council.

LIST OF BUSINESS.

Whence.	Appellants.	Respondents.
New Brunswick.	St. Andrews and Quebec Railroad Co.	Brookfield and King.
British Guiana.	Stuart and Others.	Norton.
Bengal.	Sets Luchmeechund Radhakishen.	Sets Zorawur Mull and Others.
"	Anundmohun Pal Chowdry	Kishenchunder Banerjee Chowdry and Others.
Canada.	Martin and Others.	Lee.
"	Doorgapersaud Roy Chowdry	Tarapersaud Roy Chowdry.
"	Corlett.	Radcliffe and Others.
"	Arnthoon (on her demise, Gregory, Executor).	Cochrane.
Madras.	Kentrose.	Brooks, Official Assignee.
High Court of Admiralty.	Elliot and Others.	Dundee, Perth, and London Shipping Company.
"	Elliot and Others.	Dundee, Perth, and London Shipping Company.
"	Ship "W."	Ship "W."
"	Ship "W."	Ship "W."

Whence.	Appellants.	Respondents.
"	Stevens and Others.	Gourley.
"	Ship "Cleadon."	Gourley.
"	Stevens and Others.	Ship "A. H. Stevens."
"	Bland.	Rosa.
"	Ship "Julia."	Elder and Others.
"	North German Lloyd Steam Ship Co.	Ship "Schwalbe."
"	Kilgour and Others.	Alexander & Others.
"	Ship "East Lothian."	Fisher and Others.
"	Maddox and Others.	Ship "Independence."
"	Maddox and Others.	Fisher and Others.
"	Ship "Arthur Gordon."	Burder.

Archos Court.

PATENTS.

To fix hearing.

Napier's patent (improvements in smelting ores).
Newton's patent (improvements in letter-press printing).

Chancery Vacation Notice.

The Christmas Vacation will commence on the 24th of December, 1860, and terminate on the 6th of January, 1861, both days inclusive.

Exchequer of Pleas.

NEW CASE.—MICHAELMAS TERM, 1860.

Appeal. Barkworth and Others, Assignees, &c. v. Blundell.

Liverpool Winter Assizes, 1860.

The Commission Day is the 11th December.
Causes will be taken on Monday, December 17.
Special Juries on Wednesday, December 19.

RAILWAY DEBENTURES.—A recently published official paper shows the total amount of capital represented by the securities to be £80,628,116. It appears upon comparison of the different rates of interest at which sums are borrowed by the larger and the smaller companies that the humbler borrowers stand in least favour with capitalists,—the smaller companies, as a rule, paying a larger amount of interest.

Births, Marriages, and Deaths.

BIRTHS.

COLES—On Nov. 22, at Eastbourne, the wife of John Henry Compton Coles, Esq., Solicitor, of a daughter.
ELLISON—On Nov. 29, the wife of Thomas Ellison, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

ANDERTON—SAGAR—On Nov. 22, at Bury, Lancashire, Frederick Anderton, Esq., Solicitor, to Hetsey, second daughter of the late William Sagar, Esq.
AUSTER—REIGART—On Oct. 24, at New Orleans, C. la Auster, Esq., eldest son of C. H. Auster, Esq., Solicitor, of Birmingham, to Sophia E. Reigart, eldest daughter of Henry F. Reigart, Esq., of Baltimore, United States.
CATTELL—UMBERS—On Nov. 29, Christopher William Cattell, Esq., of Devonshire-road, Holloway, Solicitor, to Ann Jaggard, second daughter of the late William Umbers, Esq., of Wappenbury, Warwickshire.
FROST—CARDEN—On Aug. 19, at Dendigo, Australia, Charles Frost, Esq., youngest son of John Frost, Esq., Solicitor, London, to Ann, daughter of John Carden, Esq., of Sandhurst.
ROBERTSON—BUTLER—On Sept. 20, at Hobart-town, John Robertson, Esq., of Colac, Victoria, Australia, eldest son of William Robertson, Esq., of Melrose, to Sarah Martha, only daughter of the late Edward Faine Butler, Esq., Solicitor, of Hobart-town.

DEATHS.

COCK—On Nov. 26, Mr. William Cock, aged 71, upwards of 80 years' managing clerk at Messrs. Abbott, Jenkins, and Abbott's, Solicitors, New-inn.

BENNETT—On Nov. 14, at Holstone, Banwell, Clara, daughter of the late George Bennett, Esq., Solicitor, aged 51 years.

FENTON—On Nov. 23, Alfred, son of the late Perrot Fenton, Esq., of Doctors'-commons, aged 33.

RICHARDS—On Nov. 27, at Caerynwech, Merionethshire, aged 73, Richard Richards, Esq., late M.P. for the county of Merioneth, eldest and last surviving son of the late Right Hon. Sir Richard Richards, formerly Chief Baron of the Exchequer.

URQUHART—On Nov. 24, at Edinburgh, Adam Urquhart, Esq., Advocate, Sheriff of the County of Wigton.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BURTON, MARY ANN, and **ELISA BURTON**, Spinsters, both of Clapham, Surrey, £2 10s. in Consolidated Long Annuities.—Claimed by **MARY ANN BURTON** and **ELISA BURTON**.

CHALONER, JOHN, Vicar of Wirksworth, Trustee to Rev. Robert Greville, of Bonsall, Derbyshire, £61 Rs. 10d. Consols.—Claimed by **REV. JOHN WILLIAM CHALONER**, Clerk, Administrator de bonis non of the said Rev. John Chaloner.

FENDALL, ANNE CATHERINE, wife of Rev. Henry Fendall, of Nunburn-Holme, Pocklington, Yorkshire, £2,885 Consols.—Claimed by **REV. HENRY FENDALL**, Clerk, the husband and administrator.

GLYNN, HENRY RICHARD, and **ELIZABETH BEGGIE**, a Minor, both of Bideford, Devonshire, £151 12s. Reduced Three per Cents.—Claimed by **ELIZABETH BEGGIE**, now of age, the survivor.

GOODMAN, GEORGE, Gent., of Broomfield Lodge, Lee, Kent, £49 7s. 6d. New Three per Cents.—Claimed by **JULIA GOODMAN**, Spinster, the administratrix with the will annexed.

GOTCH, WILLIAM, Gent., of Portland-street, Cavendish-square, and **MARIA CROWFOOT**, of Charles-street, a Minor, £39 9s. 11d. Consols.—Claimed by **ABEL CROWFOOT**, the administrator of Maria Crowfoot, who was the survivor.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock .....	..	Shrs. Ditto A. Stock	111
3 per Cent. Red. Ann.	91½	Stock Ditto B. Stock	134
1 per Cent. Cons. Ann.	92½	Stock Great Western	73½
New 3 per Cent. Ann.	92	Stock Lancash. & Yorkshire ..	119
New 2½ per Cent. Ann.	92½	Stock London and Blackwall. ..	62
Consols for account ..	92½	Stock Lon. Brighton & S. Coast ..	115
India Debentures, 1854. ....	..	25 Lon. Chatham & Dover ..	52
Ditto 1859. ....	..	Stock London & N.-Westn.	100½
India Stock .....	..	Stock London & S.-Westn.	94
India 5 per Cent. 1859.	103½	Stock Man. Sheff. & Lincoln.	48½
India Bonds (£1000) ..	9 dis.	Stock Midland	124½
Do. (under £1000)	5 dis.	Stock Ditto Birn. & Derby ..	108
Exch. Bills (£1000)	4 dis.	Stock Norfolk	51
Ditto (£500)	1 dis.	Stock North British	63
Ditto (Small) .....	..	Stock North-Eastn. (Brweck.) ..	103½
RAILWAY STOCK.		Stock Ditto Leeds	91
Shrs. Stock Birk. Lan. & Ch. June.	83	Stock Ditto York	60
Stock Bristol and Exeter	96½	Stock North London	103
Stock Cornwall	69	Stock Oxford, Worcester, & Wolverhampton ..	100
Stock East Anglian	17½	Stock Shropshire Union	51
Stock Eastern Counties	52	Stock South Devon	43
Stock Eastern Union A. Stock ..	40	Stock South-Eastern	86
Stock Ditto B. Stock	39	Stock South Wales	66
Stock Great Northern	110½	Stock S. Yorkshire & R. Dun ..	79
		25 Stockton & Darlington ..	40½
		Stock Vale of Neath	70

London Gazettes.

Windings-up of Joint Stock Companies.

FRIDAY, NOV. 30, 1860.

UNLIMITED IN CHANCERY.

THE LITE ASSURANCE COMPANY.—V.C. Wood will proceed on Dec. 11, at 1, to settle the lists (classes C and D) of contributories of this company.

Creditors under 22 & 23 Vict. cap. 33.

Last Day of Claim.

TUESDAY, NOV. 27, 1860.

BRIDGES, WALTER, Tailor and Outfitter, Cornhill, and 96, New Bond-street, Middlesex. Powell, Solicitor, 13, Newgate-street, E.C. Dec. 30.

BRADLEY, WILLIAM ALEXANDER, Attorney-at-law, Cardiff, Glamorganshire, Daken, Solicitor, Cardiff. Dec. 31.

BROWN, JOHN, Gent., Stanway, Essex. Laing, Solicitor, Colchester, Essex. Jan. 8.

CATLOW, JOHN, Corn Dealer, Blackburn, Lancashire. L. & W. Wilkinson, Solicitors, 75, Ainsworth-street, Blackburn. Jan. 2.

GIBSON, EDWARD, Farmer, Cloughton, Yorkshire. Donner & Woodall, 36, Queen-street, Scarborough. Jan. 26.

KINGDOM, MARY, Widow, 29, Imperial-square, Cheltenham, relict of John Kingdom, Esq., 29, Imperial-square. Rains, Solicitor, 15, Fish-street-hill, London. Dec. 20.

TAYLOR, ADAM, Esq., Surrey-street, Norwich. Taylor, Solicitor, Orford-place, Norwich. Jan. 25.

WILLIAMS, CHARLES CROFTS, Esq., Routh Court, Glamorganshire. Loftus & Young, Solicitors, 10, New-linn, London. Dec. 31.

FRIDAY, NOV. 30, 1860.

BRASLEY, FREDERICK, Esq., formerly of Andres, near Calais, France, and late of 135, Great Portland-street, Middlesex. Dec. 31. Page, Solicitor, 21, Manchester-square, Middlesex.

ELLIN, WILLIAM, Innkeeper, Walton, Yorkshire. March 2. Coates & Son, Solicitors, Wetherby, Yorkshire.

GILBERT, GEORGE, Licensed Victualler, Prince Albert Tavern, Oxford-road, Lower-road, Islington, Middlesex. Jan. 10. Monckton & Co, Solicitors, 1, Raymond-buildings, Gray's-linn.

PLATT, ANDREW, Farmer, Beckering's-park, Ridgmont, Bedfordshire. Jan. 17. Eagles, Solicitor, Ampthill, Bedfordshire.

LATHAM, SAMUEL, Esq., Epping, Essex. Jan. 1. J. & W. Sheffield, Solicitors, 68, Old Broad-street, London.

STANSFELD, ANELIA, Widow, Field House, New Cross, Deptford, Surrey. Rivington, Solicitor, 1, Fenchurch-buildings, London. Dec. 31.

STINSON, JOSEPH, Licensed Victualler, Yorkshire Tavern, Philip-lane, London Wall. Cox & Sons, Solicitors, 14, Sme-lane, London. Dec. 31.

TANNER, WILLIAM ROBERT, Gent., 6, Oakley-square, Chelsea, Middlesex. Patten, Solicitor, 41, Ely-place, Holborn, London. Jan. 24.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, NOV. 27, 1860.

ALLSOP, JOSEPH, Framesmith and Eating-house Keeper, Leicester. Inchley v. Allsop, M.R., Dec. 17.

BOWDEN, JOHN, Innkeeper & Veterinary Surgeon, Howden, Yorkshire. Burland v. Bowman, V.C. Stuart. Jan. 10.

EGLIN, JOSEPH, Merchant & Ship Owner, Cottingham, Yorkshire. Eglin v. Sanderson, V.C. Stuart. Dec. 16.

NICKS, THOMAS, Solicitor, Warwick. Nicks v. Nicks, V.C. Stuart. Jan. 10.

PYM, FRANCIS, Esq., Hasell, Bedfordshire, and also FRANCIS LESLIE PYM, 41, Sumex-square, Brighton, formerly of Radwell House, Baldock, Hertfordshire. Pym v. Pym, M.R. Dec. 22.

REDDROP, WILLIAM, Gent., Black Park, Whitechurch, Salop. Reddrop v. Etches, V.C. Stuart. Jan. 9.

THOMPSON, WILLIAM, Esq., Hanover-street, Bath. Thompson v. Tomkins, V.C. Kindersley. Jan. 9.

WILLIAMS, JAMES, Factor, St. Paul's-square, Birmingham. Lucas v. Williams, V.C. Stuart. Jan. 8.

(County Palatine of Lancaster).

FRIDAY, NOV. 30, 1860.

TAYLOR, ELIZABETH, Liverpool. Heaton v. Smith, Registrar for District Court of Chancery, Lancaster, 1, North John-street, Liverpool. Jan. 1.

FRIDAY, NOV. 30, 1860.

DAVIES, RICHARD, Gent., Shrewsbury, Salop. Williams v. Cooke, V.C. Stuart. Jan. 10.

MILES, CHARLES, Gent., 7, Bedford-place, Notting-hill, Middlesex. Miles v. Miles, V.C. Stuart. Jan. 10.

MILNE, JOHN, Gent., Prior-street, Greenwich, Kent. V.C. Kindersley. Jan. 14.

OSBORNE, ROBERT, Shopkeeper, Redruth, Cornwall. Osborne v. Osborne, V.C. Wood. Dec. 23.

PRICE, HUGH MORGAN, formerly of 4, Skinner's-place, Size-lane, London, and late of Lyonhall, Herefordshire. Gyett v. Williams, V.C. Wood. Jan. 11.

Assignments for Benefit of Creditors.

TUESDAY, NOV. 27, 1860.

ALEXANDER, WILLIAM, Saddler, Leeds. Oct. 29. Sol. Maud, Leeds.

BENTHAM, ALFRED, Confectioner, 134, High-street, Notting-hill, Middlesex. Nov. 15. Sol. Adcock, 3, Copthall-buildings, Throgmorton-st.

DODD, STEPHEN, and **JOHN CHARLES FEELING**, Booksellers & Stationers, Woburn, Bedfordshire. Nov. 3. Sol. Richardson, 15, Old Jew, London.

MORCOM, WILLIAM, Ham Mills, Thatcham, near Newbury, Berks. Nov. 7. Sol. Messrs. Nelson, 11, Essex-street, Strand.

NEECH, JOHN, Miller & Merchant, Aylsham, Norfolk. Oct. 1. Sol. Scott, Aylsham.

SMITH, JOSEPH WILLIAM, Manufacturer, Batley Carr, Yorkshire. Nov. 10. Sol. Walker, Dewsbury.

TILLET, SAMUEL, Upholsterer, Halesworth, Suffolk. Nov. 17. Sol. Read, Halesworth.

WHEELER, FREDERICK, Upholsterer, 34, Lower Belgrave-street, Pimlico, Middlesex. Nov. 10. Sol. Fry, 9, Bloomsbury-place, Middlesex.

FRIDAY, Nov. 30, 1860.

- BURBIDGE, HENRY, Grocer & Tea Dealer, 15, Cropley-street, Hoxton, Middlesex. Nov. 3. *Sol.* Drew, 4, New Basinghall-street, London.
- DURBIDGE, RICHARD, Tailor and Draper, Great Malvern, Worcester and Ledbury, Herefordshire. Nov. 6. *Sol.* Reece, Ledbury.
- GRAVES, RICHARD, Tailor, 313, High Holborn, Middlesex. Nov. 24. *Sol.* Low 65, Chancery-lane, Middlesex.
- MCCAW, WILLIAM, Tea Dealer, Liverpool. Nov. 8. *Sol.* Mathews, 102, Leadenhall-street, London.
- SYKES, WILLIAM, Builder, Bellefield, Sheffield. Oct. 30. *Sol.* Vickers, Sheffield.
- THOMPSON, HENRY, Merchant, Fareham, Southampton. Nov. 26. *Sol.* Paddon & Thorpe, Fareham.
- WINCHURST, ISAIAH, Shopkeeper & Toy Dealer, Rhyl, Flintshire. July 7. *Sol.* Williams, Rhyl.
- WISON, THOMAS, Miller, Great Toy, Essex. Nov. 14. *Sols.* Stevens & Beaumont, Great Coggeshall.
- YORKE, WILLIAM HENDING, Ironmonger, 5½, Theobald's-road, Middlesex. Oct. 26. *Sol.* Edwards, 1, Summer-row, Birmingham.

Bankrupts.

TUESDAY, Nov. 27, 1860.

- BIRRELL, ANDREW LEWIN, Licensed Victualler, 163, Duke-street, Liverpool. *Com.* Perry: Dec. 10 & 28, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Conway, Liverpool. *Pet.* Nov. 21.
- COWARD, MARIA, Grocer & Shopkeeper, Church Coniston, Lancaster. *Com.* Jemmett: Dec. 14 & Jan. 11, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester. *Pet.* Nov. 17.
- DAWSON, EDWIN, Music Seller, Sheffield. *Com.* West: Dec. 8, & Jan. 12, at 10; Manchester. *Off. Ass.* Brown. *Sol.* Unwin, Sheffield. *Pet.* Nov. 22.
- FAIRBRIDGE, WILLIAM, Butcher, Coatham, Kirkleatham, Yorkshire. *Com.* Ayrton: Dec. 10 & Jan. 7, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Cariss & Cudworth, Leeds. *Pet.* Nov. 26.
- FAIRBRIDGE, WILLIAM, Jun., Butcher, Redcar, Yorkshire. *Com.* Ayrton: Dec. 10 & Jan. 8, at 11; Basinghall-street. *Off. Ass.* Hope. *Sols.* Cariss & Cudworth, Leeds. *Pet.* Nov. 26.
- JENNINGS, ANGUS, & WILLIAM TAYLOR JENNINGS, Ship Stores & Commission Merchants, 14, Little Tower-street, London. *Com.* Fonblanque: Dec. 11, at 1, & Jan. 8, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Redpath, 27, Walbrook, London. *Pet.* Nov. 26.
- MITCHELL, HENRY JOHN, Licensed Victualler, 82, Park-street, Grosvenor-square, Middlesex. *Com.* Holroyd: Dec. 7, at 2.30, & Jan. 12, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* Nov. 26.
- PAPPS, RICHARD GEORGE, Builder, 32, Barbican, London. *Com.* Evans: Dec. 6, at 11, & Jan. 3, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Lumley, 41, Ludgate-hill. *Pet.* Nov. 23.
- READ, WILLIAM, Builder, 28, Dorset-street, Portman-square, Middlesex. *Com.* Goulburn: Dec. 7 & Jan. 9, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Sadler, 28, Golden-square, London. *Pet.* Nov. 26.
- REED, THOMAS SADLER, Silk Manufacturer, Derby. *Com.* Sanders: Dec. 11 & Jan. 15, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* James & Knight, Birmingham. *Pet.* Nov. 23.
- RHODES, BENJAMIN, & GEORGE RHODES, Brass Founders & Machinists, Mansfield-road, Nottingham. *Com.* Sanders: Dec. 13 & Jan. 10, at 11; Nottingham. *Off. Ass.* Harris. *Sols.* Hunt & Son, Solicitors, Weekday-cross, Nottingham. *Pet.* Nov. 24.
- RICHARDS, WILLIAM, Commission Agent, Pontypridd, Glamorganshire. *Com.* Hill: Dec. 10 & Jan. 8, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* Nov. 20.
- RICHARDSON, BENJAMIN, Glass Manufacturer, Wordsley, Staffordshire. *Com.* Sanders: Dec. 7 & Jan. 17, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* James & Knight, Birmingham, or Bolton & Sanders, and Wainwright, Dudley. *Pet.* Nov. 8.
- SHERATT, PETER, Silk Manufacturer, Macclesfield. *Com.* Jemmett: Dec. 19 & Jan. 9, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Allen & Aston, Princess-street, Manchester. *Pet.* Nov. 23.
- THOMAS, EDWARD, Iron Master, Walsall, Staffordshire. *Com.* Sanders: Dec. 14 & Jan. 17, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Hodgson & Allen, Birmingham. *Pet.* Nov. 26.
- TONEY, JAMES, Grocer, 2, Queen's-road, Chelsea, Middlesex. *Com.* Evans: Dec. 8 & Jan. 8, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Matthews, Carter, & Bell, 102, Leadenhall-street. *Pet.* Nov. 15.
- TUNNER, EDWARD, Grocer, Marsh Side, Kirkby, near Broughton, Furness, Lancashire. Dec. 7 & Jan. 4, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Musgrave, Whitehaven, or J. & R. Cooper, Manchester. *Pet.* Nov. 14.
- FRIDAY, Nov. 30, 1860.
- ARNOLD, WILLIAM, Innkeeper & Publican, Newchurch West, Monmouthshire. *Com.* Hill: Dec. 11, and Jan. 8, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Batt, Abergavenny, or Bevan, Girling, & Press, Bristol. *Pet.* Nov. 16.
- COOMBS, SAMUEL HOWARD, Boot & Shoe Maker & Leather Seller, Oswestry Salop. *Com.* Sanders: Dec. 13, and Jan. 17, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* F. & C. Minshull, Oswestry, or James & Knight, Birmingham. *Pet.* Nov. 20.
- CROFTS, JOSEPH, Builder, Walsall, Staffordshire. *Com.* Sanders: Dec. 13, and Jan. 17, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Duignan & Ebsworth, Walsall. *Pet.* Nov. 20.
- DAVIES, SAMUEL, Draper & Shopkeeper, Tredegar, Monmouthshire.

Com. Hill: Dec. 11, and Jan. 8, at 12; Bristol. *Off. Ass.* Miller. *Sols.* Gregory & Son, Bristol. *Pet.* Nov. 26.

GIBSON, WILLIAM, Draper, Castle Donington, Leicestershire. *Com.* Sanders: Dec. 11, and 27, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Hulsh, Castle Donington. *Pet.* Nov. 27.

HEATH, CHARLES, Coffee-house Keeper, 39, Oxford-street, Southampton. *Com.* Fonblanque: Dec. 11, at 12.30; and Jan. 9, at 12; Basinghall-street. *Off. Ass.* Graham. *Sol.* Weymouth, 13, Clifford's-lane, London. *Pet.* Nov. 27.

HINTON, ARCHIBALD, Victualler, Highbury Barn Tavern, Highbury, Middlesex. *Com.* Evans: Dec. 18, and Jan. 17, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Norton, Son, & Elam, New-street, Bishopsgate. *Pet.* Nov. 3.

HIRST, JOSEPH BARBER, Cloth Manufacturer, Holme, Almondberry, York. *Com.* Ayrton: Dec. 10, and Jan. 7, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Brook, Freeman, & Batley, Huddersfield, or Bond & Barwick, Leeds. *Pet.* Nov. 20.

HUTCHINSON, MATTHEW, Hemp & Flax Dealer, 48, Mark-lane, London, and Paragon, Blackheath, Kent (Mathew Hutchinson, & Son). *Com.* Goulburn: Dec. 12, at 1, and Jan. 14, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Hensman & Nicholson, 23, College-hill.

MACINTOSH, JOHN, Draper, Merthyr Tydfil, Glamorganshire. *Com.* Hill: Dec. 11 & Jan. 8, at 11; Bristol. *Com.* Hill. *Off. Ass.* Miller. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* Nov. 17.

MARTIN, HENRY, Tailor, Hanover-buildings, Southampton. *Com.* Goulburn: Dec. 12, at 1.30, and Jan. 14, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Paterson & Son, 7, Bouverie-street, Fleet-street, London, or Mackey, Southampton. *Pet.* Nov. 27.

PAGE, HENRY, Merchant & Shipping Agent, 40, Broad-street-buildings, London. *Com.* Holroyd: Dec. 11, at 1.30 and Jan. 15, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Voules, 16, Gresham-street, London. *Pet.* Nov. 28.

REEB, WILLIAM NORTH, Printer & Stationer, 38, Gracechurch-street, London, late of 31½, Clement's-lane. *Com.* Holroyd: Dec. 11, at 2.30, & Jan. 15, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London. *Pet.* Nov. 27.

SMITH, HENRY, HENRY WILLIAM WITHERS, CHARLES WILLIAM COLE, & GEORGE PARSON, Coal Merchants, Creek Bridge-road, Deptford, Kent (Smith, Withers, & Co). *Com.* Fane: Dec. 11 & Jan. 11, at 11; Basinghall-street. *Off. Ass.* Cannon. *Sol.* Sandom, Deptford, and 5, Duke-street, London-bridge, Southwark. *Pet.* Nov. 13.

TOWNSEND, THOMAS, Chemist, Druggist, & Sauce & Pickle Manufacturer, Leamington Priory, Warwickshire. *Com.* Sanders: Dec. 10, and Jan. 14, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Heath, Leamington, or James & Knight, Birmingham. *Pet.* Nov. 21.

WILTON, MATTHEW HENRY, Grocer, Southport, Lancaster. *Com.* Perry: Dec. 14, and Jan. 4, at 11. *Off. Ass.* Morgan. *Sols.* Forshaw & Goodman, Sweeting-street, Liverpool. *Pet.* Nov. 29.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Nov. 27, 1860.

- ASHBY, JOHN, Builder, 14, Carlisle-street, Soho, Middlesex. Dec. 19, at 1; Basinghall-street.—BARBER, JOHN, Machine & Roller Maker, 17, Bromley-street, Manchester. Dec. 21, at 12; Manchester.—BENJAMIN, NATHAN, & EDWARD DIDDLE, Gas Fitters, 19, New Cut, Lambeth, Surrey. Dec. 20, at 1; Basinghall-street.—GARRARD, WILLIAM PASKELL, Wine and Spirit Merchant, 16, Little Tower-street, London. Dec. 19, at 12; Basinghall-street.—LIGHTFOOT, THOMAS, Ship Builder, Sunderland. Dec. 19, at 12; Newcastle-upon-Tyne.—M'CLARE, JAMES, Jun., Manchester Warehouseman, Manchester. Dec. 19, at 12; Manchester.—MILLIGAN, JOHN, Draper, 10, Sidney-street, Chorlton-upon-Medlock, Manchester. Dec. 21, at 12; Manchester.—MOOS, JUCEN, Ship Broker, Swansea, Glamorganshire. Dec. 20, at 11; Bristol.—OLIVER, DAVID STODHART, Wine & Spirit Merchant, Holy Cross, Bristol. Dec. 20, at 11; Bristol.—PEARSON, WILLIAM GOULVY, Silk Agent, Milton-road, Gravesend, Kent, and late of Gresham-street, London. Dec. 20, at 12.30; Basinghall-street.—RODGERS, JOHN, Draper, North Shields. Dec. 19, at 12; Newcastle-upon-Tyne.—SMITH, JAMES HERBERT, Tanner, Wyld's-roads, Bermondsey, Surrey. Dec. 19, at 11; Basinghall-street.

FRIDAY, Nov. 30, 1860.

- CARMICHAEL, JOHN, Merchant, Liverpool. Dec. 20, at 11; Liverpool.—CLARKE, JOSEPH, Tanner, Currier, Leather Factor, & Japanner, Kidderminster and Bewdley, Worcestershire (Richard & Joseph Clarke). Dec. 11, at 12; Basinghall-street.—CLARKE, THOMAS, Paper & Bag Merchant, Bradford. Dec. 21, at 11; Leeds.—DANIELS, ABRAHAM, Merchant, Alexander-square, Brompton, Middlesex. Dec. 21, at 11; Basinghall-street.—DEMETRIO, DEMETRIO ANTONIO DI, Merchant, 38, New Broad-street, London (A. di Demetrio & sons). Dec. 21, at 1; Basinghall-street.—FLINT, JOHN PETER, Plumber, Glasior, & Gas Fitter, Sheffield. Dec. 22, at 10; Sheffield.—GILFART, WILLIAM, & SAMUEL BROWN, Machine Wool Combers & Woolstaplers, Bradford (Samuel Brown & Co.). Dec. 21, at 11; Leeds. Same time sep. est. of William Gilyard; and of Samuel Brown.—GOLDAMITZ, KEMP, Miller, Sutton, Ely, Cambridgeshire. Dec. 21, at 12; Basinghall-street.—GIBSON, WILLIAM Farmer, Godalming, Surrey. Dec. 21, at 11.30; Basinghall-street.—JONES, WILLIAM, Tailor, Hosier, Hatter, & Outfitter, Aldershot. Dec. 21, at 11; Basinghall-street.—LIMBRICK, RICHARD, Miller, Golden Valley Mill, Bitton, Gloucestershire. Jan. 3, at 11; Bristol.—PAGE, THOMAS HUSTLER, Grocer, Newmarket St. Mary, Suffolk. Dec. 21, at 12; Basinghall-street.—READ, FRANCIS BENNETT JOHN, Butcher, Leadenhall-market, London, and 12, Upper North-street, Bethnal-green, Middlesex. Dec. 21, at 11; Basinghall-street.—ROGERS, STEPHEN, Licensed Victualler, 44, Carnaby-street, Regent-street, Middlesex. Dec. 11, at 11; Basinghall-street.—STEPHENSON, JAMES JOSIAH, known as James Stephenson, Cabinet Maker & Upholsterer, 36, Crawford-street, Bryanston-square, St. Marylebone, Middlesex. Dec. 21, at 11; Basinghall-street.—WAKEFIELD, GEORGE VICKERY, & ROBERT BIRT, Hotel Keepers, Swansea, Glamorganshire. Dec. 21, at 11; Bristol.—WATSON, EDWARD MORRIS, Linendraper, 72, Tottenham-court-road, Middlesex. Dec. 21, at 1.30; Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, DECEMBER 8, 1860.

CURRENT TOPICS.

We notice in a Belfast newspaper the following letter relative to the withdrawal of the petitioners' counsel in the *Shedden case* :—

"London, 23rd November, 1860.

"MY DEAR SIR—I have read the article in the *Belfast Daily Mercury*, which you have been so good as to send me, in which my name is mentioned as one of the counsel in a cause of *Shedden v. Patrick*, and in which the conduct of the bar in that case is spoken of as 'disgraceful.'

"The conduct of a public body, such as is the bar, must always be open to, and be benefited by, fair and truthful criticism; but I cannot help regretting that a useful and natural reference to an interesting legal trial should be marred by a wholly inaccurate and unfounded charge against some of those connected with it.

"So far as I am concerned, the case is simply this. A little more than forty-eight hours before the day fixed for hearing the cause of *Shedden v. Patrick*, I was requested to conduct the case as one of the counsel for the plaintiffs. The Court before which it was to be heard is one in which I do not generally practise, and the papers in the case were of a most voluminous and complicated description. Under these circumstances I deemed it improper to accept the very large remuneration usual on such occasions, unless I could, consistently with pre-existing engagements, devote to the case time and attention such as it required. I therefore stated—and, in order to prevent mistake, I stated in writing—that, if a postponement of the case for some days could be obtained, I would undertake to make myself master of it, and that I would concur in an application for this postponement; but that if—as appeared not improbable—the application for a postponement should be refused, I could not accept the brief.

"I accordingly joined in requesting the Court to postpone the hearing; and, this request being unsuccessful, I retired from the case.

"Our profession is occasionally charged with undertaking more business than can properly be attended to; but it is something new to find an opposite course made a subject of complaint.—Believe me, yours faithfully,

"H. M. CAIRNS."

As far as Sir Hugh Cairns individually is concerned, this forcible, yet most temperate, justification will be conclusive. We are unable to say whether the other counsel stood in an exactly similar position; but we believe the profession, and that portion of the public which is capable of estimating fairly an advocate's responsibilities, are willing to give them credit for the best motives. In forming any opinion upon the subject, it ought not to be forgotten that Miss Shedden herself exhibited in court some evidence of a readiness, if not a desire, on her part to take the opening of the case into her own hands. Sir C. Cresswell intimated pretty plainly in the course of the case that this was his view.

In the interest of the public the withdrawal of the petitioners' counsel is doubtless on one account to be regretted; it led to the protraction of the proceedings beyond all reasonable bounds. Probably, before the fourteen days' sitting was over, the Court often lamented its refusal to postpone the hearing, and allow counsel to prepare themselves to conduct the case.

Information was received by the last Indian mail of the death of Sir Henry Davison, the Chief Justice of Madras. It is only about two years since he received his appointment, and his comparatively early death is

said to be attributable to the effects of the Indian climate. Sir Henry Davison was known to the profession in this country as one of the authors of *Davison and Merivale's*, and of *Gale and Davison's Reports*.

The sittings after term of the Court of Chancery commenced on the 4th instant. The number of appeals for hearing before the Lord Chancellor and the Lords Justices was only 13, of which 8 have been set down since the commencement of Michaelmas Term. The total number of causes set down for hearing before the different Courts is 322, viz., before the Master of the Rolls 109; before Vice Chancellor Kindersley 43; before Vice Chancellor Stuart 80; and before Vice Chancellor Wood 90. Not much progress has yet been made in the disposal of business in any of the Courts.

THE CASE OF *LANEUVILLE v. ANDERSON*.

The number of Englishmen possessing property who reside more or less permanently in France is large, and the questions of international law arising upon their testamentary dispositions are many and difficult. The first question in such cases is usually that of domicile, and this question must be determined by applying to a mass of disputed and perhaps remote facts certain rules which have been established by frequent and costly litigation. The application of these rules has so often disappointed the expectations of families and the evident intention of testators, that they have at length become sufficiently familiar to practitioners, and future miscarriages are only likely to occur through the folly of testators who choose to be their own lawyers. But there are many interesting and by no means obvious consequences arising from the rule that the law of the domicile governs the succession to personal estate; and the case upon which we now propose to comment is well worthy of attention for the light which it throws on some of them.

The judgment lately given in this case by Sir C. Cresswell after several days' elaborate argument, and after mature deliberation by the judge, has for the present terminated a litigation which has occupied the French and English courts for upwards of ten years. The testator, William Anderson, died at Paris in 1849, leaving an English will made in 1843, and a French will made in 1848. By the English will the testator gave a money legacy to a cousin, and subject thereto he gave all his real estate in Ireland and elsewhere, and he gave certain enumerated particulars, and all his personal estate, to his nephew William Anderson, one of the defendants in the present cause. By the French will the testator instituted "pour légataire universelle" Madame Burthé, and named "pour exécuteur testamentaire" M. Guichard, avocat, of Paris, the other defendant in the cause. The first question that arose was that of domicile, which was obstinately litigated in England. The Prerogative Court decided that the testator, at the times of making his will in 1848, and of his death, was domiciled in France, and this decision was affirmed on appeal by the Privy Council. The testator's nephew, William Anderson, had contended for an English domicile. If he had made out his case, the will of 1848, which was a holograph will valid according to French law, would have been declared invalid for want of the attestation of witnesses required by the English statute. But as the testator's domicile was held to have been French, it followed that the will of 1848 was good. As regards the will of 1843, it appears to have been held that at the time of making that will also the testator was domiciled in France. If he had been then domiciled in England, and had afterwards changed his domicile to France, what would have been the effect of that change upon the validity of the English will? In order to answer this question we must

first consider by what law should the effect of the change be estimated, and it appears that the law to be appealed to is that of the testator's domicile at his death, viz., the law of France. What then does that law require in the case of one who has become domiciled in France after having made a will in the country of his former domicile, with reference to the validity of such a will? We believe that the French law will be satisfied with the forms of the prior domicile. If this be so, it follows that this testator's will of 1843 would have been valid according to the law of France, even if he had changed his domicile after making it. Sir C. Cresswell, however, appears to have considered that this will would have become inoperative by the change of domicile for want of the forms required in the new domicile; and perhaps this is the rule of English law, to which by a momentary forgetfulness the judge seems to have appealed. However, as the domicile was held to have been changed before 1843, the nice question which we have been pursuing did not arise. The point to be considered was, what does the French law prescribe as to the wills of those who are subject to it? Now that law admits the validity of a will made abroad with the forms of the country where it is made; and, therefore, the testator, a domiciled Frenchman, having in 1843 made a will in England in the English form, that will was held valid by the law of France, the country of the testator's domicile at his death. We have thus far pursued this question because a better illustration could not be found of the difficulties of the law of domicile. And now, to return to our more immediate subject, we find the result to be that, so far as regarded the formalities demanded by the French law, both wills were good; and it remained to consider whether both could stand together, or whether they were inconsistent, in which case the latter would prevail.

It was contended by the representatives of Madame Burthé, who was now dead, that the second will disposed of all the testator's property in a manner at variance with the former will, which it therefore revoked by implication although not expressly. It was further contended that upon this point the Court ought to adopt the decision which had been given by a French tribunal, to which it properly belonged to decide what was the last will of a domiciled Frenchman. Sir C. Cresswell delivered his opinion in conformity with the French judgment, and he thus avoided the necessity of deciding whether or not he would have been bound by that judgment in case he had disapproved of it. The defendant Anderson contended that the language of the second will showed that it was confined to property in France. Upon the legal meaning and effect of this will, the Court was assisted by the evidence of eminent French lawyers. The result of that evidence was that the words "*légataire universelle*" taken by themselves would make Madame Burthé legatee of all the testator's property; but if these words were preceded by specific legacies, or by a gift in general terms of an entire share of the testator's property—the "*legs particulier*," or "*legs à titre universel*" of the code—then the words "*légataire universelle*" would be equivalent to "residuary legatee," and would not be incompatible with the former part of the will. Again, if a first will gave specific legacies, and made no "*légataire universel*," and a second will instituted a "*légataire universel*," the two would not be incompatible, but the general expression in the second will would be explained and controlled by the first. Again, if a first will gave specific legacies, and appointed a "*légataire universel*," and a second will merely appointed a "*légataire universel*," he would be considered as substituted for the first, and the specific legacies given by the first will would not be revoked. But if a second will appointing a "*légataire universel*" contained words showing that the technical expression was used in its primary sense, and that the intention was to give all to the legatee, then it was incompatible with any different disposition in a former

will, and of necessity revoked it. The argument for the defendant Anderson, founded upon these distinctions of the French lawyers, appears to have been this—that the bequests to Anderson in the English will were specific, followed by a general residuary bequest, and that as, upon the construction contended for by that defendant, the French will only applied to property in France, both the specific bequests and the residuary bequest of the English will must still have their full effect as to all the testator's property out of France. It appears tolerably plain, however, that the English will contained a mere enumeration of particulars followed by general words, and that the whole amounted to no more than an ordinary residuary bequest. But even supposing the argument founded on the alleged specific character of the bequest to be untenable, there still remained the general clause dealing with all the property; and it was contended that this residuary bequest was not revoked as to property in England by the gift by the French will of property in France only. The question thus raised would have been a difficult one; but Sir C. Cresswell was not called upon to decide it, because he held that in the second will the testator had used the words "*légataire universelle*" in their primary sense, as indicating that the legatee was to take all his property everywhere; and, therefore, those words were incompatible with the former will, and, as far as regarded personal property, would revoke it. The judgment upon this point turned on a minute verbal criticism of the French will, upon which the defendant's counsel had argued very ingeniously against what appears to be its plain meaning.

Another difficult question arose as to the right of Guichard, the "*exécuteur testamentaire*," named in the will of 1848, who now claimed probate of that will in England. There had been a dispute between the three representatives of Madame Burthé, the "*légataire universelle*" named in the will, and Guichard seems to have been put forward by one of those representatives in opposition to the two others. This latter question, therefore, was litigated among the representatives of Burthé, whereas the former question lay between those representatives and Anderson. There had been a judgment of a French court in 1856 upon the claim which Guichard had assented to intervene in his quality of executor. The grounds of that judgment were that Guichard was appointed executor, but without what is called *seisin*; that the testator's domicile was French, as had been decided in 1854 by the English Privy Council, and therefore the nature and extent of the office of executor conferred on Guichard must be estimated by French and not by English law, even for property situate in England; and that if the quality of executor can, under certain circumstances, continue beyond one year, it cannot continue indefinitely and without utility to the realization of the intention of the testator. It was on these grounds declared that the executorship of Guichard was expired, and that he had no title to meddle in the affairs of the succession either in France or England. After two unsuccessful appeals against this French judgment, Guichard now sought to obtain a contrary decision from the English Court of Probate. It was contended by his counsel that the right of an executor with reference to property in England must be determined by English law; and as Guichard's appointment was general, and not for a limited time, the Court must still treat him as executor, entitled to all the rights which the English law allows. With regard to the observation that the appointment of executor in a French will is for a year only, it was answered that the grant of probate of French wills by the Prerogative Court had always been general, whereas if the appointment was for a year only the grant of probate should have been limited to that time. It was admitted by Sir C. Cresswell that the practice had been as stated. If immediately after the death of a testator domiciled in France the executor were to apply to the English Court for probate, a difficult question might arise whether

such probate ought to be—as in practice it had hitherto been—general, or whether it should be limited to a single year. But in the present case the time within which the function of executor should have been discharged had expired, and under such circumstances Sir C. Cresswell considered himself to be bound by the decree of the French Court; and therefore he rejected Guichard's claim to probate.

It appears from this case, that if an executor dies domiciled in France, the duration of the power of the executor named in the will must be defined by the French law, even as regards property in England. It also appears that the construction of such a will, and the decision of all questions as to the rights of legatees under it, belong to the French Courts. It is true that Sir C. Cresswell did not expressly decide this point, but he quoted a judgment of Sir Herbert Jenner Fust, which lays down the principle, that in the case of a domiciled subject of France, "the courts of that country are the competent authority to determine the validity of his will, and the succession to his personal estate."

THE TRUSTEES AND MORTGAGEES ACT— (23 & 24 Vict. c. 145).

The necessarily restricted application of this Act, as well as the difference between both the estate and indemnity of a purchaser, under the statutory and under the ordinary powers of a mortgagee, formed the subject of a recent article. Other effects of the peculiar frame of the leading sections in Part 2 of the Act also gave us grounds for animadversion. On the same occasion, the principles of parliamentary conveyancing were touched upon in their general policy. As regards the particular principle on which the Trustees and Mortgagees Act is based, or rather professes to be based, Lord Cranworth and the Legislature did not proceed without authority. An idea had for some time prevailed among conveyancers and practitioners of great repute, that while such measures as the Fines and Recoveries Abolition Act, and the 8th & 9th of Vict., making land lie in grant as well as in livery, were the proper means of simplifying the nature of instruments, the statutory incidence of powers to estates, rather than the symbolical system attempted by Lord Brougham's Lease and Conveyance Acts, was the true machinery for shortening the matter of deeds. Thus, when in 1850 Mr. Christie was asked by the commissioners sitting to consider the registration of deeds and the simplification of the forms of conveyance, if he held any opinion whether anything could be done in the way of shortening conveyances by annexing incidents to particular subjects, he answered:—"I can very well fancy that something could be done in that way. I think something might be done. You might say, that whenever a trust for sale was created, it should empower the trustee to exercise this and that discretion. But then I would do it in the mode of annexing that to his office, not in the form we were referring to, of saying it should have the effect of such and such words. I would let the Legislature say in its own words what it means to enact on the subject." And on being questioned whether, in the case of mortgage, he would say such and such consequences should follow from the transaction, his opinion was that certainly something might be done; and that the mode he had mentioned was the true mode in which conveyances should be shortened. But Mr. Christie thought that much could not be done in the powers of sale and exchange. It would require so much handling in most cases, that he doubted whether they must not be let alone.

It ought not, however, to be supposed that, in order safely thus to lighten the wordy burden of assurances by the substitution of matter of public general enactment for matter of private contract in each case, it would be sufficient to take the powers and provisions of even the most approved forms, and to turn them into

the sections of an Act. A different sphere is entered. The characters of the transplanted clauses and the remedies arising on them become changed in the process, unless adequate safeguards be used. Equitable rights accruing under deeds acquire a legal force when included in the written law. Canons of interpretation, by which covenants and grants, or matters in the nature of grants, are to be construed against the covenantor and grantor, and in favour of the covenantee and grantee, must give way before the rules, available to the parties in common, for the right reading of statutes. On a breach of duty imposed by the Legislature, any one damaged has his action; he need not be a contracting party. In the case of companies' clauses, a remedy by *mandamus* springs up. The infraction of a public Act may involve a prosecution for misdemeanour, while under a deed the proceeding would always be civil.

Influenced apparently by the first of the above distinctions between conveyancing forms enacted for the public good, and the like forms signed, sealed, and delivered *inter partes*, our correspondent of last week, "H. R. D.," has raised a question of very great importance to the title of a purchaser of a mortgaged or charged property under the Trustees and Mortgagees Act. The tenor of his letter makes it almost unnecessary to say, that the writer belongs to that branch of the profession which is occupied with the law of real property transactions rather than with the business of them. We will presently consider whether his view can be supported. Nevertheless, the effect, which adverse opinions from such a quarter have on the destiny of the new measure, does not depend upon their proving tenable or untenable. Their existence is a testimony to doubt; and doubt on a Real Property Act that is not compulsory is fatal to its adoption. The master eye and hand of a Brodie or a Coulson in preparing work for the Legislature can foresee and guard against danger. In the present instance, what is lacking in the draftsman's prudent wisdom must be made up by critical vigilance on all hands in the legal press.

The point mooted by H. R. D. is raised upon a comparison of the effects of the 11th section of the Act which gives the powers to the person to whom the mortgage money "shall for the time being be payable," and of the ordinary mode of providing that the power of sale may be exercised by any person entitled to give a receipt for the purchase money. As we see some reason to differ from our correspondent, we will give his own language:—

"This mode of defining the person by whom they are to be exercised, is found to work well, because, although the exercise of the powers by persons to whom the money was not properly payable would not be of any effect between persons with notice, yet a purchaser for value without notice would be safe, provided nothing appeared on the deeds to show that the powers had been exercised by, or the mortgage money repaid to, other than the right person. But whenever the mortgagor in a mortgage under this Act shall have the legal estate in him at the time of creating the charge, the 15th and 19th sections [the conveyance and receiver sections] will confer legal powers; and it is by no means clear that this vesting of legal powers in a person defined by a purely equitable test will work equally satisfactorily. * * *

The question remaining for consideration is, whether a purchaser in possession of the legal estate conveyed by the mortgage deed is safe from the consequences of these powers being kept alive by circumstances of which he has no notice. * * *

The person to whom the money was payable previously to the improper payment still satisfies that description, and is therefore still entitled to exercise the legal powers of conveying the property after a sale, and of collecting the rents through a receiver: and as these powers extend to 'all the estate or interest which the person who created the charge had power to dispose of,'

they will take precedence of the legal estate conveyed by the same deed."

Had the Act, following the common form, simply given the power of sale to the person to whom the mortgage money might for the time being be payable, we should agree with H. R. D. Indeed, his objection had not escaped us when proceeding to review these clauses; but it appeared to be met by the controlling qualifications subject to which the statutory powers are given. In the enabling section (the 11th) it is declared that the person shall have the powers of sale, insurance, and appointment of a receiver, "to the same extent (but no more) as if they had been in terms conferred by the person creating the charge." This seemed to us to preserve the equitable character of the powers. Yet the words here used are by no means conclusive to that effect; for how is the word "extent" to be understood? Does it, or does it not, go to the character of the power of sale as well as to the mode of exercising it? Therefore the question, whether the Act confers a new legal power, or supplies the old equitable power, could, if it depended on the 11th section only, scarcely be determined without a judicial decision. But, for the protection of purchasers without any notice that the mortgage money is payable to some other person than the party selling, resort may be had to the 33rd section; which is, in substance, that nothing in the Act shall empower trustees or other persons to affect the estates or rights of any persons soever, except to the extent to which they might have affected the estates or rights of such persons, if the instrument under "which such trustees or other persons are empowered to act" had conferred express powers for such trustees or other persons to affect such estates or rights. Assuming that a mortgage deed can be included under the above description in inverted commas, we have then to consider what would be the effect in a deed of giving power to the person to whom the mortgage money might for the time being be payable, to sell so as to defeat the estate of a purchaser taking under the mortgagee the legal estate without notice that the mortgagee was not then entitled to the mortgage money. We should be of opinion, *nil*. Such a power would be an absurd and repugnant attempt to counteract a rule of equity. At the same time, it must be admitted that this is but a lame and roundabout way of saving the great principle of the safety of a purchaser without notice, and withal a way not free from the doubt of treating a mortgage as a deed by which a person is "empowered." All that can be said is, the deed empowers the mortgagee to recover his money in some manner or other.

We are forced upon the whole, to the conclusion that, bearing in mind the ambiguity of the word "extent" in the 11th section, the severance in the frame of the Act of the power to convey from the power to sell, and the limited character of the 33d section, as well as the tortuous application of it, it is really impossible to decide whether the power of sale given by the Act be legal or equitable, and, therefore, to pronounce any confident opinion on the point raised by H. R. D. The courts would undoubtedly seize hold of any plank to throw to a purchaser without notice. This is sorry comfort to a draftsman, whose peace of mind depends upon his preserving his client from a suit, as does an Alpine guide's in keeping his traveller from a crevasse.

The necessity of testing the effect of the powers given in the Act by the effect which they would have if given by certain persons, or in certain deeds, indicates a break-down of the principle itself, at least as embodied in this Act, of making powers incident to estates. Practically, such a test amounts to supposing that the particular section giving the power, forms part of the deed in question. Else, in what language are we to imagine the power to be given? Experience may ultimately show, that the safeguards requisite in giving statutory conveyancing powers leave no practical difference between Lord Cranworth's or Mr. Christie's system and

Lord Brougham's. In other words, that the only safe way of helping conveyances is by the statutory supply of clauses to them—a result which, in the end, would satisfy the reasonable *a priori* view that the Legislature had better leave men to make their own contracts in their own way.

LIABILITIES OF SHIPOWNERS.

The legal liabilities of shipowners have of late been the subject of much discussion, both in this country and in the United States. In the summer of 1859, the Chamber of Commerce at Liverpool called the attention of the mercantile world to the question, by the publication of an elaborate report which fully explained the present defective state of the law, and contained some valuable suggestions for its amendment. Since that document was published, a committee of the House of Commons has made careful inquiry into the condition of our merchant shipping, with a view to its relief, and of that enquiry the legal liability of shipowners formed an important branch. The Chamber of Commerce at New York has more recently taken the matter under its consideration, and by late accounts from that quarter we learn that Mr. Lindsay, the member for Sunderland, had gone to Washington, in order, if possible, to induce the American Government to come to some international agreement upon the subject. Of the result of his visit we are not yet fully informed.

By the common law of England the liability of shipowners was unlimited; and this was also the rule of the civil law. But England, like other maritime countries, was eventually induced to abandon a rule which operated as a serious check upon commercial enterprise. In the earliest maritime code of Europe, the *Consolato del Mare*, we find the principle of limited liability distinctly laid down (chaps. 141 & 182). It is there stated that the responsibility of a part-owner is limited to the value of his share in the ship. In the course of the seventeenth century this principle of limiting the owner's responsibility to the value of the ship was recognized by the law of Holland, of France, and of the Hansatic Towns. But it was not until long afterwards that this rule was adopted in England. The first limitation of the liability of owners was introduced in 1734 (7 Geo. 2, c. 15), but the Act then passed was intended only to protect them in case of the embezzlement of goods on board by the master or crew. In the year 1786 another Act was passed (26 Geo. 3, c. 86) which still further limited the liability of owners in the case of robbery by whosoever committed, and in case of fire. It was not, however, until the year 1813 that the rule which had been so long previously recognised in other commercial countries was introduced into the law of England. By an Act passed in that year (53 Geo. 3, c. 159) the liability of shipowners was practically limited to the extent which has since prevailed. By the Merchant Shipping Act of 1854, the liability of the owners of sea-going ships is defined, where all or any of the following events happen without the fault or privity of the owners: 1st., in case of loss of life, or personal injury to passengers; 2nd., in case of the loss or damage of goods; 3rd., in case of loss of life, or injury caused to persons on board of other vessels in consequence of improper navigation; and 4th., in case of loss or damage happening to any other vessel, or to any goods on board of any other vessel in consequence of improper navigation. In all such cases the Act in question provides that no owner of any such ship, or share therein, is answerable in damages to an extent beyond the value of his ship and the freight due, or to grow due, in respect of such ship during the voyage, which, at the time of the happening of any such events as aforesaid, is in prosecution or contracted for subject to the following proviso, (that is to say), that in no case where any such liability as

aforesaid is incurred in respect of loss of life or personal injury to any passenger shall the value of any such ship, and the freight thereof be taken to be less than fifteen pounds per registered ton. (See s. 503.)

In case of loss of life or personal injury, it is in the discretion of the Board of Trade within the United Kingdom, upon giving three days' notice to the owners to refer to the decision of a jury the following question, namely, the number, names, and descriptions of all persons killed or injured by reason of any wrongful act, neglect, or default, for which the owners are responsible. The Board may enter into a compromise as to the damages, but if it does not do so, then such damages in the case of each death or injury so occasioned, are to be assessed at thirty pounds, and the gross amount so assessed is the first charge upon the value of the ship and freight. It has been decided that the value of the ship is the price for which she would have sold, not at the commencement of the voyage, but immediately before the occurrence of the accident. It has also been decided that the freight available for the payment of damages is that which was due at the same time. It is not competent for any person in case of such loss of life or personal injury, to institute proceedings against the owners of the ship until the inquiry commenced by the Board of Trade is completed, or unless the Board decline to institute such inquiry. Subject to the right of the Board of Trade to recover damages in cases of death and personal injury, the owners may, in order to secure the due distribution of the fund, pay into a court of equity the value of the ship and of the freight at the time of the accident; but in this case, the costs of the suit in equity, as well as the costs of any proceedings taken against the owners at law, or in the Court of Admiralty, must be paid by them.

In addition to the provisions of the Merchant Shipping Act, conferring on the Board of Trade the powers of which we have given a summary, in the case of accidents involving loss of life or personal injury, that statute contains a section (511), to the effect that if any person is dissatisfied with the statutory amount of damages, he is at liberty to bring his action against the shipowner on his own account, provided "that any damages recoverable by such person shall be payable only out of the residue, if any, of the aggregate amount for which the owner is liable." It appears that this section has caused much annoyance as well as loss to the shipowners. Its practical effect is stated to be in the Report of the Parliamentary Committee lately published, "that when an accident occurs, innumerable actions at law are instituted against opulent companies or wealthy shipowners, and under the threats and pressure of legal proceedings, the owners of the incriminated ship are, unless where all the claims arise within one jurisdiction, glad to pay almost any amount of compensation money rather than bring the cause before a court of law." And this state of things is attended with inconvenience to the public as well as to the shipowners; for the Committee add that many of the latter, and those of the wealthiest description, refuse to take passengers on board their vessels on account of the unknown liabilities to which they may be exposed in the event of loss of life. This result we may assume was never contemplated by the Legislature. The provisions of the Merchant Shipping Act were obviously intended to carry out the principle which had been previously recognised that in no case should the liability of the shipowner exceed the value of the ship. Even the objectionable section, the 511th, is explicit upon this point. But if in its practical results it is found to be hurtful alike to the shipowner and the public, we trust that some means may be found of correcting the evil without impairing the salutary powers which are now invested in the Board of Trade with reference to casualties that occur at sea.

But the liabilities of British shipowners are not confined to this country. They may, in the absence of an

international arrangement to the contrary, incur indefinite liabilities in foreign countries. Foreign shipowners may in like manner incur an unknown amount of liability in this country; for it has been expressly decided that the 504th section of the Merchant Shipping Act, which limits the liability of British shipowners, does not apply to the owners of foreign vessels. The question arose as follows: a collision took place off the coast of Ireland between two American vessels, one of which, with her cargo, was wholly lost. The other vessel having put back to Liverpool, whence she had sailed, for repairs, she was placed under arrest by an Admiralty warrant, to answer a claim of £8,000 on behalf of the consignees of a part of the cargo of the lost ship. The agents of the incriminated ship having given bail for the amount so claimed, she proceeded on her voyage, and returned to Liverpool in the course of a few months, when a second claim was made under an Admiralty warrant for £1,800, being for another portion of the cargo of the lost vessel. The owners disputed this second claim, but before any final decision was given in the matter, a third claim was made by other parties for £23,000. The owners considering that the amount of the two first claims was fully equivalent to the value of the ship and her freight at the time of the collision, then appealed to the Court of Chancery under the 514th section of the Merchant Shipping Act, in order to have the ship valued, and their liability limited, in terms of the Act. But it was decided by Vice-Chancellor Wood that that limitation of liability does not apply to foreign vessels, and the decision was affirmed on appeal to the Lords Justices. Our remarks upon this important case we must reserve for a future number.

ARREST AND IMPRISONMENT FOR DEBT.

On a recent occasion we adverted to the law of protection and discharge from arrest, with the view of pointing out the inconvenience and uncertainty which it introduces into the relation of debtor and creditor. Such mitigations, however, of the power of arrest and imprisonment for debt are found absolutely necessary, in order to reconcile the continuance of such an institution with the feelings of modern civilization, notwithstanding the *prestige* of centuries of usage in its favour; and modifications of this kind have now so extensively encroached upon the original plain and absolute right of the creditor, that the exercise of it is reduced to very narrow limits. Under these circumstances, it would seem to be a greater innovation in principle than in practical effect to abolish arrest in execution for debt altogether. The suggestion is not novel, but is appropriately and even unavoidably recalled to mind at the present time, when the whole law of debtor and creditor is about to undergo a complete reconsideration. Such a change would undoubtedly be a step gained in the simplification of this branch of the law; it would at once obviate all the antagonistic provisions for discharge and protection, and would remove a multitude of embarrassments in practice. It seems, therefore, only necessary to show that it is equally in accordance with principles of reason and justice—in order to insure the speedy consummation of so desirable an object. What, then, are the grounds on which the present law is maintained, and does any valid reason exist for preserving an institution which is so strongly opposed to the current of modern legislation and modern feeling?

The law of final process against the person of a debtor derives its origin from the times in which human beings were enumerated, like cattle, amongst the subjects of property. The Romans, the great inventors of laws for all the nations of the world ancient and modern which dwell within the pale of civilization, fully recognized the practical applicability of this utilitarian

view of humanity to the realization of debts. In the earliest period of their law they laid down the maxim, *Qui non habet in ære, luat in corpore*, and applied it strictly in its literal meaning. Payment in person with them did not consist in a temporary detention of the debtor in prison, but, so far as the person could be converted into payment, was a stern and literal fact. The body of the debtor was judicially assigned to the creditor in absolute dominion, to be dealt with as freely as any other article of property; the creditor might slay his debtor and dispose of his body to the best advantage, or might sell him alive in the nearest slave market; and where there were several creditors, it is said they might make a piecemeal distribution of the body of the debtor between them.

Amongst this practical people the taking of the debtor in execution had thus a real meaning and a substantial efficacy in payment of the debt. This seems to be all that could be said for it, but was alone sufficient to recommend it to a people whose strictly logical conclusions of law were never tempered by any milder considerations. The more humane influences of modern times, in rejecting the notion that human beings may be dealt with as property, have deprived the institution of the only object which it was designed directly to effect. The taking in execution in the present enlightened age consists merely in depriving the debtor of his liberty, which does not directly contribute in any way towards payment of the debt; and thus the remnant of the institution which has descended to our times retains no perceptible trace of its original meaning, nor does it seem capable of explanation on any rational ground.

One indirect effect, indeed, imprisonment sometimes carries with it, which is not at all within the intention and object of the institution; and, moreover, is as unjust and iniquitous as it is unintended. While the imprisonment fails in securing any payment out of the real debtor, it is frequently successful in extracting payment from others who are not indebted at all. When the real debtor is cast into prison and thereby threatened with ruin in his credit and business, his friends and relations are naturally induced to interpose, if possible, to save him, and supply the money to redeem his liberty. Such a result is highly acceptable to disappointed creditors, who, having miscalculated the sources of credit on which they trusted, can by this means avail themselves of other resources which they never bargained for. It is a result looked for and anticipated by unscrupulous and extortionate money lenders, who regard the debt as a draft upon the kindly and humane feelings of the monied friends of the debtor. The law which thus exacts payment of the debt from those who do not owe it is not only illogical and irrational, but works at times the greatest hardship. Persons wholly innocent of the debt, who neither insured nor guaranteed it, who received no advantage from it and to whom no credit was given, are placed by the law under a constraint to pay; and the best feelings of humanity are made the instruments and means of extortion. In the natural course of things an insolvent falls back upon his friends and relations for his own future support; but by this contrivance they are burdened with the additional weight of his antecedent debts. The fruits which the imprisonment of his debtor thus bears to the creditor are the only efficacious end which it serves, and therefore supply the only motive, apart from mere vindictiveness, for putting the law in execution. Extortion from the friends of the debtor being the only efficacious end of the law, must also be treated as the only ground for maintaining it; and indeed this is sometimes seriously advanced as the great argument in its favour. Upon every consideration of common fairness and humanity, it is the one argument which, beyond all others, most imperatively calls for its immediate repeal.

Arrest and imprisonment for debt may be wholly dis-

regarded in connection with our commercial system. It forms no element in the basis of commercial credit. To large trading companies it is altogether inapplicable; and private traders and trading partnerships are protected from its effects by the law of bankruptcy. The field of its operation is confined to the small pecuniary transactions of private life, where it still retains a wide scope for oppression and hardship. It exercises little or no influence in honest and fair transactions; but is a vital ingredient in the lowest order of money dealings. The abolition of arrest and imprisonment would at the same time put an end to some of the most disgraceful transactions to which the practice of the law is made subservient.

The existence of a similar law throughout most countries of Europe is sometimes asserted as an argument of its practical utility. A practice so universally prevalent must, it is thought, be supported on the grounds of an equally extensive necessity or expediency. The law of imprisonment for debt, it is true, prevails in all the principal countries of Europe, and also in most of the United States of America. But is not the argument drawn from this wide extension of the law altogether fallacious? The law is widely spread only inasmuch as the countries in which it prevails have drawn their laws from a common source, and have imitated the same example. The laws of Europe, in the matter of personal obligations and procedure, have been framed for the most part on the basis of the Roman law; America transplanted her law already formed from England. So far as the law possesses a real efficacy in producing payment, either from the assets of the debtor or from his friends, there may be perceived a substantial ground for maintaining the law common to all countries. In former days, the general insufficiency of the laws of bankruptcy and insolvency to secure the estate of an insolvent gave considerable scope for its operation; but modern contrivances of law have been devised sufficient to extract all the assets of the debtor, without resorting to this process of duress; and the extortion of money from other parties who are not legally involved in the same liability is, as we have pointed out above, a crying and cruel injustice. Moreover, we believe we are fully justified in asserting that the most enlightened jurists are by no means satisfied with the state of the law in their respective countries, and many opinions of eminent men might be cited in favour of the total abolition of imprisonment for debt.

The policy of maintaining this law can scarcely now be deemed an open question. It was submitted to the inquiry of the Common Law Commissioners of 1832, and fully investigated by them in all its bearings. It will be well to recall to notice the conclusion to which, with one dissentient — Mr. Serjeant Stephen — they arrived.

"The principle of the present law is, to do justice by the use of the strong and compulsory means of arrest and imprisonment applied indiscriminately. The system has been found to be productive of so much hardship and injustice, that it was at last deemed to be necessary to mitigate its consequences by the enactment of the insolvent law. The joint operation of the two opposite processes, for the imprisonment and enlargement of debtors, has been productive of so much evil as to lead to the suspicion, which seems to be fully verified by inquiry, that the mischief ought to be obviated, not by provisions designed for the mere mitigation of its consequences, but by removing its cause; that is, by limiting the power of imprisonment itself, and confining it to cases where it is warranted on the plain and just principle of preventing the debtor from fraudulently absconding or removing his property beyond the reach of justice, or for the punishment of actual fraud, or compelling the debtor after judgment either to pay the debt, or make a cession of the whole of his property for the benefit of his credi-

tors." "Beyond this, we believe that the practice of imprisonment for debt is neither warranted in principle, nor beneficial in practice, and that, on the contrary, whilst the exercise of the present almost unlimited power is productive of pecuniary loss, injury, and distress to creditors as well as debtors, it also occasions great moral evils in its tendency to subdue that proper degree of pride and honest feeling which is inconsistent with the degradation of imprisonment in a gaol, and to level the distinction between guilt and misfortune."

It may be observed with respect to the two purposes for which the Commissioners would preserve imprisonment for debt; namely, to correct fraudulent and obstructive conduct on the part of the debtor, and to compel a complete cession of his property for the payment of his creditors, they both seem to be more adequately and suitably provided for in other ways. The former strictly comes within the province of penal law. Imprisonment in such cases is of the nature of a punishment for misdemeanour, and should be applied by the authorities, and with the procedure appropriate for criminal law, and not for the private purposes, or at the caprice of the creditor. The latter purpose, the cession of property, it will be remembered, at the time of the inquiry by the Commissioners, could be fully effected only by the voluntary act of the debtor himself. The creditor could not have execution against copyhold lands, or more than half of freehold lands, or against stock in the funds or bonds, bills of exchange, or other securities, or any debts owing to the debtor. The imprisonment then operated as a mode of compulsion to extort from the debtor a discovery and cession to the creditor of the property, which the law refused to give him by a more direct process. It was a mere measure of justice to the creditor so long as this property was withheld from his reach, to give him some resource or hold over the debtor for obtaining it. The process of duress by imprisonment, however, was very inefficient, since debtors might decline to purchase liberty at the expense of their property and means of subsistence; and many preferred spending their property in prison, where they could purchase every luxury, even occasional liberty included, to going out empty into the world. This purpose of imprisonment is, at the present day, entirely superseded by the modern alterations in the law which render all the property of the debtor, of whatever kind, equally amenable to the process of the judgment creditor. We are fully justified, therefore, in considering that the limited purposes for which the commissioners advised the retention of imprisonment are, or may be, more adequately and appropriately secured by other means, and that their opinion may be interpreted at the present day as a recommendation of a total and unqualified abolition of arrest and imprisonment for debt.

We might further enlarge on the numerous minor arguments against imprisonment for debt, such as the useless expense to both parties, the waste of resources by the imprisoned debtor, the indirect evils it produces, the unproductive cost to the country, and the like; but all these have been so often enforced, and are so clearly recognised, that it is sufficient here merely to refer to them; our object now being rather to call attention to the present state of the question, and the necessity for a speedy solution. The time has at length arrived when a decisive step must be taken. The legal relations of debtor and creditor are to be subjected by the Legislature to a thorough re-construction, with a view to a complete and permanent settlement; and the question cannot be avoided, whether our insolvency law shall henceforth be restricted to the direct objects of its existence, namely, the cession, realization, and distribution of all the property of the insolvent, or shall continue to be complicated, encumbered and confused with elaborate proceedings and contrivances for evading the direct and primary consequences of the law of final process against the person?

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before Vice Chancellor STUART.)

Dec. 4.—*Draper v. The Manchester and Sheffield Railway Company*.—In this case orders had been obtained for production of documents by the defendants to the plaintiff, his solicitor or agent. The plaintiff's solicitor, in company with a public accountant, attended at the office of the defendants' solicitors for the purpose of inspecting the documents. The defendants' solicitors, however, refused to permit inspection by the accountant; and the plaintiff now moved that such inspection by the accountant might be ordered. It was contended on the part of the defendants that a professional accountant could only be employed under an order made upon a special application.

The VICE CHANCELLOR said that the question was whether under the order that the solicitor or agent should be at liberty to inspect documents, a professional accountant would be at liberty to attend as agent. In his opinion, there was no rule of the Court which precluded a litigant who had obtained the ordinary order for production of documents from having the benefit of the assistance of an accountant. He thought, therefore, no objection could be made against an accountant as agent.

COURT OF QUEEN'S BENCH.

(Before Lord Chief Justice COCKBURN, Mr. Justice HILL and Mr. Justice BLACKBURN.)

Nov. 22.—*In re —, an attorney*.—The facts of this case are stated *ante*, p. 4. An application was now made that the rule to shew cause obtained at the commencement of the term to strike the attorney off the rolls, should be made absolute on the ground that the attorney had written a letter to the applicants stating that he did not intend to shew cause against the rule.

The Court made the rule absolute.

SESSIONS HOUSE, CLERKENWELL.

At a meeting of the magistrates of the county of Middlesex held on the 29th ult. it was decided by a large majority, that all sittings of the court for criminal and county business should in future be held at the Sessions House, Clerkenwell-green.

COURT OF COMMON COUNCIL.

Thursday, Nov. 6.—*The Sheriff's Court*.—Mr. Deputy Fry, Chairman of the Officers and Clerks Committee, presented a report from that body, recommending certain alterations in the fees taken at the Sheriff's Court, and an application for an order in council extending to the court the Bills of Exchange Act. He added that the proposed application had been suggested by Mr. Kerr, the judge of the court, with a view to assimilate the jurisdiction and mode of procedure to those of the metropolitan county courts.

The report was at once agreed to.

Central Criminal Court.—Deputy Fry presented a report from the Officers and Clerks Committee, recommending the entire abolition of the fees received for admission to the galleries of the Central Criminal Court, and suggesting certain regulations for the admission of the public in future. The report stated that the gross receipts taken for admission to the galleries in question during six years amounted to 911*l.* odd, and the attendant expenses to 269*l.*, leaving 642*l.* It had been the immemorial custom to apportion the net profits amongst the Lord Mayor for the time being, the sheriffs, and the swordbearer—the share of each amounting on an average to about 35*l.* a-year. The Court expressed its approval of the abolition of the fees in question. Some discussion ensued with regard to the admission of the public in future, but substantially the report was adopted.

The Court then adjourned.

During the sitting of the Court of Exchequer last week and while the jury had retired for a few minutes for refreshment, a coat belonging to one of the jurors was stolen from the jury box, and a very shabby one left in its stead. Exchanges of hats, coats and umbrellas are of common occurrence in our courts of law; and having regard to the circumstance that the things left behind are invariably of a very inferior description to those taken away, it is extremely doubtful that these exchanges are the result of accident.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; *Common Law* by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

JOINT STOCK COMPANY—ACTS *ULTRA VIRES*—AMALGAMATION—RATIFICATION.

Re the Era Assurance Company; Williams's Case, V. C. W., 9 W. R., 67.

Two very important questions arose and were decided in this case. It was decided in the first place that where the deed of settlement of a joint stock company does not contain any provision enabling the company to effect an amalgamation with another company, such amalgamation cannot be accomplished so as to transfer the liabilities of the company attempted to be amalgamated; and in the second place it was held that although there had been a special general meeting which approved of an agreement for amalgamation, yet that was insufficient to confer the power which was wanting in the deed, so as to affect the shareholders with the liabilities of the amalgamated company.

The present case is the first in which it has ever been definitively decided that a company, without power in its deed to do so, cannot accept a transfer of the business and liabilities of another. In the *Sea, Fire, &c., Society v. Port of London, &c., Society* (Ho. of Lds., 6 W. R., 24), this question was raised; but the case being decided upon another point, it was not necessary there to decide the question. Lord Cranworth, however, in delivering his opinion, expressed himself to the effect that such a transaction was one in which "no company would be justified in engaging, because it certainly cannot be said to be within the ordinary scope of any company to purchase the goodwill of another company."

The second question which was mooted before Wood, V.C., is one perhaps of greater difficulty than the first. His Honour is reported to have said that "when an act is once established to be *ultra vires*, no meetings of shareholders, however numerous, can bind any one dissenting shareholder." This, however, is to be taken in connection with the context which would appear to limit the rule to acts opposed to the constitution of the company, and which it could not legally perform in any manner; for he says, "It was never intended to be laid down that a company formed for one purpose could bind the shareholders to acts not within the purpose of the deed." This limitation of the rule brings it well within the reported decisions applicable to the question; but it leaves open the particular question involved in this case, namely, whether the acceptance of the transfer of the business of another company of the like nature, subject to certain liabilities, is or is not an act within the purpose of the deed constituting the company for the purpose of procuring such business.

As to confirmation by the shareholders, his Honour observed that "no case of laches which could be imputed to the general body of shareholders had been made out; they might in cases of insanity and the like be *de facto* ignorant, while *de jure* they were only bound to know that to which they were held by their deed." A similar question arose in the *Sea, Fire, &c. Society v. The Port of London, &c. Society*—namely, as to the effect of the former society taking the business and receiving the premiums of the latter—upon which Lord Wensleydale observed, that "it is more than questionable whether the company is liable for the receipts; for the mass of shareholders have this protection—that they can be liable only through the act of their directors, acting under the authority of the deed and the Act of Parliament. It is a captivating argument for a jury, and they are very often misled by it in these cases of joint stock companies, and likely to produce injustice, that the company have had the benefit of the plaintiff's goods, or service, or money; whereas for the purposes of contract, the company exists only in the directors and officers acting by and according to the deed; and by the statute law the company is no more liable than a corporation by charter for the act of one or more of its members, who are distinct persons by law."

COMMON LAW.

POOR LAW—PAUPER LUNATICS, REMOVAL OF.

Strand Union, Respondent, v. St. Giles-in-the-Fields, Appellant, 9 W. R., Q. B., 52.

For the litigation in this case, the framers of the Act 11 & 12 Vict. c. 111, seem to be chiefly responsible; as they neglected to insert some words essential to the clearness of its meaning. The first section of that Act repealed a clause on the same subject,

viz., the status of a pauper's family with respect to the cost of their maintenance and their place of settlement, which was contained in the 9 & 10 Vict. c. 66; and while substituting an amended enactment, did not proceed to incorporate the new provision into the former Act, by providing that the two should be read together. Such being the course of legislation with regard to paupers generally, there came a still more recent Act (16 & 17 Vict. c. 97) which dealt with the costs of maintaining a pauper lunatic, and directed him to be maintained out of the common fund of the union, provided that when sent to the asylum he was exempt from removal to his parish "by reason of some provision in the 9 & 10 Vict. c. 66." Now the only provision which could so exempt him was that one which was repealed by 11 & 12 Vict. cap. 111; and therefore it was argued on behalf of the union to which the lunatic in question had been sent to be maintained, that he did not come within the terms of the 16 & 17 Vict. c. 97 at all. The Court, however, said that the intention of the Legislature must have been that the 9 & 10 Vict. c. 66 should be read in all respects as if the provision substituted for the first section by the subsequent Act, had been originally inserted in the former Act; and that the lunatic therefore was exempt by reason of a provision in 9 & 10 Vict. c. 66 within the meaning of 16 & 17 Vict. c. 97; and that the costs of maintaining him did, therefore, fall on the common fund of the union. Information as to the manner in which the two first of the above statutes bears upon the status of irremovability in another point of view, namely, with regard to the inheritable quality of such status will be found in the case of *Reg. v. Elvet** (7 W. R., Q. B. 586; 29 L. J., M. C. 17).

MAGISTRATES—LIABILITY OF—ALLEGATION OF MALICE.

Somerville v. Mirehouse, 9 W. R., Q. B., 53.

The all-important question, with reference to his own interests, for a justice of the peace to determine, who is called upon to make an order, is, whether the matter with which he is about to deal is one which is, or is not, *within his jurisdiction as a justice*, for if it be, then (provided he is acting *without malice*) he is absolutely safe by virtue of the clause recently passed for his protection in 11 & 12 Vict. c. 44, s. 1. This provision declares that in any action brought against a justice in respect of a matter within his jurisdiction as a justice, the declaration shall allege that the act was done maliciously, and without reasonable and probable cause. And that if such allegation be not proved at the trial, the justice is to have a verdict. The present case shows that the omission of such an allegation also makes the declaration demurrable—a fact which enables the justice to put an end to the proceedings as soon as he is served with the declaration, and without waiting for the trial. But though this seems the only point decided in the present instance, the case affords a useful opportunity to suggest that in a matter within a justice's jurisdiction, and in respect of which he has acted without malice, he will be protected, although the defendant should be in a position to allege in the declaration that the justice had acted without reasonable and probable cause, provided the ingredient of *malice* was wanting.

It is also observable that a magistrate when acting, as he sometimes does, in a *purely ministerial*, and not in a judicial capacity (see per Lord Denman, *Linford v. Fitzroy*, 13 Q. B. 245), he is responsible for the legality of his acts, even though no malice can be shown; for, in such cases, the matter does not come within his jurisdiction as a justice. And further, it should be carefully borne in mind that the question of jurisdiction or no jurisdiction is sometimes a matter of nicety; and that the law requires justices to know the extent of their jurisdiction. As to what class of cases are within a justice's jurisdiction, the following recent cases may be consulted (among others) with advantage—viz., *Barton v. Simpson* (20 L. J., M. C. 1); *Ratt v. Parkinson* (ib. C. P. 168); and *Newbould v. Colman* (6 Exch. 189).

HIGHWAY ACT—INDICTMENT FOR NON-REPAIR.—5 & 6 WILL 4, c. 50, ss. 94, 95.

Ex parte Bennett, 9 W. R., Q. B., 54.

This case supplies an important qualification to the rule laid down by the Court in *Reg. v. Arnould and Others* (8 Ell. & Bl. 550). That was a decision under the Highway Act (5 & 6 Will. 4, c. 50) the 94th section of which is to the following effect: "that if any highway shall appear to be, on the sworn information of any witness, out of repair, then the person chargeable with its repair is to be summoned to attend at a special sessions whereat the justices (either on the report of a competent person

* See 3 Sol. J., p. 796.

or on their own view) may inflict a penalty, and order the repair to be made." And by the 95th section, if at such special sessions the liability to repair is denied by the party charged, the justices are to direct an indictment at the next assizes or quarter sessions to try the question. Now the case of *The Queen v. Arnold* decided that, under such circumstances, the magistrates have no discretion; but are bound to order an indictment. The Court remarked that it would perhaps be better that the magistrates should be able to make such order dependent upon the fact of there being any person chargeable with the repairs in question; but that the words of the Act were too strong to admit of this construction.

Acting upon this decision, the applicant in the present case applied for a rule requiring certain justices to order an indictment to be prepared in respect of the non repair of a certain road; but it appeared that the road in question had been already determined by the verdict of a jury not to be a "highway" at all, and consequently not to be within the Highway Act at all. The Court held that in such a case, viz., where a road out of repair was denied to be a highway, the duty thrown by the Act on the justices does not arise; and the application was consequently refused. Hence the rule is, that where a road is out of repair, and a person charged with liability to repair the same refuses or neglects to do so, the justices, on being satisfied that there is no question with regard to the road being a highway, are bound to order an indictment to be prepared.

Correspondence.

PARLIAMENTARY DRAFTING.

As the diminution in size of our future statute books will depend much upon the withdrawal of all bounties upon verbose legislation, and the remuneration of the bill drawers upon some system which experience has recommended, it appears to be an obvious expedient, that bills should emanate from the different departments of the Government, or its subordinate machinery in the first instance, and then be subjected to ulterior review. New enactments would thus be likely to meet the recognised defects, and to be free from unnecessary ordinances; while the ulterior revision is calculated to lop off the excrescences of too special views. The Board of Trade in 1853, and the Customs in 1854, had their bills of those years prepared in their respective departments, which bills have since, as I am informed, continued unaltered. This is a strong proof, that to render laws practical, not only the suggestion of their principles, but the form of their legislative declaration, or diction, should emanate from the departments of Government. All the departments, probably, have on their legal staff a sufficient amount of legal and natural discernment to originate few measures or clauses that will fall under the scythe of an ulterior revision.

M. N.

WHAT WE MAY NOT DO WITH OUR OWN.

The most general application of the foregoing maxim is, perhaps, the denial to the citizen of a right to disobey the laws, although they are our own, or even to misstate them; such being *contra bonos mores*, to pass without severe censure. Yet, Mr. Bright, in his recent speech at Birmingham, and the *Times* of the 6th inst., re-echoing the voice of Mr. Bright with a hoarse murmur of denial, yet accepting the truth of his statement of legal facts, say, first, that "there is no such thing in England as the law of primogeniture," and, next, that "the laws of entail are not as they used to be." Lest the readers of the *Journal* should suppose, that our laws have been by a silent revolution metamorphosed into the contrary of their ancient, and indeed recent state, an express denial of both these statements is here ventured to be offered, with a regret that our eminent opponents consider, that law reform has already done such wonders, as their statements imply. As practice follows the law, primogeniture exists not only in law, but also in cases where the owner of the soil has made a will, that is, in fact, so that, in both cases alike, the eldest son receives the bulk of the freehold property. This the *Times* admits; which extenuates the error of its legal judgment. The laws of entail are also precisely as they were settled by the Statute De Donis, and *Faltarum's case*. Land can be tied up now, so as to be unsaleable in fee, for precisely the same time that it could have been removed from the market and the laws of political economy in the reign of Edward IV., viz., for a life or lives in being twenty-one years, and nine months, the last period being a late

judicial donation. The fiction of common recoveries, suggested by *Faltarum's case*, and in effect then decided, as an adequate barring of an entail and a restoration of the entailed land to the uses of commerce, has doubtless been abandoned for the simpler process of the enrolment of the deed barring the entail. The enrolment, however, is as unnecessary and inexpedient a device, in point of principle, though indispensable in the present state of the law, as the ancient systems of recoveries, fines, and warranties. The Act for the abolition of these strongholds of technicality did not abrogate or alter the law of entails, nor even the principle on which the barring of entails was accomplished. This principle appears to have been, and is, that tenants in tail might, if they choose, become tenants in fee, but should not do so, without a little trouble, unnecessary as it appears in any view, except as a homage to the majesty of the law, and a proof of obedience to her dictates, even when troublesome, or apparently anile. Mr. Bright, and the *Times*, therefore, are premature in anticipating as a *fait accompli* what, at the present rate of legal progress, is likely only to happen, if ever, a century from the present date.

ZENO.

HINTS TO THE PROFESSION.

These are days of professional struggle; and to no profession more so than that of a solicitor. When our difficulties arise from the ordinary incidents of fair competition, none can complain; but when to these are added the unfair inroads on profits already diminished,—of men not so weighted for the encounter as we are—of men who are not subjected equally to taxation, and of whom the same educational acquirements are not expected—there need be little apology to any one, still less to the *Solicitors' Journal* for calling attention to the present state of the profession, and attempting to suggest a remedy for it.

Many of our difficulties are matter of notoriety. Estate agents, land surveyors, accountants, debt collectors, and trade protection societies, all dishonestly divert from us fair profits and earnings. They actively injure us in two ways. In one, by undertaking to do what is really attorneys and solicitors work; in another by continually representing to the public, the danger of going to lawyers, who will to a certainty, as their interest is, lead their clients into lawsuits. Agents are common everywhere, who draw agreements, even leases, assignments, call their employers "clients," and in a score of ways, act as and charge as solicitors; but are put to little expense for education, or professional training, and are not liable to certificate duty, or taxation of their bills. This is all trite information. But it proves, and our complaining admits it, that these *pseudo* lawyers have in great part beaten us real ones in competition for the public favour. How have they done this? To the minds of many who have thought over these things, the reason seems to be, that agents profess to charge a fixed per centage for their remuneration on all sums passing through their hands. This is doubtless a profitable and handsome recompense. Still the mode of estimating it recommends itself to the employer. He thinks he is prepared for, and knows the worst the matter can cost him. He has not to wait anxious months before he gets the hated bill of costs, which item by item disgusts him by its reminder of annoyances and reverses he would gladly forget. What is our remedy? Upon this I merely write to evoke opinions, and so obtain the best suggestions. I venture to think, that though at one time it may have been thought so, it would not now be derogatory to the profession to require for its remuneration in the collection of debts, rents, and all other matters presenting a money standard of calculation, a per centage on the amount. Scriveners were, and are expressly by custom and law allowed to do so, and what solicitor will deny he is a scrivener? Perhaps, too, it might be made practicable and customary to consult a solicitor at a single interview, and then and there pay his fee. An announcement of such modes of doing business as I have indicated (if sanctioned by leading members of the profession) would rally many a wavering client to his old adviser. Besides, if there is one thing more in arrear than another with a solicitor, it is the making out of bills. Either he must employ at great expense persons qualified, or himself labour to draw up his charges in fitting phraseology and consistency of time and fact. All of us know it to be a laborious business. This would be got rid of almost entirely, with its concomitants of taxation, by the change advocated. I do, then, beseech the attention of all our professional brethren to the consideration of this matter. Of the higher, because it deeply concerns the lower, of the lower because it is becoming to them a question of mere existence.

A SOLICITOR.

THE LAW OF JUDGMENTS (23 & 24 VICT. CAP. 38.)

In your article of the week before last, you very ably illustrate the relations of the old and new law as to notice and no notice to purchasers and creditors, and how they are variously affected thereby, and the inharmonious and inconsistent legislation thereon. In your remarks on the recent enactment, you say that there is nothing to prevent a creditor re-registering his execution every three months; I would suggest that if there is nothing to prevent it, the Act contains no provision for re-registering, and appears to me intended to deprive a creditor of any remedy against a purchaser after three months, unless the writ of execution is put in force.

You think, that unless the creditor could re-register the execution, he would forego his claim altogether, you mean, of course, against purchasers; there is nothing to prevent a creditor at any time after such three months from enforcing his claim against the estate of his debtor; after three months, a purchaser would not be bound unless the execution was enforced before the execution of the conveyance and payment of the purchase money. A purchaser would be bound to satisfy an *elect* tenant, although more than three months had elapsed since the registration of the execution. Several questions arise in considering the probable operation of the Act as regards enforcing executions.

1st. A creditor puts a writ of execution in the hands of the sheriff, who returns—*nil*:

Qy? Is this putting the writ in force in compliance with the requirements of the Act, if so, is the new law satisfied, and would the judgment have the full effect and force of the previous law, as though the 23 & 24 Vict. c. 38, had no existence, and a purchaser be affected by the registered judgment, although the execution may not have been registered within three months before the completion of the purchase?

2nd. The sheriff not finding sufficient to satisfy the judgment debt out of the real and personal property of the defendant:

Qy? Would the judgment remain a charge for the balance on the real estate of the defendant, either possessed at the time or after acquired?

3rd. If a writ of execution is issued in one county, would it affect a purchaser of property situated in another county?

4th. Is a writ of *elect* only intended by the Act? As leasehold property can be extended under a *feri facias*, would not a purchaser of leaseholds be affected by the registration of such a writ? and would the issuing and registering of a *feri facias* affect a purchaser of freeholds, as the writ is not defined by the Act?

Some light thrown upon the above queries would greatly assist in the understanding of the Act, and help to determine the position in which judgment creditors and purchasers stand to each other.

Had it been the intention of the Legislature to limit the time in which a creditor should enforce his judgment against the lands of his debtor in the hands of a purchaser, might it not have been provided that a purchaser should not be affected by a judgment after five years (or such a period as might be reasonable to enable a creditor to procure satisfaction of his judgment); this would prevent the difficulty of compelling a creditor to enforce his execution forthwith, which will frequently press hard upon the debtor.

It is well known that in the majority of cases where the creditor is unable to procure satisfaction of his judgment, he registers it on the chance of what it may bring him without having any exact knowledge of his debtor having any real property, and by so doing often obtains satisfaction of his claim. That a creditor should be so helped is reasonable enough, and we should be careful to prevent any collusion between fraudulent debtors and purchasers whereby a creditor might be evaded. You observe, "Why should not judgment creditors be protected as purchasers by those who profess to have the interests of purchasers in view?" and seem to think that an assimilation to the Irish Judgment Acts would be an improvement; and it appears this could be effected by making the register notice to all, which would place the law of judgments on a more uniform and positive footing. The 3 & 4 Vict. c. 82, provides that notwithstanding a purchaser having notice of a judgment, he shall not be affected thereby until such judgment is registered; this seems intended to remedy difficulties about notice; but to render the enactment more perfect, the converse should have been enacted, that when so registered, it should be notice to all, and have protected the creditor as well as the purchaser. It is the general practice for purchasers to make these searches,

and it is not unreasonable to surmise that when they are omitted it may be that the purchaser purposely endeavours to prevent notice being proved against him, although it is a dangerous proceeding, since slight circumstances may fix him with constructive notice.

In relation to incumbrances on land, could not mortgages be registered in the name of the mortgagor, and in a simple and inexpensive way, similar to judgments (probably the payment of a shilling registering-fee would pay the expenses of keeping a register)? Such register would greatly help to prevent a variety of litigation amongst mortgagees without notice.

It would save expense and complexity if a purchaser was bound by a judgment if registered in the Common Pleas, although not registered in the local registers (Middlesex, &c.) At present a creditor to charge property in a registering county has to register in the local office, for which purpose a memorial is required verified by an affidavit, and the memorial and affidavit must be stamped, the memorial must also be certified to by a master of the court in which the judgment has been entered up, a costly affair, and unnecessary if the simple memorandum as is the practice in the Common Pleas is sufficient. In addition to the local registering the creditor should also comply with the later act and register his judgment also in the Common Pleas; and if he wishes to take advantage of the best security he can obtain, he would of course do so, to get a charge on any property his debtor may have in an unregistering county. And now by the new Act he must in all cases register his execution in the Common Pleas. This threefold registering is not either of any benefit to a purchaser, who has to search twenty years in the local office, and if he finds a judgment there, the particulars necessary to identify the defendant not being registered, he is compelled to make troublesome and sometimes unsatisfactory inquiries. A prudent purchaser would also search the Common Pleas register it being doubtful whether a purchaser with notice would not be bound by a judgment registered there, although not registered in the local office, and would avoid being so placed that notice might be proved against him. It would be an improvement were the necessity for this double registering and searching prevented. Also if the expense of enforcing a writ of *elect* were lessened, these matters should have some consideration in future legislation. Complications of this nature are quite sufficient to render inoperative and burdensome laws, that if carried out by a more simple machinery and certain action would be equitable and beneficial.

I have thrown off these remarks somewhat loosely, but with a view to provoke some further public discussion on the subject, and help to make another change, should one take place, more satisfactory and so far as possible final. Q.

RIGHT OF TRUSTEES TO BE RECOUPED IN RESPECT OF BREACH OF TRUST.

In the proposed suit by one of the family against the trustees and the husband, the Court would perhaps direct that any property taken by the husband under the settlement should be liable to make good the breach of trust (see *Clive v. Carew*, 7 W. R., 433); property taken by the wife to her separate use was held liable for the value of a pearl necklace improperly sold by her; but the Court would give no relief to the trustees against the husband for the breach of trust committed by the trustees. The remedy of the trustees against the husband would be at common law by an action to recover back the money lent. C.

BAR ETIQUETTE.

I am much obliged by your insertion of my letter on "Bar Etiquette" in your journal of the 3rd ultimo. By a somewhat curious coincidence, Mr. Shaen's paper on that subject was also printed in the same number. From it we gather, that the Oxford Circuit is not the only one on which the suitors are flocked avowedly and openly, for the sake of giving guineas to young gentlemen whose only title to them consists in the bare fact that they are junior counsel, and have done nothing whatever to deserve them.

Mr. Shaen informs us, that he sometime ago, being concerned for a client, "and the case being a perfectly simple one, prepared only a single brief." Now mark the sequel,

"Conticuere omnes, intentique ora tenebant."

Or, to express the same idea less classically,—

"Silence! hush! shouts the crier, His Lordship is ready. Now Jurymen, enter the box, and sit steady."

Scarcely had the orator retained by Mr. Shaen commenced his speech, when a buzz of, "Where's your junior?" arose amongst his hungry compeers, who pressed their claim so pertinaciously, that at length the brief-holder explained that Mr. Shaen must really "Give him an assistant labourer, as he (the counsel) was not allowed by the etiquette of the Bar to open the pleadings to the jury." Mr. Shaen's objections to this absurd extortion were urged as vehemently and as ineffectually as my own had been, but he at length succumbed, having in fact no choice left him. Still Mr. S. in one respect was less unfortunate than I had been, since I, even to this day, am ignorant whether my "guinea fee and tail brief," did or did not eventually become the spoil of the junior counsel who, *par excellence*, had done the least—if to do less than nothing at all be possible—to merit them; while on the other hand, in Mr. Shaen's case, "the Bar, by rapid self-examination, succeeded in ascertaining who was the Junior," and that point settled, the Benjamin of the circuit, blushing, hesitating, and recalcitrant, was "pushed up to the side" of the gentleman who had been originally retained, and thus conveniently located, the two gownsmen—

"Both pleading of one cause, both in one key,
Droned o'er the brief, due but to one of them,
As if their hands, their sides, voices, and minds
Had been incorporate."—

"Awkward enough I grant, but surely not oppressive," cries the uninitiated reader; "who save themselves were prejudiced by this droll exhibition?" Alas! "one brief, two fees," is it should seem, *de rigueur*; for this "bar etiquette," continues Mr. Shaen, "increased the amount of costs by some few pounds without the slightest corresponding advantage to the client."

But, for this last remark, which tells indeed an over true tale, these exhibitions would have been ridiculous, but nothing more, since if the judge did not consider them disgraceful, Mr. Shaen and I—involuntary actors in them—had no occasion to beg his lordship's pardon "for making of his court contemptible." The whole system of "tail briefs," and needless fees is, however, based on wrong, since courts are constituted to redress the grievances of suitors, and not to swell the money bags of counsel.

Mr. Shaen proceeds in his very valuable paper to dilate on certain other points of etiquette, observed with more or less exactness amongst the bar; but these, however frivolous he and I may think them, affect the long robe *inter seipsos* only, the public being uninjured, and the attorneys having nothing at all to do with them. At first sight, indeed, those minutiae of circuit regulation, which forbid a barrister to dine or walk during the assizes with an attorney, or to dance at an assize ball with an attorney's daughter, seem supercilious; but the real fact is unquestionably, that these rules are barriers planned not to guard the counsel from the intrusion of attorneys, but to save these latter from being torn to pieces by the rival assiduity of contending would-be-brief-holders. Some few practitioners may indeed be ruffled at what they call the hauteur of the long robe.

"Alas! the Big-wig's gratitude
Hath rather set me mourning."

As a rule, the barrister who rises by servility will, when position is obtained, be overbearing. No doubt. Yet this, so long as we have briefs for scarce one-twentieth of the expectants, may be indeed a grievance; but we can remedy it, or it will cure itself—and, after all, it is but "turn and turn about."

"Folks change their manners as their fortunes change."

Gil Blas loved passionately a lively little actress attached to the royal company of comedians at Madrid, but who had originally been a *soubrette*. "Now, prythee, Laura!" cried Signior de Santillane, "why all these airs? For what do you take yourself; and why so uppish always in the afternoon?"—"I split the differences of my daily occupations," replied Laura; "I am, I own, a waiting-maid every morning for our *prima donna*; but then o' nights, I am alternately a Queen, an Empress, and a Vestal Virgin, or even, now-and-then, a Goddess; thus, on the average, my dear Gil Blas, I am, at least in my own estimation—let me see—a Marchioness, and as a Marchioness I will, *when I wear my silk gown*, be treated."

The rule forbidding circuiters to enter an assize town before the afternoon of the Commission-day, though it may be, and doubtless is, at times an inconvenient one; seems, however, to be based upon the principle of "Let us all start fair!" and is, unquestionably, of very ancient date. Roger North informs us, that when his brother Frank (afterwards Lord Keeper Guildford) rode the Norfolk circuit, the whole bar got drunk at Colchester, and Frank, especially, so very tipsy, that he in-

sisted, in spite of argument and remonstrance, on riding full drive into a horsepond. Here, his brethren acting on the principle of "The devil take the hindmost," left him, and scuttled away in the hope of anticipating a stray brief or two, while North's clerk—"at that time, fortunately, sober"—extricated his master, and with no small difficulty brought him round again. The first use which Frank North made of his recovered senses was to gaze around and cry out anxiously, "Where are they?" and that fact ascertained, to clamber awkwardly upon his nag, and gallop off after his briefs, fees, and learned brethren.

Law Club, London.

B. BLUNDELL, F.S.A.

5th December, 1860.

The Provinces.

WARWICK.—An action was lately tried before Mr. F. Dinsdale, the judge of the county court, Warwick, which was brought against the London and North Western Railway Company by a dealer in china for damage done to certain goods while in their custody. It appeared that the goods were brought to Warwick by the London and North Western Railway Company, but that they had in the first place been consigned to the North Staffordshire Railway Company. The former company relying upon previous decisions resisted the claim on the ground of the consignment not being to them but to the latter company, with whom, alone, they contended, rested the responsibility of fulfilling the contract. Mr. Dinsdale, however, decided that since the damage had clearly been occasioned by the negligence of the servants of the London and North Western Company the latter were liable for the damage. He accordingly directed a verdict to be entered for the plaintiff, leaving the two companies to settle the question of contract between themselves.

Ireland.

LEGAL EDUCATION—NEW RULES.

The education of attorneys and solicitors has at length met with some attention on the part of that dignified body the Benchers of the King's Inns; and several new rules have been promulgated, and are subjoined. It should be explained that the admission of solicitors in Ireland is regulated by ancient usage, by the benchers, and whether this was an encroachment, as some allege or not, it would be hopeless to attempt to wrest this jurisdiction from the hands which have so long held it. The control of the benchers over the solicitors' branch of the profession has already been fully described in this journal. [S. J. Dec. 17, 1859, p. 102.]

The only rule of the new code that seems peculiarly open to objection is that requiring that the new professor of law shall be a barrister of some years' standing. There is no reason in the world why a solicitor, if otherwise possessed of the requisite fitness for teaching articulated clerks, should be excluded by the terms of the rule. We are surprised that the Lord Chancellor, Lord Justice, and other eminent persons forming the committee of benchers from whom these rules emanated, should have assented to so ungracious and unnecessary a restriction.

RULES.

"1. That from and after the 1st of January, 1861, no person seeking to be bound apprentice to an attorney or solicitor, shall be required, in his petition for that purpose to be addressed to the benchers, to make any statement with respect to his education or literary qualifications; nor shall he, or any person on his behalf, be obliged to make affidavit in respect to the matters aforesaid.

"2. That from and after the 1st of January, 1861, every person who shall seek to become the apprentice of an attorney or solicitor, shall, previous to the making of the order of permission to become bound, pass an examination in the following course of instruction, that is to say;—

Latin—Caesar's Commentaries, first book; Sallust; Virgil first three books of the Aeneid.

History—Liddell's Roman History; Smith's History of Greece; Abridgment of Hume's History of England.

Arithmetic—Galbraith and Haughton's Treatise; or The Theory and Practice of Arithmetic, as used in the national schools.

Book-keeping—The treatise used in the national schools.

Geography—Sullivan's Geography Generalized.

English Composition, and Writing from Dictation; in which penmanship and orthography will be taken into consideration.

"3. That such preliminary examination shall be held at the King's Inns' lecture-room in the week next previous to each term, before the Legal Education Committee, the Moral Examiners of the three law courts, and the president and vice-president of the Incorporated Society of Attornies and Solicitors of Ireland, who shall be specially summoned to attend; and it shall be conducted by a fellow or scholar of Trinity College, or some other competent person, for that purpose to be selected by the Legal Education Committee. All petitions and memorials shall be presented at least seven days before the commencement of the term.

"4. That the names of the several persons who shall have passed the said examination, shall be posted in the hall of the four courts, in the Solicitors' Buildings, and on the door of the lecture-room at the King's Inns.

"5. That, for the improvement of the legal education of persons seeking to be admitted attornies or solicitors, there be instituted a professorship of law, specially adapted to the wants of that branch of the legal profession.

"6. That such professorship shall, from time to time, be filled by some member of the Irish bar, of not less than six years' standing, to be elected by the benchers; and that he shall hold office for three years.

"7. That the salary of such professor be £100 per annum; and that his duties be such as shall, from time to time, be prescribed by the Legal Education Committee.

"8. That, with a view to create a fund for liquidation of the expenses occasioned by the foregoing arrangements, the fee of £3 3s. shall, in addition to all other fees, be paid to the treasurer of the King's Inns by each person hereafter seeking to become bound apprentice to an attorney or solicitor.

"9. That it be recommended to the judges of the Courts of Queen's Bench, Common Pleas, and Exchequer, to make rules or regulations in their respective courts, to the effect that, after the last day of Michaelmas term, 1860, no sum of money shall be payable by any person seeking to be admitted an attorney, as a fee to or for the benefit of the Moral Examiners of either of the three law courts, appointed pursuant to the 13th & 14th Geo. 3, c. 23; but that the fees which would otherwise be payable to the Moral Examiners by persons already bound, shall be paid to the treasurer of the King's Inns.

"10. That an examination in law (including the practice of the courts, and the general duties of an attorney and solicitor) shall be held in the week next previous to each term; at which the apprentices who shall have then actually completed the period of their apprenticeship, or who shall be within six calendar months of such completion, may present themselves.

"11. That such examination in law shall be conducted by the aforesaid professor, and some one of the Moral Examiners to be selected for the purpose by the Legal Education Committee, in presence of the benchers, the Moral Examiners, president, and vice-president, as aforesaid, all of whom shall be specially summoned to attend.

"12. That no person hereafter to be apprenticed shall be admitted an attorney or solicitor who shall not have passed the foregoing examination in law, unless by special order of some one of the superior courts of law or equity.

"13. That prizes upon a scale hereafter to be determined, and also certificates of merit, may be awarded by the Legal Education Committee, to such persons as shall have distinguished themselves at the examination in law, and whose morals and qualifications for the profession shall have been approved by the Moral Examiners.

"14. That the names of the several persons who have passed the said examination in law, arranged in alphabetical order, shall be posted in the hall of the four courts, in the Solicitors Buildings, and on the door of the lecture-room at the King's Inns; and that upon the list of persons so to be posted there shall be notified the prize or other distinction of merit to which any of such persons may have become entitled."

COMMON PLEAS—MISS AYLWARD'S CASE.

All readers of newspapers are by this time aware that Miss Aylward, a Roman Catholic lady of respectability, has been committed by the Court of Queen's Bench for contempt

in giving insufficient replies to certain interrogatories put to her on the subject of the part she took in the abduction of some children. The children have not as yet been recovered, and as Miss Aylward's replies were unsatisfactory, she was sentenced by the Lord Chief Justice, the other members of the court concurring, to be imprisoned for six months in Richmond Penitentiary. This happens to be a criminal prison used for male offenders only, the judges, as also the other persons in court, having been, it seems, unaware of the fact that female offenders are incarcerated in a different building. To the latter place, however, Miss Aylward was speedily transferred.

Her next proceeding was to apply to the full Court of Common Pleas for a *habeas corpus*, on divers grounds. An array of counsel appeared, and argued for her that her commitment was illegal by reason of the mistake made in the place of imprisonment. The case of Lieutenant Allen—released last week from Millbank—was cited as proving that the place of punishment named in the sentence is material, and cannot be altered or varied from. It was also contended that "contempt" is a civil and not a criminal offence, and that a person committed for contempt ought to be lodged in the Marshalsea or debtors' prison, and not in a gaol or criminal prison. The arguments having concluded—

MONAHAN, C. J., remitted the prisoner to her place of confinement, the Court unanimously holding that the Court of Queen's Bench had full power to imprison in any place it judged best; and that its decision could not be reversed by another court of co-ordinate jurisdiction.

Right Hon. A. Brewster, Sir C. O'Loughlen, Q.C., J. O'Hagan, and Devitt, with Mr. Mooney, attorney, appeared for the prisoner, and McDonogh, Q.C., and Brereton, Q.C., with Mr. John Martin, attorney, for the prosecution.

TALK OF THE FOUR COURTS.

"It is stated that several gentlemen are to be called within the bar immediately; among them are Messrs. Charles Shaw, R. A. Exham, W. Sidney, and R. H. Owen. The *Evening Mail* gives some further "information," which can only be regarded as a playful hint, that her Majesty's counsel are already far too numerous. This authority states that when the new batch of silks is created, "the Lord Chancellor will at the same time, in compliance with a requisition numerously and respectfully signed, call several of her Majesty's counsel back to their old estate at the outer bar!"

The Lord Chancellor's list of causes has already been gone through, and the Master's lists are also very light, consequently there is much complaining of the state of business, on the part of those practitioners who confine themselves to the equity courts.

Reviews.

A Treatise on the Principles of Pleading in Civil Actions; comprising a summary account of the whole proceedings in a suit at law. Being the sixth edition of Mr. Serjeant Stephen's work under that title, with alterations adapting it to the present system. By JAMES STEPHEN and FRANCIS F. PINDER, Barristers-at-Law. London: Stevens & Sons.

No edition of Mr. Serjeant Stephen's treatise on pleading in civil actions has been published since the Common Law Procedure Act, 1852. The very numerous decisions upon that statute, and the radical changes introduced by it into the system of common law proceedings, made it a difficult task to adapt by means of notes or slight alterations of the text the new system of pleading to a work intended to be a compendious account of the old, which was in many respects so different. The editors, therefore, while preserving entire large portions of the original work, have throughout made considerable alterations and additions, and hold themselves responsible for the whole; although the work is published as a new edition of the well-known treatise of Serjeant Stephen. The general plan of the editors, however, is very similar to that of the original author. There is, first, a summary account of the proceedings in an action from the commencement to its termination. Then comes a chapter on the principal rules of pleading—each rule being treated separately in distinct sections, and illustrated by reference to authorities, for the purpose of throwing light either upon the principles involved, or upon points of practice where they are concerned. The present treatise is admirably suited for students of the law who desire to have a

clear conception of the *principles* of the existing rules of pleading; and the style in which it is written is so pleasant as to make it really an agreeable book for any one to read—what can rarely be said of any law book.

The Magisterial Synopsis; a Practical Guide for Magistrates, their Clerks, Attornies, and Constables, in all matters out of Quarter Sessions; Summary Convictions and Indictable Offences, with their Penalties, Punishments, Procedure, &c., being tabularly arranged. By GEORGE C. OKE, Assistant Clerk to the Lord Mayor of London. Seventh Edition enlarged and improved. London: Butterworths.

Mr. Oke has long been appreciated by the profession as a writer, peculiarly well versed in magisterial law. His "Magisterial Synopsis," the work through which he first became so widely known, has been throughout the length and breadth of the country what it professes to be—a practical guide for magistrates, their clerks, attorneys, and constables in all matters out of quarter sessions. It will be seen that the work has already reached a seventh edition, the last edition having been got through very rapidly. In a work of this kind, and one, moreover, which has already received the best marks and tokens of the approbation of those for whom it was composed, it would be impertinent for us to affect any detailed criticism upon its merits. We need only say that the new edition is in excess of the previous one in point of bulk, to the extent of about one hundred and twenty pages, in which there is not an unnecessary word; Mr. Oke everywhere exhibiting his anxiety to compress the subject matter into the smallest allowable compass. The present edition, moreover, contains several new titles which are rendered important by the 20 & 21 Vict. c. 43, enabling the opinion of a superior court to be obtained in many new cases. Mr. Oke, in his last preface, remarking upon the startling proportion which statutes relating to the duties of the magistracy bear to the whole number of those enacted, observes "that the public general statutes on magisterial law which are added each year form on an average one quarter of the number of those passed. During the last session, as to which so much has been said and written, 42 of the 154 Acts passed related more or less to the duties of justices of the peace. In 1858, there were 26 out of 110; and in 1859, there were 32 out of 101." It is fortunate, therefore, that the demand for such books as the "Magisterial Synopsis" creates so quick a sale, as it is obvious that every two or three years the law relating to the jurisdiction of justices of the peace must require complete revision. The most useful feature in Mr. Oke's Synopsis, and what, no doubt, has made it a universal book of reference for magistrates throughout the country, is his original and convenient plan of arranging offences both summary and indictable in a tabular form, exhibiting at a glance the penalties, punishments, and procedure, with extremely intelligible references to the statute law, and to judicial decisions. Mr. Oke's tables of the criminal law are models of precision and ingenious arrangement.

Metropolitan and Provincial Law Association.

JUSTICE AND ITS MISCARRIAGES, WITH OBSERVATIONS UPON THE NECESSITY OF APPOINTING A MINISTER OF JUSTICE.

Mr. JOHN TURNER read the following paper at the Newcastle Meeting of this Association:—

There is nothing of more importance in all civilized countries than the pure and perfect administration of justice. It is in reliance on the protection which the law is presumed to give to every subject that the natural liberty to avenge personal wrongs and to redress injuries is abandoned, and the more rational appeal to lawfully constituted authority is resorted to. The protection of person and property by the law is the link which binds the subject in allegiance to the sovereign, and compels a willing submission to the payment of heavy and burdensome taxes to the State. If, therefore, justice is so indifferently administered that no one can rely upon it for protection—if it is so uncertain that it becomes a question whether it is not better to submit to wrong—rather than aggravate the evil by an appeal to tribunals upon whose decisions no certainty of justice can be expected, then, indeed, the primary object of all government is defeated; and whatever country is so situated, is reduced to a condition inferior to

those less civilized states, whose laws give assured protection, without the "glorious uncertainty," which, to some extent, is the reproach of our system of jurisprudence. It is impossible to overrate the importance of this subject to professional men. Our living depends upon the confidence our clients place in courts of justice to redress their wrongs; and to the growing feeling of distrust in the sufficiency of existing tribunals may not unfairly be attributed some portion of the falling off in the practice of professional men which has of late years become so painfully manifest. It is desirable, therefore, that a calm investigation of our own judicial systems should be made, to see whether they fulfil the reasonable expectations of the suitor and the public. It would have given me great satisfaction had some person of more ability, and greater influence, brought this important subject under your consideration; but in the hope that other gentlemen will give the matter the benefit of their experience, I will endeavour to place before the meeting those circumstances which appear to me to show, that while other departments of science are pursued with success and benefit to mankind, that of law and justice holds but a doubtful position. It would appear that our lawgivers have been very sensible that the administration of justice is far from perfect—at least, this may be inferred from the great number of new laws, new systems of procedure, and endless changes which are constantly taking place; and if there were any prospect of amendment from such perpetually recurring alterations, neither the profession nor the public would have reason to complain of them. There must be something essentially wrong, which is not generally understood to call for so much change. If we appeal to positive law in the statute books, we certainly find imperfections, but not to an extent to account for the great distrust of law exhibited by suitors and the public;—and as the Common Law professes to have a remedy for every wrong it is not to that department of jurisprudence we must look for the evils which have created such distrust. We have our systems multiform and complex—our equity jurisprudence and its procedure—our common law courts and their procedure—our code of bankruptcy and insolvent law—our county court law, and, not the least important, our criminal jurisdiction. From each system complaints arise of imperfect justice, or rather of injustice, and the charge is the more mischievous from its generality. That vague term, "The Law," is always accused of being the real delinquent, the administrators of justice never being suspected of having any hand in the matter, and as a consequence changes of form and of procedure have been the chief object of law reformers. With the changes of procedure, however, there has been no abatement of complaints, and whether the fears of suitors are well grounded or not, it is certain that a vast number of persons avoid to the uttermost an appeal to courts of justice to redress their wrongs, and submit to what they deem to be injustice, rather than trust the result to an appeal to legal tribunals. What is the cause of this standing aloof? We have courts of appeal to correct the errors of judgment in inferior tribunals, and our judges are reputed to be the wisest, the most learned, and the most upright in the world. What, then, are those evils, which are so painfully felt that not only the great mass of the public abstain from resorting to courts of justice, but attorneys and solicitors are constantly under the necessity of advising their clients to submit to wrong, rather than risk the greater evil of litigation? What are those evils which are so avoided? If the course of procedure is unexceptionable, and the judges above suspicion, what is there to avoid? I speak not only for myself, but I believe also the mind of the profession, when I answer these questions by saying, It is the great uncertainty which may attend the result of litigation,—the doubt that what appears a plain and simple case may never be understood, and that common sense, justice, and reason, may be set aside when the day of trial arrives. It is because I think that this impression upon the mind of suitors may be overcome that I have ventured to bring the subject before you for discussion. Our respect for the judicial office acts as a restraint upon anything like free discussion respecting the merits or demerits of particular judges; and it equally restrains us from referring to any of their decisions in a manner which can render them the subject of comment by others. That great and distinguished men do now adorn the bench as in times past no one can dispute, but that the greatest and wisest sometimes make mistakes is a fact known to every lawyer. Lord Brougham, in giving the judgment of the House of Lords in Cottle's case in August, 1850, attributes the errors of the judges as the result of *erring human nature*. "No judge," said his lordship, "ought to be ashamed after erring to acknowledge his errors, still less has a

court any reason for so misplaced a shame—so unseemly a reluctance to admit that the dispensers of justice are subject to the common lot of *erring humanity*." Admitting that no man is perfect, it is manifest there is a wide difference between the natural imperfection of man, and that species of conduct over which men have control. Every wrong committed may be attributed to the failings of "erring humanity," and to accept the imperfections of human nature as a reason for errors would absolve from all human responsibility. It is not, therefore, to the mere imperfection of human nature that the miscarriages of justice can be attributed. If the fact were so, the evil would be without remedy. I mean no disrespect to anyone when I say that the judges of England are like other men, with the same infirmities, and liable to the same influences. They, of all men in England, are the only persons whose position is irresponsible; and it is greatly to the credit of the judges that with so little control, justice should have been administered without any other complaint than that of uncertainty, and what a distinguished lawyer and statesman terms the common lot of *erring humanity*. That they are practically irresponsible is manifest from the laws which regulate the office of judge. Until the reign of King William and Queen Mary, the judges were appointed during the pleasure of the Crown, and were liable to be removed at the discretion of the Crown, on the advice of the Privy Council. After the death of Queen Mary it became necessary to provide for the succession of the Crown, in the event of there being no issue of the Princess Anne of Denmark. King William, in a speech delivered in Parliament, invited the consideration of his faithful commons to the subject, and a Bill was brought in founded on resolutions agreed to by that body. As the Bill afterwards passed (12 & 13 Will. 3, c. 3), it contained in the third clause, not only regulations relating to the succession of the Crown, but also the following provision:—"That after the said limitation shall take effect as aforesaid, judges' commissions be made *quandiu se bene gesserint*, and their salaries ascertained and established; but upon the address of both Houses of Parliament it may be lawful to remove them." This provision, which was to take effect after the death of the Princess Anne of Denmark without issue, was introduced into the Act without any record for the reasons which called for it; and it is probable that King William, whose speech has no reference to judges whatever, was not aware of the extraordinary limitation of prerogative which the Act entailed upon succeeding sovereigns of England. Those persons who defend this provision do so on the alleged grounds that it rendered the judges independent of the Crown, and is the foundation of liberty and the palladium of justice; for judges are no longer subject to any improper influence of the Crown. I do not myself see the force of such reasoning—some of the greatest lawyers that ever lived held their commissions from the Crown during pleasure, and it is a gratuitous assumption to suppose that the Crown, the ministers of the Crown, and the Privy Council, would attempt to poison the source of justice by improperly influencing a judge in the performance of his duties. The reasoning also implies the existence of judges of a most depraved and corrupt nature, for only such would permit themselves to be so influenced. The influence of the Crown, if exercised, would be equally potent, and quite as effective with such men, whether they held their commissions during pleasure, or during good behaviour. The judges represent the person and Majesty of the Queen in the exercise of her highest and most sacred duties. The Queen is the supreme civil magistrate and the representative of justice, and the judges exercise her authority by commission. Looking to their high and dignified position, it is fitting that they should be independent of external influences; but it was suspecting justice in its highest position to place the representative above the power of the Sovereign. I can see no reason for the alteration which was made in the ancient law of England, by the statute to which I have referred; but having been made, I see no reason for altering it. It is remarkable, however, that the sixty-five county court judges do not hold their office by any such secure tenure; for by the 18th section of the 9 & 10 Vict. c. 95, they may be removed by the Lord Chancellor for inability or misbehaviour. If regard be had to the fact that in the House of Commons there are one hundred and fifteen honourable members learned in the law, it will be seen how utterly improbable it is that an address would ever be agreed to for the removal of a judge. The discussion would be endless, and a sufficient difference of opinion would be displayed to secure immunity. The irresponsible nature of a judge's office is therefore manifest.

There is an influence which naturally flows from this state of things which exerts an evil effect upon the country. It

renders the bar of England less independent; for the prospect of promotion must be looked for through the portals of the House of Commons; for the political party who may have the ascendancy in that body have the bestowal of vacant judgeships. Members of the bar, therefore, naturally aspire to the honour of becoming legislators, and attach themselves to one or other of such political parties; and in proportion as they become humble followers of any party, they cease to be independent gentlemen. One evil consequence of this system is, that a thick-and-thin political partisan, however unqualified by private character and legal attainments, yet, if a good debater and a useful party man, feels certain of promotion, and that his chances of success are greater than other members of the bar who, however worthy and eminent in their profession, are liable to be passed over. Our observation teaches us that if this be not always the rule, the exceptions are few. I am aware that many well-meaning persons defend such system as essential to the working of our constitution. No minister, say they, can expect support unless he rewards his supporters, and the lawyers are the ready debaters in the House of Commons, and the most useful supporters of a government. I deny that there is any such necessity in a minister as this argument implies; the minister who has to purchase support, by the very act betrays the honour of his country, and proves that his position is spurious. That the support of the members of the bar is courted, is manifest from the course of modern legislation, and its practical tendency to favour such body as a class. Attorneys who formerly held the office of judge in the courts for recovery of small debts, and who also held the office of under-sheriffs, and as such executed writs of inquiry, and writs of trial, are now put aside as judges for the exclusive service of members of the bar. The judges of the superior courts are entrusted with the appointment of taxing masters, and were doubtless appointed to perform such duty of selection from their position and learning, in the belief that they were the most competent to select the best qualified persons. In the discharge of this *great public trust* they do not consider it improper or derogatory to their position to treat such appointments as private patronage, and to nominate barristers to such offices without regard to their want of special training for the office, a proceeding which is about as rational as the appointment of a physician would be as house surgeon in a public hospital. The solicitor to the Treasury, and the solicitors to the public departments, are mostly selected from barristers. And as they are not qualified to act as attorneys in courts of justice, the country has to pay for agents for transacting the legal business of the State, in addition to the official's salary. An undue stimulus is thus given to follow the profession of a barrister, and this circumstance will in some measure account for the fact that of late years, while the number of attorneys has remained stationary, the number of barristers has more than doubled. It is not under such circumstances surprising, that many enter the profession who are disappointed in their expectations; and if we consider the great public benefit of having a body of highly educated and honourable men as advocates, the evils of stimulating increased numbers, whereby half are disappointed, will be readily appreciated. It is a fortunate circumstance for the country that most of our great lawyers are too much occupied in their profession to become the daily supporters of a political party.

A slight change in the mode of selecting the judges would, without interfering with an independent support to a Ministry, always secure the best men for the office of judge. With a really good man (a sound lawyer, a man of patience, of learning, of good temper, and of an equitable and liberal judgment) the miscarriage of justice would be almost impossible; and it would matter very little whether he held his office during pleasure, or during good behaviour. The present system of appointment, and the constitutional position of the judges, is, to say the least of it, calculated to create carelessness in the discharge of their duties, and a disregard of consequences; and this may possibly be one cause of the miscarriages of justice, of which clients so frequently complain. Another marked cause is the apparent want of time in some of the judges to hear the matters before them. In order to get through the list of causes, we not unfrequently see that the facts are sometimes guessed at; and a decision is given before the real circumstances of the case are ascertained. Nine times out of ten the decisions may be right, but the exception is the evil. With a little more patience, and a little more time, there would be no exception to complain of. I do not think it is the duty of judges to compete with each other in the dispatch of business. Diligence, patience, urbanity, and a conscientious discharge of their duty, is all that can reasonably be expected of them; and if the exigencies of the

suitors create more business than a judge can physically get through, it is the duty of the State to provide assistance, and not for the judge to become hasty in the discharge of his duties.

Mr. Joseph Brown, with great ability, has exposed defects in our common law system of trial by jury, which renders it unnecessary for me to do more than refer to imperfections in this portion of our judicial system. There is no more potent agent in warping the judgment of mankind than prejudice. Juries are frequently under such influence, and, unconscious of its existence, they frequently allow it to sway their opinions, and give decisions which more unbiassed men would avoid. The alteration made by the Common Law Procedure Act in the formation of special juries, is, in my opinion, calculated to increase this evil. Under the old system, a man suspected of a "bias" was put aside by one of the attorneys, and the gross list of 48 jurors was made up of sound men. The present system excludes the judgment of professional men in the selection of special jurors, and procures only a better class of common jurymen, at a greater expense. I think that men of the greatest intelligence should be summoned on juries, and that they should form part of the court, and feel that their position is one of honour, and the judge should be jointly responsible with them for the verdict. In courts of equity the judge decides, and no prudent thinking person will in such courts ever exchange the judgment of an intelligent judge for that which, under existing procedure, may be the judgment of a prejudiced jury.

From this brief sketch of our judicial system it will be seen that there are many combining causes which contribute to make up the great uncertainty in the administration of justice, so dreaded by clients. To remove these evils, I think that the appointment of a minister of justice is a necessity. There is no really responsible head of the law. The Lord Chancellor in the House of Lords, and the Attorney-General in the House of Commons, overburdened as they are with onerous duties, are poor and most inefficient substitutes for a high public officer who should be specially charged with the supervision of law and justice.

But very recently the Attorney-General, Sir Richard Bethell, declared in the House of Commons that the compensation of £20,000 a-year, proposed to be given by the Bankruptcy Bill, introduced into Parliament during the last session, was the penalty the country would pay for past illjudged alterations in the law. I believe that this sum represents a very small proportion of the actual cost of misguided legal legislation. Some idea of the mischief arising from being misled by eager law reformers, may be obtained from the recent statistical returns of Mr. Rodgrave, who, in a manner not to be mistaken, has confirmed the learned Attorney-General's statement as to the penalties paid by the nation for rash changes, termed "reforms." In truth such measures have been more injurious to the profession than to the public, for the latter have only suffered from the increased uncertainty of justice, consequent upon frequent changes, while professional men have lost their living. If we compare the return of the number of writs issued in the superior courts in the year 1859, with that of the previous year 1858, there appears to be a falling off sixteen and a half per cent. in the suits commenced. If there existed returns of the number of writs issued before the passing of the County Courts' Act, the full extent of the evil of modern changes to professional men could be made apparent. Mr. Rodgrave's returns show that the total number of writs of summons issued in 1859, was only 86,277, being an average of 8 writs to one-half of the existing practising attorneys, and 9 writs to the other or more fortunate half, the profit on which would about pay the amount of their certificate duty. Of such number of suits commenced, the great mass were settled or arranged in the first stage of proceedings, only 2,029 being carried on and entered for trial, and of this latter number only 965 were actually tried, or about 2 per cent. of the number of actions commenced. This shows as a result that there are 5 attorneys to every cause set down for hearing, and 11 attorneys to every cause actually tried, or that on an average once in five years, every attorney has the good fortune to have a cause set down to be tried, and once in eleven years every attorney has a cause tried.

The total amount recovered in the actions tried was £153,265. The salaries of the 15 judges and Crown officer charged upon the Consolidated Fund is £85,602, which gives an average cost of £89 15s. 4d. for every cause tried, exclusive of fees levied by officers of the Court, and carried to the fee fund account. If the expense of the Court be contrasted with the amount recovered, it gives as a result 11s. 2d. in the pound as the cost, or 55 and one-sixth per cent. (exclusive of fees).

Before the passing of the County Court Act, the

practice in the common law courts was the chief means of support to professional men. We have seen, and still see around us, great firms broken up, and professional men of long standing, after a life time of industry fall to decay. Mr. Rodgrave's returns show the cause of this change so far as relates to the courts of common law.

The existing county court system is the offspring of the reform mania, and some instructive facts are to be gathered from the statistical returns respecting them to which I have referred.

The patronage created and placed at the disposal of the State by this measure was the most considerable which has arisen from modern reforms. The cost of these courts for the year 1859 appears, from the financial accounts and civil service estimates, to be as follows:—

65 Judges' salaries, charged on the Consolidated Fund	£ 76,800
Treasurers	18,050
Travelling expenses of judges	15,000
Travelling expenses of treasurers and their clerks	5,000
Allowance for clerks	4,100
Compensation annuities	4,000
Advance from civil contingencies	25,000
Court houses, stationery, &c.	85,000
	<hr/>
	£232,950
Salaries of registrars and bailiffs in part paid out of fees of court	288,392
	<hr/>
Making a total of	£521,342

The tax paid by the country appears to be upwards of a quarter of a million sterling, and rather less than a quarter of a million is levied upon the suitors in the shape of fees.

Mr. Rodgrave's return at page 132 gives the total number of plaints entered as 714,562, of which number 41,646 appear to be cases which, before the County Court Act passed, would have been sued for in the superior courts. The total amount received through the instrumentality of these courts was £851,732, and the fees levied upon the suitors £215,623. These results show that the total cost of the county court system is 12s. 3½d. in the pound on the amounts recovered, or 60½ per cent., of which sum the suitors contribute in the shape of fees 5s. in the pound, or 25 per cent. It appears also that there were 27,284 warrants of commitment issued, and 9,003 debtors imprisoned. If the cost to the different counties of such prisoners be taken into account and added to the gross costs of the county court system, I am persuaded that the sum total would considerably exceed the amount of judgments recovered. It would, therefore, be a wise economy and a saving to the country for the state to pay all small debts less discount for collection now levied by county court agents, and to abolish the courts.

The great cost to the country of county courts is but the smallest evil arising from this favourite production of reform. In principle the system aims at collecting the mercantile debts of the country by means of officials who have been created to take the place of attorneys. The public suffer from being debarred from the services of educated professional men, there being no option left to them but either to employ an agent and pay his commission, or to take upon themselves the loss of time and trouble consequent upon county court proceedings. Formerly attorneys were resorted to by the public to transact their business and get in their debts, and upon a letter written by the attorney, or upon issuing and service of process, they obtained payment, two per cent. only of the debts, as appears by Mr. Rodgrave's tables, requiring to be tried by a jury. The client was saved time, trouble, and expense by such system, while county courts entail all three upon the suitor. There are also heavy costs beyond the county court allowance, which deter persons from resorting to them, and they prefer losing their debts, and marking them as had in their ledgers, rather than resort to the county court. The superior courts are practically closed for the recovery of small debts, and the services of attorneys are in substance denied by special enactment.

The number of agents who have sprung up in connexion with the county courts to replace the attorney, is a natural consequence of legislative attempts to destroy that branch of the profession. The profession of the law is degraded by the practices of unqualified persons, and the public mind is imbued with distrust. One instance which came under my observation, was that of a person who acted as a county court agent, and represented himself to be a brother of Sir John Romilly, the Master

of the Rolls; with such high pretensions, it is not surprising that he found persons ready to engage his services. In the case to which I refer, he had the impudence to make out a bill of costs, and to sue for the amount, but not being an attorney, he found at length that he could not recover, and that the credulity of his dupes was the only hope of payment.

As the county court system is the most lauded, and the writers for the newspaper press never tire of proclaiming its presumed benefits, so the Court of Chancery being least understood, is the most abused, and the procedure of common law and county courts are proposed to be transferred to such court. Mr. Redgrave's returns enable me to test the propriety of the proposed change.

In spite of the abuse heaped upon the equity courts, if we may judge from the result of their proceedings, they are manifestly in favour with the public. Mr. Redgrave's return shows that the number of suits instituted in 1859 was 2,847. The number of causes set down to be heard 2,226, and the number heard 2,083. The property, the subject of such suits, amounted to millions, of which there was paid into court £8,577,896. The total sum levied for fees was £97,984 4s., being 2½d. in the pound, or about £1 per cent. upon the amount recovered. If there be added to the £97,984 4s. the equity judges salaries and those of their secretaries amounting to £39,850 it gives as a result 3½d. in the pound or £1 5s. per cent. to pay all the expenses of the court, including the heavy compensations granted on the abolition of the Six Clerks' Office. The total amount of taxed costs of solicitors, which include the court fees paid, counsel's fees, stationery, &c., was £794,456, being 1s. 10d. in the pound on the monies paid into court, or about £9 per cent. as the whole cost of litigation.

If we contrast these figures with those shown by the county court system and its cost of £60 and ½ per cent., or with the common law courts and their cost of £55 and one-sixth per cent. exclusive of court fees and professional charges, the strongest reason is shown for keeping the equity system free from the experimental graft of the common law procedure.

In the Court of Chancery, in addition to 2,083 causes heard, there were 2,558 petitions heard, on which 2,500 orders were made, there were also 1,265 special orders on motions, and 5,679 orders at chambers. The total number of causes, petitions, and special motions on which counsel were heard by the judges, and which were decided by them without the assistance of the chief clerks, was 5,906. Every one of these proceedings probably exceeded in magnitude and interest, any jury cause tried, during the same period, and the result shows that, whereas at common law 15 judges were engaged upon the trial of 965 causes, and 3,842 criminal prosecutions, there were 4 equity judges, exclusive of the Courts of Appeal, to hear and decide upon 5,906 causes and special matters of dispute. Assuming that the time of the common law judges is fully occupied with the trial of causes and criminal cases according to the common law practice, the same system introduced into chancery would require *eighteen judges* as necessary to do the work of the Court instead of four, the present number. In this computation I have treated every criminal prosecution at the assizes as a trial, but we well know that in fact many of such cases must have been disposed of by grand juries, and others by pleas of guilty. I have not found any return of the actual number of criminal trials at the assizes as distinguished from prosecutions. The cost of prosecutions at the assizes was £49,450 7s. 10d.

This cursory view of our tribunals I think warrants my assertion that a minister of justice is necessary to be responsible to the country for all measures affecting the administration of justice introduced into Parliament. But in addition to the many facts to which I have adverted there appears to have been 124,861 persons committed to prison during the same period, of which number 15,120 were county court and superior court commitments for debt, leaving 111,741 persons committed for criminal offences. Here there is surely more than enough to call for a responsible head. Besides the enormous outlay entailed by so much crime, there have been numerous commissions issued by the Crown, which have entailed large outlay and which would have been saved had there been a permanent responsible minister of justice charged with the duty of investigating all proposed defects in law or justice.

If these reasons are not sufficient, let us look around upon our vast colonial empire, whose claims to be considered in the administration of justice cannot be overlooked. An appeal to the Queen in council, with its attendant expence is the only means of redress for the miscarriage of justice in British colonies, and the existence of a minister of justice would

render colonial courts more careful in the discharge of their duties, and the necessity for appeals would be less frequent.

It may be that the novelty of my proposal may savour so much of innovation that it may be deemed unadvisable that it should be adopted. I abstain from discussing the details of such an office if it were created, or I might show that beyond creating responsibility in the place of irresponsibility, control and order, where there is now disorder, the change is not formidable. Whether I am correct in my opinion or not, I am well satisfied that something ought to be done to get rid of the distrust which modern legislation has created. When men of fortune, of education and considerable influence, speak ill of justice, as I have heard them do, and complain of its uncertainty and evils, it is time to examine the correctness of such complaints. I think that an undue prejudice has been created against a great and noble profession; and with the control of a responsible minister of justice, if he fairly discharged his duties, such prejudice would soon die away, and altogether disappear. England is still the foremost country in the world; the first in arts, in sciences, and literature, and her system of laws has been the model of surrounding nations. It will be a reproach to us if we do not always retain this proud position, and if there is room for complaint of our judicial systems, I think I have fairly expressed it, and in advocating the appointment of a minister of justice, that I have suggested a suitable remedy.

. Gentlemen are requested to send to Mr. Turner, 9, Carey-street, Lincoln's-inn, such observations as may occur to them on the suggested proposal for the appointment of a minister of justice—also instances of miscarriages of justice which have occurred in their experience, and whether the same have arisen from judicial mistake, from misapprehension of facts, from the mode of procedure in court, technical rule of practice, or otherwise, and if the case is reported, a reference to the report of the case.

Mr. F. N. DEVEY also contributed a paper on Decisions of the House of Lords, as follows:—

The question seems to be whether "the decisions of the House of Lords are binding upon itself"—"and can only be altered by Act of Parliament," as held by the Lord Chancellor Campbell, *A. G. v. Dean and Canons of Windsor*, 8 W. R., 477, or "are binding"—"upon all Courts *except itself*," as held by Sir John Romilly, *M. R.*, see p. 478. It is worthy of notice that Lord Kingsdown, p. 485, desired to reserve his opinion as to the observations of the Lord Chancellor with respect to the extent to which the judicial decisions of the House of Lords are binding in subsequent cases. Mr. Jarman (6 *Jarm. Conv.* 294, ed. 1829), in reference to the case of *Humble v. Bill*, 2 Vern. 444. makes this remark, "This decree was afterwards reversed, upon an appeal to the House of Lords; but the reversal has always been considered to be unsatisfactory; and the principle upon which the original decree was made is completely established by subsequent decisions." The case of *Solarte v. Palmer*, 1 Bing. N. C. 194, was considered by Lord Brougham, in concurrence with the unanimous opinion of the judges present, "too clear for an appeal." p. 196. But, in *Robson v. Curlew*, 3 G. and D. 70, Lord Denman, C. J., says of *Solarte v. Palmer*, that it "can hardly be now deemed a satisfactory authority." And in *Caunt v. Thompson*, 7 C. B. 416, referring to *Solarte v. Palmer*, it is said, "a very strict rule was adopted; but that has not been adhered to." Pollock, C. B., in *Paul v. Joel*, 6 W. R. 683, speaks of the supposed rule in *Solarte v. Palmer*, as being regarded by a number of the profession with regret. And Mr. Baron Bramwell, in reference to some well known case decided by the House of Lords, (it is thought to be this case), says: "No Court, of course, could overrule it; but it has given rise to as much litigation as could possibly take place, and the result is that that case has not been overruled, but distinguished from to such an extent, that if any party now cited it he would be laughed at." See 1 Sol. Jour. 775. And Lord Campbell, C. J., in *Everard v. Watson*, 1 Com. L. R. 425, speaks of the decision in *Solarte v. Palmer* as "one which has caused much mischief and confusion," and wishes its authority "was got rid of by legislative enactment." In *A. G. v. Corporation of London*, 2 McN. & G. 269—272, Lord Cottenham states that the House acted on his advice, and there was an error in it. Now, it seems to me that, should the House of Lords in any decision take that celebrated "one step" from the regions of sublimity to those of risibility, their Lordships would better preserve their dignity, and the beneficial operation of the laws, by embracing (as any other Court would) the first opportunity to retrace that step, than by adhering to what Lord

Eldon called consistency in error, and leaving the unfortunate decision to be laughed at and virtually overruled. But, contrary to my first intention, I am entering into argument, and must stop. I feel contented if by this Paper, I should acquire the title of a useful drudge; one who has furnished to abler heads some materials for discussion and for arriving at, perhaps, a satisfactory conclusion.

Admission of Attorneys.

NOTICES OF ADMISSION.

HILARY TERM, 1861.

[Candidates' names appear in Small Capitals, and Solicitors' to whom articulated or assigned in Roman type.]

QUEEN'S BENCH.

ALDERSON, EDWARD SAMUEL.—T. H. Scarborough, Bloomsbury-square.
 ALLCARD, WILLIAM HENRY.—G. F. Smith, Golden-square.
 ALISON, MATTHEW.—J. J. Wright, Sunderland; H. B. Wright, Sunderland.
 BAKER, THOMAS MATHIAS.—J. Baker, Great Yarmouth; C. F. Fisher, Ventnor.
 BARNES, ALBERT.—J. W. Mecey, Thatcham, Berks.
 BARTLETT, THOMAS HENRY.—J. Matthews, 2, Arthur-street West.
 BAYLEY, THOMAS MORRIS.—T. S. James, Birmingham.
 BEDFORD, CHARLES.—H. Bedford, 4, Gray's-inn-square; E. Ball, Pershore.
 BENSON, WILLIAM.—H. A. Gregg, Kirkby Lonsdale.
 BENTLEY, FRANCIS.—G. W. Bentley, Worcester.
 BEST, WILLIAM.—J. Rolfe, Winchester.
 BEWLEY, EDWARD WHITE.—J. H. Thursfield, Wednesbury.
 BISHOP, W. T. BONNELL.—T. Bishop, Wheat Street, Brecon.
 BLYTH, ROBERT.—A. Meggy, Chelmsford.
 BRADFORD, JOB.—R. Gardner, Leamington, Warwick; R. S. Gregson, 8, Angel Court, Throgmorton Street; J. B. Allen, 20, Bedford Row.
 BROS, THOMAS KEMMIS.—Messrs. Domville, Lawrence, & Graham, 6, New Square, Lincoln's Inn.
 BROWN, JOHN THOMAS.—E. Percy, Nottingham.
 BUBB, WILLIAM HENRY.—J. Bubb, Cheltenham.
 CALLAWAY, WILLIAM PARKER.—J. Callaway, Canterbury; R. Furley, Ashford.
 COLE, JAMES SAMUEL.—H. Webb, Argyll Street, Regent Street.
 CONQUEST, JOHN CARRINGTON.—P. R. Falkner, Newark-upon-Trent.
 COULSON, JOHN.—C. C. Footitt, Newark-upon-Trent.
 CRIGHTON, ALEXANDER CLIFFORD.—R. R. Dees, Newcastle.
 CROOK, GEORGE WILLIAM, articulated by the name of George Crook.—W. Gibson, 64, Lincoln's-inn-fields.
 DAVIES, SAMUEL RICHARD.—J. Cook, Chase Ross.
 DAY, FREDERICK WILLIAM.—G. G. Day, St. Ives; J. Broughton, Peterborough.
 DENNIS, GEORGE WM., M.A.—D. King, Cambridge; W. B. Young, Hastings.
 DIBB, CHRISTOPHER JENKINS.—W. Stewart, Wakefield.
 EDDISON, FREDERICK.—E. Eddison, Leeds.
 EDMONDSON, JOHN EDMONDS.—G. Edmonds, 15, Whittall-street, Birmingham.
 FEARNLEY, CHARLES ABRAHAM.—R. Glynes, Crescent, America-square.
 FEARENSIDE, JOHN, THE YOUNGER.—J. Fearenside, Burton-in-Kendal, Westmoreland.
 FISHER, FREDERICK.—J. Smith, Birmingham.
 FOSTER, JAMES.—H. Hudson, Bradford.
 FOSTER, JOHN.—J. Foster, Pontefract, York.
 FRANKLIN, JOHN VEASEY.—J. E. Wilson, Cranbrook.
 FRASER, DOUGLAS ST. CLARE.—C. St. Clare Bedford, Westminster; R. G. Raper, Chichester.
 GADSDEN, GEORGE ALFRED.—R. Gadsden, Bedford-row.
 GAMLEN, ROBERT HEALE.—R. Gamlen, Gray's-inn-square.
 GARDNER, JAMES.—R. Swan, Lancaster.
 GARVEY, RICHARD EDWARD.—J. T. Tweed, Lincoln; E. Jones, 4, Millman-place, Bedford-row.
 GEDGE, PETER.—J. Sparke, Bury St. Edmunds.
 GIBSON, PHILIP ROBERT.—Henry Gibson, Ongar.
 GIBSON, THOMAS.—R. Bartlett, Chelmsford.
 GOLDRICK, JAMES.—J. Rowe, Liverpool.
 HADDOCK, CHARLES MILNER.—T. Parker, 18, St. Paul's Churchyard.

HADFIELD, JOHN.—Antony Berwick Were, Wigton.
 HARRISON, ALEXANDER, JUN.—H. Hawkes, Birmingham.
 HAWKINS, FREDERICK JAMES.—H. Forshaw, 12, Sweeting-street, Liverpool.
 HILL, RICHARD CANNING.—C. Pidcock, Worcester.
 HILL, WALTER GUY.—J. R. N. Norton, Monmouth.
 HILLIARD, JAMES ARTHUR.—W. E. Hilliard, 3, Gray's-inn-square.
 HOLT, CHARLES AUGUSTUS.—C. Holt, 93, Guildford-street, Russell-square.
 HORTON, SAMUEL STONE.—J. Rawlins, Birmingham.
 HUGHES, JOHN.—L. Peel, Liverpool.
 JACKSON, HUGH FREDERICK.—J. Jackson, 12, Essex-street, Strand.
 JAMES, EVAN.—W. Williams, Bala, Merioneth; J. Morris, Bala and Dolgelly.
 JOHNSON, THOMAS.—Messrs. Minshall and Sanders, Bromsgrove, Worcester.
 KENT, ARTHUR.—W. Boycott, Kidderminster.
 KRUGER, HENRY JAMES.—C. Fiddey, Inner Temple; C. Bevan, 3, Small-street, Bristol.
 LEADBITTER, THOMAS FRANCIS.—N. Hollingsworth, Gresham-street.
 LEE, FREDERICK COOPE.—T. French, Eye, Suffolk.
 MATHEWS, JAMES LLEWELLYN.—W. Walton, 30, Bucklers-bury.
 MILLS, ALFRED THORNCROFT.—W. W. King, Brighton; and College-hill, City.
 NEVATT, FRANCIS.—C. Dixon Craig, Shrewsbury.
 NEWINGTON, GEORGE.—Messrs. Sankey and Son, Canterbury.
 NICHOLLS, SAMUEL THOMAS.—W. Parson Gordon, Bridgnorth.
 OLIVER, EDMUND WARD.—T. Oliver, 11, Old Jewry-chambers.
 OXLEY, FREDERICK.—A. Kaye, 12, Castle-street, Liverpool; E. S. Mounsey, Staple-inn.
 PEACOCK, THOMAS FRANCIS.—J. Cutts, Chesterfield; and South-square, Gray's-inn.
 PEARSE, JAMES.—T. W. Pearse, Bedford.
 PHILLIPS, ARTHUR BENTLEY.—C. H. Phillips, Kingston-upon-Hull; J. Shepherd, 15, Golden-square.
 PIDCOCK, CHARLES FOLEY.—C. Pidcock, Worcester; A. Mason, 15, Furnival's-inn.
 PITMAN, FREDERICK.—W. Pitman, 9, Great James-street, Bedford-row.
 POTTS, EDWARD BAGNALL.—G. Potts, Broseley.
 PRICE, WILLIAM SCARLETT.—J. S. Price, Burford, Oxford; W. H. Trinder, Bedford-row; R. H. Peacock, South-square, Gray's-inn.
 PULBROOK, ANTHONY, jun.—C. Robson, 13, Clifford's-inn.
 PULLAN, BENJAMIN COLLETT.—J. Shackleton, Leeds.
 RABY, W. PARKER POOLE.—J. Russell, York; C. Lever, Old Jewry.
 RANDALL, JOHN WILLIAMS.—E. W. Faithfull, Winchester; G. Nelson, Buckingham; J. Randall, Temple.
 RASTRICK, GEORGE.—C. E. Jemmett, Kingston; H. P. Sharp, Piccadilly.
 ROGERS, WILLIAM.—J. Johnston, 57, Chancery-lane.
 ROWLANDS, RICHARD.—J. D. Pugh, Denbigh; R. B. Griffith Bangor, Carnarvon.
 SCALE, MARTIN.—W. John, Haverfordwest.
 SCOTT, EDWARD.—E. Scott, Wigan.
 SHAROOD, CHARLES JAMES.—C. Sharood, Brighton.
 SHEFFIELD, THOMAS NEEDHAM.—J. Sheffield, 68, Old Broad-street; Mare-street, Hackney.
 SHEPHERD, JAMES PARKINSON.—F. Weyness, Appleby.
 SMITH, HENRY, jun.—H. T. Smith, Devonport; F. Baker, jun., Dowgate Hill-chambers.
 SMITH, WILLIAM BINNS.—R. Smith, Holborn; G. R. Smith, Holborn.
 SOUTHEE, HORACE ROBERT.—R. Southee, 16, Ely-place, Holborn.
 SPARKES, WESTON JOSEPH.—W. C. Cleave, Crediton.
 SPENCER, THOMAS WILSON.—G. Spencer, Keighley; T. Z. Goldring, Lincoln's-inn-fields.
 STANLEY, FREDERICK.—S. Abrahams, 4, Lincoln's-inn-fields.
 TATE, THOMAS.—F. Pearson, Kirkby Lonsdale; F. F. Pearson, Kirkby Lonsdale.
 THOMPSON, B. BLAYDES, jun.—H. B. Thompson, sen, Tadcaster.
 TRYTHALL, WILLIAM.—H. L. Jones, Bangor.
 URRY, THOMAS HAMILTON.—J. G. Etches, Whitchurch.
 VENNING, WALTER CHARLES, JUNR.—W. C. Venning Senr., 9, Tokenhouse-yard.

WAGSTAFF, F. W. BENTLEY.—E. H. Pace, Pershore.
WASHINGTON, JOSEPH WOODIS CLULOW.—J. Wilson, Congleton; C. Moorhouse, Congleton.
WATSON, JAMES.—J. D. Francis, Chesham, Bucks; J. Drummond, Croydon.
WATT, FRANCIS JAMES.—T. Scott, Worcester; W. Gregory, 12, Clement's-inn.
WEBSTER, THOMAS.—Meaburn Tatham, 20, Austin Friars; A. T. Upton, Austin Friars.
WHALLEY, HENRY STANLEY.—T. E. Swift, 6 St. Alban's, Blackburn; J. Bolton, Boardwood, Blackburn.
WHITE, THOMAS MATTHEW.—T. G. Dale, Lincoln; C. Benn Boston.
WHITTINGTON, THOMAS.—B. Whittington, Dean-street, Finsbury-square.
WINGATE, BERNARD.—W. G. Allison, Louth, Lincoln.
WOOLLACOTT THOMAS GRIFFITHS.—T. E. Parson, Grace-church-street.
WORTHINGTON, GEORGE WILLIAM.—R. M. Simpson, Manchester.

NOTICES OF ADMISSION.
PURSUANT TO JUDGES' ORDER
Hilary Term, 1861.

ALLEN, WILLIAM HENRY THOMAS.—T. Chauntler, Gray's Inn Square; A. Rutter, Symond's Inn.
GEORGE, THOMAS JOSEPH.—Stretton and Postans, 12 South square; H. Padmore, 2, Duke-street, Adelphi.
LANE, EDWARD.—W. C. Rule, 26, Milk-street, Cheapside.
MANCELL, WALTER.—W. Jones, 9, Laurence Pountney-hill; and Harder's-road, Peckham.
AMBLER, WILLIAM.

NOTICES OF ADMISSION.
PURSUANT TO 23 & 24 VIC. C. 127.
Hilary Term, 1861.

COOK, THOMAS FRANCIS.—E. R. Ingram, Stourport; J. Walcot, Stourport.
DODD, THOMAS.—Already admitted an Attorney of the Common Pleas at Lancaster.
HINCKS JOHN STEER, (Judge's Order).—William Roscoe, King-street, Finsbury, Frederick Schultz, King-street, Finsbury, and Dyer's Buildings, City.
HOARE, EDWARD.—J. W. Taylor, Great James-street.
KIRCH, SIMON ABRAHAM.—H. M. Daniel, Lancaster-place.
KNOTT, JAMES PULLEN.—W. Sandys, Gray's-inn.
LAY, JAMES.—James Gibbs Abell, Colchester.
LOWTHIAN, ISAAC.—D. McAlpin, Carlisle.
MARSHALL, HENRY, Junr.
MELLOR, ZACHARIAH
PLANT, WILLIAM JAMES
TUCKER, JOHN.—W. S. Harle, Newcastle-upon-Tyne.
TURNER, JOHN, Junr.—Already admitted an Attorney of the Common Pleas at Lancaster.
TURNER, THOMAS.—W. H. Gaunt, Leeds.
WALTER, HENRY.—Already admitted an Attorney of the Common Pleas at Lancaster.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

MR. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Monday, Dec. 10.
MR. FREDERICK JOHN TURNER, on Conveyancing, Friday, Dec. 14.

Births, Marriage, and Deaths.

BIRTHS.

ENGLEHEART—On Dec. 2, the wife of Gardner D. Engleheart, Esq., Barrister-at-Law, of a son.
MACDERMOT—On Dec. 1, at Clover Hill, Boyle, the wife of John D. MacDermot, Esq., Solicitor, of a daughter.

MARRIAGE.

GARDINER—NADIN—On Nov. 29, Frederick George, son of the late William Gardiner, Esq., to Amelia, youngest daughter of the late Thomas Nadin, Esq., Solicitor, Manchester.

DEATHS.

CHEFFINS—On Dec. 2, Lucinda Harrison, wife of Charles Frederick Cheffins, Esq., of Southampton-buildings, Chancery-lane.
FOSTER—On Nov. 26, aged 85, Matthew Foster, Esq., Solicitor, Newcastle-on-Tyne.

PINNIGER—On Nov. 29, at his chambers, Gray's-inn, John Pinniger, Esq., in the 94th year of his age.
SHRIMPTON—On Nov. 28, at Aldburgh, Louisa Mary, widow of the late Joseph Shrimpton, Esq., formerly of Lincoln's-inn, and daughter of the late Rev. Thomas Powys, rector of Fawley, Bucks.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BROUGHTON, SIR JOHN DELVES, Bart., Doddington-park, Cheshire, Rev. HENRY DELVES BROUGHTON, Broughton-hall, Staffordshire, and JAMES WALTHALL HAMMOND, Esq., of Wistaston-hall, Cheshire, £172 13s. 2d. Consols. Claimed by HENRY COCKEY, limited administrator of James Walthall Hammond.
BROUGHTON, JOHN VICKERY, Gent., Oxford-street, and WILLIAM PRESTON, Gent., New Bond-street, £1,500 Reduced Three per Centa.—Claimed by ELIZA PRESTON, Widow, the sole executrix of William Preston, who was the survivor.
JOHN, MARY St., Spinster, Southampton, £140 Consols.—Claimed by ELIZABETH MEARS, Widow, sole executrix of the Rev. Henry Mears, who was the surviving executor of Thomas Mears, who was the sole executor of the said Mary St. John.
LITTLEHALES, Rev. JOSEPH LAURENTIUS, Grendon Underwood, Bucks, Rev. WADHAM PIGGOTT, Quinton, Bucks, WILLIAM PIGGOTT, Jun., Esq., Doldershall-park, Bucks, and GEORGE TREVOR JERVOISE, Esq., Herriard House, Hants, £136 7s. 3d. Consols.—Claimed by FRANCIS JERVOISE, ELIS JERVOISE, SARAH ANN ELIZABETH FITZGERALD, wife of Thomas Fitzgerald, and PETER HEDDLISTON, executors of George Trevor Jervoise, who was the survivor.
NEALE, THOMAS TAVNER MULLINER, Ipswich, Suffolk, £7,033 8s. Consols.—Claimed by BORLASE HILL ADAMS, and PETER FREDERICK O'MALLEY, Executors of William Charles Fonnereau, who was the sole executor of the said Thomas Taver Mulliner Neale.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	233	Shrs Stock Ditto A. Stock	104½
3 per Cent. Red. Ann.	92	Stock Ditto B. Stock	153
3 per Cent. Cons. Ann.	93½	Stock Great Western	73½
New 3 per Cent. Ann.	92½	Stock Lancash. & Yorkshire ..	119½
New 2½ per Cent. Ann.	91½	Stock London and Blackwall ..	63
Consols for account ..	91½	Stock Lon. Brighton & S. Coast ..	116½
India Debentures, 1858.	96½	25 Lon. Chatham & Dover ..	53
Ditto 1859.	96½	Stock London and N.-Westm. ..	100½
India Stock	96½	Stock London & S.-Westm. ..	95½
India 5 per Cent. 1859.	103½	Stock Man. Sheff. & Lincoln. ..	84½
India Bonds (£1000) ..	..	Stock Midland	108½
Do. (under £1000).....	..	Stock Ditto Birn. & Derby ..	102½
Exch. Bills (£1000)....	3 dis.	Stock Norfolk.....	53
Ditto (£500).....	..	Stock North British	63
Ditto (Small) ..	..	Stock North-Eastn. (Brwek.) ..	105½
		Stock Ditto Leeds	82½
		Stock Ditto York	93½
		Stock North London.....	103
		Stock Oxford, Worcester, & ..	
		Stock Wolverhampton ..	..
RAILWAY STOCK		Stock Shropshire Union	51
Stock Bk. Lan. & Ch. Lanc.	85	Stock South Devon	43
Stock Bristol and Exeter....	59	Stock South-Eastern	84½
Stock Cornwall	67	Stock South Wales	60
Stock East Anglian	17½	Stock S. Yorkshire & R. Dun ..	78½
Stock Eastern Counties	52½	25 Stockton & Darlington ..	42
Stock Eastern Union A. Stock	40	Stock Vale of Neath	50
Stock Ditto B. Stock	29		
Stock Great Northern	110½		

INTERNATIONAL EXHIBITION OF 1862.—The preliminaries of this great undertaking are now settled, the trust is accepted, and direct action will be begun immediately. The following important letter, in which Lord Granville, the Marquis of Chandos, and Messrs. T. Baring, C. Wentworth Dilke, and T. Fairbairn, accepted the trust proposed by the Society of Arts, has been received by that society:—"London, Nov. 22. Sir.—We have to acknowledge the receipt of your letter of yesterday, inclosing the copy of a communication from her Majesty's Commissioners for the Exhibition of 1851 to the Council of the Society of Arts, in which the Commissioners express their general approval of the object which the society has in view in organizing the Exhibition of 1862, and their willingness to render such support and assistance to the undertaking as may be consistent with their position as a chartered body, and with the powers conferred upon them by their charter of incorporation. Under these circumstances, we have to request that you will intimate to the Council of the Society of Arts our willingness to accept the trust, which the Council and the guarantors have in so flattering a manner expressed a wish to impose on us, on the understanding that the Council will forthwith take measures for giving legal effect to the guarantee, and for obtaining a charter of incorporation satisfactory to us. We have the honour to be, Sir, your obedient servants, (signed) Granville, Chandos, Thomas Baring, C. Wentworth Dilke, and Thomas Fairbairn."

London Gazette.

Windings-up of Joint Stock Companies.

TUESDAY, Dec. 4, 1860.
LIMITED IN BANKRUPTCY.

HADFIELD PATENT CASE AND PACKAGE COMPANY (LIMITED).—Petition to wind up, presented December 3, will be heard before Commissioner Perry, at Liverpool, on December 11, at 12.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.
TUESDAY, Dec. 4, 1860.

BRYTEN, EDWARD, Farmer, Pittsford Lodge, Pittsford, Northamptonshire. Hewitt, Solicitor, Northampton. Dec. 31.
GALL, WILLIAM, Agriculturist, Grickstone Farm, Horton, Gloucestershire. Bash & Ray, Solicitors, 9, Bridge-street, Bristol. March 15.
GREEN, ROBERT FLETCHER, Gent., Headingley, Leeds. Preston, Solicitor, Leeds. Feb. 1.
GREENHALGH, RICHARD, Cotton Doubler, Mansfield, Nottinghamshire. Smith, Solicitor, Wheeler-gate, Nottingham. Feb. 28.
HARVEY, HENRY, Esq., formerly of 1, Cambridge-square, Middlesex, and 30, Regency-square, Brighton. Whiting, 11, New-inn, or Finney, 6, Furnival's inn, Solicitors. Jan. 1.
HILL, EDWARD, Commander of her Majesty's brig Spy, a Lieutenant in her Majesty's navy. Woodroffe, Solicitor, 1, New-square, Lincoln's-inn, London. March 1.
HILL, JAMES DOVER, Esq., Owen's Gold Field, Australia. Woodroffe, Solicitor, 1, New-square, Lincoln's-inn, London. Sept. 1.
LANE, CHARLES FRANCIS ROWLEY, Esq., 35, Upper Grosvenor-street, Middlesex, a Colonel in her Majesty's army, and formerly a Colonel in the Grenadier Guards. Burley & Carlisle, Solicitors, 4, New-square, Lincoln's-inn, Middlesex. Jan. 8.
LEEDELL, THOMAS, Yeoman, late of Hinchbeck, Lincoln, and formerly of Doncaster. Clark, Solicitor, Holbeach. Jan. 31.
SKATE, ELIZABETH JANE, Widow, 4, Kensington-place, Bath. Stone, Chamberlayne, & King, Solicitors, Bath. Feb. 23.
SLADEN, JOHN BAKER, Esq., Ripple Court, Kent. Sladen, Solicitor, 14, Parliament-street, Westminster, and Sladen, Solicitor, 2, King's-arms-yard, London, Executors. Feb. 1.

FRIDAY, Dec. 7, 1860.

BELLMAN, VINCENT, Seagholist, and Plaster Manufacturer, 6, Fitzroy-street, Fitzroy-square, Middlesex, and 14, Buckingham-street, Fitzroy-square, Middlesex. Taylor & Woodward, Solicitors, 29, Great James-street, Bedford-row, Middlesex. Feb. 1.
BOTTERILL, REBECCA, Widow, Flaxton, Yorkshire. Hesp & Moody, Solicitors, Scarborough. Feb. 7.
BORRINGTON, ANN, Widow, Kingsholm, Gloucestershire. Smith, Solicitor, 10, Berkeley-street, Gloucester. Feb. 1.
DOWNS, WILLIAM, Gent., Villa-road, Handsworth, Staffordshire. Cutler, Solicitor, 16, Moor-street, Birmingham. Jan. 10.
FORSTER, JOHN DODD, Yeoman, Ridge End, Falsstone, Northumberland. Kirkopp, Solicitor, Hexham, Northumberland. Feb. 1.
GARRETT, JOHN, Farmer, Leathersby, Sudbury, Derbyshire. Hogg, Solicitor, Market-street, Nottingham. Jan. 13.
GOSDON, MISS HARRIETT, 18, Bedford-place, Clapham, Surrey. Burchell, Hayne, and Hall, Solicitors, 24, Red Lion-square, Holborn. Dec. 15.
HODGKINSON, JOHN, Esq., Brighton, Sussex. Hodgkinson, Solicitor, 17, Little Tower-street, London, E.C. Feb. 1.
HODGKINSON, WILLIAM, Painter, and Glazier, 3, Church-street, Southwark, Surrey. H. J. Godden, Solicitor, 1, Clement's-lane, London, E.C. June 12, 1861.
JOHNSON, WILLIAM, Cotton Spinner, Wigan, Lancashire. Harrison, Solicitor, one of the executors, Pemberton, Lancashire. Jan. 31.
LEACH, JAMES, Silver Plater, formerly of Hockley Hill, Birmingham, and late Warstone-road, Birmingham. Marshall, Solicitor, Eldon-chambers, Cherry-street, Birmingham. Dec. 17.
PARRON, ANNE ELIZABETH, Widow, 15, Malda-hill West, Middlesex. Gadsden & Flower, Solicitors, 24, Bedford-row, Middlesex. Jan. 10.
VALLIS, HANNAH, Widow, Broadway, Worcestershire. Tonic & Elliot, Solicitors, Cheltenham. Dec. 31.
WHIGHAM, FRANCES, Widow, 13, Russell-square, late of Pembroke-crecent, Bayswater, Middlesex. Robinson & Haycock, Solicitors, 32, Charterhouse-square, Middlesex. Dec. 31.
WILKINSON, Mary, Widow, Picton-place, Swansea, Glamorganshire. Voss, Solicitor, Town Hall, Bethnal-green, Middlesex. Feb. 1.

(County Palatine of Lancaster).

FRIDAY, Dec. 7, 1860.

BISWICK, ROBERT, Innkeeper, Lord-street, Rochdale. Carl v. Wolstenholme, Office of Registrar of Manchester District, 4, Norfolk-street, Manchester. Jan. 8.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Dec. 4, 1860.

DAVIES, JOSEPH, Merchant, Chepstow, Monmouthshire. Baldwin v. Read, V. C. Stuart. Jan. 9.
GOSWELL, ROBERT, Butcher, 50, Sloane-street, Chelsea, Middlesex. Fiske & Knight, M.R. Jan. 11.
HARRISON, GEORGE BOLTON, a Paymaster and Purser in Her Majesty's Royal Navy. St. Mark's-road, Island of Jersey. Harrison v. Corner, M.R. Jan. 11.
HIDE, MARY, otherwise HIDE, Widow, Stotfold, Bedfordshire. Masters v. Hyde, V. C. Stuart. Jan. 10.
PALMER, RICHARD WALKER, Farmer, Enfield Wash, Middlesex. Palmer v. Gairdner, M.R. Dec. 22.
PARRELL, WILLIAM HENRY, Esq., Milton-next-Gravesend, Kent. Fletcher v. Bart, V. C. Stuart. Jan. 9.
STEPHENSON, FLORENTIUS FREDERICK, Esq., formerly of Twickenham, Middlesex, and late of the Union Club, Trafalgar-square, Middlesex, and 74, St. James-street, Brighton. M.R. Jan. 7.
STEVENSON, GEORGE, Miller, Witcomb Mills, Hillmorton, Wilts. Dixon v. Stevenson, M.R. Jan. 11.
WALLER, JOSEPH GARRELL, Esq., 36, Porchester-square, Middlesex. Waller v. Waller, M.R. Jan. 11.
WESTMACOTT, HENRY SEYMOUR, Gent., 1, Gordon square, and 28, John-street, Bedford-row, Middlesex, and of Abbeira, Llanthangel-y-Tractian, Merionethshire. Prosser v. Westmacott, V.C. Wood. Dec. 24.

FRIDAY, Dec. 7, 1860.

BETTON, JESKIN, Esq., Llaethliw, Henfenyw, Cardiganshire. Evans v. David, V. C. Stuart. Jan. 12.
CAMPELL, COLIN, Esq., Cheltenham. Campbell v. Eld, V. C. Stuart. Jan. 15.
EILES, JAMES, Draper, Newark-upon-Trent. Eeles v. Procter, V. C. Stuart. Jan. 14.
GRUNDY, HENRY WILLIAM, Licensed Victualler, Northfleet, Kent. Smith v. Parks, M. R. Jan. 11.
HOLBOROW, GEORGE, Cheesmonger, Clare-street, Clare-market, St. Clement Dances, Middlesex. Webb v. Holborow, V. C. Stuart. Jan. 18.
PARKINSON, JOSEPH SAMUEL, Gent., Norwich. Binns v. Nichols, V. C. Wood. Jan. 11.
PARKINSON, WILLIAM WIGGETT, Gent., Bracondale-hill, Norwich, Norfolk. Binns v. Nichols, V. C. Wood. Jan. 11.
RIGGALL, JOSEPH, Farmer, Leasingham, Lincolnshire. Pheasant v. Riggall, V. C. Stuart. Jan. 12.
WETWAN, GEORGE, Solicitor, Bridlington Quay, York. Cartwright v. Wetwan, V. C. Stuart. Jan. 9.

Assignments for Benefit of Creditors.

TUESDAY, Dec. 4, 1860.

CRAB, JAMES, Baker and Grocer, Bruton, Somersetshire. Nov. 21. Sol. Baich, Bruton.
GRIFFITHS, ROBERT, Linen and Woollen Draper, Cowbridge, Glamorganshire. Nov. 12. Sols. Davidson, Bradbury, & Hardwick, Weavers'-hall, 22, Basinghall-street.
MCACOCK, WILLIAM, Confectioner, Liverpool. Nov. 8. Sol. Toebay, 10, Sweeting-street, Castle-street, Liverpool.
PARIS, JOHN HATHERALL, & JOSEPH JACKSON, Provision Dealers, Liverpool. Nov. 6. Sol. Toebay, 10, Sweeting-street, Castle-street, Liverpool.
RAYNER, WILLIAM RUFEN, Watchmaker & Jeweller, 39, Castle Bailey-street, Swansea, Glamorganshire. Nov. 5. Sol. Carpenter, 7, Bank-chambers, Lothbury, London.
ROWELL, WILLIAM, Farmer, Berwick, Isle of Ely. Nov. 17. Sol. Serjeant, Ramsey, Hunts.
SCAIFE, JOHN, SAMUEL SYKES, JOSEPH HARBORAVE, THOMAS GROUNDWELL, GEORGE TUNSTALL, JAMES ATKINSON, JAMES RAWLINSON, & GEORGE DIXON, Cloth Finishers, Leeds (Scalfé, Sykes, & Co.) Nov. 19. Sol. Sykes, 30, Commercial-buildings, Leeds.
TELFORD, WILLIAM, JOSEPH SHARP, & JAMES FARRAR, Iron Merchants, Scho Foundry, Meadow-lane, Leeds. Nov. 8. Sol. Granger, Newton-grove, Potter Newton, Leeds.

FRIDAY, Dec. 7, 1860.

ANDREWS, ARTHUR, Currier, Modbury, Devonshire. Nov. 26. Sol. Shephard, 9, Sise-lane, London.
ANDREWS, JOHN, Surgeon & Apothecary, Salisbury. Nov. 24. Sols. Hodgings, Townsend, & Lee, Salisbury.
BARR, SAMUEL ABRAHAM, Draper, Ashbourne, Derbyshire. Nov. 26. Sol. Welch, Ashbourne, Derbyshire.
BROWN, SAMUEL NEALE, Grocer, Hertford. Nov. 28th. Sols. Robinson, Nicholls, & Leatherdale, 14, Old Jewry Chambers.
DICKSON, JOHN, Draper, Grocer, & Tea Dealer, Holworthy, Devonshire. Nov. 7. Sol. Kingdon, Holworthy.
FOREMAN, CHARLES, Builder, Redhill, Reigate, Surrey. Nov. 22. Sol. Morrison, Reigate.
GLOVER, WILLIAM, Publican & Builder, 119, Westfield-street, St. Helen's, Lancaster. Sol. Johnson, St. Helen's, Eccleston.
NORTH, THOMAS, Coal Dealer, Aylesbury, Buckingham. Nov. 9. Sol. Benson, Aylesbury.
PRITCHARD, ROBERT, Innkeeper, Aberdovey, Merioneth. Nov. 8. Sol. Cunway, 4, Harrington-street, Castle-street, Liverpool.
SABBY, WALTER, Upholsterer, Folkestone, Kent. Nov. 30. Sol. Minter, Folkestone.
SHAW, ABRAHAM PIERPOINT, Printer, 18, Bolt-court, Fleet-street, London. Nov. 17. Sol. Nicholson, 48, Lincolns-inn, London.
STANNARD, JAMES, Painter & Paperer, Newport, Isle of Wight. Nov. 20. Sol. Woodroffe, Lincoln's-inn, Middlesex.
TAYLOR, FREDERICK WILLIAM, Coal Merchant, Nottingham. Dec. 3. Sol. Morley, Nottingham.
WOODWARD, WALTER CHARLES, Jeweller, Liverpool. Nov. 19. Sol. Cunway, Liverpool.

GARRARDS.

TUESDAY, Dec. 4, 1860.

BAKER, RICHARD, General Smith, 103, High-street, Barnstable. Com. Andrews: Dec. 19, & Jan. 23, at 12; Exeter. Off. Ass. Hirtzel. Sol. Fryer, St. Thomas, Exeter. Pet. Dec. 1.
BROOK, JOHN, Electro Plater, Birmingham. Com. Sanders: Dec. 17, & Jan. 21, at 11; Birmingham. Off. Ass. Whitmore. Sol. Smith, Birmingham. Pet. Nov. 30.
COLE, WILLIAM, jun., Iron & Steel Merchant & Shipping Agent, 10, Mark-lane, London. Dec. 18, at 12; and Jan. 17, at 2; Basinghall-street. Off. Ass. Bell. Sol. Brewer, 3, Philpot-lane. Pet. Dec. 4.
EATON, CHARLES, jun., Leather Factor, South King-street, Manchester. Com. Jennett: Dec. 19, & Jan. 18, at 12; Manchester. Off. Ass. Pott. Sol. Taylor, 32, Cooper-street, Manchester. Pet. Oct. 19.
FRESTON, EDWARD WASON, Milliner and Straw Hat Manufacturer, 11, Clarke's-place, High-street, Islington, Middlesex. Com. Evans: Dec. 18, at 11; & Jan. 17, at 12; Basinghall-street. Off. Ass. Johnson. Sol. Mardon, 99, Newgate-street. Pet. Dec. 3.
HARRIS, WILLIAM, jun., Miller, Ilford, Essex. Com. Fonblanque: Dec. 14, at 1; & Jan. 9, at 12.30; Basinghall-street. Off. Ass. Stansfield. Sol. Treharne, 17, Gresham-street, London. Pet. Nov. 23.
HISCHLIEFF, BENJAMIN, Cloth Manufacturer, Littlemoor, Pudsey, Calverley, Yorkshire. Com. West: Dec. 20, & Jan. 18, at 11; Leeds. Off. Ass. Young. Sols. Dunning & Kay, Bond-street, Leeds. Pet. Nov. 27.
HOPKINS, SAMUEL, Horn Worker, Bewdley, Worcester. Com. Sanders: Dec. 14, & Jan. 14, at 11; Birmingham. Off. Ass. Kinnear. Sols. James & Knight, or Warrington & Stokes, Dudley. Pet. Nov. 30.
KIPPAX, JOHN, Watch Maker and Silvermith, East Bedford, Nottingham. Com. West: Dec. 15, & Jan. 19, at 10; Sheffield. Off. Ass. Brewin. Sols. Mee, Burnaby, & Denman, East Bedford; or, Bond & Barwick, Leeds. Pet. Nov. 19.
MCLENNAN, GEORGE JAMES, & JOHN WILLIAM BIRD, Builders and Contractors, 12, Osnaburgh-street, Regent's-park, Middlesex. Com. Fonblanque: Dec. 14, & Jan. 13, at 11.30; Basinghall-street. Off. Ass. Stansfield. Sols. Linklaters & Hackwood, 7, Walbrook, London. Pet. Dec. 4.

MURDOCH, DAVID, Grocer and Provision Dealer, Liverpool. *Com.* Perry: Dec. 17, & Jan. 10, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Yates, Jun., Fenwick-street, Liverpool. *Pat.* Nov. 30.

PARRIS, HENRY, Machine Maker, Bridport, Dorset. *Com.* Andrews: Dec. 19, & Jan. 23, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Flight & Loggin, Bridport; or, Turner & Hirtzel, Exeter. *Pat.* Nov. 23.

FRIDAY, Dec. 7, 1860.

AMBLER, JOSEPH, Worsted Manufacturer, Bradford, Yorkshire. *Com.* West: Dec. 20, and Jan. 18, at 11; Leeds. *Off. Ass.* Young. *Sols.* Ingram & Baines, Halifax, or Bond & Barwick, Leeds. *Pat.* Nov. 27.

BRECH, THOMAS, Joiner & Builder, 4, Severs-street, Everton Liverpool. *Com.* Perry: Dec. 17, and Jan. 10, at 11. *Off. Ass.* Morgan. *Sols.* Toulmin, 57, Roscoe-street, Liverpool. *Pat.* Dec. 4.

BROADBRIDGE, JAMES, Grocer & Chinaman, Arundel, Sussex. *Com.* Fonblanque: Dec. 19, at 1.30; and Jan. 17, at 11.30; Basinghall-street. *Off. Ass.* Graham. *Sols.* Lawrence, Plews, & Boyer, 14, Old Jewry-chambers, London, and R. & G. Holmes, Arundel. *Pat.* Dec. 5.

CLAPPISON, JOHN WARD, Jeweller & Watch Maker, Kingston-upon-Hull, Yorkshire. *Com.* Ayrton: Dec. 19, and Jan. 16, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Bartlett & Son, Birmingham; Preston, Hull; or Bond & Barwick, Leeds. *Pat.* Nov. 28.

FROSTICK, WILLIAM, Jun., Glengall-road, Cubitt's Town, Poplar, Middlesex, and ABRAHAM BOYS, William-street East, Poplar, Builders, (Frostick & Boys). *Com.* Evans: Dec. 18, at 1.30; and Jan. 17, at 11; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Turner, 8, Mount-street, Whitechapel. *Pat.* Dec. 6.

M'LEOD, WILLIAM, Builder, Undertaker, & Ironmonger, Kingston-upon-Hull. *Com.* Ayrton: Dec. 19, & Jan. 16, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Wilson, or Chester, Hull. *Pat.* Dec. 3.

MURRELL, GIBBS HOWES, Brick & Tile Maker & Farmer, Surlingham, Norfolk. *Com.* Holroyd: Dec. 17, at 1; and Jan. 29, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Blake, 4, Serjeant's-inn, Temple; or Taylor & Son, Norwich. *Pat.* Nov. 30.

POURTAU, JOHN ALEXANDER, Printer & Advertising Agent, Pond-street, Hampstead, and late of Southampton-street, Strand, Middlesex. *Com.* Fonblanque: Dec. 18, at 11.30; and Jan. 17, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Lawrence, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pat.* Dec. 5.

PARRY, GUSTAVE JOHN, Merchant, 3, Brabant-court, Philpot-lane, London. *Com.* Goulburn: Dec. 17, and Jan. 18, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Fraser & May, 78, Dean-street, Soho, London. *Pat.* Nov. 29.

PATTISON, THOMAS SEPTIMUS, & FREDERICK MILLER, Wholesale Stationer, 9, Lawrence Pountney-hill, London (Pattison & Miles). *Com.* Holroyd: Dec. 17, at 1, and Jan. 23, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Lawrence, Smith, & Fawdon, 12, Bread-street, Cheapside, London. *Pat.* Dec. 7.

SEMPLEY, EDWARD, JUN., Brickmaker, Giltbrook, Notts., & FRANCIS EDWARD SEMPLEY, Tanner, Currier, & Leathermeller, Nottingham. *Com.* Sanders: Dec. 20 & Jan. 2, at 11; Nottingham. *Off. Ass.* Harris. *Sols.* Coope, Nottingham, and Froeth, Rawson, & Browne, Nottingham. *Pat.* Sept. 27 & Dec. 3.

STRELITZ, MOSES DAVID, Merchant, 73, Newgate-street, London. *Com.* Fonblanque: Dec. 19, at 2, & Jan. 17, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* George & Downing, 5, Sise-lane, London. *Pat.* Dec. 5.

WALKER, HENRY, Hatter, Leicester (Henry Walker & Co.). *Com.* Sanders: Dec. 20 & Jan. 8, at 11. *Off. Ass.* Harris. *Sols.* James & Knight, Birmingham. *Pat.* Nov. 23.

WATKINS, DAVID, Cattle Dealer, Backway Farm, Shebbear, Devon. *Com.* Andrews: Dec. 23, & Jan. 23, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Fulford, North Tawton, Devon. *Pat.* Nov. 1.

WILLIAMS, GEORGE LONDBRIDGE, Builder, 33, Florence-street, Islington-Middlesex. *Com.* Holroyd: Dec. 18, 2.30; & Jan. 18, at 11; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Chidley, 10, Basinghall-street London. *Pat.* Dec. 4.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Dec. 4, 1860.

BAXTER, SAMUEL, Ship Smith, Windlass and Capstan Manufacturer, 73, Minorics, London, and of Glasshouse-street, Upper East Smithfield, Middlesex. Dec. 27, at 11; Basinghall-street.—BUCHANAN, DANIEL, and ROBERT BENN, Merchants, Liverpool. Dec. 28, at 11; Liverpool.—CREDLAND, JAMES, Builder, Hulme, Lancaster. Dec. 27, at 12; Manchester.—DRAY, WILLIAM, Farmer, Agricultural Implement Maker and Seller, Farningham, Kent, and at Adelaide-place, London-bridge, (William Dray & Co.) Dec. 27, at 12; Basinghall-street.—ECCLES, JOSEPH, EDWARD ECCLES, and ALEXANDER ECCLES, Cotton Brokers, Liverpool. Dec. 14, at 11; Liverpool.—FENN, WILLIAM, Underwriter and Insurance Broker, 11, New Broad-street, London, and late of Lloyd's Coffee House, Royal Exchange. Dec. 28, at 11.30; Basinghall-street.—FREEMAN, GEORGE, & HENRY WILSON, Lead & Glass Merchants, & Pewterers, Blenheim-street, Oxford-street, Middlesex. Dec. 27, at 11.30; Basinghall-street.—HAPGOOD, WILLIAM, Ironmonger, 7, Upper Saint Mary-street, Southampton. Dec. 28, at 11; Basinghall-street.—NICHOLLS, WILLIAM, Manufacturer of Blue, Leicester. Dec. 27, at 11; Nottingham.—PEARCE, JOHN, Woollen Draper, Holborn-hill, Middlesex. Dec. 27, at 12; Basinghall-street.—RUTHERFORD, WILLIAM HAMILTON, Grocer, Nottingham. Dec. 27, at 11; Nottingham.—SCORE, WILLIAM, Soap Manufacturer, Manor-street, Hatcham, Surrey. Dec. 27, at 12; Basinghall-street.—WALKER, JOHN, & WILLIAM WALKER, Joiners, Builders, & Contractors, Birkenhead. Dec. 28, at 11; Liverpool.—WILKINSON, JOHN, Ironmaster, Brymbo, Denbigh. Dec. 28, at 11; Liverpool.

FRIDAY, Dec. 7, 1860.

APPLEYARD, FREDERICK, Tanner & Carrier, Bradford. Jan. 15, at 11; Leeds.—BRAME, WILLIAM RAWSON, and JOHN BRAME, Jun., Printers, Birmingham. Jan. 7, at 11; Birmingham.—BURN, EDMUND JOHN, Jun., Stationer, 40, Ship-street, Brighton, Sussex. Dec. 28, at 12; Basinghall-street.—CHADWICK, JOSEPH, Stone Merchant, Willington Wharf, Augustus-street, Regent's Park, Middlesex. Dec. 28, at one; Basinghall-street.—COX, WILLIAM JOHN, Grocer, 44, Fetter-lane, London. December 28, at eleven; Basinghall-street.—DALES, JOHN, Merchant, Gresham-house, Old Broad-street, and Dewsbury, Yorkshire. Dec. 18, at 12; Basinghall-street.—DUBBANT, GEORGE, & GEORGE BROCK, Tallow Chandlers and Soap Manufacturers, St. Michael, Colony, Norwich. Dec. 28, at 11; Basinghall-street.—EVANS, EDWARD, Draper, Wednesbury, Stafford. Jan. 7, at 11; Birmingham.—GRANGER, JAMES, GEORGE BATTISON HAINES, WILLIAM

RICHARD HEATH, & JOHN METCALF, Electro Platers (Heath & Co.), Birmingham, Warwick. January 7, at 11; Birmingham.—GRANGER, JAMES, GEORGE BATTISON HAINES, WILLIAM RICHARD HAINES, & JOHN METCALF, Electro-platers, Birmingham (Heath & Company). Jan. 7, at 11; Birmingham. Same time, separate estate and effects of George Battison Haines.—GWYER, EDMUND, African Merchant & Ship Owner, Bristol (Edmund Gwyer & Son). Jan. 10, at 11; Bristol.—HAWKEN, JOHN, Jun., Merchant & Maltster, Padstow, Cornwall. Jan. 2, at 12; Exeter.—HULLAN, JOHN, Bookseller, St. Martin's Hall, Long Acre, and 5, Langham-street, Portland-place, Middlesex. Jan. 3, at 11; Basinghall-street.—LEIBIUS, EMIL HENRY, Merchant, 31, Bush-lane, Cannon-street, London. Jan. 3, at 12; Basinghall-street.—PERRY, FREDERICK CHARLES, Iron Master, Roughwood Colliery & Furnaces, Rycroft Colliery, Walsall, and of Hallfields Furnace, Bilston, Staffordshire, and of Stockport, Chester. Jan. 7, at 11; Birmingham.—PITCHES, JAMES, Leather Seller, Hampstead-road, Middlesex. Dec. 28, at 11; Basinghall-street.—PRICE, JOHN, Draper, General-shop Keeper, and Manager of a Shop, Abertillery, Aberystwith, Monmouthshire. Jan. 3, at 11; Bristol.—ROBERTS, JOHN, Tailor & Draper, Taunton, Somersetshire. Jan. 2, at 12; Exeter.—ROUTLEDGE, SAMUEL, Dyer, Huddersfield. Jan. 15, at 11; Leeds.—ROYLE, GEORGE, Flint Glass Manufacturer, Sutton, Saint Helen's, Lancashire. Dec. 17, at 12; Liverpool.—SPICER, THOMAS, Oil & Colourman, 2, Little Britain, London. Dec. 29, at 12; Basinghall-street.—STEPHENSON, JAMES, Cabinet Maker & Upholsterer, 36, Crawford-street, Bryanstone-square, Saint Marylebone, Middlesex. Dec. 19, at 1; Basinghall-street.—TEARLE, DAVID, Straw Plait Dealer, Houghton Regis and of Luton, Bedfordshire. Dec. 28, at 1; Basinghall-street.—WALLER, JOHN, Dealer in Oil and Cake Merchant, Hitchin, Hertford. Dec. 31, at 12.30; Basinghall-street.—WATSON, ROBERT, & CHARLES WILLIAM WATSON, Curriers and Boot and Shoe Manufacturers, (C. W. Watson & Co.), Kettering, Northampton. Dec. 28, at 11.30; Basinghall-street.—YAXLEY, JOHN, Farrier and Cab Proprietor, Providence-yard, Vauxhall-bridge-road, Westminster. Jan. 4, at 11; Basinghall-street.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, Pall Mall, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on all policies effected prior to the 31st of December, 1861, should, in order to enjoy the same, make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without imparting to the recipients the risk of co-partnership, as is the case in mutual societies.

To show more clearly what these bonuses amount to, the three following cases are put forth as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,987 10	£6,987 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security for the payment of the policy when death arises; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1850, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

Immediate application should be made to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order,

P. MACINTYRE, Secretary.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £100,000, in 10,000 shares of £10 each.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. COBBOLD & PATTESON, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal is 5 per cent. The investment being secured by a subscribed capital of £85,000, £70,000 of which is not yet called up.

LOANS.—Advances are made, in sums from £25 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to

JOSEPH K. JACKSON, Secretary.

REVERSIONS AND ANNUITIES.

LAW REVERSIONARY INTEREST SOCIETY,

68, CHANCERY LANE, LONDON.

CHAIRMAN—Russell Gurney, Esq., Q.C., Recorder of London.

DEPUTY-CHAIRMAN—Nathan W. Senior, Esq., late Master in Chancery. Reversions and Life Interests purchased. Immediate and Deferred Annuities granted in exchange for Reversionary and Contingent Interests. Annuities, Immediate, Deferred, and Contingent, and also Endowments granted on favourable terms.

Prospectuses and Forms of Proposal, and all further information, may be had at the Office.

C. B. CLABON, Secretary.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, DECEMBER 15, 1860.

CURRENT TOPICS.

In to-day's number we finish the publication of the papers contributed by members of the Metropolitan and Provincial Law Association for their recent meeting at Newcastle. We shall now do no more than remind our readers of some valuable suggestions contained in these essays. The address of Mr. Kennedy, as President, was mainly devoted to a review of recent legislation as it peculiarly affects the administration and practice of the law. It also, however, touches upon some minor but important questions relating to the usage of the profession, as to which the Association, since its former annual meeting, had passed certain resolutions. In our impression of last week we gave another very elaborate paper by Mr. John Turner, the object of which is to show the great importance to the profession, and the country at large of the institution of a department of justice. Mr. Turner has brought together a striking array of facts and figures in support of his argument, which, upon the whole, is more telling than any which has yet been adduced upon the same topic. Many of his statements supported as they are by the authority of Mr. Redgrave's statistics, are truly startling, and must soon attract the attention of the Legislature. He points out with great force the enormous expense to the country of the county court system, its total cost being considerably over half a million a year, of which more than half is paid out of the public revenue, while the total amount recovered through the instrumentality of these courts is in round numbers not much above three quarters of a million; and as an additional expense the country has to support the 9,000 or 10,000 debtors annually imprisoned by county court judges. Is not Mr. Turner, therefore, justified in the remark that it would "be a wise economy, and a saving to the country for the State to pay all small debts less discount for collection now levied by county court agents and to abolish the courts." As to the evils arising from the general employment of the county court and other "agents," we earnestly commend to the attention of our readers the perusal of Mr. Turner's paper, and a letter on the same subject from "a solicitor" which appeared in the *Solicitors' Journal* of last week.

Of a different class from any of the foregoing papers is the learned essay of Professor Johnson, of Birmingham, on the Law of Judgments as affecting Real Property, of which we shall say nothing more than that we have received communications from different quarters, to the effect that it would be highly desirable if papers such as those of Mr. Johnson were more frequently contributed by members of our law societies.

Mr. C. A. Smith's paper on the Abolition of Oaths, which has also appeared in these columns, touches upon a subject of a juristical, or perhaps a moral, rather than a legal character. It is one, however, not without interest to lawyers, and in respect of which the public sentiment is daily becoming more favourable to a change.

Mr. Shaen's observations, on the Etiquette of the Bar, raise between the two branches of the profession some delicate but not unimportant questions, which can never be settled satisfactorily to either except by a courteous consideration on the part of both, and which has not been wanting so far as Mr. Shaen

is concerned. In considering the subject of bar etiquette it should always be borne in mind that persons who are not members of the bar have no right to take exception to it except so far as it affects their interests or themselves personally. Mr. Shaen accordingly, bearing this distinction in mind, has confined himself in his paper for the most part to the simple question, whether the rule of the bar requiring the employment of two counsel in certain cases is not oppressive upon clients who require the services of one only; and this certainly is a question which may well be discussed by any member of society. Whether the mode of discussion adopted by Mr. Blundell in his letter to, this Journal of last week is the most likely to lead to any useful result is, however, very questionable.

Mr. Devey's memorandum on Decisions of the House of Lords, noting up as it does a number of authorities upon the question whether the ultimate Court of Appeal is bound by its own decision, is a useful contribution upon this moot point.

Mr. Miller's paper, which we publish to-day, contains some useful suggestions for the constitution of country law societies. He agrees with us in recommending not merely preliminary examinations for article clerks, but also periodic ones. While on this subject, we may allude to the important communication concerning the prospects of legal education in Ireland, which we published last week, as to the institution of both preliminary and final examinations for article clerks—the former comprising a curriculum of general subjects of education.

We have thought it right to remind our readers of the useful labours of the Metropolitan and Provincial Law Association, and to call attention to the above-mentioned papers, as there is always some danger, on account of the form in which they appear, of their not commanding the attention which inherently they deserve.

Our Irish correspondent, in the communication from him which appears in our columns to-day, calls our attention to a subject which has recently been under the consideration of the Council of the Incorporated Law Society of Ireland. The subject is one equally interesting to the profession in this country. It appears that last session there was introduced into Parliament a Bill, to the effect, amongst other things, that the solicitor to the Irish Ecclesiastical Commissioners should be paid a salary; but that, as against other parties dealing with them, he might be entitled to charge costs; for which, however, he was to account with the Board of Commissioners, who, in fact, were in all cases directly, by virtue by the Act, to receive the costs. The Council of the Irish Incorporated Law Society, in their report which has been published, state, as no doubt they are justified in stating, that the "principle involved in such clause was novel, and unless sanctioned by the authority of an Act of Parliament, would be illegal." Fortunately, the Council observed the clause in time to petition for, and obtain, its removal. The profession on this side of the Channel may well share the surprise of their Irish brethren, and participate in the interest which this topic has excited amongst them, not merely on account of its novel character, but because it has been the fashion of late years for our Government to favour Ireland with the first introduction of such novelties—perhaps as experiments in *corpore vili*—with a view to their importation into this country at some future time.

Those persons who were shocked at the recent dreadful accounts which have appeared in the papers of colliery explosions, will be glad to hear that the Act for the Regulation and Inspection of Mines, 23 & 24 Vict. c. 151, which was passed last session, will come into force on the first day of the new year. The Act con-

tains a code of valuable general rules to be observed in mines, and prescribes the powers and duties of inspectors.*

It is announced that the next meeting of the Law Amendment Society will be held on the 17th instant. A paper will be read by Mr. Edward Webster, entitled, "Observations on the Report of the Select Committee of the House of Lords, 1856, relating to the Expediency of carrying into effect the Sentence of Death before official spectators only, and on a substitute for Capital Punishment." Lord Stanley is to take the chair.

The next meeting of the Juridical Society will be held on Monday, the 17th inst., at 8 o'clock, p.m., when Mr. S. M. Leake will read a paper on "The Taxation of Suitors."

RELATIVE AUTHORITY OF CO-ORDINATE COURTS

In the constitution of a judicature consisting of numerous courts arranged in co-ordinate and sub-ordinate ranks, it becomes essential to the harmonious working of the system to arrive at an exact understanding concerning the relative authority of their respective decisions. The common law remaining altogether in an abstract unwritten form, and statute law, though written, involving innumerable doubts and uncertainties of construction, the judgments of the courts contain the only authoritative declarations of the former, and the only authoritative expositions of the meaning of the latter. It is true, the judgments of the courts are not law in point of form, since they do not emanate from the voice of the Legislature; the function of the Court being *jus dicere* and not *jus dare*. But they are law in substance, since they are the authoritative assertion or declaration of what the legislative power has ordained. With respect to the common law, they are an original embodiment in language of its precepts and principles; with respect to the statute law, they either repeat the word of the statute, or, where that speaks with an uncertain voice, they paraphrase in clearer language its real intention; and within the scope of their declaratory powers they form the only criterion by which the public can regulate its opinion of the law. Hence, where the judicial oracles are numerous, it becomes a matter of great importance, in the interests of certainty, to ascertain with what degree of authority each oracle speaks.

It might be expected from this character of the sources of our law that a large field would remain undefined by judicial decision; but it is certainly remarkable that the question before us respecting the relative authority of courts seems still to lie in the regions of uncertainty. It is amongst the subjects left by our law entirely to judicial exposition; and it is one to which judicial deliberation has been very imperfectly applied. For instance, amongst mooted points may still be enumerated the questions: How far a court is bound by the authority of the previous decision of a court of co-ordinate jurisdiction? How far any court is bound by its own previous decision—in the case of an inferior court, and

in that of a Court of Appeal? What is the position of a court of ultimate appeal, as the House of Lords, with respect to its own previous decisions? These are questions of which the settlement is of material importance to practitioners, and therefore they seem well worthy of a brief consideration. We propose first to take in hand the question concerning the relative authority of courts of co-ordinate jurisdiction.

It will perhaps serve to clear this question of some confusion, if we begin by observing that this is not a question of the value and weight of precedents, upon the usual grounds of reasoning by which precedents are estimated. A precedent is followed because, so long as it has prevailed, it must have affected in some degree the conduct and dealings of the public, and must have been received with more or less of acknowledgment or acquiescence; and the weight of a precedent is measured chiefly by the degree of acquiescence with which it is received. In this sense, every judgment of a properly constituted tribunal becomes a precedent to every other tribunal; and even the judgment of an inferior court becomes a precedent for the guidance of a superior court, or a court of appeal. This characteristic effect of a precedent, even in a court of error, was well explained by Parke, B., in the judgment which overruled the celebrated case of *Godsall v. Boldero* (*Dalby v. India Life Assurance Company*, 24 L. J., C. P., 2):—"Though we are quite satisfied that the case of *Godsall v. Boldero* was founded on a mistaken analogy and wrong, we should hesitate to overrule it, though sitting in a court of error, if it had been approved and followed and not questioned, though many opportunities had been offered to question it. We do not think we ought to feel ourselves bound by it, as so few, if any, subsequent cases have arisen in which the soundness of the principle then relied upon could be made the subject of judicial inquiry, and as in practice it may be said that it has been constantly disregarded."

A judgment of a superior court, however, is cited before an inferior court, not merely as a precedent or argument which may be accepted or repudiated, but as an authority which can only be obeyed. The sub-ordinate court defers to the judgment of the super-ordinate one, not from a submission of conviction, but in obedience to its higher authority. What, then, is the relation with respect to mere authority subsisting between co-ordinate courts? When a judgment of a co-ordinate court is cited, is any submission due to its authority irrespective of the weight which it may reasonably bear as an argument from precedent? This seems to be the precise form of the question, which is so constantly intervening in practice where the same or similar points are discussed before the several co-ordinate courts.

The solution of this question, upon grounds of principle, seems to rest in the conception of co-ordinate courts; and this conception may be elucidated in the manner most suitable for our present purpose by the state of the courts actually referred to under that designation. The three superior courts of common law are commonly thus described, and so likewise are the Vice-Chancellors' courts in equity. Now the former at the present day all exercise necessarily the same jurisdiction, and stand in precisely equal rank or order in the constitution of the judicature. Their civil jurisdiction, originally very different, have, first by various strange self-originated devices and fictions, such as writs of *quo minus*, *latitat*, and bills of Middlesex, and ultimately by statutes settling a uniformity of process, attained precisely the same limits. The age of rivalry, conflict, and usurpation of jurisdiction between these courts, has passed away; and there is now one jurisdiction, one procedure, virtually one court, though for the convenience and despatch of business, three chambers—a state of things which seems imperatively to demand a uniformity of decision. The courts of the Vice-Chancellors in equity have been created with the

* A useful treatise on all the statutes passed for the regulation of mines has just been published. It is entitled, "An Exposition of the Statutes (5 & 6 Vict. c. 99, and 23 & 24 Vict. c. 151) passed for the regulation of Mines, Collieries, and Ironstone Mines, designed as a Practical Guide for Official Inspectors, Owners, Viewers, Captains, Managers, and Agents, with reference to Governmental inspection, and the employment of Mine Labour under the above statutes; also a notice of the Truck Act (1 & 2 Will. 4, c. 37), and a carefully prepared form of Pit Bond, with Notes and Appendix of the above statutes, and a copious Index." By Thomas Tapping, Esq., of the Middle Temple, Barrister-at-Law. Stevens & Sons.

same exact uniformity of position, procedure, and jurisdiction, and therefore, it would seem, with the same necessity for the uniformity of decision. The two sets of courts, of common law and of equity, relatively to each other, are also commonly treated as co-ordinate; but though they may be ranked in position at the same level and dignity, they exercise jurisdiction of so different a description, that the judgments of the one can be seldom applied in any useful manner to the guidance or regulation of the other. Inasmuch, however, as courts of law have in some matters an equitable jurisdiction and conversely, to that extent the jurisdiction of the two sets of courts is the same; and, according to the best opinions, the decisions of the one are accepted by the other as binding authorities. As to courts inferior to these, such as county courts, magistrates' courts, &c., though strictly speaking they might be termed co-ordinate, yet, as they are instituted simply for the dispatch of small business, and not at all for the settlement of the law, difficult points of law arising before them being readily referred to superior tribunals, it would be mere pedantry to include them in the same category, or to attempt to subject them to the same considerations.

There is no doubt that every court is constituted in point of form with the power of delivering an arbitrary judgment on a matter within its jurisdiction; so that it has the power to decide contrary to a previous judgment of a co-ordinate court, and even of a court of appeal. But this power is entrusted to the court to be exercised according to a judicial discretion; and the real question is not as to the bare power or possibility of deciding, but what is a right and proper exercise of the power according to the discretion of a good judge. This distinction between mere formal power and the discretionary rules imposed upon its exercise is well recognised in many branches of the political constitution. Discretion tempers the exercise of power, as equity modifies the law. Thus, the Crown in point of form can refuse assent to a Bill which has passed both Houses of Parliament; but discretion peremptorily forbids the exercise of such power. The House of Lords has the power formally to propose and amend a Bill relating to taxation; but the rules of discretion, founded on the inexpediency and futility of so doing, prohibit any such interference with the prescriptive privilege of the Commons. With respect, therefore, to the submission of a court to another court of co-ordinate jurisdiction, the question seems to be, what are the rules of discretion which intervene to guide the exercise of the absolute power of judging under the circumstances of the matter having been already adjudged by a co-ordinate court?

These rules are to be sought for and deduced from the practice of the courts, and the language of the judges in reference thereto; and a careful consideration of the precedents and practice on the subject appears to justify the following position.* The general rule of

* The following authorities may be cited in support of this and other positions taken in the above article. The Common Pleas having decided, in *Selby v. Eden*, 3 Bing. 611, that the simple acceptance of a bill drawn payable at a particular place was a general acceptance, the same point was soon after brought before the Queen's Bench; and Lord Tenterden, C. J., delivering the judgment of the Court said, "I should certainly have entertained some doubt had it not been for the authority cited (*Selby v. Eden*). It is of great importance that there should be uniformity of decision in the different courts of Westminster Hall, upon all questions, but particularly upon questions affecting negotiable instruments of this description. Upon the authority of that case, therefore, we are of opinion, &c."

A great difference of opinion recently prevailed as to whether special contracts with carriers were within the Rail-way and Canal Traffic Act. In *Wine v. Great Western Railway Company*, 25 L. J. Ex. 258, the Exchequer having delivered judgment on grounds independent of the above point, added an opinion upon it, also sufficient to decide the case in the negative. In *Simons v. Great Western Railway Company*,

practice is that, where a deliberate judgment of a co-ordinate court subsists unreversed it must be followed; and no further argument will be heard on the same point. Counsel may distinguish their case from the authority; but they may not dispute the authority except in a court of appeal. The practice of the courts in this matter is of every day occurrence, and is nearly invariable. Exceptions, it is true, have occurred in certain extreme cases; but they are so rare as to be almost capable of a particular enumeration. At any rate they have not as yet been frequent enough to have called forth any rule to account for their occurrence; and the tendency of modern practice is to carry out the above general rule with the utmost strictness. It may, however, be suggested with probability that the deliberate deviations from the general rule are restricted to cases in which the previous decision has manifestly emanated from mistake or inadvertence, and in which the Court itself would obviously, on being further advised on a future occasion, wish, if possible, to recall its own judgment. It may also be suggested that a Court would probably be much more cautious and respectful in dealing with

26 L. J. C. P. 25, the Common Pleas considering the point open, notwithstanding the opinion of the Court of Exchequer, expressly decided it in the affirmative. The point then came before the Queen's Bench, in *Peck v. North Staffordshire Railway Company*, 27 L. J. Q. B. 465, where the judges differed. Lord Campbell, C. J., and Crompton, J., concurred with the Common Pleas, the latter saying in his judgment, "I should feel myself bound by this decision of the Court of Common Pleas if I had arrived at a contrary conclusion; and I should have contented myself with merely stating that I felt bound by the decision of the Court of Common Pleas if I had not known that one of my learned brothers in this court and some of the learned members of another court take a contrary view." Erle, J., thought that the case in the Exchequer amounted to an authority, and therefore considered himself, he said, at liberty to dissent from the Common Pleas.

In the case of *Chapman v. Monmouthshire Railway Company*, 27 L. J. Ex. 97, Willes, J., having ruled at Nisi Prius in accordance with his own private opinion contrary to the judgment of the Queen's Bench, the full Court, on the case being referred to it, delivered the following judgment by the Chief Baron:—"We have consulted with my brother Willes, who states that he intended to decide contrary to the case of the *Queen v. London and North Western Railway Company*, we are bound to decide in accordance with that case." [And see further as to this point, *Powell v. Jessop*, 25 L. J. C. P. 199; *Taylor v. Burgess*, 5 H. & N. 1; and innumerable other cases.]

Jackson v. Woolley, 27 L. J. Q. B. 181, was an instance of the Court of Queen's Bench following the decision of a Vice-Chancellor. Kindersley, V.C., had decided that the 14th section of the Mercantile Law Amendment Act was retrospective; and upon the same point being brought before the Court of Queen's Bench, it held itself bound by that decision. Lord Campbell, C. J., said, "We are bound by the decision in *Thompson v. Waithman*. We express no opinion upon the proper construction of the Act, as far as this court is concerned it is *res integra*, and the plaintiff must go to a court of error if he wishes to review that decision." The decision was reversed in the Exchequer Chamber, where Williams, J., delivering judgment said, "The Court of Queen's Bench were quite correct in bowing to the decision of the Vice-Chancellor in *Thompson v. Waithman*, a court of co-ordinate jurisdiction."

In *Jones v. Harrison*, 6 Ex. 328, the Court of Exchequer construed the word "may" in the 13th section of the County Court Act, 13 & 14 Vict. c. 61, as discretionary. In *Mac Dougal v. Paterson*, 11 C. B. 755, the Court of Common Pleas held it to be obligatory, because, as it said, the former decision led to manifest absurdity and repugnancy, and the Court of Queen's Bench, in *Crake v. Powell*, 21 L. J. Q. B. 183, followed the Common Pleas. The Court of Exchequer subsequently expressed the intention of reversing their decision, and abiding by that of the other courts (*Asplin v. Blackman*, 21 L. J. Ex. 78).

In *Cook v. Gillard*, 1 E. & B. 83, the Court of Queen's Bench decided upon the construction of a statute contrary to the judgment of the Court of Exchequer in *Irimey v. Marks*, 16 M. & W. 643, on the ground that the latter court had manifestly decided under a mistake arising from their not advertent to certain legislative changes in the law

the decision of another Court, than it would in reviewing its own.

The general rule which compels a Court to bow to the decision of a Court of co-ordinate jurisdiction seems also to be based upon grounds of expediency and public convenience. Certainty is a high qualification of law; and this rule eliminates one element of uncertainty by preventing the collision of co-ordinate courts and a conflict of judicial opinions. It is said, on the other hand, that to prevent one court from questioning and impugning the decisions of another, tends to aggravate and perpetuate the evils of doubtful or bad law. It is true, a subsequent contradictory decision would serve to throw increased discredit on a previous one already discredited by public opinion; but it would not get rid of it in the same way that it is overruled by a court of appeal; it would only alter the degree of doubt without removing it, and would necessarily involve a recourse to further proceedings. The rule in question guards all decisions equally, good and bad, from being subjected to doubt, except in that way in which alone the doubt can be usefully and effectually raised. It sends the doubt at once to the court of appeal, which alone could decide between conflicting decisions; and it thus avoids unnecessary and objectless litigation, which would otherwise be interposed in the course of a suit.

The contrary rule, operating equally on all decisions, whether good or bad, would open to dispute and litigation nearly every proposition of law, and would invite as many different opinions as there are judges. The attention of suitors would be turned to the idiosyncracies of the courts and judges, rather than to the simple object of a final decision of the cause. To allow a decision to be called in question whenever it suited the circumstances of a suitor, or of his legal advisers to do so, would increase expense and prolong litigation. The ensuing diversity of opinions would introduce uncertainty throughout the whole of the law; the public would be greatly embarrassed in their conduct and affairs; no titles would be safe; and no transactions could be sufficiently guarded.

GOVERNMENT BILLS.

This is the season of the year when cabinet councillors go through the unwelcome duty of reviewing their legislative failures of the preceding summer. In the present autumn, notwithstanding the apology has been offered to constituencies, that a greater number of useful legal reforms have been made during the 23 & 24 Vict. than for many a year past, the chiefs who are responsible for the Parliamentary programme must deliberate, in view of the next session, under a consciousness that the successful law measures of the last were principally the work of independent members, while the unsuccessful and the abortive were precisely those which had been heralded in the Queen's Speech. Her Ministers, then, have had ample reason for discussing at their recent meetings the causes of miscarriage, not only such as were of a party and personal nature in the House, but also the technical causes inherent in the Government system of drawing Bills. With the struggles for majorities, or the winning arts of debate, we are not much concerned. The policy, too, of each proposed law measure must, of course, be judged on its own grounds. But the frame of legislation, whether relating to professional or other matters, involves abiding general principles, the neglect of which is a subject peculiarly belonging to a legal journal. Among them there is one principle necessarily underlying whatever plan, in the vacancy caused by the loss of Mr. Coulson, may be adopted for securing, or attempting to secure, accuracy, completeness, and consistency, in Government as well as other Bills.

Whether a Parliamentary officer or committee, a

commission or a minister of justice, be constituted to preserve order in the Statute Book, no success can be accomplished without a proper division of labour between the authors and the framers of measures. A clear perception of the difference between the functions of the legislature and of the draftsman would tend to allay even the jealousy which Parliament is supposed to feel at the apprehended interference by any new machinery with the free exercise of its sovereign powers and privileges. The confusion which has hitherto existed between official and professional responsibilities, in preparing the work of legislation, has encouraged an ill-defined alarm, that the latter cannot be regulated without encroaching on the former. At the same time such confusion has been in a high degree detrimental in weakening the responsibilities themselves.

When a Bill originates with a public department, the instructions in different cases vary exceedingly in their form and detail. They do not generally go much into particulars. To the conveyancer employed is left the speculative task of giving effect to the intentions of the introducers of the Bill. So loose is the system, that frequently the instructions come orally from a Secretary of State: most frequently, indeed, there is neither signature, nor date, nor any writing at all. Thus unauthenticated they are sometimes not communicated to the draftsman by the head of the department. A secretary or subordinate is employed as the precarious go-between. He may or may not be imbued with the policy which prompted the measure, or be master of its general bearings, or comprehend its particular operations; yet he is customarily the medium between the intelligence which conceives and the intelligence which imparts substance to the conception.

It requires no very special knowledge to be in a position to appreciate the practical effect of such inexactness of duties. The head of a department originating a Bill is satisfied mainly with a conviction of the principle on which it is to be based, and does not extend his contemplation beyond the disturbance which it may produce in the interests represented by one troublesome deputation and another, which has recently quitted his presence. If, in addition, he has suggested clauses sufficient to guard against the Scylla faction on the particular question in the opposition, and the Charybdis faction among his own supporters, he passes on to other business with a consciousness of having done his duty not only as a legislator, but as a party man. The parliamentary scribe will look to the rest, and design and fit all the secondary and minuter parts. The draftsman, on his side, receives the political, commercial, or legal hints, as the case may be, vouchsafed from high quarters, with his head full of precedents and forms, but in comparative, if not total, ignorance of the actual circumstances in which the measure is to work. The Bill is thus drawn in perfect harmony between the two. Neither gives the other any vulgar trouble upon it. If the lesser artist's professional precedents do not happen to square with the greater artist's official exigencies, it is altered accordingly. "I do not, of course," Mr. Coulson told a select committee, "raise any controversy with him; I say, I have no doubt misunderstood you." If anything should be wanting, there will still be the "many cooks" in committee to supply their ingredients. What must be the result on the Statute Book of this easy-going division of labour? What would have been the result on steam locomotion, if, thirty years ago, Robert Stephenson had instructed a founder that steam pressed at so much a square inch: "I want something to run upon wheels by steam; you will see to the cylinders, cocks, valves, and all that!" It requires, we say, no special knowledge to judge of such a system. But they who know by experience, how crude, for the working purposes of life, is the production of a conveyancer whom a client, under some unusual pressure of circumstances,

has instructed, by an endorsement on a blank sheet, or at the foot of some hasty half dozen paragraphs, to draw a Bill in Parliament, a partnership deed, or a settlement, how much the draftsman leaves in blank, how many queries he puts in the margin, how cautious the reservations he makes in his approval, and how many conferences will be needed by the solicitor with his clients on the one hand, and with his counsel on the other, and finally, with both together, before the machine runs easily on its wheels at the proper gauge. Anyone who has experience of all this, can well form an opinion as to what sort of laws the public is justified in expecting from Government Bills.

The steps to be taken for remedying this state of things have not, we believe, been decided upon by the Government. In coming to a decision, account must be taken, not alone, of the multifarious duties which, as we recently showed, pressed upon the late Mr. Coulson. There must be organised distinct machineries, one, departmental, for designing Bills, with a view to their safe and effectual operation in detail, and another, general, for drawing Bills, in order that the intention may be precisely carried out in enactments worded effectively and in harmony with the rest of the statute book. To constitute the latter organization for putting legislative measures into bodily shape, not one man or any number of individuals will avail. There must be some kind of parliamentary conveyancing staff brought into action, consisting of members representing the several offices of the State, and worked in combination by a chief. Their speciality would be knowledge of the statute law for the purposes of, so to say, tending and keeping the Statute Book in its annual growth. There are, doubtless, difficulties respecting the particular time and mode of the action of such a body during the pendency of a Bill, so as not to impede or cripple the function of the Legislature itself. We think them overrated.

These difficulties must be overcome. The plain course would appear to be, to refer all Bills to the conveyancing body, through a joint standing committee of both Houses, as a last stage before the Queen's assent. Alterations made in this stage might be communicated to the Speaker and to the Lord Chancellor, who would notify them to the respective Houses. Within a limited time, any member, who saw reason, might move upon the alterations; otherwise the Bill, as altered, might pass for the Queen's assent. We shall be answered, that the greater number of the Bills of a session are passed in the last ten days of it, and that then time fails for a conveyancing review of them. The only reply necessary is, that such a review would tend to substitute order in the place of that indecent and mischievous scramble, with which the adult Westminster school now usually breaks up for the holidays.

STATISTICS OF THE BANKRUPTCY COURTS FOR 1859.

The statistics of the bankruptcy courts for the past year are tabulated under the three distinct heads of bankruptcy, proceedings by private arrangement under the control of the court, and proceedings for winding up joint stock companies. Under the first head the petitions for adjudication by creditors in the London and seven provincial courts numbered 648; the petitions for adjudication by traders against themselves, 314; of both of which classes of petitions 912 were prosecuted to adjudication; while the number of petitions for private arrangement under the control of the court, upon which adjudications in bankruptcy were made, was only 31. The total number of persons declared bankrupt under these proceedings, whether trading singly or in partnership, amounted to 1,054, of whom 893 passed their last examination.

The total amount of debts upon the balance sheets in the

foregoing cases was £3,645,037. The bankruptcies ranged as follows:—21 were for sums under £300; 70 were under £500; 222 under £1,000; 439 under £5,000; 73 under £10,000; 31 under £20,000; 22 under £50,000; 2 under £100,000; and 3 above £100,000. Of this large amount, which averages in each case £4,081, or £29 0s. 6d. per cent. on the balance sheets, £1,057,834 were realized by the court, after deducting from which £118,641 for special charges, such as mortgages, rents, &c.; £939,193 remained for administration. Of this sum the bankrupts' allowance formed £1 13s. 6d. per cent.; excepted articles, 19s. 8d. per cent.; accountants' charges, 18s. 8d.; solicitors' charges, £13 19s. 2d.; court per centage, £3; remuneration and expenses of official assignees, £5 6s. 6d.; brokers' charges, 11s. 3d.; auctioneers' charges, £1 14s. 5d.; messengers' charges, £2 14s. 3d.; other charges ordered by the court, and including sums expended for carrying on trade, &c., £2 13s. 9d. All these expenses reduce the total for dividend by one-third (£33 11s. 2d. per cent.).

This great expense of administration is what has occasioned the chief complaints against the existing system of bankruptcy. The official assignees and the accountants appear to be exceedingly overpaid. The court per centage should of course be abolished, there being no argument in favour of a tax upon persons already burdened by the defaults of the bankrupt. The miscellaneous item is not so much an expenditure as a deduction from the receipts; for special payments surely are payments nevertheless, and not preliminary costs of administration. The bankrupts' allowance and the excepted articles in like manner are a deduction from receipts, and not an element of expenditure. The real expenses, therefore, are only £28 4s. 3d. per cent. This, if reduced by the abolition of the court per centage, and by a reduction of the remuneration of the official assignees to a reasonable scale, would not leave the costs of administration much beyond £20 per cent. Indeed, these two deductions are alone, strictly speaking, expenses of administration; and although they are equally lost under any denomination to the creditors, yet these should remember that the speedy conversion of a trading estate into cash cannot be effected with the ordinary cost of collecting debts. The official assignees, however, as appears by a letter from one of the Birmingham district in the *Times* of the 12th November last, enjoy most profitable stations. In 1858, of the four official assignees at Birmingham one realized £4,960, the others £4,000. The writer, however, referring to the solicitors' costs, which he considered the more odious item, stated, that the estimate of those he gave would become much greater if two or three estates of exceptional magnitude were excepted out of the list. Such an exception, however, would militate only against the assignees, inasmuch as it shows that the remuneration of these officers so far bore no relation to the work done by them; while it would prove the contrary as to the solicitors' costs, which, nevertheless, we should be glad to see at as low a figure as the effective discharge of professional duties may admit. Debts were paid in full to the amount of £8,990. The remainder of the total realised was paid away in dividends, being an average of £18 17s. 1d. per cent. on the total debts in the balance-sheets, and £73 3s. 5d. on the amount realised for administration. The dividends were made as follows:—In 373 cases there was no dividend; in 610 cases the dividend was under 2s. 6d.; in 231 cases it was from 2s. 6d. to 5s.; in 100 from 5s. to 7s. 6d.; in 47 from 7s. 6d. to 10s.; in 36 from 10s. to 15s.; in 4 from 15s. to 20s.; and in 20, upwards of 20s. The certificates granted were, first class immediate, 100; second class, immediate, 390; suspended, 59; third class, immediate, 216; suspended, 10. Certificates were refused in 10 cases with protection; in 20 cases

without it. The commissioners noted the apparent causes of the bankruptcies. They attributed 295 cases to reckless and unsound speculations and excessive trading; 124 cases to interest, discounts, accommodation bills, and suretyship; 323 cases to incompetence, neglect, and personal extravagance; thus attributing only 145 cases to unavoidable misfortune. There were 43 appeals, 7 of which were in one case; in 21 the judgment was affirmed; in 12 reversed; in 7 varied; and 3 were pending or abandoned. The proportion of the business transacted in the several courts was as follows:—in the London Court, which has 5 commissioners, 48.1 per cent. of the cases were determined; in the Birmingham Court 15.3 per cent.; in the Leeds Court, 10.9; in the Liverpool Court, 8.2; in the Bristol Court 6.4; in the Manchester Court, 5.5 in the Exeter Court, 3.7; and in the Newcastle-on-Tyne Court, 1.9.

A very remarkable difference appears in the proportion which the amounts of the dividends bear to the amounts in the balance-sheets in the different courts. Thus, in the Leeds Court the dividend was £66 17s. 2d. per cent. upon the amount of debt in the balance-sheets; in the Exeter Court it was £21 17s. 2d.; in the Liverpool Court, £20 17s. 11d.; in the Newcastle-on-Tyne Court, £20 7s. 4d.; in the London Court, £15 11s. 8d.; in the Manchester Court, £13 3s. 7d.; in the Bristol Court, £12 6s. 3d.; and in the Birmingham Court, £9 1s. 4d. It is an interesting question in the philosophy of trade, but not appertaining to our province, to investigate the local and specific causes which thus diversify the ratios of solvency of which Leeds and Birmingham are mutual antipodes. It is unpleasant to find the ratio so small in London, in which so large an amount of the failures occurred; while Liverpool is steady, notwithstanding the varied speculations of which it is the centre.

The bankruptcies gazetted during the eleven months ending November 30 this year, amount to 1,141; being at the rate of 1,245 per annum. The ratio of this year is therefore above the average of the last ten years, which was 1,090. The returns of the several districts for the last eleven months are as follows:—London, 569; Birmingham, 185; Leeds, 100; Bristol, 88; Liverpool, 63; Manchester, 57; Exeter, 45; and Newcastle, 34. These figures indicate still further tendencies in London and Birmingham to rise above the average in the other districts; while Liverpool and Manchester show symptoms of progressive advancement in this as in the other features of their trade.

The proceedings by private arrangements under the control of the court without bankruptcy for obtaining protection for person and property until further order, and release, if necessary, from imprisonment under statute 12 & 13 Vict. c. 106 were for the year 1859 as follows: Petitions filed and followed by proceedings of this latter character exclusively without an adjudication of bankruptcy, 93; petitions in course of prosecution during the year, under which resolutions of creditors have passed for vesting the estates of the petitioners, 66; of which 35 cases were without the intervention of the official assignees, being carried out by private trustees. The total number of petitioners, whether trading singly or in partnership, was 123. The total amount of the debts in the balance-sheets filed by the petitioners was £921,154; and was classed as follows: 6 petitions were for debts under £1,000; 29 under £5,000; 8 under £10,000; 8 under £20,000; 4 under £50,000; 3 under £100,000; and 2 above £1,000,000. The total amount received in this department by the official assignees for administration was £43,541. The expenses of the administration of these assets were the comparatively moderate sum of £6,057, or £13 18s. 2d. per cent. The special charges for rent, &c., amounted to £3,268; and debts of the total amount of £4,117 were paid in full. After these deductions, the dividends were as

follows:—in three cases, nil; in 14, under 2s. 6d. in the pound; in 9, under 5s.; in 10, under 7s. 6d.; in 2, under 10s.; and in 2, 10s. and upwards. The number of certificates granted approving of the resolutions of creditors under section 216 of the Bankrupt Act, 1849, was 70; the number of certificates granted of the resolutions having been carried into effect was 16. As to arrangements by deed, there were 13 petitions filed, and 12 orders made.

The amount of the debts bear no relation to the gross produce of the estates, in cases where the official assignee is trustee alone, or jointly with others, returned as £31,531. The estates which were assigned to, or vested in, trustees, or in which a composition was paid by the petitioner without the intervention of the official assignees, being practically withdrawn from the control of the court, no returns of the dividends appear. The court should, we think, in future enforce a return and record of the dividends in these cases, in order to supply statistical data for the guidance of the Legislature as to the degree of favour which private arrangements should enjoy in comparison with judicial adjudication.

We consider that private arrangements cannot meet with too great favour. The more extensively the *laissez faire* principle is applied in judicial as well as in ordinarily commercial matters, the more nearly will positive legislation approach precision in its enactments, and success in its application; while a redundant statute book is its own greatest impediment.

The profession would not suffer any loss by this divergence of a portion of the existing business in bankruptcy into a civil sphere of judicature. On the contrary, we know that arbitrations, although a similar transference of the judicial, by no means form the least productive tributary to professional income. The proceedings under the Winding-up Act (statute 11 & 12 Vict. c. 45) for the winding-up of joint stock companies have fallen almost exclusively to the London Court.

The proceedings under the Winding-up Act (11 & 12 Vict. c. 45), for the winding up of Joint Stock Companies, have fallen almost exclusively to the London Court. The number of petitions under Winding-up Acts against, or by, such companies was 17; orders made, 11; petitions pending 27. The total amount of debts due by the companies was £223,794. Calls were made upon 2,234 contributories, amounting to £58,117, of which the receipts for calls are stated at £7,169; the gross produce of the estates was £180,316; special charges for rent, &c., amounted to £74,662; total received for administration, including monies received for calls, was £111,738; the total expenses of administration were £8,378. The amount of dividends ordered, nine-tenths of which were to debenture holders as preferential creditors at 20s. in the pound, was £100,482. Of the eleven orders made in the year for winding up 9 were in cases which have been completed, the dividends in which were under 2s. 6d. in the pound in 3 cases; under 5s. in 4 cases; and were 20s. in the pound in the remaining 2 cases.

The number of appeals was 4, in two of which judgment was affirmed, in 1 reversed, and in 1 was pending.

The questions which at present engage most attention in this branch of the law are the amalgamation of insolvency with bankruptcy, the sanctioning of private arrangements, the distinction of the unfortunate from the fraudulent debtors by a release from past liabilities as to all future acquired property, as also by certificates, or, on the other hand, penalties, and, above all, as a matter most in the power of the law to effect, though not in itself the most important, the lessening of the present expenses of administering the assets. With regard to the first head, we answer in the affirmative, without supporting this opinion

by arguments in detail; inasmuch as the *onus probandi* lies on those who seek the dismemberment of the law, and its administration in wholly distinct channels. The grant of a release as to all future acquired property should, we think, be determined not by the commercial or non-commercial character of the transactions of the debtor, but by his honest or fraudulent conduct. This could, we think, be better determined by the creditors, who would thus act as a jury determining a fact, than by the judge, in whom such a discretion would tend to bring the administration of the law into occasional conflict and discredit with the mercantile public.

The expense of punishing mercantile as well as all other species of fraud, should of course fall on the public. The comparative cheapness of transactions by private arrangement may suggest some means of reducing the expenses of the court, and, at all events, recommends this method of procedure to yet greater favour with the mercantile public.

In insolvency, 2,765 petitions were filed, 23 of which were by creditors. Of the insolvents, 23 had professions; 26 were officers of the army or navy; 88 clerks; 1,686 traders; 16 lodging-house keepers; 44 shopmen; 179 agents; 47 manufacturers; 176 mechanics; 88 graziers, farmers, millers, &c.; and 322 of other classes. There was a decrease of nearly one-fifth in the number of petitioners compared with the returns of the previous year. The low amount of the debts is a proof of the poverty of the insolvents, as the report observes; of more than one-half the total debt did not reach £500; and almost one-fourth had previously been insolvent or bankrupt; 484 once, 118 twice, and 14 above thrice. The debts ranged as follows:—

Under £100.....	313
£100 and under £300	781
£300 " £500	562
£500 " £1,000.....	598
£1,000 " £3,000.....	414
£3,000 " £5,000.....	62
£5,000 and above	73

The number of insolvents who appeared for hearing in the London Court was 799; in the county courts, 1,895. In the former court 7 petitions were dismissed on hearing; in the latter courts, 126. Adjudications for immediate discharge were made in 2,104 cases. The insolvents in the other cases were imprisoned for periods varying from one month to two years.

The number of estates realised was 196; the dividends declared thereon, £31,561 0s. 6d.; the average of each estate consequently was £161 0s. 6d. The expenses of the administration were in all £5,217 10s. 4d.; being for each estate £26 12s. 5d. The dividends averaged £8 8s. per cent. on the amount of the scheduled debts, and £12 15s. on the amount ascertained for dividend, and varied as follows:—

Under 1s.	56
1s. and under 2s. 6d.	70
2s. 6d. " 5s.	40
5s. " 10s.	19
10s. " 15s.	4
15s. " 20s.	4
20s.	7

Besides the foregoing cases, the debtors in 36 other instances cleared off their debts amounting to £54,576 12s. 8d. either by payments, or by having obtained releases.

Under the Protection Acts, a trader, whose debts are under £300, is enabled, upon filing a petition containing a schedule of his debts and property, to obtain an order protecting him from arrest; whereupon his property is vested and administered as an insolvency. The total number of petitions under these Acts was 2,820. The amount of the scheduled debts was

Under £100.....	730
£100 and under £300	256
£300 " £500	118

£500 and under £1,000	417
£1,000 " £3,000	234
£3,000 " £5,000.....	223
£5,000 and above	141

Compared with the proceedings in insolvency, these debts, as is noticed in the report, are of a higher average; and the previous insolvencies and bankruptcies proportionately less; of those previously before the Court there were 221 once; 27 twice; 7 thrice, and 2 above thrice. The number who appeared for hearing was, in the Insolvent Court, 971; in the county courts, 1,746; in the former court, 56; and in the latter courts, 238 petitions were dismissed on hearing. The relative amount of business in insolvency matters transacted in the Insolvent Debtors' Court and the county courts was as follows:—

UNDER THE INSOLVENCY ACTS.	Insolvent Court.	County Court.
Petitions filed.....	821	1,944.
Insolvents who appeared for hearing..	799	1,895.
Estates realized	73	122.
Proceeds whereon dividends declared	£10,552	£20,976.
Amount of scheduled debts.	£123,564	£187,919.
Debts satisfied by payment, or otherwise	£21,762	£32,613
UNDER THE PROTECTION ACTS.		
Petitions and schedules filed	1,038	1,782
Petitioners who appeared for hearing	971	1,746
Estates realized	124	208
Value of estates, debts, and effects realized.....	£6,190	£12,602.
Scheduled debts	£77,731	£146,711

Imprisonment for debt was unknown to our common law, and is a statutory graft from the Roman jurisprudence, as shown *ante*, p. 85. Such a law is a bounty upon improvident credits; while, like an extortionate usurer, it makes the borrower pay much more than the value of the risk incurred by the creditor.

The grant of a release from future liability, which is both a *tabula rasa* and a *tabula in naufragio*, if made dependant in all cases upon conduct, would strongly check rash speculations; while all healthy developments of commercial enterprise are amply provided for by the Act conferring a limited liability. All men are to some extent traders, as all are political economists. It is not the degree to which men carry their commercial transactions that should determine their right to undertake further enterprises, but the honesty and prudence previously shown by them.

An eclectic amalgamation, therefore, of the best elements of the existing laws relating to bankruptcy and insolvency is alike recommended by the first and soundest principles of law and commercial science.

THE PRESENT LAW OF THE SETTLEMENT OF REAL PROPERTY—THE STATUTE DE DONIS.

[COMMUNICATED.]

Pending the achievement of a general consolidation of the law, the amendment of a few of its branches deserves earnest attention, even if considered as experiments only in the path of codification. Now, no statute, or rule of common law, is so extensive in its operations as the Statute De Donis. All settlements are based on it; the intricacies of Fearn's attempts to throw light chiefly upon the nature of this class of remainders, while contingent; while many of the vexed questions of real property law have been owing to the attempts of incumbrancers to secure their charges upon these remainders after they became vested. In order to show the necessity of repealing the Statute De Donis, and of converting all estates tail into base fees, with the superadded power to support a remainder, to be, in short, as easily settled or incumbered as estates in fee simple, I shall endeavour to characterise the peculiar and injurious incidents of an estate tail as at present protected by the law. In the first place, it is often difficult to determine

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

I.

INTRODUCTION.

The word "domicile," or "domicil" as it is sometimes written, is of a modern introduction into our language, and should, if we have adopted it, I apprehend, to make it our own, be written in the latter mode, inasmuch as that spelling differs from that of all other words, having the same signification in other languages. It is not found in Johnson, but is in Todd's Johnson, extracted from an old work, but not having any meaning analogous to our interpretation. "Domicile" in the French, and "domicilio" in the Italian tongue, signify "a dwelling house;" and thus we have the verbs "se domicilier" and "fissare il domicilio" in those languages, signifying to settle in a place. The Latin "domicilium," I think, was not the same as "domus," although "domus" might mean something included in "domicilium." Littleton's Latin dictionary gives it "an abode," and quotes "sedes" from Cicero. But the word "house" refers more properly to the particular messuage or tenement, the particular structure in which we reside, than to the locality, town, village, parish, or country; whereas the "domicil" or "domicilium" includes that, and also takes in those other wider acceptations. It is not my purpose in the following pages to consider the laws of other countries upon this subject, except so far as they bear upon, and help to illustrate, the principle upon which our own proceeds; and I shall therefore touch upon them merely as I proceed, and as it seems to me necessary, to indicate the premises from which the different conclusions, hitherto arrived at by our judges and by our legislature, have been drawn. It seems to be at this moment in extreme doubt what is the proper definition of the word "domicil." Different interpretations have been proposed, and sought to be given of it. Sometimes it has been defined to mean "residence" only, sometimes "residence with an intention to remain," sometimes mere length of time—a number of years—spent in one place; but it is evident that all these only serve to shew the difficulty, without in the least removing it; and moreover, it is not by any means clear what "domicil" actually is, that is, under *all* circumstances. In America the question arises as to settlement and taxation. The mode in which the question arises in our courts of law or equity is usually with reference to the mode in which the property of a deceased person is to be dealt with, who has moved from place to place during his life, and who has to a certain extent, perhaps, acquired national or civil rights in more than one country. Thus a man born in England of English parents, and although he resides here for a few years of his early youth, possesses *ipso facto* an English domicil of origin; he then leaves this country for some other, either by emigration or otherwise, amasses property there, becomes a citizen of a state, or acquires the rights of a born subject of that country. In the meantime, circumstances have arisen that render a return to his native country expedient; either he finds it by the death of relatives and the acquisition of property proper that he should return, or knowing when he has enough, and having prospered in business, his mind reverts to his native soil, and natural ties which have been so long severed, and he returns and dies. This is the ordinary case, and although there are certain principles well recognised and established on the subject, yet it is obvious that even in such an apparently simple case circumstances may so vary one case from another in the same class, as to make it to the last degree doubtful how those principles apply to each; and in this it is that the present unsatisfactory state of the law upon this subject (for it must be admitted to be unsatisfactory) consists. The law

of domicil may be said to be analogous to the law of construction, inasmuch as the various circumstances under which a man passes an eventful and roving life may be fairly compared to the various vagaries which fill men's minds, and flow from their pens with regard to the ultimate disposal of their property. On questions of construction, as we all know, the principles are well established, and the whole difficulty lies in applying them to the case before us; and although in both cases "intention" is the grand governing indication to proceed upon, we cannot look into the mind of the person otherwise than as appears by his acts and words, written or spoken, and these are often so contradictory that, instead of assisting us, they lead us into a far greater mass of uncertainty. There is likewise a farther analogy between the two cases, that in both, attendant circumstances are allowed to be called in aid to show what the "intention" was, as a kind of corroborative evidence in the case, the only difference being that in the case of a testamentary instrument, we have a written foundation to go upon; whereas in a case of domicil, the acts, coupled perhaps with the letters of the party, are the basis upon which the question must be decided. Laws were framed, not only for the restraining of crime and wrongful acts, and for the preservation of property, but for the proper transmission of that property from one person to another, or failing that, that it should contribute to the national wealth, by escheat or forfeiture to the crown or sovereign power; and hence every member of a state, and every subject of a country, possesses property distributable and controllable by the laws of that country of which he is a subject. The question of his domicil thus naturally arises, and an important question it is, for the duties and taxes imposed upon the transmission of property are as different in different countries as the general scope of the legislative enactments, and to this even those distant lands which are under our government are not an exception; for it happens (I mention this by way of example) that legacy duty is not payable upon Indian property even within our own rule, neither is duty payable upon charitable bequests in Ireland, although a portion of the United Kingdom; and hence, so far, these, although component parts of one great scheme of government, are as much foreign countries as any other foreign state. All this renders the law of domicil as important as it is involved in uncertainty; and the author of these observations has considered that a volume bringing under the notice of the legal public the numerous branches of this subject somewhat more in detail than it has at present been brought may not be without its use, particularly when it is considered that both our peaceful and our warlike relations have with the wonderful march of invention in our own day contributed to render travel so facile, both temporarily and pecuniarily speaking; and to make national both personal friendships and ties of such a much more frequent and lasting character, than of yore between this country and the continent of Europe, even extending far into Asia; thereby also extending the probability of permanent residences by natives of all those countries to the others. The nice shades of distinction which have existed with regard to residence in foreign countries, are very singular to observe in the cases that have been brought for adjudication, and which distinctly go to show what it is that constitutes a domicil, although it may still be difficult to give it such a definition as will hit every case. Thus it has happened that every possible indication of intention has been shown to abandon a native country, and settle and reside permanently in a foreign one; where even the whole property of the individual has been invested in that foreign country, estates and titles purchased and large sums expended in ornamenting and beautifying the subject of the investment, and yet, if it so happened that possession was not actually taken, the

for the loss resulting from their subsequent trading. There was a further question between them as to the manner in which the sale had been conducted. The Vice-Chancellor Stuart decided the case upon the principles ordinarily applicable to the duties of a mortgagee in possession. "If," said his Honour, "a mortgagee who has property pledged to him and gets possession of that property uses it for the purposes of any speculation or adventure, and the speculation or adventure turns out a losing affair, the mortgagee and not the mortgagor must bear the result, whatever it may be, of that loss." His Honour further decided that the defendants were liable not only to such loss but also in the amount of the deterioration in value caused by such use of the ship. The Vice-Chancellor's judgment, which is very elaborate, further contains some observations relative to the duties of mortgagees of a ship exercising their statutory power of sale, which are well worthy the attention of those who are interested in such matters.

It is a curious fact that no similar case is to be found in any of the reports either at common law or in equity; and the Vice-Chancellor, perhaps on that account appears carefully to have avoided any dicta upon the general question as to the power of a mortgagee of a ship to take possession thereof—not for the purpose of sale, but for the purpose of realising his security by working the ship. His judgment as to this point proceeds entirely upon the ground of a speculative and adventurous employment of the ship by the mortgagees. Nothing appears to have turned in the argument upon the status of such a mortgagee under the provisions of the Act above alluded to; but it may be observed that the words of the 70th section favour the notion that a mortgagee of a ship—just as a mortgagee of real estate—is not prevented from taking possession of the mortgaged property for the purpose of paying the mortgage debt out of the profits of the mortgaged property by its use. That section treats him as the owner of the ship so far as may be necessary for making it "available as a security for the mortgage debt." The only way of accomplishing this object would be either by using the ship or selling it; but sect. 71 goes on to confer upon the mortgagee "power absolutely to dispose of the ship." However, admitting this to be the right construction of the Act, there must almost always be a difficulty in drawing the line, in the case of a ship, between what is speculative on the one hand, and what is bad management on the other. The most analogous class of cases, perhaps, are those relating to the duties of a mortgagee in possession of mines, where the mortgagee is allowed for such outlay as he might have himself contracted as a prudent owner; while he is disallowed any losses arising from a merely speculative undertaking. It is of the essence of the shipping trade to be adventurous and speculative, and therefore any attempt by a mortgagee to work the ship, for the purpose of discharging his mortgage debt, must always be attended with considerable risk. The present case, however, also shows that the mortgagee may contract no less liability in a sale of a ship. The observations of the Vice-Chancellor in his judgment, prove the importance in the first place of selling with as little delay as possible, so as to guard against any liability in respect of deterioration, and in the next place of conducting the sale in a provident and judicious manner.

COMMON LAW.

LAW OF LIBEL—NEWSPAPER ARTICLES.

Paris v. Levy, 9 W. R., C. P., 74.

This is an important addition to the list of decisions elucidatory of the law of libel; and in particular of that part of such law which concerns articles in newspapers or other periodicals which, being in the nature of a comment on a written publication, happen to be damaging to the character of some person referred to in such comment, or to the book which he has written. The facts of the case itself are not such as can be conveniently put into an abbreviated form; but the dicta of Mr. Justice Byles, and Mr. Justice Keating, in discharging a rule which the plaintiff had obtained for setting aside the verdict for the defendant, and for a new trial, are well worthy of consideration.

The effect of Mr. Justice Byles's judgment was as follows. The law allows a privilege to a fair comment (either written or oral) on a literary production, and allows such to be published, although it may fall within the general definition of a libel or slander, as tending to bring another into ridicule and contempt. But in such a comment no attack upon private

character can be allowed. And Mr. Justice Keating added to this that, in his opinion, it was incumbent, even, upon a newspaper to make fair comments upon any publication before them, so that they did not degenerate into imputations of a personal character.

CRIMINAL LAW.

AGGRAVATED ASSAULT—EVIDENCE OF MALICE, WHEN REQUIRED.

Reg. v. Sparrow, 9 W. R., C. C. R., 58.

The substantial point here raised for the opinion of the Court for the consideration of Crown Cases reserved, was one which has often before been judicially considered—viz., the circumstances under which the law will imply an intention. It is perfectly clear, for example, that a killing which shall be without "malice aforethought" does not amount to the crime of murder. But such malice may be either express or implied; and will be implied in many cases of homicide—as in the common instance given in the books of killing an officer of justice while resisting him in the lawful execution of his duty with a legal warrant, and knowing his authority, or the object with which he interposes. Here the law will imply malice—the necessary ingredient to make out the crime of murder; and thus, too, where one man assaults another, and strikes him with blows calculated to cause grievous bodily harm, and which blows, in point of fact, do cause such harm, the law will imply an "intention" to cause harm of that nature, so as to bring the crime within 14 & 15 Vict. c. 19, s. 4, or other statutable enactment against malicious infliction of grievous bodily harm. And this, though the evidence establishes, and the jury confirm by their finding, that there was no premeditation on the part of the offender.

It is, however, to be observed that there are other cases in which it is essential that there appear to have been, on the part of the person accused, a specific intention to commit the offence with which he is charged. Thus, if a statute makes the intention part of the offence—as, for example, the being armed by night with offensive weapons with intent to break into a building—evidence of such intent must be given; and it may be inferred from the nature of the weapons found on the prisoner, the place where he was, his declarations, and the like.

In the particular case now under consideration, the prisoner was indicted for having maliciously inflicted bodily harm, and the jury found that such harm was inflicted, but "without premeditation," and under the influence of passion. The Court held him to have been rightly convicted.

EVIDENCE MUST BE CONFINED TO THE POINTS IN ISSUE—COLLATERAL FACTS.

Reg. v. Holt, 9 W. R., C. C. R., 61.

There is no rule of evidence more fundamental or more important than that which confines it to the points in issue. It is true that under certain circumstances collateral facts may be admitted, but these must in all cases be such as afford reasonable presumption with regard to the principal matter in dispute (*Tay. Ev.*, 2nd ed. p. 288). On this principle of the law of evidence, it was, in one case, held by all the judges that an admission by a prisoner that he had at another time committed an offence similar to that with which he was charged, and that he had a tendency to perpetrate such crimes, could not be received (*Reg. v. Cole*, 1 Ph. Ev., p. 477). In the present case, the prisoner was convicted of obtaining money by false pretences, part of the evidence tendered on behalf of the Crown being to the effect that the prisoner, on a previous occasion, had obtained from another person a sum of money on a false pretence, similar to that which he was now charged with having made use of—such previous obtaining not being in any way referred to in the indictment. It is difficult to understand how, in the face of the decision of *Reg. v. Cole*, or even on general principles, such evidence could have been admitted at the trial; but it is satisfactory to be able to add that the conviction was quashed by the court of appeal.

Correspondence.

MAYOR'S AND SHERIFFS' COURT PRACTICE.

Can you, or any readers of the *Solicitors' Journal*, inform me if any works on the procedure of the mayor's and sheriffs' courts of London have been published, and if so, which is the

latest and best authority on the subject? If no such works have been published, I shall be glad to know how the procedure of those courts respectively is regulated, how to ascertain their jurisdiction, and what Acts of Parliament relate to them.

AN ARTICLED CLERK.

[A book on the Practice of the Sheriffs' Court, by Mr. O. B. C. Harrison, has just been published; and Mr. J. Locke has written one on the Law and Practice of Foreign Attachment in the Lord Mayor's Court.—Ed.]

Ireland.

ATTORNEYS AND SOLICITORS OF IRELAND.

At the general meeting of the Incorporated Law Society held in the Solicitors Hall on the 27th November, R. J. T. Orpen, Esq., president, in the chair, the report of the council was made and confirmed. The first portion of the report deals with the new regulations for the education of this branch of the profession. The subjects of registration of judgments, fees in the Bankruptcy Court, delays in the registration of deeds office, and some minor topics, are referred to. The following paragraphs, being of general interest, are extracted from the report of the council, the concluding one having reference to two portraits of the late President and Vice-President of the Society, which have lately been placed in the Solicitors Hall.

EXTRACTS FROM REPORT OF THE COUNCIL.

A Bill was introduced into Parliament containing a clause under which the solicitor to the Ecclesiastical Commissioners was to be paid a salary, and enacting that all costs received by him should be accounted for with the board, the result of which would be to enable the commissioners to receive their solicitor's costs.

Your council considered that any contract whereby the fees and profits properly chargeable by and payable to a solicitor by third parties and not by the client, should be paid to or for the benefit of any person whomsoever, save the solicitor himself, was highly objectionable, and that the operation of the clause referred to would be to cause all fees of whatsoever description formerly paid to the solicitor or attorney of the commissioners to be carried to the credit of their funds, and feeling that the principle involved in such clause was novel, and unless sanctioned by the authority of an Act of Parliament would be illegal, as being contrary to the spirit of the oath taken by every solicitor, prepared a petition to Parliament on the subject, and they have the satisfaction of stating that the clause was struck out of the Bill.

It having been stated to your council that one of the Masters of the Court of Chancery had declined to refer a bill of costs to a solicitor for taxation (or to be moderated), and had approved of its being taxed by a non-professional gentleman connected with one of the offices of his court, a deputation from your council waited on the Master in order to ascertain his feelings and opinion on the subject; and the Master was pleased to state that he would not adhere to the practice of referring costs to be moderated only by persons not solicitors, but would refer such costs either to a solicitor or to any other proper person whom the solicitor on both sides might agree on.

Your council have received the first annual report of the Cork Law Society, and trust that body will persevere and succeed in the object for which it has been established, which is of a kindred nature with this society, and calculated to advance the best interests of the profession in that locality; and your council trust that ere long similar societies will be established in each of the other three provinces. Such associations are in no respect calculated to clash with the interest of this the parent society, but rather tend to aid and strengthen its usefulness.

Your council perceive that a subject which had engaged the attention of this society has, by the exertion of the Cork Law Society, been fully accomplished, and deeds executed without stamps, or with insufficient stamps, can now be duly stamped on payment of the duties, without any penalty and without the production of an affidavit, provided they be presented at the chief office in Dublin for the purpose within 60 days from their date.

Your council, in the month of February last, presented a petition to Parliament, praying for the abolition of the solicitors' certificate duty, but they regret to say their effort has been unavailing.

Having adverted to the several transactions which have engaged attention during the past year, your council now, in conclusion, refer with very deep regret to the void which death has made amongst them and in the society, by the removal of two most valued and respected members—your late president and vice-president, Mr. William Goddard and Mr. Richard Meade—who were cut down within ten days of each other—the former in the fulness of years, the latter in the full vigour of manhood. They had, for many years, gone hand in hand together in the discharge of the duties of their high offices in your society, giving their best attention to every matter calculated to raise the social position of our profession, and to advance the best interests of your society. They have gone to their rest, respected and regarded by all, leaving for those who follow them bright examples of the course they should run who hope to win for themselves the like esteem of their fellow men.

In testimony of their respect, the profession at large entrusted to the management of your council a subscription to procure for your society portraits of their departed friends. The portraits have been painted by an eminent artist, and are now placed in the Solicitors' Hall, where we trust they will long be preserved as memorials of the sterling worth of those whose features they so faithfully represent.

It was then resolved that this meeting fully concurs in the sentiments of respect expressed in the report towards our late president and vice-president, Mr. Goddard and Mr. Meade, and we desire hereby to record the deep regret we feel for the loss the society has sustained by their deaths.

QUEENSTOWN.—A case recently came before the Petty Sessions Court at Queenstown, which will help to illustrate the fact that, while provision is made by the law for an inspection of the food and proper accommodation of a ship's crew—the magistrates having power to fine owners for a breach of the Act in that respect, in each case £20—yet they have no authority to order a survey or inspection of the ship's bottom, or her general seaworthiness, on the complaint of any unfortunate sailor who has signed articles to sail in her, but who may find her likely to be his coffin after a few days spent on board. The "White Jacket," a ship laden with salt, and bound for Calcutta, belonging to a large firm in Liverpool, put into the harbour about a fortnight since, under the following circumstances:—The captain, it seems, had objected that the vessel was overladen, but was offered the alternative to either proceed on the voyage or resign. He then consented to sail, but shortly after sailing he was compelled to put into Queenstown harbour. The owners being written to, sent over instructions that the vessel should be sent to sea again as she was. The captain and crew refused to proceed, and a new captain was sent on board, who swore that the ship was seaworthy and not overloaded, whereupon the men were arrested and lodged in gaol for mutiny. The magistrates, having no power to adjudicate on the seaworthiness of the ship, refused to punish the men or order them to proceed in what they considered a sinking ship. The vessel was afterwards brought back to Queenstown Harbour, having narrowly escaped being wrecked.

Foreign Tribunals and Jurisprudence.

FRANCE.—The atrocious murder of M. Poinot, one of the Presidents of the Imperial Law Courts, which took place in the night of Wednesday, the 5th instant, in a first-class carriage on the Strasbourg Railway, while he was returning to Paris to attend his judicial duties on the following day, has created the greatest consternation and excitement amongst all classes in Paris, more especially among the judges and other members of the legal profession, by whom he appears to have been held in high esteem. We are indebted to *Galignani's Messenger* for the following particulars relative to M. Poinot.

M. Poinot commenced life as simple clerk to an *avocat* at Bar-sur-Aube. He afterwards became advocate, and pleaded before the Civil Tribunal of Troyes. Among his clients at that place were the family of M. Casimir Périer. M. Poinot was 30 years in the magistracy. After having been *Procureur du Roi* at Troyes, he was appointed, in 1833, substitute at the Civil Tribunal of the Seine. He was afterwards named substitute of the *Procureur-General* of Paris, and, on the 14th of April, 1847, was nominated *Advocate-General* of the same court. He was dismissed on the 29th of February, 1848 (after the Revolution), but on the 2d of May of that year

was appointed a judge of the Court of Appeal of Paris. On the 6th of April, 1857, he was named President of one of the chambers of the Imperial Court. The funeral of the late M. Poinot took place on Saturday at the church of St. Louis d'Antin, which was far too small to contain the number of people anxious to be present. The procession left the house of the deceased, in the Rue d'Isly, at 12 o'clock. The hearse and all the mourning coaches bore the cipher of the deceased. The chief mourners were MM. Audibert, Jules L'Homme, Gustave Royer, the nephews and cousin of M. Poinot. The pall was held by MM. Devienne, Chaix-d'Est-Ange, Perrot de Chérelle, sen., and Lenriot, all in their official robes. A numerous deputation from the different courts of law and tribunaux followed, also in their robes. M. Billaut and M. Ronland, Minister of Public Instruction, were present; and the Minister of Justice was represented by his secretary-general, M. Lascaux. Among the other legal functionaries who attended were MM. Dupin, Desparlies de Lassan, Alyies, Poulitier, Zangiacomi Debelleyne, Cordoen, and all the members of the Imperial Court to which the deceased belonged. Next came a deputation of advocates, preceded by the council of the order, headed by M. Jules Favre, the bâtonnier. Among the eminent members of the bar were MM. Berruyer, Senart, Dufaure, Cremieux, Marie, Coin-Delisle, &c. The service was celebrated by the curé of St. Louis, M. Martin de Noirlien, and at its conclusion the body was taken to the Strasbourg railway station, to be conveyed to the family vault at Chaource (Aube).

The National Association for the Promotion of Social Science.

EXPENSES IN BANKRUPTCY. BY GEORGE A. ESSON, ACCOUNTANT IN BANKRUPTCY IN SCOTLAND.*

The facts and observations which the writer has to submit are confined to the administration of bankruptcy in Scotland.

It is not necessary, in this place, to enter upon any disquisition on the Scotch law relating to bankruptcy. It is proper, however, to explain, for the information of strangers, that the creditors in Scotland, on the award of sequestration (adjudication of bankruptcy), have the estates of their bankrupt debtors adjudged, or declared to belong to them, for the purposes of recovery and distribution. The creditors are, so to speak, constituted a corporation, for the special purposes of receiving and distributing the estates of bankrupts. They elect a trustee, who is their manager, or receiver, to whom their powers of recovery and distribution are delegated. They make choice also, from their own number, or from mandatories specially representing creditors, of three commissioners, who act as assessors, or a standing council to the trustee, to whom the trustee resorts for advice and direction in the course of his administration, on occasions on which it is necessary to appeal to the creditors themselves. The commissioners are the auditors of the trustee's accounts, and they fix his commission or remuneration, subject to the power of judicial appeal, on the part of the trustee.

It may be remarked that the necessity for the intervention of the courts, in the administration of bankruptcy, is occasional and not constant. Judicial sanction is required for certain acts of the creditors and of the trustee, in order to give them full binding effect. The award of sequestration, the confirmation of the elections of the trustee and commissioners, the examination of the bankrupt, his discharge, and the discharge of the trustee, are judicial acts, or require judicial sanction. These appeals, however, to the Court for administrative powers are readily and cheaply made; and they are competent in the sheriff (county) courts.

The expenses in bankruptcy may be classed under the following heads:—

- 1st. The Commission or Remuneration to the Trustee.
- 2nd. The Law Charges incurred to the Law Agents or Solicitors employed.
- 3rd. The Miscellaneous Expenses attending the Management of the Trustee; and
- 4th. The Expenses of the Judicial Administration of the Law of Bankruptcy, and the cost of the Supervision and Control of the Accountant in Bankruptcy, as the official In-

spector of Trustees and Commissioners, and the Keeper of the Records.

In treating of the expenses in bankruptcy, the element of time, consumed in the process of winding up, is an important consideration.

The statistics of bankruptcy in Scotland, prior to the year 1856, are not readily available. In 1856, the Act* for the Amendment and Consolidation of the Law, which is now in operation, was passed. By that Act, the office of accountant in bankruptcy is constituted, and it is provided that the accountant shall keep a register of sequestrations, and make a return annually of the proceedings in bankruptcy, to the Court of Session. The period which has elapsed since the passing of the Act has not been sufficiently long to afford materials for extended observation connected with the statistics of bankruptcy. The writer has been able to gather, from the accountant's reports already issued, and from other sources of information at his disposal, some facts regarding the expenses, which may be useful and interesting to social economists and legal reformers. These facts may be arranged under the four heads into which, as before stated, the expenses in bankruptcy may be classed.

I.—THE COMMISSION OR REMUNERATION TO THE TRUSTEE.

In bankruptcies which are wound up by composition settlements, the remuneration to the trustee is a sum fixed by the commissioners, as compensation for his trouble and responsibility. It may be a commission, at a certain rate per cent., on the bankrupt's assets, but it is more commonly a sum allowed as compensation for the time and trouble of the trustee, without reference to the amount of the assets.

In one hundred and four estates, which were wound up by compositions in 1857, as reported, the average amount of the trustee's remuneration was £23 14s., or about 2½ per cent., if measured by the gross value of assets.

In eighty cases of composition settlements, in 1858, this remuneration averaged £43 8s. 2d., or about 2½ per cent., if measured by the gross assets.

Taking a general view of the results of the experience of the two years above stated, it may be fairly concluded that the average amount of the trustee's remuneration in sequestrations, wound up by compositions is (in round numbers) £33, or about 2½ per cent., if measured by the gross value of the assets.

In sequestrations, which are wound up by the recovery and distribution of the assets, the trustee's remuneration is a commission or percentage on the sums received by him.

In 1858 (which is the first year under the new Act, in which an appreciable number of sequestrations were wound up in this way), the trustee's commission averaged 5½ per cent. of the gross receipts.

In 1859 (when a large number of sequestrations were wound up by division of the assets), the average commission was slightly under 5 per cent. of the gross recoveries.

In looking into the details of the cases which give these average results (as reported in appendix) it will be found that in sequestrations in which the receipts amount only to £100, or thereby, the commission is sometimes even as high as 15 per cent.; and, in those in which the receipts amount to £200, or thereby, the commission is often 10 per cent. of the receipts. The assets in these cases are generally composed of small trade debts, and the commission on them, although at a very high rate per cent., is small in actual amount, and cannot be considered as too great remuneration to the trustees in these cases, considering the very great trouble involved in the recovery of small debts from an inferior class of debtors.

It may be safely concluded, from the experience of the year 1859, above stated, that the average rate of commission to trustees, in sequestrations wound up by division of assets, does not exceed 5 per cent.

II.—THE LAW CHARGES.

It is usual and proper to measure the trustees' commission by contrasting it with the amount of the assets recovered; because the commission bears a fixed relation to the amount of the receipts. This, however, is not the case as regards the law charges, which have no direct relation to the amount of the assets. It is indeed difficult to suggest a rule by which the average amount of law expenses in sequestrations can be fairly ascertained, so various are the circumstances of each case, as respects the extent of litigation, the duration of the sequestrations, and otherwise. All that the writer can hope

* This valuable paper, and another by Sheriff Glasford Bell, on the Bankruptcy Law of England and Scotland, have been published in a separate form. Glasgow: Mackintosh; London: Hamilton, Adams, & Co.

* Short title—"The Bankruptcy Scotland Act, 1856," 19 & 20 Vict. c. 79.

to do in these circumstances is to furnish data, for the purpose of approximating to a fair average.

It appears that in 1858, when the estates which were divided were small in amount, the law charges averaged upwards of 13 per cent. of the receipts; and the average amount of these charges applicable to sequestrations so wound up was (in round numbers) £130. In 1859, when a number of larger estates were wound up by division, the law charges average rather less than 13 per cent. of the receipts; and the average amount of law charges so wound up was (in round numbers) £120.

The writer applied to the Sheriff Court of Lanarkshire (the court which has the largest number of sequestrations) for a statement of the taxed amount of law charges applicable to sequestrations under the recent Act. By the favour of the Sheriff, he has obtained a statement of the amounts of law charges in 1858 and 1859, and seven sequestrations, £1,000 and upwards, in each year. The taxed amount of law charges in 1858 was £1,082 9s. 6d., the average for each of the seven sequestrations is, consequently, £157 12s. 6d., or thereby. The law charges so returned apply partly to sequestrations settled by composition and partly to those which have been wound up by division. The auditor, in his return states, "in the general case where the account is taken, the expenses of the law agent for a sequestration under the bankrupt Act, which is wound up, and in which the bankrupt obtains a discharge under a composition arrangement, carried through without opposition under the statute, may, on an average, be estimated at from £35 to £40." The writer is fully concurred in this opinion.

In these circumstances, it may be submitted, as a fair and reasonable conclusion, so far as experience under the new Act warrants a conclusion—1st, That the average amount of the law charges, in an ordinary sequestration, wound up by composition, does not exceed £40; and 2nd, that in an ordinary sequestration, wound up by division, it does not exceed £65.

III.—THE MISCELLANEOUS EXPENSES.

These, as the name indicates, are of a very mixed character, and difficult to estimate. There are travelling charges, cost of valuations, expenses of advertising, postages, and incidents. These are *ordinary* charges incidental to sequestrations in general. They amount, so far as can be judged from past experience, to 3½ per cent., or thereby, of the receipts, from estates wound up by division.

In sequestrations settled by composition, the average of these expenses does not exceed £27 for each sequestration.

The *extraordinary* charges, which appear in some sequestrations, such as wages, and outlay for working up materials, completing contracts, &c., are more properly deductions from the receipts, than expenses applicable to the sequestration.

IV.—THE EXPENSES OF THE JUDICIAL ADMINISTRATION OF THE LAW OF BANKRUPTCY, AND THE COST OF THE SUPERVISION AND CONTROL OF THE ACCOUNTANT IN BANKRUPTCY.

The judicial administration of bankruptcy is conducted by the court, supreme (Court of Session) and inferior (Sheriff or County), along with the other judicial business of the country. The expense of the Scotch judicial establishment is, as is well known, a branch of the public expenditure; and this expense is not appreciably enlarged, in consequence of bankruptcy being involved in the jurisdiction of the judges. The estates of bankrupts are not specially charged, in any way, with the costs of the judicial establishment of the country.

The office of Accountant in Bankruptcy was established by the Act of 1856. Some misapprehension, regarding the duties of this office, is likely to arise from his official designation. The name suggests the idea that this officer is charged with the control and disposal of money; but he receives none of the moneys of the bankrupt estates. It also conveys the impression that the audit of accounts in bankruptcy constitutes part of the duties of the office; but, as has been already stated, the commissioners are the auditors of the accounts. The duties of the accountant are properly those of an inspector, charged with the supervision and control of both trustees and commissioners to ascertain that they discharge their duties, and, in case of their failure, to report the offenders to the Court for removal or censure. The creditors have easy access to this officer to present complaints, in cases of delinquency on the part of trustees or commissioners.

The whole expense of this office, including the accountant's salary (£850), salaries to three clerks (£150 each), cost of

chambers, &c., is defrayed out of sums voted by Parliament. The amounts of the annual expenses of this office, for the four years of its existence, as taken from the Civil Service Estimates, are noted below.* The cost of the whole establishment may be stated to amount, in round numbers, to £1,500 a year. It may cost more to maintain this office on an efficient footing, as regards the services of clerks.

The expense of the accountant's office and establishment is the only charge connected with bankruptcy, which burdens the revenues of the country. The office is not in any way supported by fees—all parties interested are entitled to the services of the accountant and his clerks, in their official capacities, without charge. It is understood that this arrangement has worked well.

It has been already said that the time occupied in the process of winding-up is an important consideration in treating of the expenses in bankruptcy.

Sequestrations which are wound up by composition settlements, very rarely endure beyond a year. These settlements are generally concluded, and the sequestrations declared at an end, after the expiry of a few months from the award of sequestration. The number of sequestrations wound up in this summary way was, in 1857, ninety-seven; and, in 1858, one hundred and eighty-nine.

In sequestrations wound up by division of the funds, the average time occupied in the process of winding up (counting from the date of award of the sequestration to the discharge of the trustee), was, as regards the small number (twenty-three) of sequestrations so wound up, in 1858, rather less than one year (months 11·782); and, as regards the one hundred and twenty-three sequestrations so wound up in 1859, the average time was rather less than a year and a half (1·498 years).

To sum up what has been stated, regarding expenses in bankruptcy—

1st. The average expenses in an ordinary sequestration, wound up by composition settlement, may be stated thus:—

Trustee's remuneration	£33	0	0
Law charges.....	40	0	0
Miscellaneous expenses (ordinary)	27	0	0
Total	£100	0	0

2nd. It appears from the experience of the years 1858 and 1859, as regards the sequestrations which have been wound up by division of funds during these years, that 25 per cent., or thereby, of the gross receipts has been required to defray the expenses, *ordinary and extraordinary*, attending these sequestrations; the remaining 75 per cent. having been divided amongst the creditors;† and that this 75 per cent. has been distributed, and the sequestrations wound up, within an average period of a year and a half from the commencement of the sequestrations.‡ In considering these results, it must be kept

* The amount of the estimate for the office for the first year to 31st March, 1856 (including salaries from 1st November, 1856, and extraordinary expenses connected with the establishment of the office), is.....	£1,478	12	3
The estimate for the year ending 31st March, 1859 (including some extraordinary charges), amounts to.....	1,675	16	6
The estimate for the year ending 31st March, 1860, amounts to	1,531	12	0
The estimate for the current year ending 31st March, 1861, amounts to	1,527	12	0

	In 1858. Per cent. of gross receipts.	In 1859. Per cent. of gross receipts.
† Trustee's commission	5½	5
Law charges	13½	9
Miscellaneous ordinary charges	3½	3½
	23	17½
Miscellaneous extraordinary charges	1	7½
	24	25
Divided amongst creditors	74½	75
Surplus to bankrupt	3	1
	100	100

‡ It appears from the accountant's report for 1858, that the average value of the estates sequestrated in 1857 was £1,300, or thereby. The average value of estates wound up by division of the assets, in 1858, was only £365, or thereby; and in 1859, £323 or thereby. These figures prove that the estates wound up during these years, and especially during the first year, were generally small in amount. The effect which the estates of larger amount (when they come into computation) will have in the way of reducing the average of the expenses is clearly shown by contrasting the results for the years 1858 and 1859. In the former of these years, when the whole of the estates then divided were small in amount, the average *ordinary* expenses amounted to 23 per cent. of the gross

in view that the great majority of the estates which have hitherto been wound up, are comparatively of small amount, and that sufficient time has not elapsed, since the passing of the Act, to bring in the larger estates to operate upon the average.

3rd. So far as past experience warrants a conclusion, the ordinary expenses attending a sequestration wound up by division of the funds are, on an average:—Trustee's commission, 5 per cent. of the gross assets or receipts; Law charges, £65; and Miscellaneous ordinary charges, 3½ per cent. of the gross receipts. Applying these figures to an estate of the average value of £1,300 (which is the average amount of estates sequestrated in 1857), the following are the results:—

	Amount.	Rate per cent. of gross assets.
Trustee's commission...	£65 0 0	5
Law charges.....	65 0 0	5
	£130 0 0	10
Miscellaneous ordinary charges	45 10 0	3½
	£175 10 0	13½

4th. The only charge connected with bankruptcy in Scotland, which burdens the revenues of the country, is the cost of the office of Accountant in Bankruptcy, which at present amounts (in round numbers) to £1,500 a year.

The writer in concluding this paper, may be permitted to submit some general observations, bearing upon the administration of bankruptcy.

1st. It is wisely provided by the law of this country that the creditors are invested in the estates of their bankrupt debtors, for the purposes of administration and distribution. The courts, the accountant, the trustee, and the commissioners, are, so to speak, aids to the creditors in the discharge of their functions. It is submitted that no system can be more simple in principle; and it appears from the results which the writer has deduced that this principle is carried out in practice at moderate expense to the creditors themselves, and with great economy as regards the public.

2nd. The power which is given to the creditors of electing a trustee (professional or non-professional, as seems to them best suited to promote their interests is valuable, as tending to economy and good management. The trustee elected by the creditors finds security (judicially) for his faithful accounting, and he is subject to judicial control. The creditors may remove him of their own accord, or they may have him removed by judicial authority, on cause shown.

3rd. The commissioners form a standing council to the trustee, which is readily constituted at small expense. The system of audit of the trustee's accounts by the commissioners is judicious. The creditors, as it were, devolve, on a small committee of their number, the duty of settling these accounts, subject, in case of question, to judicial supervision.

4th. It is a good and prudent arrangement by which the trustee is constituted the responsible employer of the law agent or solicitor, to transact the law business of the creditors connected with the sequestration. Divided responsibility in the selection of a law agent is thus avoided; and, if the trustee make an improper selection, the creditors themselves can correct the error by removing the trustee. The law agent's accounts are cheaply and expeditiously taxed, either by the auditor of the Court of Session, or by the auditor of the Sheriff (County) Court, to whichever of these auditors the creditors are pleased to refer the taxation. The expense of a separate taxing master in bankruptcy is thus avoided.

5th. The judicial administration of bankruptcy is conducted efficiently by the general courts of the country. There is thus no occasion for the expense of a peculiar jurisdiction in bankruptcy cases. Questions which originate before the trustee are readily and cheaply brought, either into the Sheriff (County) Courts, or into the Court of Session; and these questions (if appeals be competent) may be ultimately decided by the House of Lords as the court of last resort.

6th. The writer has great delicacy, in consequence of his position, in referring to the working of the newly-constituted office of accountant in bankruptcy. It seems useful that there should be a public inspector of trustees and commissioners, to provide that they perform their duties faithfully, and to receive and investigate the complaints of creditors in reference to the administration of the estates. It also seems a good arrangement that the accountant's office is used for the purpose of concentrating the records of bankruptcy, and thereby giving to the creditors and to the public convenient access to them, and to the statistics obtained from them. The ready access to this office which is afforded to the creditors in matters connected with the administration and management of bankrupt estates, has a tendency to check litigation in trifling cases.

7th. The great desideratum for perfecting the administration of bankruptcy is a watchful superintendence on the part of the creditors, who are the real owners of the bankrupt estates. Where the creditors superintend the proceedings watchfully, the estates are wound up speedily and economically; where they neglect their control, the proceedings become sluggish, imperfect, and expensive. No system of checks which can be established will compensate for the want of proper superintendence on the part of the creditors.

8th. It follows from what has been stated, that it is of great consequence to the beneficial working of the system, that the creditors should make a proper and judicious selection of commissioners. It not unfrequently occurs that commissioners are selected who, using the forcible language of the law of Scotland, are conjunct and confident with the trustee. They are subject to his influence, in business or otherwise, and thus not impartial administrators of the great trust which is reposed in them by the creditors. It would be an improvement if certain parties connected with the trustees—such as his partners, clerks, and servants—were declared incapable of acting as commissioners. The law agent in the sequestration should also be declared disqualified from acting as a commissioner. The creditors have the power of removing objectionable commissioners; but this power is rarely used, and it appears that it would promote purity and efficiency of management, if such interested parties were declared ineligible for the office of commissioners. The trouble of the commissioners is not remunerated at the expense of the estates. There is a general impression that unpaid services in matters of business are not so highly profitable as those which are suitably remunerated. It might be an improvement, if the commissioners were remunerated for their services at the expense of the estates. The amount of their remuneration might be fixed by the creditors themselves; or, in the option of the creditors, it might be referred to the auditor of the law business accounts, or to the accountant, with the power of appeal, as in the case of the trustee's commission.

9th. There is some risk of the expenses in bankruptcy being unduly increased, by trustees devolving on the law agents the performance of duties for which they (the trustees) are responsible, and for which they are paid. The process of winding up—which is conducted, not by the trustee himself, but under directions given by him to his law agent—is not only unnecessarily expensive, but also tedious and unsatisfactory. The trustee ought to be qualified to perform all the ordinary duties attending the administration and distribution of the estate, without reference to the law agent. The attention of the law agent, on the other hand, ought to be confined strictly to the law business, and to the conveyancing. Confusion in the discharge of the relative duties of the trustee and the law agent, where such prevails, ought to be corrected by the auditor who taxes the business accounts by disallowing charges in the law agent's account, for business which falls properly within the province of the trustee.

10th. Great benefit is likely to accrue from the publicity which has been given to the proceedings in bankruptcy since the Act of 1856 came into operation. Any abuses which arise in the administration of bankruptcy may now be reasonably expected to yield to the influence of enlightened public opinion. The publication of the statistics of bankruptcy is likely to have a beneficial effect on the parties who are professionally engaged in the administration of estates in bankruptcy, as well as upon the public mind. The consideration of these statistics may be expected to promote good, cheap, and expeditious management on the part of the trustees; and the public will obtain from them authentic data from which to judge of the economical advantages of the system of bankruptcy law which is in operation in this country.

Receipts. In 1859, when the estates divided were larger in amount, the average of the ordinary expenses came down to 17½ per cent. on the gross receipts. The writer is, therefore, fully warranted in expecting that the average expenses will be still further reduced, when the larger estates, which are now in the process of winding up, come to operate upon the average.

Metropolitan and Provincial Law Association.

SUGGESTIONS FOR THE IMPROVED ORGANIZATION OF THE PROFESSION.

The following paper was read by Mr. DANIEL JAMES MILLER, at the late meeting at Newcastle:—

It is hardly necessary to apologise for introducing to this Society considerations for further improving the tone, character, and social position of the profession.

Both this association and the Incorporated Law Society have in common this object, and much has been done to unite and organize the influence of attorneys, to promote professional improvement, and to facilitate the acquisition of legal knowledge. But no opportunity should be lost of agitating for further progress, ventilating suggestions, and seeking the best means of giving them practical application. The following suggestions are offered not without diffidence but with the anxious hope that even though they may not meet with approbation, they may at least be deemed worthy of consideration and discussion.

The present meeting, bringing together both the provincial and metropolitan members of the association, and in addition inviting the presence and support of the profession at large and their articulated clerks, is a great stride towards an extended organization including the whole profession in its basis.

To the Incorporated Law Society is due a large meed of praise; for this society was the pioneer in the attempt to bring together the public-spirited members of our body, and to give their efforts a coherence and solidity. That society also formed a nucleus round which this and other societies have gathered. With it the general body is identified, and by its exertions many and valuable benefits have been obtained. But the progress we have made leads us to look forward with confidence. We cannot conceal from ourselves that the Incorporated Society only enumerates amongst its members a portion of the profession, and that of these the larger number are taken from the metropolis. It is to be regretted that the organization of the society is so imperfect, and it is worthy of consideration whether the Incorporated Law Society could not be made to comprise every member of the profession, and whether the many societies into which the profession is divided, could not coalesce or combine as branches of the grand trunk or body. The advantages of such a combination would be great, nor would it be entirely without example; I may instance the bar, which is composed of the members of the various Inns of Court, and these societies have combined for the purpose of carrying out wise and enlightened educational reforms. The bar, it should be recollected, has always been a compact and self-governing body, and this to a great extent has given rise to the honour, and the public spirit, which as a general rule, actuate its members and command for that body the general respect.

Already the Incorporated Law Society are entrusted with the superintendence of the examination of articulated clerks, and the admission as an attorney might *ipso facto* include admission to the Incorporated Law Society, which then would indeed be the Society of Solicitors.

In the country the society might be formed into branches composed of members residing within the district, and the branch societies should select their own officer, of whom the chairman should *ex officio* be a member of the general council or governing body. The society and its branches might exercise supervision over the members, inquire into cases of malpractice, and hold periodical examinations of articulated clerks.

By means of the branch societies libraries might be collected in central positions and facilities afforded for the formation of debating societies, the delivery of lectures, and other modes of assisting the law students in the acquisition of legal knowledge and the improvement of their mental culture.

The present system of examination is open to the objection that it permits the student to be idle during the first part of his articles, which he seeks to repair by a spasmodic effort of study towards its close, giving a superficial knowledge hastily acquired, and nearly as soon lost, and at the same time creating a disgust for study hardly ever overcome afterwards.

The changes in society render more solid attainments necessary in the professional practitioner than formerly, a wider scope is required to be given to the reading, and habits of study should be inculcated. This would be best effected by a periodical examination which would spread the reading over a longer duration of time, and cause the acquisition of knowledge to be continual and gradual, and therefore more sound and lasting.

By the recently passed Act encouragement is given to educational and classical attainments by offering as a premium a shorter period of service to those who pass certain preliminary examinations of a high standard.

The periodical examinations which should be held both in the metropolis and by the country branches, would have a further beneficial effect by bringing together more frequently the students in the districts and the leading members of the profession, and encouraging in all a public spirit and generous emulation.

For the enquiry into cases of malpractice and the expurgation of offenders a committee of the council of the governing body both in the principal and branch societies might be created, assisted by a secretary or competent officer. By this officer complaints in the first instance might be investigated upon written statements, and on sufficient grounds appearing to the satisfaction of the committee the party complained of might be summoned to shew cause why he should not be suspended. The tribunal for this inquiry might be selected from the governing body of the central society by lot, and the sentence of suspension should have the effect of excluding the offender from the practice and the privileges of the profession, subject, however, to the review of the superior courts.

The meanest instruments may by a concurrence of circumstances bring a whole body into disgrace, and it seems only a fair and wise provision that a profession which by position is entrusted with interests requiring the highest integrity, should be the custodian of its own honour.

Such a privilege is already enjoyed by the bar, the church, and the military and naval services, and seems best calculated to create and preserve the honour it is its object to protect.

For the discussion and suggestion of amendments in the law and alterations in its procedure, the improved organization of the society and its division into branches and sections, with aggregate meetings from time to time at the principal towns and cities, will afford facilities and advantages unable by other means to be attained—the practical knowledge of the profession will be applied in the mode best calculated for the public welfare—its public spirit will be constantly evoked and a confidence will be engendered in the public mind in the energy, ability, and usefulness of the profession, which will tend more than any thing else to raise up and improve its tone, character, and social position.

Reviews.

A Compendium of the Law of Merchant Shipping; with an Appendix containing all the Statutes and forms of practical utility. By FREDERICK PHILIP MAUDE and CHARLES EDWARD POLLOCK, Esqs., of the Inner Temple, Barristers-at-Law. Second edition. London: H. Sweet. 1860.

We recently had occasion to notice the publication of a very admirable treatise on the Law of Merchant Shipping, and have now the pleasure of announcing another work not less interesting and able upon the same subject. The latter, although a second edition, is to all intents and purposes, a new treatise; inasmuch as the former edition was published prior to the Merchant Shipping Act, 1854, and several other important statutes relating to the same subject. The authors commence with a chapter on The Title to and National Character of Merchant Ships, and then proceed to discuss the liability of owners and part owners. The Master, the Crew, the Pilot, the Contract of Affreightment, Insurance, Hypothecation, Collision, Salvage, and Passengers, constitute the remaining general heads. It will thus be seen that the plan of the work is extremely natural and judicious, and we have no hesitation in saying that its execution throughout is all that could be desired. The effect of the authorities is stated generally with scrupulous precision, and at the same time with accuracy; while the authors have exhibited great diligence in collecting the reported cases, both ancient and modern. We have looked for omissions of this kind where they are most likely to occur, and have been unable to find any. The only fault that we can suggest is one which this book has in common with the majority of law books of modern times—nearly one-third of it is composed of Acts of Parliament. There is, however, as much of the same matter in Mr. MacLachlan's "Law of Merchant Shipping;" and if any other book happens to be forthcoming upon this subject, we shall no doubt have over again the Act of 1854, and other Acts relating to shipping, *in extenso*. Thus, a library which happens to have any two of these volumes, and to take in the general public statutes as well, will possess three copies of

all these voluminous Acts; and as changes take place in our statutes, especially in the event of any general consolidation, these text-books are doomed to be bound up with so much dead matter, which would be well enough amongst the general body of statutes, but are a mere incumbrance to a treatise. We make these observations, not because they have any peculiar application to the work now before us, but on account of the general prevalence amongst legal authors now-a-days, of the objectionable practice to which we have referred.

As to the proper text of the Compendium of Messrs. Mando & Pollock, we can speak only in terms of high commendation both of the industry and the learning of the authors.

The following extract is a fair specimen of the authors' style. We omit the notes which, however, contain a considerable body of law of a character supplementary to that discussed in the text. The passage relates to the important question as to the vesting of the property in ships while building:—

"Questions of considerable nicety often arise as to the time when the property in vessels which are building vests in the person for whom they are being built. The determination of this point must depend upon the intention of the parties, as evidenced by the particular terms of the contract under which the vessel is built. In the ordinary case of a contract to build a ship, the subject matter of the contract not being in existence, the vendee acquires no property in it until it is finished, and actually or constructively delivered. But where, by the terms of the contract, a superintendent is employed by the vendee to overlook the building, and the price is to be paid by instalments, which are regulated by particular stages in the progress of the work, so that the vendee may be said to appropriate the different portions of the ship as they are from time to time completed, the property in those portions vests in the purchaser as soon as each instalment is paid. The mere fact of the ship being one-third built at the time of the making of the contract has been held not to have this effect. In all these cases the question is one of fact rather than of law; namely, what was the intention of the parties as evidenced by their contract and the surrounding circumstances. In two recent decisions a distinction was drawn, based upon the facts of the cases and nature of the contracts, between the ship herself and materials which, although selected and prepared, had never been actually attached to her; it was held that the latter did not vest in the vendee, although the former did."

The Practice of the Sheriffs' Court of the City of London, with Forms of the Proceedings to be used by Suitors, and an Appendix of the Statutes, and Rules, and Orders of the Court. By O. B. C. HARRISON, M.A., Barrister-at-Law, of the Inner Temple. Sweet, 1860.

It is now many years since any book especially dedicated to the elucidation of the jurisdiction and practice of the Sheriffs' Court of the City of London has been published. We believe that Mr. Lewis's Practice, which appeared in 1833, is the most recent upon the subject; and, as both the jurisdiction and procedure of the court have undergone great changes during the interval that has since elapsed, the want of a guide has been the occasion of much inconvenience to the profession and the public. It is for the purpose of supplying this want that the present work has been prepared. Its introduction, which contains a summary of the origin and history of the court, informs us that it is a court of record by virtue of its ancient common law jurisdiction, which formerly extended to all personal actions without limitation as to amount; and that although its principal jurisdiction in the present day is confined by statute to personal actions for amounts not exceeding £50, it still possesses, as an ancient court of record, attributes not attached to the ordinary county courts; as, for instance, the power to try actions under writs of trial. The court sits as a common law court for the trial of actions under these writs, and the proceedings at the trial in such cases are in conformity with the ordinary proceedings at Nisi Prius, and being altogether independent of the prescribed proceedings of the Statutory court. But the principal jurisdiction of the court is that which it derives from the London (City) Small Debts Act, passed in 1852; which, though differing in many important particulars from the county courts Acts in force when it was passed, is framed upon the model of those Acts; and within the last twelve months, rules of practice resembling, but not identical with, those relating to the county courts, have been framed for the regulation of the proceedings under this Act. It is competent to the court held under the statute to try personal actions, with a few exceptions, for any amount, if

the parties agree; and without agreement, to the extent of £50. If a part only of a cause of action arises within the City, a summons may issue; and actions for malicious prosecution and false imprisonment, which are excepted from the jurisdiction of the county courts, may be tried in the Sheriffs' Court. The court also possesses jurisdiction under the Friendly Societies Acts, and Metropolitan Building Act of 1855.

The proceedings are by plaint and summons as in the county courts without pleadings; but we observe that the 72nd rule (at page 72 of the work), though not expressly naming the proceeding to which it relates as a pleading, seems calculated to introduce a system of proceeding into the Court which must be more or less attended with the inconveniences which the virtual prohibition in the statute against pleas was intended to prevent.

Mr. O. B. C. Harrison's work is divided into three parts. The first comprises the proceedings in actions under writs of trial. The second treats of the ordinary jurisdiction under the statute, and explains the proceedings of the Court from the entry of the plaint down to execution; and in the case of new trials, appeals and arbitrations. The third explains the jurisdiction and practice under the Friendly Societies Acts, and some other statutes by which the Court has acquired an addition to its ordinary functions. It may be added that whatever matter is introduced in the second part by way of illustration only is confined to the notes; and that the text is devoted exclusively to the statute and rules of practice.

Before the appearance of this book works on county court practice were generally resorted to as guides to the Sheriff's Court; but it is obvious, from what has been premised above, that such guides were neither convenient nor to be relied on for directing the proceedings in a court regulated by a distinct Act of Parliament, and differing in many respects from the county courts in point of both jurisdiction and practice. Mr. Harrison has long been known to our readers as one of the gentlemen who report for the *Weekly Reporter*, in the common law courts; and for some time past he has had no little practice in the Sheriff's Court. He is therefore peculiarly qualified to write such a treatise; and we can recommend it as being the careful production of a competent man.

The Social Science Almanack and Handbook for the year 1861. London: Tweedie.

This almanack will be found useful to the legal profession, and the public generally. It contains no little information upon some important subjects which were discussed by the Association for the Promotion of Social Science during the past year.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

MR. GEORGE WIROMAN HEMMING, on Equity, Monday, Dec. 17.

MR. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, Dec. 21.

The lectures will be resumed on Monday, the 7th of January next, and be continued to the end of the several courses in March.

EXAMINATION FOR THE BAR.

HILARY TERM, 1861.

The Council of Legal Education have approved of the following rules for the public examination of students for the bar:—

An examination will be held in next Hilary Term, to which a student of any of the Inns of Court, who is desirous of becoming a candidate for a studentship or honour, or of obtaining a certificate of fitness for being called to the bar, will be admissible. Each student proposing to submit himself for examination will be required to enter his name at the treasurer's office of the Inn of Court to which he belongs, on or before Tuesday, the 1st day of January next, and he will further be required to state in writing whether his object in offering himself for examination is to compete for a studentship or other honourable distinction; or whether he is merely desirous of obtaining a certificate preliminary to a call to the bar. The examination will commence on Tuesday, the 8th of

January next, and will be continued on the Wednesday and Thursday following. It will take place in the Benchers' Reading Room of Lincoln's Inn; and the doors will be closed ten minutes after the time appointed for the commencement of the examination.

The examination by printed questions will be conducted in the following order:—

Tuesday Morning, the 8th January, at half-past nine, on constitutional law and legal history; in the afternoon, at half-past one, on equity.

Wednesday morning, the 9th January, at half-past nine, on common law; in the afternoon, at half-past one, on the law of real property, &c.

Thursday morning, the 10th January, at half-past nine, on jurisprudence and the civil law; in the afternoon, at half-past one, a paper will be given to the students including questions bearing upon all the foregoing subjects of examination.

The oral examination will be conducted in the same order, during the same hours, and on the same subjects, as those already marked out for the examination by printed questions, except that on Thursday afternoon there will be no oral examination.

The oral examination of each student will be conducted apart from the other students; and the character of that examination will vary according as the student is a candidate for honours or a studentship, or desires simply to obtain a certificate.

The oral examination and printed questions will be founded on the books below mentioned; regard being had, however, to the particular object with a view to which the student presents himself for examination.

In determining the question whether a student has passed the examination in such a manner as to entitle him to be called to the bar, the examiners will principally have regard to the general knowledge of law and jurisprudence which he has displayed.

A student may present himself at any number of examinations, until he shall have obtained a certificate.

Any student who shall obtain a certificate may present himself a second time for examination as a candidate for the studentship, but only at one of the three examinations immediately succeeding that at which he shall have obtained such certificate; provided, that if any student so presenting himself shall not succeed in obtaining the studentship, his name shall not appear in the list.

Students who have kept more than eleven terms shall not be admitted to an examination for the studentship.

ENDORSEMENT OF CHECKS BY PROCURATION.

A communication which appeared in the columns of the "Times" a short time since, explains the legal position of the endorsed check question.

The writer after stating that the responsibility of bankers in the payment of checks endorsed "per procuration," was a matter of much importance to the mercantile community, and requesting to be allowed to state the actual position of a question with the history of which he happened to be personally conversant, proceeded as follows:—

"When in 1853, it was proposed to impose a stamp of 1d. on checks payable to order, of whatever amount, it became obvious to the Governors of the Bank of England, and to the eminent private bankers with whom they conferred, that the extensive use of such checks, and the absolute impossibility of bankers ascertaining the genuineness of the endorsements inscribed on them, precluded their adoption as a banking expedient unless bankers were protected from all obligation to consider the authenticity of the endorsements. To carry out this protection the 19th section was inserted in the Act 16th & 17th of Victoria, cap. 59.

"In the case of *Cookson v. the Bank of England*, a check drawn upon the Bank of England by Freeman and Co., payable to the order of Cuthbert Cookson and Co., was presented with the endorsement, 'Per procuration, Cookson and Co., A. Holme, agent,' and was paid by the cashiers of the bank.

"Holme, it was affirmed by Cooksons, had no authority to sign for them, and had absconded, having applied the moneys to his own use, and they thereupon demanded from the bank payment for the second time of the amount of the check, 655l. 12s. 10d.

"The bank refused to pay a second time; and the suit came

on for trial before Mr. Baron Martin and a special jury, at Guildhall, on the 29th of June.

"At the opening of the trial Mr. Bovill, for the bank, having stated the chief features of the case, called the attention of the learned judge to the 19th section of the Act 16th & 17th of Victoria, cap. 59, which runs thus:—

"Provided always, that any draught or order drawn upon a banker for a sum of money payable to order on demand which shall, when presented for payment, purport to be endorsed by the person to whom the same shall be drawn payable, shall be a sufficient authority to such banker to pay the amount of such draught or order to the bearer thereof; and it shall not be incumbent on such banker to prove that such endorsement or any subsequent endorsement was made by or under the direction or authority of the person to whom the said draught or order was or is made payable, either by the drawer or any endorser thereof."

"And Mr. Bovill then submitted to his lordship that the intention of the clause was to protect the banker against liability arising from endorsements of any kind on checks to order; that the invariable practice of bankers since the passing of the Act had placed that construction upon its meaning; and that the plaintiff should be nonsuited.

"Mr. Manisty (for Cookson and Co.) contended that the 19th clause was only intended to protect the banker when checks were presented bearing the name of the payee, and that it was not intended to relieve the banker from asking to see the authority under which a check was endorsed 'per procuration,' the very terms of such an endorsement declaring that it purports to be endorsed, not by the payee, but by a person who says, 'I sign by authority of the payee.'

"Mr. Baron Martin remarked:—'I should think the Legislature must be understood to enact according to the known ordinary practice, and every person knows it is a common thing to take a bill of exchange endorsed 'per procuration.' Nothing is more common. Any person who is in the habit of seeing them must see thousands, and the Legislature must be taken to enact according to the common course of business.

"I am of opinion that the 19th section of the 16th & 17th of Victoria, cap. 59, protects the defendants."

"The jury were then called, charged by the learned judge, and the plaintiff was nonsuited, Mr. Manisty asking leave to have an appeal, which was granted as a matter of course.

"The appeal, which should have come on for decision in November, has not been prosecuted, and the unhesitating decision of Baron Martin remains unimpeached, to confirm the interpretation which had been placed upon the 19th section of the Stamp Act of 1853, by the concurrent opinions of the Bank authorities and of the private London bankers, and I may add with certainty, having been personally concerned in its preparation, that this interpretation, now judicially affixed to the protecting section of the Act, only effects what was intended by its promoters. This satisfactory decision is after all a source of congratulation rather to the public than to the bankers as a class. A decision adverse to the Bank would have involved a general refusal by bankers to pay any check to order endorsed by procuration—they would have been uninjured, but the public would have lost a portion of the banking facilities which the Act contemplated.

"J. G. HUBBARD."

Births, Marriage, and Deaths.

BIRTHS.

CHASE—On Dec. 8, the wife of M. C. Chase, Esq., of the Madras Civil Service, and of the Middle Temple, of a daughter.

HOPWOOD—On Dec. 2, the wife of James T. Hopwood, Esq., of Lincoln's Inn, Barrister-at-Law, of a son.

LATHAM—On Dec. 6, the wife of Robert Marsden Latham, Esq., Barrister-at-Law, of a son.

MARRIAGE.

RAWLINS—GEDYE—On Dec. 12, Arthur, son of Robert Rawlins, Esq., of Whitechurch, J.P. for the county of Hants, to Emily Lower, daughter of Nicholas Gedy, Esq., Solicitor, of Wimbledon-park, Surrey.

DEATHS.

GRANGER—On Dec. 7, aged 14 months, George Frederick, son of Mr. Charles Granger, Solicitor, of Leeds.

GRIFFITHS—On Dec. 5, Henry Griffiths, Esq., of Wendover, Bucks, Solicitor.

JENNINGS—On Dec. 12, Margaret, wife of William Jennings, Esq., of 24, Lime-street, aged 38.

McCHRISTIE—On Dec. 7, aged 64, T. Y. McChristie, Esq., for fourteen years Revising Barrister for the City of London.

SPINK—On Dec. 4, aged 23, William Rimmington, son of the late George Spink, Esq., Solicitor, Howden.

STOCKING—On Dec. 11, Thomas Stocking, Esq., Barrister-at-Law, aged 69.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

CREE, JOHN, Coachmaker, Nottingham-court, Castle-street, Long-acre, £100 New Three per Cents.—Claimed by **MARY ANN CREE**, Spinster, the administratrix, with will annexed, de bonis non.

MATTHEWS, CHRISTOPHER WILLIAM, Pilot, Steel-yard-street, Greenwich, and **ANN ELIZABETH MATTHEWS**, his wife, £49 New Three per Cents.—Claimed by **CHRISTOPHER WILLIAM MATTHEWS** and **ANN ELIZABETH MATTHEWS**.

MUNN, GEORGE, Gent., Robertsbridge, Sussex, £145 10s. New Three per Cents.—Claimed by **ABRAHAM KENNETT**, of Hastings, and **GEORGE MUNN**, of Milwaukee, Wisconsin, North America, the surviving executors of the said George Munn.

TATUM, JOHN, Gent., Retreat Cottage, Park-street, Camberwell, £125 Consols.—Claimed by **SARAH STYLES**, Widow, and **REBECCA TATUM**, Spinster, the administratrixes, with the will annexed, of the said John Tatum.

TAUNTON, CHARLES DANIEL, Gent., Oxford, 13 Dividends on various amounts of £3 5s. per Cents. and New Three per Cents.—Claimed by **CHARLES DANIEL TAUNTON**.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	99½	Shrs. Stock Ditto A. Stock	107
3 per Cent. Red. Ann..	99½	Stock Ditto B. Stock	124
3 per Cent. Cons. Ann..	99½	Stock Great Western	73½
New 3 per Cent. Ann..	99½	Stock Lancash. & Yorkshire ..	120½
New 2½ per Cent. Ann..	99½	Stock London and Blackwall..	64
Consols for account ..	99½	Stock Lon. Brighton & S. Coast	116½
India Debentures, 1858.	96½	Stock 25 Lon. Chatham & Dover	53
Ditto 1859.	96½	Stock London and N.-Westm..	102½
India Stock	96½	Stock London & S.-Westm..	98½
India 5 per Cent. 1859.	96½	Stock Man. Sheff. & Lincoln..	49½
India Bonds (£1000) ..	dis.	Stock Midland	135½
Do. (under £1000)	9 dis.	Stock Ditto Birm. & Derby	109
Exch. Bills (£1000) ..	5 dis.	Stock Norfolk	54½
Ditto (£500) ..	5 dis.	Stock North British	65½
Ditto (Small) ..	5 dis.	Stock North-Eastn. (Brwck.)	104½
		Stock Ditto Leeds	63½
		Stock Ditto York	94
		Stock North London	103
		Stock Oxford, Worcester, & Wolverhampton ..	..
		Stock Shropshire Union ..	51
		Stock South Devon	44
		Stock South-Eastern	85½
		Stock South Wales	64
		Stock S. Yorkshire & R. Dun	79
		Stock 25 Stockton & Darlington	42½
		Stock Vale of Neath	69
RAILWAY STOCK.			
Shrs. Stock Birk. Lan. & Ch. June.	83		
Stock Bristol and Exeter ..	99		
Stock Cornwall	64		
Stock East Anglian	17		
Stock Eastern Counties ..	32½		
Stock Eastern Union A. Stock	34		
Stock Ditto B. Stock	78		
Stock Great Northern	110½		

London Gazettes.**Professional Partnerships Dissolved.**

FRIDAY, Dec. 14, 1860.

FISKE, ROBERT, & EDWARD BROWN FISKE, Attorneys & Solicitors, Beccles, Suffolk (Fiske & Son), by mutual consent. Nov. 15.

LEWIS, WILLIAM, THOMAS STOCKWOOD, & THOMAS TAMPLIN LEWIS, Attorneys & Solicitors, Bridgend, Glamorganshire (Lewis & Stockwood), by mutual consent. Dec. 8.

Windings-up of Joint Stock Companies.

TUESDAY, Dec. 11, 1860.

LIMITED IN BANKRUPTCY.

GREAT WESTERN IRON COMPANY (LIMITED).—Commissioner Hill will sit on Jan. 4, at 11, Bristol, to make a First Dividend of the estate and effects of the said Company, at the same time creditors to prove their debts.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Dec. 11, 1860.

ALLDRAD, WILLIAM ALLEN, Attorney's Clerk, Chard, Somersetshire. Tucker, Son, & Forward, Solicitors, Chard. Jan. 31.

ALLPORT, JAMES, Silver Plater, Birmingham, and Hall Green, Worcester-shire. Collis & Ure, Solicitors, 38, Bennett's-hill, Birmingham. Jan. 24.

ANNOTT, JAMES, Gent., Gateshead, Durham, and also of Newcastle-upon-Tyne. Chater, Arnott, & Chater, Solicitors, Newcastle-upon-Tyne. March 1.

BOWLEY, HENRY, Carpenter, West Grinstead, Sussex. Rawlison, Solicitor, Horsham. Jan. 26.

LEATT, GEORGE, Farmer, Toftrees, Norfolk. Kent, Watson & Watson, Solicitors, Fakenham, Norfolk. Feb. 1.

BUGGINS, Mr. JOHN, Farmer, Sutton Coldfield, Warwickshire. Slaney, Solicitor, 1, Newhall-street, Birmingham. Jan. 12.

CLAYTON, JOSEPH, Esq., formerly of Boston, Lincolnshire, afterwards of 9, Westbourne-street, Hyde-park-gardens, Middlesex, but late of Rose Hill, Totteridge, Hertfordshire. Burnham & Son, Solicitors, Wellingborough, Northamptonshire. Jan. 30.

COUSANS, CHARLES, Attorney's Clerk, Lincoln. Moore, Solicitor, Lincoln. April 25.

DRAKE, CHARLOTTE, Spinster, formerly of 17, Tavistock-place, Tavistock-square, but late of 9, Gower-place, Euston-road, Middlesex. Hird & Son, Solicitors, Portland Chambers, Great Titchfield-street, Middlesex. Jan. 1.

GALE, WILLIAM, Agriculturist, Grickstone Farm, Horton, Gloucestershire. Bush & Ray, Solicitors, 9, Bridge-street, Bristol. March 15.

HUNTHREYS, WILLIAM, Gent., 9, George-street, Edgbaston, Warwickshire, and formerly of Lionel-street, Birmingham, Blacksmith. Slaney, Solicitor, 2, Newhall-street, Birmingham. Jan. 12.

HUTCHINSON, THOMAS, Gent., Brotton, Yorkshire. Weatherill, Solicitor, Guisborough, Yorkshire. Jan. 5.

HYDE, FREDERICK AUGUSTUS, Esq., Chenies, Bucks. Theobald, Solicitor, 16, Fumival's-inn, London. Jan. 1.

OSBORNE, THOMAS, Yeoman, Darnford, Lichfield. Hand, Solicitor, Uttoxeter, Staffordshire. Feb. 1.

STROUD, JOHN, Inn Keeper, Crown and Anchor Tavern, Sheerness, Isle of Sheppey, Kent. Essell, Knight, & Arnold, Solicitors, the Prociect, Rochester. Jan. 13.

THOMPSON, JOSEPH, Architect, Leeds and Roundhay, Yorkshire. Nelson, Bulmer, & Nelson, Solicitors, Leeds. Jan. 31.

FRIDAY, Dec. 14, 1860.

BENHAM, WILLIAM, Gent., Wokingham, Berks. Soames & Cooke, Solicitors, Wokingham, Berks. April 8.

CHEMSEIDE, Sir ROBERT ALEXANDER, M.D., formerly of Portaferry, Down, Ireland, afterwards of Paris, and late of Beaumont-street, Oxford. Rawlinson, Solicitor, Chipping Norton, Oxfordshire. Feb. 1.

EAMES, FRANCIS, Pawnbroker & General Salesman, and carrying on business in Nottingham, late of Quorndon, Derbyshire. Hunt & Son, Solicitors, Weekday Cross, Nottingham. Jan. 21.

GOODBURN, JAMES, formerly a Butcher, 18, John-street, Newcastle-upon-Tyne. Johnston, Solicitor, 2, Collingwood-street, Newcastle-upon-Tyne. March 1.

HOMER, DANIEL, Gent., 4, Sheffield-terrace, Campden-hill, Kensington, Middlesex. Wilkinson, Stevens, & Wilkinson, Gents., 4, Nicholas-lane, Lombard-street, London. Jan. 1.

KING, SARAHAN MARY, Spinster, formerly of Kingston, Surrey, and late of Princes-street, Oxford-street, Middlesex. Smythe, Solicitor, 7, Rosewell-court, Lincoln's-inn. July 1.

MORRIS, THOMAS, Farmer & Valuer, Ranscombe, Southmalling, Sussex. Auckland & Hillman, Solicitors, Cliffe, near Lewes, Sussex. Jan. 7.

MOUNTAIN, CHARLOTTE MARY, Spinster, Havant, Southamptonshire. Wilkinson, Stevens, & Wilkinson, Gents., 4, Nicholas-lane, Lombard-street, London.

PEACOCK, ANN, Widow, Shakespeare-street, Newcastle-upon-Tyne. Joel, Solicitor, 76, Grey-street, Newcastle-upon-Tyne. March 16.

POWELL, JOHN, Farmer, Preston Candover, Southamptonshire. De Jersey & Micklem, Solicitors, 13a, Gresham-street, West, London. Jan. 4.

SIMPSON, ANNA MARIA, Widow, Elm Grove, Norwood, Surrey. Blake & Snow, Solicitors, 22, College-hill, City. Jan. 1.

STROTHER, ARTHUR, Surgeon, Darlington, Durham. Peacock, Solicitor, Darlington. Jan. 5.

YOUNG, MARY, Carlton House, Richmond Park, Clifton, Bristol. Clark, Fumell, & Pritchard, Solicitors, Bristol. Feb. 21.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Dec. 11, 1860.

ALLWOOD, ANDREW, Gent., Oxtou-road, Birkenhead, Chester. Allwood v. Allwood, V.C. Stuart. Jan. 8.

CONCHA, JUAN JOSE, Gent., a native of Santiago, Chili, formerly of Lima, in Peru, and late of 3, Adam-street, Adelphi, Strand, Middlesex. Mora and Another v. Concha and Another, V.C. Wood. July 12.

MACHINERSON, KENNETH, Esq., formerly of the Isle of Man, afterwards of London, and late of Mount Vernon and Moffatt, St. Thomas in the East, Island of Jamaica. M.R. Feb. 26.

SANDIFORD, ELIZABETH, Widow, 61, Alma-street, New North-road, Hoxton, Middlesex. Hilliker v. Tyler, M.R. Jan. 11.

WRIGHT, MARTHA, Widow, Kingston-upon-Thames, Surrey. White v. Brown, V.C. Wood. Jan. 8.

WOOD, JOHN, Ironmonger and Toy Dealer, 29, Garden-street, Brighton. Taylor v. Wood, M.R. Jan. 11.

(County Palatine of Lancaster.)

LLOYD, THOMAS, Silk Dyer, Mill-street, Toxteth-park, Liverpool, and Scotland-road, Liverpool. Archer v. Bird, Registrar for Liverpool District, 1, North John-street, Liverpool. Jan. 8.

FRIDAY, Dec. 14, 1860.

EVANS, EVAN LLOYD JONES, Gent., Llewesogla, Llanrhaidr-yn-Cimdergh, Denbighshire. Evans v. Price, M.R. Jan. 14.

FOSS, JOHN, Gent., Derby. Foss v. Baesano, M.R. Jan. 14.

FRANCIS, RICHARD STUBSON, Printer, Catherine-street, Strand, and 25, Museum-street, Bloomsbury, Middlesex. Penny v. Francis, M.R. Jan. 11.

SADLER, ZEBEDEE, Gent., Burleydam, Cheshire. Davies v. Dawson, M.R. Jan. 11.

STEPHENS, WILLIAM, Gent., Shaldon, Devonshire. Tozer v. Babbage, V.C. Kindersley. Jan. 22.

STUTELY, MARTIN, Esq., 6, Cambridge-terrace, Regent's-park, Middlesex, and proprietor of the warehouse called the North London Depository, Gray's-inn-lane. Stutely v. Kepp, V.C. Stuart. Jan. 21.

(County Palatine of Lancaster.)

FRIDAY, Dec. 14, 1860.

CARILL, JANE, Seaforth, near Liverpool. Cahill v. Wood, Office of Registrar, 1, North John-street, Liverpool. Jan. 10.
 CARILL, BARTHOLOMEW, Master Mariner, Liverpool. Cahill v. Wood, office of Registrar, 1, North John-street, Liverpool. Jan. 10.

Assignments for Benefit of Creditors.

TUESDAY, Dec. 11, 1860.

BENT, JOHN, Jun., Grocer and Provision Dealer, Kato's-hill, Dudley. Nov. 28. Sol. Wood, New-street, and Kate's-hill, Dudley.
 BIRKETT, JACOB, Draper, Lancaster. Nov. 13. Sols. Langford & Marsden, 59, Friday-street, Cheapside, for Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester.
 COTTAM, JOHN HENRY, Machine Maker, Kirton-in-Lindsey, Lincolnshire. Nov. 30. Sol. Hayes, Gainsborough.
 EDLESTON, JOHN, Grocer, Halifax, Yorkshire (Edleston Brothers). Nov. 15. Sol. Cronhelm, Halifax.
 FLOOD, THOMAS, Manufacturer, Gomersal and Bradford, Yorkshire. Dec. 4. Sols. Scholes & Son, Dewsbury.
 FOTHERGILL, JOHN, & JAMES BERTLEY PAGE, Bone Merchants and General Merchants, Nottingham (John Fothergill & John Fothergill & Co.). Nov. 15. Sols. Parsons & Son, Nottingham.
 FROGGATT, WILLIAM THOMAS, Butcher, Sissinghurst, Cranbrook, Kent. Dec. 5. Sol. Hinds, Goudhurst, Kent.
 GRINT, JANE ELIZABETH, Widow, Corn Dealer, Wandsworth, Surrey, and HENRY GRINT, Corn Dealer, Wandsworth, Surrey. Nov. 26. Sol. Cornelia, Wandsworth.
 HATTON, WILLIAM, Grocer, 33, Broad-street, Bloomsbury, Middlesex. Sol. Bell, 102, Leadenhall-street, London.
 HILLADON, JOHN, sen., & JOHN HILLADON, Jun., Engineers, Tring, Hertfordshire. Dec. 7. Sol. Shugar, Tring.
 JONES, THOMAS, Builder & Innkeeper, Silloth, Cumberland. Nov. 30. Sol. Donald, 52, Castle-street, Carlisle.
 KING, HARRY JAMES, Draper, Swansea, Glamorganshire. Nov. 21. Sols. Davidson, Bradbury, & Hardwick, Weavers Hall, 22, Basinghall-street.
 TYACK, THOMAS, Ironmonger, Camborne, Cornwall. Dec. 7. Sol. Downling, Redruth, Cornwall.
 WRENNELL, JAMES, Lodging-house Keeper, Ventnor, Isle of Wight. Nov. 9. Sol. Fisher, Ventnor.

FRIDAY, Dec. 14, 1860.

BURN, GEORGE, The Retreat, Gate Helmsley, Yorkshire. Dec. 8. Sols. Leeman & Clark, York.
 CLARK, FREDERICK, Jeweller, Church-street, Liverpool. Nov. 26. Sol. Bastard, 26, Philpot-lane, London.
 CLOUGH, BENJAMIN MORLEY, Attorney & Solicitor, Worksop, Nottinghamshire. Dec. 10. Sols. Cartwright & Son, Bawtry, York.
 CROWDER, WILLIAM TAYLOR, Koper, Barrow-upon-Humber, Lincolnshire. Dec. 5. Sol. Brown, Barton-upon-Humber.
 FINLAY, JOHN HUNTER, Tea Dealer & Draper, Bridgewater, Somersetshire. Dec. 10. Sol. Henderson, 50, Broad-street, Bristol.
 PAKEMHAM, THOMAS JAMES, Milliner, 82, Cross-street, Manchester. Dec. 8. Sols. Cooper & Sons, 44, Pall-mall, Manchester.
 SIMONS, GEORGE, Manufacturer of Fancy Hosiery, Wellington-street, Leicester. Nov. 24. Sol. Haxby, 11, Belvoir-street, Leicester.
 SOUTHER, SARAH GURNEY, Widow, Wingham, Kent, lately carrying on the business of a Miller, at Ickham, Kent. Dec. 10. Sols. Furley & Callaway, Canterbury.

Bankrupts.

TUESDAY, Dec. 11, 1860.

BROOME, HENRY ALFRED, Licensed Victualler, Crown & Cushion, 9, Russell-street, Covent-garden, Middlesex. Com. Holroyd: Dec. 21, at 2; and Jan. 29, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Bruton, 27, Basinghall-street, London. Pet. Dec. 10.
 CLOUGH, RICHARD HENRY, Cotton Dealer & Waste Dealer, Manchester. Com. Jemmett: Dec. 27, and Jan. 15, at 1; Manchester. Off. Ass. Herdman. Sol. Pemberton, Liverpool. Pet. Nov. 24.
 HAYWARD, JOHN ROBERT SAMUEL, Apothecary, Lodway, Somersetshire. Com. Hill: Dec. 24, and Jan. 22, at 11; Bristol. Off. Ass. Acraman. Sol. Clifton, Nicholas-street, Bristol. Pet. Nov. 30.
 KNIGHTS, HENRY RUDD, Currier, 94, Bermondsey-street, Surrey. Com. Holroyd: Dec. 2, and Jan. 29, at 12; Basinghall-street. Off. Ass. Edwards. Sol. Hand, 22, Coleman-street, London. Pet. Dec. 7.
 LENNARD, EDWARD WILLIAM, Grocer & Baker, Redcar, Yorkshire. Com. Ayrton: Dec. 21, and Jan. 21, at 11; Leeds. Off. Ass. Hope. Sols. Carles & Cudworth, Leeds. Pet. Dec. 10.
 MANSFIELD, ELIAS, Boatwright, Timber Dealer, & Publican, Chesterton, Cambridgehire. Com. Evans: Dec. 20, at 1; and Jan. 24, at 2; Basinghall-street. Off. Ass. Johnson. Sols. Tarrant, Bond-court, Walworth; or Whitehead & French, Cambridge. Pet. Dec. 10.
 MARTIN, JOHN WEDD, Farmer & Dealer in Wood & Hop Poles, Moor Farm, Yalding, Kent. Com. Goulburn: Dec. 21, and Jan. 21, at 12; Basinghall-street. Off. Ass. Pennell. Sols. Doyle, 2, Verulam-buildings, Gray's-inn, London; or Morgan, Maidstone, Kent. Pet. Dec. 8.
 SCOTT, JOHN, jun., & RICHARD WOODWARD POWELL, Tea Merchants, Liverpool (Scott, Powell, & Co.). Com. Perry: Dec. 20, at 11; and Jan. 16, at 1; Liverpool. Off. Ass. Cazenove. Sols. Lowndes, Bateson, Lowndes & Robinson, Brunswick-street, Liverpool. Pet. Dec. 8.
 STATES, CHARLES, Club-house Keeper & Victualler, Aldershot, Southampton. Com. Fonblanque: Dec. 21, at 12; and Jan. 23, at 1; Basinghall-street. Off. Ass. Graham. Sol. Muriess, 3, Great James-street, Bedford-row, London. Pet. Dec. 8.
 STREED, CHARLES, Flock & Cotton Waste Dealer, Huddersfield, Yorkshire. Com. West: Dec. 21, and Jan. 29, at 11; Leeds. Off. Ass. Young. Sols. Snowden & Emmet, Bond-street, Leeds; or Brooks, Marshall, & Brooks, Ashton-under-Lyne. Pet. Nov. 26.
 TAYLOR, EDWIN, Butcher, Wimborne, Dorsetshire. Com. Holroyd: Dec. 21, and Jan. 29, at 1; Basinghall-street. Off. Ass. Lee. Sols. Church, Langdale, & Prior, Southampton-buildings, London. Pet. Dec. 8.
 TILLET, FREDERIC, Spiral Flambaux Scale Board & Splint Manufacturer, 71, Banner-street, St. Luke's, Middlesex, and 12 and 13, Wellington-road, Bethnal-green, Middlesex, Timber Merchant. Com. Fane: Dec. 21, and Jan. 29, at 12; Basinghall-street. Off. Ass. Cannan. Sols. Miller, Son, & Day, 10, Philpot-lane. Pet. Oct. 13.

WHITAKER, JOHN BROTHERTON, Card & Paste Board Maker, 13 & 14, Little Britain, London. Com. Evans: Dec. 21, at 12; and Jan. 24, at 1; Basinghall-street. Off. Ass. Johnson. Sols. Fisher & Sons, Aldersgate-street. Pet. Dec. 7.

BANKRUPTCIES ANNULLED.

LINLEY, JOSEPH, Manufacturer of Sheep Shears, Edge Tools, & Table Knives, Sheffield. Oct. 27.
 M'LIVER, WILLIAM KIRKWOOD, Draper, Stonehouse, Devonshire. Dec. 10.

FRIDAY, Dec. 14, 1860.

BARTLE, JOHN, Lace Manufacturer, Lenton, Nottingham. Com. Sanders: Dec. 27, and Jan. 17, at 11; Nottingham. Off. Ass. Harris. Sol. Maples, Nottingham. Pet. Dec. 7.
 BILLIET, VICTOR PASCAL, Importer of French Clocks and Musical Boxes, 28, King-street, Cheapside, London. Com. Fonblanque: Dec. 28, at 1; and Jan. 23, at 2; Basinghall-street. Off. Ass. Stansfeld. Sol. Reed, 1, Guildhall-chambers, London. Pet. Dec. 13.
 BOWDITCH, GEORGE, Nurseryman & Seedsman, Taunton, Somersetshire. Com. Andrews: Jan. 2, and 30, at 12; Exeter. Off. Ass. Hirtzel. Sols. Trenchard, Taunton, or Turner & Hirtzel, Exeter. Pet. Dec. 13.
 BRIDGER, CHARLES, Builder & Coal Merchant, Halesmere, Sarre, and also of Liphook, Hants. Com. Fonblanque: Dec. 29, at 12.30; and Jan. 25, at 12; Basinghall-street. Off. Ass. Graham. Sols. Hobbs & Weedon, 63, Cornhill, London. Pet. Dec. 13.
 COLLEY, JOHN, Ironmonger, Tipton, Staffordshire. Com. Sanders: Jan. 18, and Feb. 1, at 11; Birmingham. Off. Ass. Kinnear. Sols. Hodgson & Allen, Birmingham. Pet. Dec. 6.
 FOSTER, ALFRED, Woolstapler, Bradford, Yorkshire. Com. Ayrton: Jan. 7, and 28, at 11; Leeds. Off. Ass. Hope. Sols. Stocks & Franklin, Halifax, or Bond & Barwick, Leeds. Pet. Dec. 5.
 HALL, JOHN, Wharfinger, Purfleet-wharf, Camden Town, Middlesex. Com. Goulburn: Dec. 24, at 1.30; and Jan. 29, at 12; Basinghall-street. Off. Ass. Pennell. Sol. Reed, 1, Guildhall-chambers, Basinghall-street, London. Pet. Dec. 12.
 KNIGHTS, HENRY RUDD, Currier, 94, Bermondsey-street, Surrey. Com. Holroyd: Dec. 21, and Jan. 29, at 12; Basinghall-street. Off. Ass. Edwards. Sol. Hand, 22, Coleman-street, London. Pet. Dec. 7.
 MACK, ROBERT, Extractor of Wool from Hags, Cork-street, Camberwell, Surrey. Com. Evans: Dec. 28, at 1.30; and Jan. 26, at 12; Basinghall-street. Off. Ass. Bell. Sol. Reed, 1, Guildhall-chambers. Pet. Dec. 12.
 MORROW, JOSEPH CUNARD, and ROBERT THOMAS MORROW, Ship Brokers, Liverpool. Com. Perry: Dec. 28, and Jan. 18, at 11; Liverpool. Off. Ass. Bird. Sols. Dodge & Wynne, Liverpool. Pet. Dec. 10.
 ROZ, WILLIAM, Grocer & Provision Dealer, Calverton, Nottinghamshire. Com. Sanders: Dec. 27, and Jan. 17, at 11; Nottingham. Off. Ass. Harris. Sols. Cowley & Everall, Nottingham. Pet. Dec. 13.
 SAUNDERS, HENRY, Cabinet Maker & Upholsterer, 22, Western-road, Brighton. Com. Evans: Dec. 28, at 1.30; and Jan. 26, at 12; Basinghall-street. Off. Ass. Johnson. Sol. Treherne, 17, Gresham-street. Pet. Oct. 31.
 SOMERVILLE, MATTHEW, Joiner & Packing Case manufacturer, Liverpool. Com. Perry: Dec. 31, and Jan. 16, at 11; Liverpool. Off. Ass. Turner. Sols. Snowball & Copeman, Liverpool. Pet. Dec. 11.
 STANNARD, JAMES, Trader, Newport, Isle of Wight. Com. Goulburn: Dec. 24, and Jan. 28, at 2; Basinghall-street. Off. Ass. Pennell. Sols. J. & J. H. Linklaters & Hackwood, 7, Walbrook, London, or Pittis, Newport, Isle of Wight. Pet. Dec. 6.
 STUNCIA, OWEN, Builder, 4, Upper Belmize-terrace, Belmize-lane, Hampstead, Middlesex. Com. Evans: Dec. 27, at 1.30; and Jan. 24, at 11; Basinghall-street. Off. Ass. Johnson. Sol. Page, Manchester-square. Pet. Dec. 10.
 WHITE, JAMES, Miller & Farmer, Ivy House Farm, Chiddington, Kent. Com. Goulburn: Dec. 24, at 11, and Jan. 28, at 11.30; Basinghall-street. Off. Ass. Pennell. Sols. Atkinson, Pilgrim, & Phillips, Church-court, Lothbury, London. Pet. Dec. 13.
 WOOD, JOHN, Licensed Victualler, Birkenhead, Cheshire. Com. Perry: Dec. 28 & Jan. 16, at 11; Liverpool. Off. Ass. Cazenove. Sols. Woodburn & Pemberton, York-buildings, Dale-street, Liverpool. Pet. Dec. 10.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Dec. 11, 1860.

AAS, GUNDEL ARTHUR MARTIN, Ship Broker, 19, Colchester-street, London. Jan. 2, at 1; Basinghall-street.—BARTLETT, JAMES BENONI, & WILLIAM ANGEL BARTLETT, Tailors & Drapers, Bristol. Jan. 10, at 11; Bristol.—BELL, WILLIAM, Miller, Urpeth Mill, Chester-le-street, Durham. Jan. 10, at 11.30; Newcastle-upon-Tyne.—FAYER, WILLIAM, Boot & Shoe Manufacturer, Norwich (W. Fryer & Co.) Jan. 8, at 12; Basinghall-street.—GOODACRE, RICHARD, Grocer & Tea Dealer, Nottingham. Dec. 27, at 11; Nottingham.—HONROCKS, RICHARD, Baker & Flour Dealer, Liverpool. Jan. 4, at 11; Liverpool.

FRIDAY, Dec. 14, 1860.

BARLOW, JOHN, Earthenware Dealer, Cobridge, Burnley, Staffordshire. Jan. 7, at 11; Birmingham.—BIRNING, HENRY, & GEORGE DOWSON, Ship Owners, Middlesborough, Yorkshire. Jan. 4, at 11; Leeds.—BROOKES, THOMAS, Innkeeper, Birmingham. Jan. 7, at 11; Birmingham.—DENHAM, CHRISTOPHER, Linen Draper, Ripley, Derbyshire. Jan. 10, at 11; Nottingham.—DAWSON, JOHN WAGON, Cotton Spinner, Newcastle-under-Lyme, Staffordshire. Jan. 30, at 11; Birmingham.—GOODS, BENJAMIN GELDART, Brickmaker, Scrattage Brickfields, and of Sutton House, Sutton, near Hounslow, Middlesex. Jan. 8, at 1; Basinghall-street.—LORD, JOHN, SIDNEY AQUILLA BUTTERWORTH, & HORATIO BUTTERWORTH, Dyers, Shelf, near Halifax, Yorkshire (J. Lord & Co.) Jan. 4, at 11; Leeds. Separate estate of Sidney Aquilla Butterworth. Same time, sep. est. of Horatio Butterworth.—MERRIMAN, JAMES, Lace Manufacturer, Hyson-green, Nottinghamshire. Jan. 10, at 11; Nottingham.—MORGAN, HENRY EDGAR, Confectioner & Biscuit Baker, 71, St. Giles-street, St. Mary Magdalen, Oxford. Jan. 4, at 11.30; Basinghall-street.—PENNY, ALFRED, Coal Merchant, 2, Richmond-villas, Holloway, Middlesex, and late of Wharf-road, City road, and Underwriter, Lloyd's Coffee-house, London. Jan. 8, at 2.30; Basinghall-street.—PHILP, ROBERT KEMP, Publisher, 24, Great New-street, Fetter-lane, London. Jan. 18, at 12; Basinghall-street.—ROBSON, SAMUEL, Hotel Keeper & Wine & Spirit Merchant, White Swan Hotel, York.—SEKKE, LADON, Provision Merchant, 4, Postern-row, Tower-hill, Middlesex. Jan. 11, at 12; Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, DECEMBER 22, 1860.

CURRENT TOPICS.

The Lord Chancellor, in a judgment on Thursday last, took occasion to observe upon the importance of judges delivering written instead of oral judgments, in cases where complications, either of facts or law, give rise to any risk of misunderstanding by the parties to whom the judgment is delivered. In the case on appeal before his lordship, the judgment of the Vice-Chancellor occupied forty quarto pages closely printed. Alluding to this fact, his lordship thus expressed himself:—"I should have disposed of the appeal, not only with less labour to myself, but more satisfactorily and more confidently, had the judgment been more condensed. My attention has been diverted from the main questions in the case by elaborate and minute disquisitions as to the bearing of contradictory evidence on subordinate points, and by following the devious paths by which the final conclusion is at last reached. Judgments of such prodigious length, instead of settling, have a tendency to unsettle the law; and, instead of sending the defeated party away contented, I can say by experience since I have presided in this court, that they rather generate appeals: for, although the decree be right, some of the various reasons given for it may be questionable, and a false hope excited that, impugning these, the decree may be reversed. The verdicts of juries are generally acquiesced in, perhaps because they are given without reasons. An equity judge, who has to determine questions of fact, cannot follow this course; but there is no necessity for his stating from his tribunal all that passed through his mind during his deliberations, with all his doubts and his wanderings. I will further venture to declare my hearty concurrence in the opinion frequently expressed by one of the most distinguished of my predecessors, Lord Chancellor Brougham, that when, on account of the importance and difficulty of a case, judges, after having heard it argued at the bar, take time to consider, they will do well by delivering a *written judgment*. The judgments even of Lord Eldon would have been still more valuable had he adopted this practice, imitating the example of that illustrious judge, his brother, Lord Stowell, who, by his written judgments, has composed a code of international maritime law admired and respected by all civilized nations."

There is a very general feeling, not only in the profession but among suitors, in accordance with what the Lord Chancellor has so well expressed; and his lordship has himself furnished a very remarkable illustration of the possibility of accomplishing what is in itself so desirable. Since the long vacation, Lord Campbell has heard and disposed of an unusually large number of appeals, some of them involving complicated issues of fact and difficult questions of law, and in nearly every case has delivered a written judgment within a week or two after the appeal was argued. As all these judgments are written by his lordship *proprio manu*, and some of them necessarily involve a great deal of irksome and sedentary manual labour, the wonder is how any judge, who is compelled to sit day by day hearing cases, can have sufficient time and energy for what the Lord Chancellor has been doing since he gained the woolsack. What the Vice-Chancellor Wood said on this subject last year at Bradford, will be in the memory of many of our readers. That

learned and laborious judge there expressed a horror—in which most lawyers can sympathize with him—at the mechanical labour of much writing. The number of men who are physically capable of habitually of an evening filling a quire of paper with the results of an anxious consideration of arguments which they spent the day in hearing, is extremely small—perhaps not one in a thousand. It would be almost as reasonable to expect that a *prima donna*, who has in the evening to sustain the weight of an opera, should be prepared, as a rule, to teach in the morning in Mr. Hullah's school; or that one of Astley's acrobats should be always competent to discharge the duties of a night watchman. There are certain bounds to the physical powers of man, although they appear to constitute one of the few subjects with which Lord Campbell is not well acquainted. It would be out of all reason, as a rule, from a Vice-Chancellor, to look for written judgments, except in such cases as those alluded to by the Lord Chancellor. In those, however, it is almost as unreasonable to expect that suitors can be satisfied without the accurate consideration of their cases which is implied in written compositions. It is worthy of remark that in France and other continental countries all important judgments are delivered in writing; and we believe the same rule is invariably observed in Scotland.

From all parts of the country, but especially from the north, complaints are made of the comparative impunity of crime, which arises from the inadequate remuneration of witnesses for the prosecution. We published, at the time, the important memorial upon this subject of the Liverpool grand jury, who stated, that in the course of their experience, they had found a decided disinclination to assist in the prosecution of offenders, inasmuch as not only personal inconvenience but pecuniary loss is generally the fate of prosecutors under the new scale of allowances. Only two or three weeks ago a similar complaint was made to the magistrates of the Surrey sessions, not by the grand jury, but by a poor man, who, at the risk of his life, apprehended a violent thief, whom he afterwards prosecuted to conviction. The least that such a prosecutor might expect, would be that he should not be called upon to suffer the loss of money at the hands of the state, in addition to the violence to which he was exposed at the hands of the criminal. In our present number will be found a copy of another memorial on the same subject, from the grand jury of the county of York, at the winter assizes. The Government are now, at all events, in possession of abundant evidence to show that unless—as was observed by the Liverpool grand jurors—"a more equitable system be adopted for the payment of witnesses in criminal cases, the criminal law will become practically a failure." The mistake of the present scheme appears to be the uniformity of the scale of allowances for the entire kingdom, and also the want of sufficient classification, for the purpose of payment of witnesses. On this point the Liverpool grand jurors well remark upon the impolicy of a scale which does not enable the payment of any witnesses at a higher rate than the wages of an unskilled labourer—except in the case of the two professions of law and medicine.

We have just received a copy of an important Act passed by the Parliament of South Australia, and which received the royal assent two months ago. It is entitled "An Act to Consolidate and Amend certain Acts relating to the Transfer and Encumbrance of Freehold and other Interests in Land," and is intended to be a consolidation of the entire law of real property in that province. We have already given some account of what has been done there under former statutes, in the way of facilitating the transfer of land by means of a system of registration; and we have now before us the

last report of Mr. Torrens, the registrar-general, which explains not only the principles of the South Australian scheme, but also its machinery and details. It further gives an account of the progress and working of the system; and suggests certain amendments of the law which experience has shown to be necessary—for the purpose of having them embodied in the Act to which we have referred, while it was under the consideration of the provincial parliament. We are aware, of course, that considerable differences of opinion exist as to the feasibility in this country of any system of registration—whether of title or of assurances—and also as to the effect upon the profession of the introduction amongst us of any such mode of land transfer. But it is obviously desirable that all parties should be in possession of whatever important facts relate to this interesting subject; and it is impossible to regard without interest the bold experiment which is now being made in Australia, although it would be absurd to leave out of consideration the very different circumstances of the two countries in respect of conveyancing. We shall content ourselves with taking an early opportunity of placing before our readers, for their information, a sketch of the Australian Act, and of Mr. Torrens' report.

We are glad to find the number of Law Societies gradually increasing throughout the country. Within a few days a promising Society has been established at Leicester, which appears to have taken for its model the Liverpool Law Society. Provincial Societies have it in their power to accomplish, or to aid in the accomplishment of much good, both to the profession and the public, by bringing the experience of local practitioners to bear upon the moot questions of the day. In this respect, as might have been expected, the Liverpool and Manchester Societies have led the way in the provinces, and by their reports from time to time have done good service. Societies in smaller provincial towns, therefore, can hardly do better than imitate models like these.

Entering upon the time-honoured season of kindness and liberality, when instinctively every Englishman likes to turn towards some benevolent channel where he can bestow a Christmas donation, we think it not an unfitting time to call the attention of the profession to the claims of the Solicitors' Benevolent Association—an institution with whose valuable objects we presume our readers are by this time familiar. By an advertisement in our columns this day we notice that there are nearly one thousand members of the profession already enrolled in the society, and that the invested capital amounts to £4,277.

We can only say that with the undoubted claims upon the sympathy and support of the profession as a body, which the institution possesses, we sincerely hope to find that, with the commencement of the new year, those figures will be very considerably augmented if not doubled.

It is rumoured that Mr. Phinn, Q.C., has been appointed Chief Justice of Madras, in the place of Sir Henry Davison, lately deceased. The salary is said to be seven thousand pounds a-year.

Parliament has been further prorogued to the 5th day of February next, on which day it is to assemble for the despatch of business.

IS THE HOUSE OF LORDS BOUND BY ITS OWN DECISIONS?

In our last number we discussed the question how far a court is bound by the decision of another court of co-ordinate jurisdiction; and we there suggested the

general rule to be, that co-ordinate courts bound one another authoritatively by their decisions; and that exceptions from the rule were admissible only when the previous decision was manifestly grounded in mistake, or could not be followed without leading to some manifest absurdity or repugnancy. In the course of the discussion we were incidentally led to the further question, how far a court itself is bound by its own previous decisions. This question, again, appears under different aspects, according as the court is engaged on a final decision, or on one which admits of an appeal to a higher tribunal. Do these circumstances at all vary the problem, and lead to different conclusions? We propose, on the present occasion, to examine briefly these questions, and chiefly as to their practical bearing in our superior courts, whose judgments are subject to revision in a court of appeal, and in our courts of final appeal, as the Judicial Committee of the Privy Council and the House of Lords.

Both these questions seem to lie within the province of what is called judicial discretion, that is to say, the courts have power to dissent from their own decisions, but are bound in duty to exercise it according to the established rules of sound legal discretion; and the true question at present appears to be, have any rules of discretion been laid down upon the matter with such authority and precision as to amount to law, and exclude an arbitrary judgment? When we turn to examine the practice of the courts, and to inquire the opinions of the learned judges, as the only safe sources from which such rules may be deduced, we are at once struck with the dearth, or rather complete absence, of any trace of definite doctrine upon the subject, until quite recent times; and we might not unreasonably infer from this circumstance that the importance of the question is of recent growth, and that the progressive settlement of the law relating to the general jurisdiction and practice of the judicature has only recently brought this question to light, and revealed the necessity for a reasonable solution. The fact, however, seems unquestionable, that notwithstanding much discussion has recently prevailed, very little progress has yet been made towards a final settlement, and very slender materials provided for a certain conclusion.

If we examine the theory upon which our courts of justice are constituted, and the objects which they are ordained to satisfy, amongst which the most prominent is the accurate and authoritative exposition of the law of the land, we should be inclined to maintain that one of the necessary consequences of the right fulfilment of their functions would be, that the decisions delivered at one time as declaratory of the law, should be binding upon them at any future time *in pari materia*, and should be open to review only by the constitutional process, where possible, of an appeal to a higher court. When, however, we extend our considerations to the practical infirmities to which courts in common with all human institutions are subject, and their liability to deception or mistake or inadvertence, we should be inclined to say that where from any cause they had failed to exercise a deliberate judgment on the point decided, they should not be excluded from their proper function of deliberation, whenever the same point on a future occasion arises before them. To admit the principle of replacing one deliberate judgment by another deliberate judgment of precisely the same value and authority, would tend to no advantage to the public, though the substitution might satisfy the logical qualms of the individual members of the Court, while it would certainly introduce great uncertainty in the law, and expose every judgment to doubt and impeachment. Human infirmity may be objected equally to every decision, and seems to require that a deliberate judgment should not be reviewed except by the submission of it to another judgment less liable to infirmity. On the other hand, to maintain that a court is bound by a doctrine which has been decided only in form, without any

deliberation being properly exercised upon it, certainly sounds harsh and repulsive to reason and common sense.

The practice of our courts on these points, we have already had occasion to remark, is very obscure, and the language of the judges is very scanty; but so far as we can judge from such imperfect and inconclusive materials, we venture to think that the prevailing opinion is in accordance with the suggestions contained in the above observations. We find it frequently asserted that a court has the right, meaning thereby that on certain occasions a court can properly and wisely exercise a right, to review its own decision. We endeavoured to show in our recent article that though a court is in general bound by the deliberate judgment of a court of co-ordinate jurisdiction it will certainly review such decision where it has manifestly issued improvidently, and under the influence of mistake or misinformation, or where it leads in its consequences to palpable absurdity or contradiction; and it seems impossible to deny to a court the same discretion in reviewing its own decisions which is accorded to it in respect of the decisions of co-ordinate courts, seeing that if any liberty of the kind is admitted at all, a court would probably treat its own decisions with less deference and respect than those of co-ordinate courts, and would at least be perfectly imbued with a consciousness of the motives and considerations which formerly called forth the decision, and which now constitute the ground for its recall.

It happens that some of our courts have been invested with a jurisdiction of final appeal in certain matters, while in other matters they exercise a jurisdiction which may be appealed against. For instance, the ordinary jurisdiction of the superior courts of common law is subject to appeal, but their jurisdiction on appeals from the county courts is final; so also the Court of Queen's Bench decides finally upon appeals from quarter sessions, and from magistrates; and the Court of Common Pleas decides finally on appeals from the decisions of the revising barristers. A court thus deciding on final appeal, it is said, has a special privilege of reviewing the decisions of co-ordinate courts, or its own decisions which have been delivered in its non-appellate capacity. Thus in *Taylor v. Burgess*, (5 H. & N. 1), Pollock, C. B. expressed the following opinion:—"When a case can be taken to a court of error, the decision of one court of co-ordinate jurisdiction ought to be binding on the others. Where, however, there is no means of appealing to a court of error, there is not the same obligation to follow the decision of another court; and accordingly we sometimes find courts of co-ordinate jurisdiction differing from each other." In *R. v. Broudhempton*, (5 Jur. N. S. 267,) an appeal from Quarter Sessions to the Queen's Bench, a decision of that Court (*R. v. East Stonehouse*) being cited, Lord Campbell, C. J., said:—"If I thought that decision wrong I should not hesitate to overrule it, because the case could not be carried to a higher tribunal." The distinction here pointed out seems free from objection, at least to the extent above defined. It would be idle to give an appeal to a Court without investing it with any power of reviewing the expositions of law upon which the judgments appealed against are founded. If, however, this exceptional privilege of the Court to review its own decisions be extended to those which it has previously delivered in its final appellate character, as suggested by the case in which the dictum of Lord Campbell occurs—for the judgment there submitted to review was of that character—it opens the whole question with respect to courts of final appeal, and we shall presently show that on more recent and more solemn occasions his Lordship has repeatedly expressed a contrary opinion.

The latter question, namely, how far a court of final appeal is bound by its own previous decision, arises more especially with reference to the conclusive effect of deci-

sions in the Privy Council and the House of Lords—our highest courts of appeal; and we have fortunately more ample materials for examining into the state of the question with respect to these tribunals. In the first place, we may make the observation, and it is not an unimportant one, that although much discussion has been lately excited about this question, no instance has been cited in which either of these tribunals has reviewed a former deliberate decision, or at all committed itself to the doctrine that it was free to do so. The case of *Keilley v. Carson* (4 M. P. C. C. 63) is sometimes cited as an instance where the Privy Council decided contrary to an opinion which it had previously expressed in the case of *Beaumont v. Barrett* (1 M. P. C. C. 58) but the question as to the liberty of the Court in dealing with a former decision was not touched upon further than that Parke, B., who delivered the judgment in both cases, carefully avoided any conclusion with respect to it by saying in the latter judgment, "the opinion (in *Beaumont v. Barrett*) delivered by myself, immediately after the argument was closed, was not the only ground on which that judgment was rested, and therefore was in some degree extra-judicial; but besides, it was stated to be and was founded entirely on a dictum of Lord Ellenborough, which we all think cannot be taken as an authority for the abstract proposition." On the other hand, instances may be cited where the House of Lords and Privy Council have followed their own decisions, notwithstanding the strongest opinions expressed both in and out of the court against them. Take for example the case of *Fletcher v. Soudes* (1 Bligh. N. S. 144), on resignation bonds. Respecting these bonds it was said by one of the learned judges in that case: "But for the judgment of the House of Lords in the case of *The Bishop of London v. Ffytche*, I will venture to say that there never was a lawyer from the times when tithes were first granted to the present who would not without hesitation have said they were not void either by the statute or the common law." Nevertheless the Lord Chancellor Eldon moved the judgment of the House in the following language: "Addressing your lordships as one of the courts of justice, and not as a legislative body, it is my duty not to argue or state this case now on any other grounds than grounds of law. If the state of the law upon this subject is such that your lordships, looking at it as legislators, deem it fit that an Act should be passed to relieve against the law, that consideration ought not to affect, and therefore cannot affect, your lordships' decisions as judges. Before the decision in the *Bishop of London v. Ffytche* this bond might have been held to be legal. But I have no difficulty in saying that after this house has declared and decided, as it did in the case of the *Bishop of London v. Ffytche*, I conceive myself bound to apply the principles of that decision to this case. Your lordships are bound by that decision, unless there be some special circumstances to take this case out of the principle of that." The language of Chief Baron Alexander, addressed to the House of Lords in that case, is also well worthy of citation: "To what source are we to look for what is called the unwritten law of the land, if not to the decisions of the supreme judicature; and upon what principle are you to expect that your decisions shall bind your posterity in the times that are to come, if you yourselves are not bound by what your predecessors have done in the times that are past? I take, therefore, the rules that necessarily flow from that decision to be fixed and settled."

This question was very pointedly commented on by the members of the House of Lords in *Bright v. Hutton*, (3 H. L. C. 341). Lord St. Leonards, L.C., stated his opinion to the House: "That although you are bound by your own decisions as much as any court would be bound, so that you could not reverse your own decision in any particular case, yet you are not bound by any rule of law which you may lay down if,

upon a subsequent occasion, you should find reason to differ from that rule, that is, that this House, like every court of justice, possesses an inherent power to correct an error into which it may have fallen." This opinion called forth the following strong remarks from Lord Campbell: "According to the impression upon my mind, a decision of this high court, in point of law, is conclusive upon the House itself, as well as upon all inferior tribunals. I consider it the constitutional mode in which the law is declared, and that after such a judgment has been pronounced, it can only be altered by an act of the Legislature. My opinion is that this House cannot decide something as law to-day, and decide differently the same thing as law to-morrow, because that would leave the inferior tribunals and the rights of the Queen's subjects in a state of uncertainty, and after there has been a solemn judgment of this House, laying down any position as law, I apprehend that that is binding upon the rights and liabilities of the Queen's subjects until it is altered by an Act of the Commons, the Lords, and the Sovereign on the throne." In the case of *Wilson v. Wilson* (5 H. L. C. 40), Lord St. Leonards reasserted his opinion, but in rather modified terms: "I certainly hold," said he, "that this House has the same power that every other judicial tribunal has to correct an error in subsequently applying the law to other cases." Lord Brougham, on that occasion, pronounced it to be a *questio vexata*, "how far we may or may not disregard one of our own judgments when applied to another cause?" In *Hodgson v. De Beauchesne* (42 M. P. C. C. 307), we find Mr. Pemberton Leigh suggesting the same question, and the only reply made was by a reference to the above dicta. Lastly, we have the very recent case of the *Attorney-General v. Dean of Windsor* (8 W. R. 477), in which Lord Campbell, as Lord Chancellor, repeated his former opinion in the following unmistakeable terms: "In our judicial capacity, we sit here to declare the law, and to administer it as it has been settled by prior decisions of this House. The present Master of the Rolls points out a decision of this House, which he says he thinks clearly governs the present case, adding (according to the Report, 24 Beav. 715), 'The decisions of the House of Lords are binding on me, and upon all courts, *except itself*.' I feel it my duty to say that I think this expression is incorrect. By the constitution of this United Kingdom, the House of Lords is the court of appeal in the last resort, and its decisions are authoritative and conclusive declarations of the existing state of the law, and are binding upon itself, when sitting judicially, as much as upon all inferior tribunals. The observations made by members of the House, whether law members or lay members, beyond the *ratio decidendi* which is propounded and acted upon in giving judgment, although they may be entitled to respect, are only to be followed in as far as they may be considered agreeable to sound reason and to prior authorities. But the doctrine on which the judgment of the House is founded must be universally taken for law, and can only be altered by Act of Parliament."

We venture to think that Lord Campbell, on the above occasions, has laid down the general rule correctly, and in accordance with traditional opinion; and that exceptions, if any, should be admitted only upon the most urgent and pressing necessity. To allow the decisions of our supreme courts of appeal to be lightly dealt with, would throw a shadow of uncertainty over the whole of the law. A practice of questioning and departing from their previous decisions would, we say it emphatically, raise the House of Lords above the law, and enable it to alter and enact, instead of to declare and obey.

CHANCERY STATISTICS FOR 1859.

The value of judicial statistics is most clearly perceived in regard to those courts in which questions of law greatly pre-

ponderate in number and weight over questions of fact. Issues of fact have a certain inherent life and vigour, and will not brook delay; but questions of law, intended to determine finally the rights of numerous parties not necessarily interested personally in the proceedings, have a languor peculiarly their own. Thus, while the old system of equity procedure prevailed, the immediate and effectual redress of an injury depended on its nature. If it were a legal right, justice was almost as prompt as it is now, but if it were equitable, the lawsuit threatened to become a *damnosa hereditas* to at least one generation of the posterity of the litigants. This failure of justice would not, perhaps, have occurred, if statistics prevailed in those days. Men would be startled by an array of facts, showing that expedition was a prize, which only one case in a hundred enjoyed in the court of chancery. We cannot now, indeed, complain of anything like this degree of sloth in the court of chancery, and its statistics are to be referred to chiefly to direct us in the solution of other questions besides that of delay. A Law and Equity Bill, a comprehensive reform of procedure, a cheap and effective system of taking evidence, the best stage of a suit for the summoning of a jury, the depriving judges of a discretion to remit issues of fact to courts of law, an effective and expeditious system of procedure on appeals—these and the like questions are the main topics of investigation which at present seek the light of judicial statistics, and which can be tested and determined by no other method that is equally satisfactory. It is curious that the dispute between Lord Bacon and Lord Coke has been transmitted, though not in its original virulence, down to the present time. The common law commissioners advocate a fusion of law and equity; while the equity judges, on the other hand, recommend not, indeed, a pre-eminence, as Lord Bacon did, but a continuance of the present isolation of the equity jurisdiction. It is not for us to endeavour, at least at present, "*tantas componere lites*." We do not intend in this paper to take either side in this discussion, nor is it necessary that we should do so. In Ireland it would appear that the experiment might best be made, as counsel generally practise in both classes of courts indifferently; and juries in equity have for some time been not uncommon there; while the division of learned labour in London presents a practical check to an immediate fusion that cannot be disregarded. Perhaps a gradual fusion by increasing still further the equitable powers of the common law judges, and a comparison of the comparative preference shown to the two classes of tribunals, as indicated by statistics, may best determine this question, which does not appear likely to lose its interest with the public. The concentration of the courts would, in addition to the other advantages of the change, help us to a solution of the problem. The great preponderance of questions of law and of documentary evidence that prevails in the class of equitable causes will, we think, always show, that, while there ought to be no necessary and binding distinction between the two jurisdictions, yet even if the systems be fused by Act of Parliament, a spontaneous division of labour ought to ensue; some of the judges confining their attention to questions of law, the others to issues of fact. For the tempest of *Nisi Prius* is certainly not calculated to induce that calm of mind necessary to a judge who is about to determine intricate legal rights. Even if a completely concurrent jurisdiction were imparted to both classes of courts at once, the statistics would soon cause the evil, if any, to be checked; as they would indicate the extent to which suitors, the best judges of the reform, availed themselves of it. Such a change would, we think, suggest a practical, and perhaps a statutory division of judicial labour, on a principle such as we have stated, which would be different from that founded upon the different nature of the rights sought to be enforced. There would be a division of the cases into those of *law* and *fact*; and not into those of a legal and an equitable nature. The niceties of ejectionment would be determined by the same judges

that were daily discussing the involutions of constructive notice, while all cases of disputed facts would be determined by a different tribunal. This legal St. Simonism appears at first sight somewhat utopian, but it is the point to which all existing projects of law reform converge. Statistics, however, will render all speculations based on them more or less stable, and, as valuable facts, they cannot be cast overboard, even by those who most highly prize expedition, either in the working of the law, or in the accomplishment of their own cherished suggestions of reform.

The statistics of the Court of Chancery are stated by the report to be now for the first time issued with the present "comprehensive arrangement and detail." The returns were made by the chief officers of the several departments of the court. The chief clerks' returns comprise the proceedings which originated in the chambers of the Master of the Rolls and the vice-chancellors, the orders made thereon, the amount of debts claimed and adjudicated upon, the accounts passed, and also the amount realized by sales of estates; and are as follows:—

Summonses to originate proceedings:—

For the administration of estates	332
Under the Charitable Trusts Acts	81
For appointment of guardians and maintenance of infants	146
For other purposes	91

650

We may mention that in 1853 this class numbered only 475

Other summonses 16,381

Referring again to 1853, this class then numbered only 6,862

Orders made:—

Of the class drawn up by the registrars	6,772
Of the class drawn up in chambers	5,770
Orders brought into chambers for prosecution (including 11 for winding up companies)	1,930

Debts claimed and adjudicated upon:—

Number of debts	4,020
Amount of debts proved	£1,288,387

Accounts passed (other than receivers' accounts):—

Number of accounts	475
Receipts therein	£1,124,306
Disbursements and allowances therein	909,803

Sales of estates under orders of court:—

Number of sales	490
Amount realized	£1,745,840

Purchases of estates under orders of court:—

Number of purchases	84
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Orders for winding-up companies:—

Amount of calls made	£799,092
Total amount of fees collected by stamps	11,401

Number of contributories:—

Included in list of contributories	1937
Excluded from lists of contributories	119

These returns would be yet more useful if they showed the proportions in which the business was distributed between the judge and the chief clerk. They disclose, at all events, an immense amount of business, which, if it had been transacted clumsily, would have been long since brought before the notice of the public. The statistics should state the number of cases in which summonses for administration were found insufficient and bills became necessary, also data for comparing the relative superiority in point of time and of expense, which procedure by summons enjoys over suits instituted by bill, or claim. The figures given above, however, are abundantly

sufficient to show with what ability and success the chief clerks conduct business at chambers, the best proof of which is the immense amount which they get through with but little assistance, and without giving rise to any dissatisfaction.

The proceedings in the office of the clerks of records and writs indicate more particularly the number and class of the suits before each court, which were as follows:—

Suits instituted:—

Bills or informations filed	2,083
Claims filed under general order of 1850	76
Special cases filed under Act 14 Vict. c. 35	43
Administration summonses filed	327
Other originating summonses filed	318

In suits by bill or information the number of interrogatories filed was:—

By plaintiffs	1,460
By defendants	13
The number of pleas filed was	10
" " of answers	1,884
" " of demurrers	37
" " of disclaimers	4
And of traversing notes	5

Under the head of general proceedings the number of petitions filed is returned as 2,440; of affidavits filed, 46,976. The total of the fees collected in this office was £25,905.

A word on law taxes may not be irrelevant here. It is not more irrational to tax a party injured in his property, than it would be to tax one who is assaulted, or otherwise personally injured. Nor is the want of law taxes a bounty upon litigation; for the loss of time and trouble which a lawsuit entails is a sufficient protection against wanton litigation, which yet, under any circumstances, will always require an expenditure.

The registrars' returns indicate the state of the business in each court, and consist of the following proceedings:—

	Heard during the year.
Pleas	1
Demurrers	30
Exceptions to pleadings	21
Motions for decrees	720
Causes	303
Claims	51
Special cases	43
Causes, &c., further directions	667
Rehearings, and appeals	98
Appeal motions	62
Appeal petitions	21
Total	2,023

Of these classes of proceedings the number of remanets at the end of the year was 440. The chief other business in the registrar's office is returned as follows:—

Orders made on the hearing of petitions, (other than appeal motions)	2,500
Orders made on the hearing of special motions	1,265
Orders on summons drawn up by the registrars	5,679
Orders on motions, or petitions of course	523
Certificates, for sale transfer, or delivery of stock or other securities	2,925
Amount of fees collected by stamps	£12,912

The examiners have returned only two items regarding the evidence taken down by them during the year—viz., the number of witnesses, 436, and the amount of fees collected by stamps, £233.

It does not appear whether this return comprises examinations by special examiners. The report of the commissioners on evidence in chancery 1860, states, we think justly, that it is absurd that one judge should take down the evidence, and

another determine its effect. Moreover, the examiner has not power to determine the relevancy of a question, and the expense of taking down much needless evidence may be thus incurred. As equitable rights mainly depend upon documentary evidence and questions of law, the system of affidavits must be regarded as the chief means of taking evidence in chancery; but, on the other hand, when a material fact is disputed, the evidence should be *ore tenus* before the judge who is to decide the case. At present no party can compel an examination in open court; this is in the discretion of the judge, who may refuse such on application. All the commissioners concur in charging the present system of examination before the examiners with delay and expense. Yet the commissioners recommend *ex parte* examinations before examiners, the whole of which can be had more cheaply by affidavits. Lord St. Leonards disapproves the latter suggestion, but considers that the present expense of examination is owing to the appointments before the examiners not being attended punctually by the parties. He considers that *Nisi Prius* turmoil would disturb the quiet necessary for judges determining rights that are mainly dependent upon questions of law, and recommends the continuance of the present system in an amended form, the examiners to be informed of the precise points requiring to be proved, and to have power to regulate the appointments for the examination of witnesses. Lord St. Leonards is, doubtless, right as to the necessity of quiet in courts of chancery, but we consider with the other commissioners that the examination by a judge who is not to decide the case is an error in principle and not detail.

The returns of the Lord Chancellor's principal secretary classify the petitions for hearing as follows:—

In causes	803
Under Acts relating to railways and other public works	317
Under the Trustee Acts, 1850	227
Under the Trustee Relief Acts, 1847 and 1849	245
Under the Leases and Sales of Settled Estates Act, 1856	44
Under Acts relating to charities	19
Under Joint Stock Companies Winding-up Acts	20
Under the Infants' Settlement Act, 1855	10
Other general matters	126
Total petitions	1,811

Of these petitions the Lord Chancellor heard 26; the Lords Justices (appeals), 124; Vice-Chancellor Kindersley, 546; Vice-Chancellor Stuart, 586; and Vice-Chancellor Wood, 539. The fees collected by stamps were £1,528. Vice-Chancellor Stuart still retains a slight majority in his proportion of the causes. The number of petitions set down for hearing before the Master of the Rolls was 747, of which 378 were in causes; 24 under the Act relating to leases and sales of settled estates; 2 under Winding-up Acts; and 5 under the Infants' Settlement Act. Besides the foregoing there were 3,551 petitions, upon which orders were granted as of course. The total of fees collected by stamps was £2,199. Of this sum solicitors on admission paid £660 15s., being £1 17s. for each of those admitted, who numbered 384. The number of deeds for enrolment was 9.

The return of the proceedings in the offices of the masters in lunacy comprise 69 orders of inquiry in the nature of commissions of lunacy; 150 reports made to the Lord Chancellor; 67 leases and other deeds settled and approved; and 3,430 summonses issued on all the proceedings. The total amount of receipts in the accounts of the committees and receivers in lunacy passed during the year was £330,149, and the amount of the disbursements and allowances therein £286,098.

The taxing master's return shows that the total number of orders and references for taxation was 3,357; of bills taxed, 7,102; and of certificates and allocations made, 2,955. The total amount of costs taxed was £794,456, and of fees levied

on the suitors, 23,676. The business was equally divided amongst the seven masters.

The Accountant General's return represents the state of the accounts of the court to be as follows:—

Paid into court, cash	£8,577,896
Securities and effects	6,737,337
Paid out of court, cash	8,222,155
Securities and effects	5,962,880

The total number of accounts is 22,174; the amount of fees collected, as the rest, by means of stamps, £737 8s. 3d.

We may here state that since the Acts of 1852, the era of the real reform of the Court of Chancery, the business in court has continued nearly stationary, but that in chambers has greatly and progressively increased.

The following was the state of the suitor's fund and of the suitors' fee fund as presented in the annual account to Parliament:—

Suitors' Fund:—

Balance of cash on 1st October, 1858	£	s.	d.
Dividends of £3,904,999 stock	114,709	2	0
Rent of master's offices let to commissioners of patents	520	0	0
Total income	£135,636	1	8

Payments	63,908	10	4
Carried over to Suitors' Fee Fund	51,825	0	6

Total payments £115,733 10 10

Balance of cash on 1st October, 1859	19,902	10	10
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Suitors' Fee Fund:—

Balance of cash on 24th November, 1858	80,010	7	3
Cash brought from Suitors' Fund	51,825	0	6
Dividends of £201,028 2s. 3d. stock purchased with surplus fees	5,905	4	0
Brokerage	4,646	1	3
Fees levied on the suitors	97,984	4	0
Total income	£240,370	17	0

Payments	156,813	3	4
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Balance of cash on 24th November, 1859	83,557	13	8
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The enormous sum paid for brokerage should not be overlooked. It amounts to very nearly the salary of a judge, or to the salaries of four chief clerks. This extravagant payment might easily be reduced to one fourth its amount, as we have already shown, vol. 4, p. 464. At present, all the stock ordered to be sold is actually sold, and all the stock ordered to be bought is actually bought, brokerage being, of course, paid on both transactions; while the proper way unquestionably would be to buy or sell only such amount as might be requisite to make a balance from day to day.

The following is an abstract of the returns of the above payments:—

Compensation (including terminable salaries) in respect of abolished offices	74,396	6	3
Salaries of officers	113,655	10	4
Pensions to retired officers	10,692	16	11
Rents of offices	2,071	12	11
Expenses of copying in the office	6,199	19	11
Miscellaneous payments	13,705	7	4
	£220,721	13	8

Of this sum £63,908 10s. 4d. are charged on the Sutors' Fund, and £156,813 3s. 4d. on the Sutors' Fee Fund.

These statistics show the oppressive burdens which have been imposed by the Legislature upon the much abused Court of Chancery. If the principle of the nation paying for the blunders of Parliament should come to be recognised in the new Bankruptcy Act—by the transfer to the consolidated fund of the payment of compensations in respect of abolished offices in bankruptcy—there appears to be no reason why suitors in chancery should bear a burden from which suitors in bankruptcy shall have been relieved.

The Sutors' Fund and the Profit Fund have been at different times charged by statutes for different public objects. In 1852, the surplus income of both funds was transferred to "the Sutors' Fee Fund account." The Profit Fund is now represented by a sum of £1,291,629, which the report of the commissioners on the concentration of the courts considers may be appropriated to the building of the new courts in derogation of certain alleged rights of the suitors or their representatives, from the investment of whose cash these profits accrued. We have already attempted to show, vol. 4, p. 813, that the Accountant-General is a useless appendage to the monetary system of chancery, and that much time and an expense of £20,000 per annum would be saved if the Bank of England paid out monies in Chancery-lane to the suitors in chancery, as she does in Basinghall-street to the suitors in bankruptcy.

In the Court of the County Palatine of Lancaster, the proceedings for the past year are returned as follows:—

Number of suits and matters originated:—

By bills	76
By claim	25
By summons	16
By special case, petitions, &c.	44
	161
Number of interrogatories filed	35
.. of answers, and other defences	38

The number of causes and original matters on motions for decrees, claim, special case, or otherwise, set down during the year, was 123; heard, 116; otherwise disposed of, 7; leaving only 1 remanet. Of causes and matters on motions for further directions 1 case stood for hearing at the commencement of the year; 33 cases were set down for hearing; 33 were heard; and 1 remained for hearing at the end of the year. The total number of decrees and orders was 467, which include 166 made by the registrar.

This Court furnishes a precedent for localizing equity jurisdiction, if such a course be approved in principle, a measure which we do not mean at present to discuss. The difficulty, however, of subjecting rights not directly admitting of a pecuniary estimation to courts with a limited monetary jurisdiction, might perhaps be obviated by compelling the plaintiff in all such causes to elect to take the maximum amount of the monetary jurisdiction in lieu of his equitable right to a specific performance, &c., or have his suit dismissed.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

II.

DEFINITION OF DOMICIL.

As I have hinted in my Introduction, a definition sufficient to take in the general meaning of the word "domicil" has always been, and still is, a matter of uncertainty,

"Grammatici certant et adhuc sub judice lis est;"

and for this plain reason, that whatever definition you may

give, depends upon something else; and thus you are endeavouring to describe a thing which has not and cannot be reducible to one standard. For example, take the definition, "residence with intention to remain;" this depends upon two things extremely difficult to ascertain; namely, what is "residence," and what is "an intention to remain." At first sight this may be made a question, but let us consider it a moment, and I think it will be seen that I am correct; what is residence? it may be said to consist in a lengthened stay in one place, the purchase of a *domus* and furniture; and yet in most cases, even such a purchase as this may not be in *perpetuum*, but for a limited term only, and unless the party actually dies whilst in the enjoyment of such a fixed property, and unless that was his only fixed property of a like nature, it might be questionable how far a domicile had been created. This, of course, is putting an extreme case, but it is necessary that a general definition should take in every case, and such a case as is here suggested has actually happened, in which commissions were issued to three several countries to examine witnesses, to show, if possible, which of many alleged domicils, standing apparently on precisely the same footing, should prevail.* Then comes the much more *veraxa questio*, what is "an intention to remain," and this being the "*animus*," and not the "*factum*," is a matter entirely of evidence and deduction, and must vary in almost every case. It therefore really comes to this, that you can give nothing but a dependant definition, the fact being that a domicile is that which subjects a man's property to be dealt with according to the particular law of a particular country in which the domicile has been acquired; if Scotch, according to the law of Scotland; if English, according to the law of England; if French, according to the law of France, &c. It may be said again, that if a man resides or many years in a particular place, settling there for good reasons, and there remaining until his death, "what question can there be as to his domicile?" the answer is, there is none; but such a case never comes under the consideration of a court of justice, any more than a man of perfectly upright conduct ever comes within the clutch of the criminal law, as it is only on real questions of uncertainty that any point arises; for "*De minimis non curat lex*." However, our law has endeavoured to give several definitions of this fickle thing, and we also find attempts made with a like object by foreign authors. Thus, according to the Roman law, a domicile, *domicilium*, translated usually "a habitation," is, "in whatever place an individual has set up his household gods, and made the chief seat of his affairs, without any special avocation." The word "home" is perhaps the shortest as well as the truest definition, but that still leaves the question open as to what is a man's "home." The French jurists define it to be "the moral relation that subsists between a man and the place of his residence," and Vattel using the word "domicile," translated by the word "settlement," says, "it is a place where a man has the intention to remain always." Boullenois says, "it is a place of society where he may enjoy the advantages of his labours;" and the American definition, where the word is actually used, is "residence at a particular place accompanied with proof or presumptive proof of intention to remain there for an unlimited time." There must be the intention and the fact. As I have before cursorily observed the word "domicil" is of modern introduction into our language, not being found in dictionaries published as far back as Johnson's, but in Todd's edition he inserts it, and writes it "domicile" with an *e*, and quotes it from an old book called "Brevint's Saul and Samuel at Endor," p. 303, where there is this passage, "This famous *domicile* was

* The case alluded to is *Lord v. Colvin*, 7 W. R. 251, where the evidence being pretty equally balanced, the domicile of origin was held to prevail.

brought with their appurtenances in one night from Nazareth over seas and lands by mighty angels, and can, if honoured with a visit, with an offering, and with a vow, cure in a moment all diseases." Todd's edition was published in 1827, but in an earlier work by Mason (1801), entitled an *Addendum* to Johnson's Large English Dictionary, the word "domiciliary" occurs, which he renders as adj., from *domicile*, French, "intruding into private houses;" and says in a bracket, "this word is a new offspring of the French Tyranny," which Todd refers to, but seems to plume himself upon having discovered so erudite an authority as Brevint for the use of the word "domicile," which was, in fact, the first use of the French word in an English composition, and Brevint was not an Englishman, but a native of Jersey, although he graduated at Oxford, and was afterwards Dean of Lincoln, and therefore, allowing all honour due to Mr. Todd's industry, this I look upon as an accidental use of it, more particularly as the natives of Jersey speak French, and that it did not obtain till the year 1830 at the earliest in common use, except in America, and not then common), for in 1827 he was put to the necessity of searching for it in such a recondite authority. He admits, moreover, that it was not to be found in our "lexicography," and says, "Burke uses the Latin word as if he had not known the English." Vattel, in his Law of Nations, treats of the subject of "settlement" in precisely the same manner as "domicil" is now treated of at p. 103 of his work, and as the French word "*domicile*" was translated "settlement," hence we may infer, that although the word itself was not used at that time in England (the middle of the eighteenth century when he wrote); yet the subject was then discussed among jurists, although it had not monopolized so much attention as since. We, however, find the word used as an English, or at all events as a Scotch word in the Dictionary of Decisions for 1813, Lord Eldon's notes, p. 199.

In Littleton's Latin Dictionary, he translates it thus, "domicilium," *domicolium*, οἰκητήριον ἑστιάριον, "a mansion, a dwelling house, an abode;" *Sedes*, Cicero. The word "mansion" certainly signifies a *fixed* residence, for although it may be let, yet it is usually something belonging to "the family," and likely to be retained as a residence. The next word, "dwelling-house," might be any house, so might the word "abode;" but the word "*sedes*," as used by Cicero, probably referred to the villa residences in the vicinity of Rome, that is, a place of retirement, or what we, probably from the same word, call a "seat," and there is no doubt that a "country seat" usually answers the description of a domicile. In the Rev. J. G. Wood's very pretty little work entitled "The Common Objects of the Sea Shore," the following passage occurs at p. 115, showing plainly in what sense the word "domicil" is taken by a scholar who is not a lawyer. "These creatures (soft-tailed crabs) are generally called hermit crabs, because each one lives a solitary life in his own habitation, like Diogenes in his tub. . . . The species here given is the common hermit crab (*Pagurus Bernhardus*), and the particular individual is inhabiting a whelk shell, a *domicile*, that is in great request when the creature grows to any size." It should be observed, in reference to this passage, that the creatures in question make the shells of deceased univalves their *home* as long as they answer their purpose, and therefore the word "domicile" is used by Mr. Wood in the sense of "home," which these shells undoubtedly are to the crabs. The word "*domicilium*" is used by *Grotius*, lib. ii. cap. 5, s. 24, where there is this passage: "Romanis legibus saltem posterioribus *domicilium* quidem transferre licebat." The Roman law here referred to is as follows:—"Municipes sunt liberti et in eo loco ubi ipse *domicilium* suū voluntate tulerunt, nec aliud ex hoc origini patroni faciunt præjudicium et utrobique numeribus astringuntur." Digest, lib. i. tit. 1. "Ad municipi-

palem et de incolis." Leg. xxii. § 2. In the translation of *Grotius* by Mr. J. Barbeyrac, in 1788, the word "*domicilium*" is translated "habitation."

In the case of *Forbes v. Forbes*, 1 Kay. 341, Vice-Chancellor Wood observed how very unsatisfactory any general definition must be, because the very terms of it implied something else, which was to be defined; and Dr. Lushington, in a very late case came to the same conclusion; but whether we can exactly agree upon a set of words to express it or not, appears to me not to be very material, if we understand the requisite things to be proved to constitute it, the real question being, whether or not a person has by his acts and expressions placed himself in such a position as that, if he dies, the law of the country in which he then is, can be made applicable to whatever personal property (for to such only it applies) he leaves behind him; and I have rather considered this point with reference to the opinions expressed upon it, than to its materiality.

By the statutes of the state of Massachusetts of 1692, 1701, and 1767, domicile is defined to be "coming to sojourn or dwell," "being an inhabitant," "residing and continuing one's residence," "coming to reside and dwell." In the case of *The Inhabitants of Abington v. The Inhabitants of Bridgewater*, 23 Pickering's American Reports, 170, the above statutes are quoted, and the following pertinent observations made upon the subject. "The question of domicile is often of the highest importance to a person, to determine his civil and political rights and privileges, duties and obligations, it fixes his allegiance, it determines his belligerent and neutral character, and in time of war it regulates his personal and social relations whilst he lives, and furnishes the rule for the disposal of his property when he dies. Yet as a question of fact, it is often one of great difficulty depending sometimes upon minute shades of distinction which can hardly be defined, and it seems difficult to form any *exact definition* of domicile, because it does not depend upon any single fact or precise combination of circumstances. If the above definition be adopted (referring to the statutes), which seems intended to explain the matter, and put it beyond doubt, it will be found on examination to be only an identical proposition equivalent to declaring that a man shall be an inhabitant where he inhabits, and be considered as dwelling or having his home, where he dwells and has his home. It must often depend upon the circumstances of each case, the combinations of which are infinite. If it be said to be fixed by the place of his dwelling-house, he may have his dwelling-house in different places, if it be where his family reside with himself, he may occupy them indiscriminately, and reside as much in one as another, if it be where he lodges or sleeps (*per noctat*), he may lodge as much at one as the other. If it be his place of business, he may have a warehouse, manufactory, wharf, or other place of business in connection with his dwelling-house, in different towns." This extract will be sufficient to show how the mere question of definition stands; and although the observations are made in America by an American judge, they still apply equally to the general subject.

Before leaving this part of the question, which is in truth of considerable significance, I would refer to some observations made by Vattel at page 101 of his treatise, which are valuable not only by analogy, but to a great extent by direct application. "The whole of the country, possessed by a nation and subject to its laws, forms a part of its territory, and is the common country of all the individuals of the nation." We have been obliged to anticipate the definition of the term "native country" because our subject led us to treat of the love of our country. . . . Supposing then, this definition already known, it remains to explain several things that have relation to this subject, that answer the questions that naturally arise upon it (*vide Vattel*, p. 63, a

122). The term "country" seems to be pretty generally known, but as it is taken in different senses, it may not be unuseful to give it here an exact definition. It commonly signifies "the state of which one is a member;" in this sense we have used it in the preceding sections, and it is to be thus introduced into the law of nations. In a more confined sense, and more agreeably to its etymology, this term signifies the state (or even more particularly), the town or place where our parents have their fixed residence at the moment of our birth;" in this sense it is justly said that our country cannot be changed, and always remains the same to whatever place we may afterwards remove; . . . but as many lawful reasons may oblige a man to choose another country, that is, to become a member of another society; so, when we speak in general of this duty to our country, the term is to be understood as meaning "the state of which a man is an actual member; since it is the latter in preference to every other state that he is bound to serve with his utmost efforts. At p. 102, s. 215, he proceeds: "It is asked whether the children born of a citizen in foreign countries, are citizens? The law has decided that question in several countries, and those regulations must be followed. By the law of nature alone children follow the condition of their fathers, and enter into all their rights. The place of birth produces no change in this particular, and cannot, of itself, furnish any reason for taking from a child what nature has given him. I say, of itself; for civil and political laws may, for particular reasons, ordain otherwise, but I suppose that the father has not entirely quitted his country in order to settle elsewhere. If he has fixed his abode in a foreign country, he has become a member of another society, at least as a perpetual inhabitant, and his children will be members of it also." (I give this from the English translation for greater convenience.) I have written in *italics* those portions of the above quotation which more directly bear upon my subject, and I think it is very clear that the subject now called by the word "domicil" entered very largely under the title of "settlement" (the French word "domicile" being so translated) into the consideration of the law of nations at the time Vattel wrote, and those expressions which I have so particularised, apply very specially to it, as at present treated of and understood, besides referring to other portions of the same subject. In considering any subject, it is of the last consequence that we should understand fully what it is we are going to consider, and hence, anything tending to elucidate the definition has its use.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH. GUILDHALL.

Dec. 18.—In the course of the trial of a cause of *Hooper v. Ward*, the Lord Chief Justice complained of the bad regulations for keeping order in this court, and said that if the other courts at Guildhall were like it, they were a disgrace to the city. The accommodation for junior counsel is limited to one row of seats, with desks to write upon, and although there are two benches behind without any writing accommodation whatever, the seats are usually allowed to be filled by curious spectators. Ingress and egress during important trials require great strength and perseverance, and the noise in the galleries, where there are no police, drowns the voices of judge, barristers, and witnesses.

COURT OF EXCHEQUER.

(Sittings, at Nisi Prius, at Guildhall, before the LORD CHIEF BARON and a special jury.)

Dec. 14.—*Druce v. Pickering*.—The plaintiff, who is practising in the city of Oxford as an attorney, brought this action

against the defendant, a railway contractor, to recover damages for wrongfully causing the plaintiff to be arrested and imprisoned. The defendant pleaded a justification of the arrest on the ground that he had intrusted the plaintiff with certain promissory notes to be discounted, and with directions that the proceeds should be applied to a specified purpose, and that the defendant unlawfully applied the money to his own use. Before the termination of the plaintiff's examination, however, the defendant withdrew his pleas of justification, and expressed his extreme regret for having made the charges against the plaintiff. The plaintiff, who had brought the action solely with a view to clear his character and prove the untruth of the defendant's charges, thereupon consented to take a verdict for 40s. without costs, which was accordingly done.

The LORD CHIEF BARON expressed his entire satisfaction at the course which had been adopted.

Druce v. Bricknell.—This was an action of slander, arising out of the matter complained of in the case above, and was brought to recover damages from the defendant, the vicar of Eynsham, for having stated that he had heard that the plaintiff had been arrested for forgery. The defendant having denied that he had ever intended to slander the plaintiff, the plaintiff consented that the case should terminate by the withdrawal of a juror, which was done.

COURT FOR DIVORCE AND MATRIMONIAL CAUSES.

BUSINESS OF THE COURT.

Dec. 18.—This was the last day of the sittings for divorce business before Christmas. During the 10 days of the sitting 16 causes have been tried, and 13 decrees have been granted. In one case a decree has been suspended, and in two cases time has been taken for consideration. In 14 cases the petitions were by husbands.

WINTER ASSIZES.

YORK.

(Before Mr. Justice HILL.)

Dec 15.—The grand jury having got through all the bills preferred, the foreman, Col. J. Smyth, addressed his lordship, and said—"We desire to hand in to your lordship a memorial in regard to what we consider to be the inadequate remuneration of witnesses." His lordship said he would take care that it was forwarded to the proper authorities.

The following is a copy of the memorial which was presented:—

"The grand jury of the county of York, at the winter gaol delivery in December, 1860, desire most respectfully to call the attention of the Hon. Mr. Justice Hill to the scale of allowances to prosecutors and witnesses in criminal cases at assizes and quarter sessions, as being quite insufficient adequately to remunerate those in the humbler walks of life who are necessarily called away from their families and their ordinary occupations, for their expenses and loss of time, by which last expression the grand jury understand the statutes 7th George 4, cap. 64, s. 22, and 14th & 15th Victoria, cap. 45, to mean the reasonable allowance for the loss of their wages during the time such witnesses are necessarily absent from their homes and their work. Those of the grand jury who are acting justices are not unfrequently very much embarrassed by the extreme reluctance of material witnesses to come forward to prosecute and give evidence in criminal cases of the gravest kind, as well as in all other cases likely to be sent for trial at assizes and quarter sessions within their jurisdiction, by reason of the loss of wages they thereby sustain, and the consequent privation to which their families are subjected. Necessary witnesses not unfrequently declare that, from their experience in former cases, they are reluctant, and even decline, again to come forward as witnesses. The grand jury are of opinion that justice is greatly impeded, and in many cases defeated, by the inadequate remuneration awarded under the present scale of allowances, and, from their observation and experience, they fear this is an increasing evil.

"J. G. SMYTH, Foreman."

CROWN COURT.

(Before Mr. Justice KEATING.)

Dec. 15.—At the sitting of the court this morning the jury who had heard the case of a letter carrier, and who had been enclosed all night in consequence of their not having agreed to

their verdict, were again brought into court. The Clerk of the Crown having asked them if they had agreed upon their verdict, the Foreman stated, they had not. The Judge: Gentlemen, is there any probability of your agreeing? The Foreman: I am not aware that there is the slightest probability of our agreeing. We have argued the question over and over again; and there does not appear to be the slightest probability of our agreeing. A Jurymen: If we should be kept for a month we should not agree. The Judge: I think you have been detained sufficiently long to ascertain the improbability of your agreeing. Under these circumstances I shall discharge you from giving your verdict. Let the prisoner be remanded.

CENTRAL CRIMINAL COURT

Dec. 16.—The December sessions of the above Court was opened before the Right Hon. W. Cubitt, M.P., Lord Mayor; Mr. Russell Gurney, Q.C., Recorder; Aldermen Sir R. W. Carden, Rose, and Lawrence; Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Lusk, Mr. Under-Sheriff Eagleton, and Mr. Under-Sheriff Gammon.

The calendar was lighter than usual.

MIDDLESEX SESSIONS.

Dec. 17.—The December adjourned general sessions commenced this morning at the Guildhall, Broad Sanctuary, Westminster, before Mr. Bodkin, Assistant-Judge, Mr. Payne, Deputy, and several magistrates.

The calendar was very heavy.

The revising barristership of the city of London has become vacant by the death of Mr. T. Y. McChristie.

The Queen has been pleased to appoint Stewart Campbell, Esq., to be one of her Majesty's counsel for the province of Nova Scotia.

Recent Decisions.

[Equity, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; Common Law, by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

UNDUE INFLUENCE—PARENT AND CHILD—SETTING ASIDE FAMILY SETTLEMENT.

Jenner v. Jenner, L. C., 9 W. R. 109.

The doctrine of undue influence, arising out of the relation of parties, has been of late discussed by the courts with unusual frequency; and there can hardly be said to be any question left open as to what the doctrine really is. It has been so fully laid down in the modern case of *Baker v. Bradley*, 7 D. M. & G. 579, and in *Savery v. King*, H. Lds., 4 W. R. 571, that it is unnecessary to state it here. In the latter case, which, in some respects, was not very unlike the present, the bill having there been filed by one who being a tenant in tail, in the lifetime of his father, had charged his inheritance partially for the benefit of the father, considerable stress was laid upon the fact that the son, who, at the time of the transaction, had only recently come of age, had not the advantage of independent professional advice, the incumbrancer himself being a solicitor, which was no doubt another important element in the case. In the present case also no solicitor had been employed to act independently on behalf of the son, the tenant in tail, which, it was argued, was sufficient of itself for the impeachment of the transaction. The Lord Chancellor, however, was of opinion that this circumstance of itself was not sufficient; and that, although the father's solicitor prepared the deeds, yet inasmuch as there was evidence to show that the son was well acquainted with and advised of the effect of the provisions of the deeds before they were executed by him—the transaction, moreover, being reasonable and for the good of the family, and not being for the personal benefit of the father—it was one which the Court would affirm. The following dictum of Lord Justice Turner in *Baker v. Bradley*, 7 D. M. & G. 620, may be taken as the most intelligible expression of the general rule of the Court affecting such transactions:—"Transactions," said his lordship, "between parent and child may proceed upon arrangements between them for the settlement of property, or of their rights in property, in which they are interested."

In such cases this Court regards the transactions with favour. It does not minutely weigh the considerations on one side or the other. Even ignorance of rights, if equal on both sides, may not avail to impeach the transaction. On the other hand, the transaction may be one of bounty from the child to the parent soon after the child has attained twenty-one. In such cases this Court views the transaction with jealousy, and anxiously interposes its protection to guard the child from the exercise of parental influence."

PRACTICE—INTERROGATORIES.

Marsh v. Keith, V. C. K., 9, W. R. 115.

The practice was well understood, and very much in vogue amongst equity draftsmen, before the modern Chancery Amendment Acts, of inserting in bills a certain class of averments for the mere purpose of founding interrogatories upon them; and the model bill appended to the orders of 1852 allowed it to remain in doubt whether such averments should be continued, although there could be no doubt that they were opposed to the spirit of the Act and the whole tenor of the new practice. Amongst other points raised in the above case, the point we have mentioned was for the first time definitively settled. Vice-Chancellor Kindersley was of opinion that the paragraph in the model bill above alluded to was inserted *per incuriam*; and that under the new practice nothing more was required in the bill than the allegation of whatever substantially constitutes the plaintiff's case. It must be borne in mind, however, that these remarks only point to the abolition of those fictional averments which were formerly so common, but which are now of rare occurrence in Chancery proceedings; and the effect of his Honour's observations is merely that the right of the plaintiff not is restricted by such omissions.

COMMON LAW.

PARENT AND CHILD—RIGHT TO CUSTODY—HABEAS CORPUS

Ex parte Barford, 9 W. R., Q. B., 99.

The power of a parent over his child (says Blackstone) "is moderate, but still sufficient to keep the child in order and obedience." Of the latter branch of this proposition the present case is an apt illustration; for by it the right of the father to the custody or control of his child's person, until the age of discretion, is completely confirmed, as well as his right to regain its possession by writ of *habeas corpus* if the child below this age be taken or detained from his natural or legal guardian. It is, however, also laid down by Blackstone (1 Com. p. 461), that this right continues until the age of twenty-one. But this does not seem to be law, taken to its full extent. For the courts will not interfere summarily by *habeas corpus* to take a child out of the custody in which it may happen to be, provided it has arrived at an age to exercise a discretion in the matter. The question therefore is, what is the age of discretion for this purpose? and with regard to this, the present case lays down this general and important rule, viz., that mental precocity is no test whatever. And the Court, in laying down this doctrine, added that they had arrived at the conclusion that the age of sixteen is the age under which a minor is unfit to choose for her (or him) self, in whose custody she (or he) will be. And that this limit has only been fixed by them after great and deliberate consideration and after consultation with all the judges.

It may be observed that the Courts of Common Law will not assist a parent, by *habeas corpus* or otherwise, in regaining the possession of his child if it be shown that he is unfit to have it by reason either of cruelty or immorality. And where an infant, of whatever age, is possessed of property so as to fall within the jurisdiction of the Court of Chancery, that Court will always interfere to protect it against a guardian (even though he be also the parent) whose conduct renders him grossly unfit for the office. (See for example, *Shelly v. Westbrook*, Jac. 266; *Wellesley v. Wellesley*, 2 Bligh., N. S., 124.)

ATTORNEY AND CLIENT—RETAINER—MUNICIPAL CORPORATION.

Lewis v. Mayor and Corporation of Rochester, 9 W. R., C. B., 100.

The most general point of interest arising in the present case, is with regard to the authority of the mayor of a borough to retain the services of an attorney at the expense of the corporation, against the will of the minority of the town council. The mayor in question (together with the borough assessors) had been proceeded against in the Queen's Bench (see 7 Ell. &

Bl. 910), for omitting to revise the burgess list as by law required to do, and it was in reference to these proceedings that the retainer of the plaintiff in the present action had been given.

The Court of Common Pleas were unanimous in thinking that the mayor had a right to defend these proceedings in the Queen's Bench at the expense of the borough—and this even assuming he had made through ignorance, "a very remarkable mistake" in omitting properly to revise the burgess list. For they considered that he was justified in obtaining the opinion of that Court as to the mode in which he could best rectify his error, and even carry up the proceedings to a court of error if supported by sound legal advice that such was his proper course.

DAMAGES, MEASURE OF—COUNTY COURT APPEAL, COSTS OF.

Gee v. Lancashire and Yorkshire Railway Company, 9 W. R., Exch., 103.

The first point in this case is upon the question of the proper measure of damages. In actions of contract this is now (in the greater number of instances) governed by the rule laid down by the Court of Exchequer in the well known case of *Hadley v. Baxendale* (9 Exch. 341), which established the proposition that the breaker of a contract was not liable to the other party for damage which the parties at the time of entering into the contract, could not have reasonably expected would probably result from the contract being broken. Accordingly in that case (which was an action against a carrier) the plaintiff was held not to be entitled to recover the profits which he might have made during the period of delay by a certain implement unreasonably delayed in its transit. And so also in the present case (which was an action of the same kind), it was held a misdirection to tell a jury that they might take into their consideration not only the wages which the plaintiff had had to pay his workmen during such period of unreasonable delay, and while he was daily expecting the arrival at his mill of certain cotton which had been consigned to him, and sent through the defendants; but also the profits he would have made by working such cotton if it had arrived in time—he having at his mill no other stock of cotton to proceed with, a fact of which the defendants had no notice.

The other point in this case is with regard to the costs of an appeal from a county court. The Court gave judgment for the appellants, and it was contended that in all such cases the costs of the appeal were granted. But the Court said that in the superior courts, if a new trial was granted on the ground of misdirection, no costs were given, and that the same rule must be followed in appeals from the county courts.

ACTION OF SLANDER, COSTS IN—DAMAGES UNDER 40s.

Evans v. Rees, 9 W. R., C. P., 73.

This was an action for slander, in which the plaintiff recovered only one shilling as damages; but in which the judge who presided at the trial certified, under 3 & 4 Vict. c. 24, that the slander was "wilful and malicious." Relying on this certificate, the Master allowed the plaintiff the usual costs of the action; but the Court ordered his taxation to be reviewed on the ground that there was still existing a statutory enactment prior to the 3 & 4 Vict. c. 24 (viz. 21 Jac. 1, c. 16, s. 6), which, in actions for slanderous words, made the costs of the plaintiff to equal only the damages assessed by the jury, in cases where such damages fell below 40s. (As to this statute being still in force, see also Lush Pr. 2nd ed., p. 689.)

It may be observed that a case such as the present does not seem to be affected by the new provision, with regard to the costs of frivolous actions, in the Common Law Procedure Act of the present year. For while that provision does not allude in any way to any previous Act on the subject, it operates only to deprive the plaintiff of costs, where the defendant obtains a certificate that (in an action of slander) the grievance in respect of which the action was brought, was not wilful and malicious, or that the action was not fit to be brought; whereas, in the present case, the judge, on the application of the plaintiff, certified just the other way. It may be added, however, that the present case shows this—namely, that though the plaintiff would not be deprived in the present case of his costs, by 23 & 24 Vict. c. 126, s. 34, he would, notwithstanding that provision, be unable to claim more costs than damages, under the statute of James.

Correspondence.

LODGING HOUSE KEEPERS—NON-LIABILITY FOR LOSS OF LODGERS' GOODS.

The recent case of *Holder v. Soulby*, 8 W. R. 438, and 29 L. J. N. S. C. P. 246, decides that a lodging house keeper is not liable for the loss of the lodgers' goods. *Calve's case*, 1 Smith's L. C. 47, is referred to in which the responsibility of an innkeeper is confined to the goods of passengers and wayfarers; and Erle, C. J., says the reason why the law makes an innkeeper liable is that a wayfarer has no means of knowing the character of those with whom he may come in contact at the inn.

I submit that this reason applies with as much force to a lodger as to a wayfarer, and that if an innkeeper is bound to receive a wayfarer, and to answer for the character of those with whom he may come in contact, much more should a lodging house keeper, who is under no obligation to receive a lodger, answer for the character of those with whom the lodger may come in contact. Taking the law to be as laid down, it follows that when A. and his family are located in lodgings at the sea side, if they venture out for a walk, drive, or dip, they must, to avoid loss, "carry their baggage with them."

C.

COMMISSIONER TO ADMINISTER OATHS.

Is it a matter of obligation or not on a commissioner to administer oaths either in the common law or equity courts, to swear a party to an affidavit, &c., who brings it properly prepared, and is ready to pay him the usual fee for the oath?—in other words, has a commissioner a right to swear whom he pleases?—or is he, as an officer of the particular court, bound to administer the oath to all who come to him in due form? Perhaps some correspondent can answer the question and give authorities.

Bristol, 17th Dec.

A COMMISSIONER, &c.

THE LAW OF JUDGMENTS.

I cannot help giving my meed of praise, although it is quite superfluous, to Mr. Johnson's very able paper on the Law of Judgments, published in your Journal of the 10th ult. In the summary at the conclusion of the essay, he says:—"If it is right so severely to restrict judgment claims, as is done by the late Act, it is equally right and incomparably more convenient to relieve purchasers and mortgagees altogether from them." Most persons, I think, will agree with the above proposition; and for myself I have often thought that it would be a consummation much to be wished, to abolish judgment charges altogether on landed property. It would be a great boon so far as professional men are concerned, who take the responsibility on their own shoulders of not searching for incumbrances where they think there is no risk, in order to save their clients expense, and many have often had to suffer from the consequences of this consideration for their clients' pockets and their good nature.

Now, I cannot comprehend on what principle the law should fetter land with charges and incumbrances, and not other descriptions of property. Lands and houses certainly are the most tangible and permanent species of property, although not always the most valuable of a man's possessions; but I do not see that that circumstance should subject them alone to incumbrance claims. Houses and lands are not so easily disposed of as other property; and the very fact of the notoriety that attends the ownership operates as an argument rather against than for their being charged with incumbrances.

The argument that charges on property act as a check upon dishonest debtors, does not touch our present question, namely "Why one species of property should be preferred to another, but assuming this argument to apply to every kind of property, it does not always operate as a check, inasmuch as searches are not always made, much dependence being placed upon a man's position, rank, and character; and in those cases where a purchaser is deceived, the real Simon Pure perhaps escapes altogether in consequence of poverty, dishonesty, or being non est when wanted, whilst the unsuspecting purchaser is fleeced, and pays for all. Many persons will start up and say, "Serve him right, he ought to be more careful, he had the means of searching, and he must take the consequences of his neglect." Now no one denies these assertions so far as the lawyer is concerned, therefore there is no occasion to make them; but as to the purchaser, the poor man remains probably in blissful ignorance till they come down on his lands; and then what will the unsophis-

ticated say of the morality and honesty of the scheme that thus robs Peter to pay Paul?

I believe the great bulk of land-holders are not judgment debtors, and that that class is a very small minority; and if my assumption is correct (and I think it will not be denied when we reflect how seldom judgments are discovered in cases where searches are deemed necessary to be made), does it not follow as a consequence, from the fact of searching being a useless proceeding, that it operates as a grievous burden upon landed property, on purchasers, and more especially on mortgagors, whose pressing necessities often compel them to borrow on security of their estates?

If there were no other reason against registering charges on land than the last I have mentioned, I think it sufficient for abolishing their claims; and as Mr. Johnson states that Lord St. Leonards' Act has reduced them to a shadow, I think that a still better argument for dispensing with them altogether.

I should be glad to have your opinion on the question, as I think it is one deserving of consideration by the members of the profession.

W. R. H., Liverpool.

The Provinces.

BIRMINGHAM.—The annual dinner of the Liverpool Law Society was held in the large room of the Adelphi Hotel in this town on Saturday evening, the 15th inst. Between eighty and ninety gentlemen being present. Mr. Dodge, president of the society, occupied the chair. Mr. Radcliffe and Mr. Ambrose Lace occupied the vice-chairs. Mr. T. S. Raffles, stipendiary magistrate, Mr. John Laird, and Mr. Winstanley, were among those present. In the course of the evening the following (among other toasts) were enthusiastically received. "The common law and chancery bar," which was proposed by Mr. Alderman J. B. Lloyd, and responded to by Mr. Winstanley; and "The Manchester Law Society," which was proposed by Mr. Radcliffe, and responded to by Mr. Baker.

BRISTOL.—Dec. 12.—*Re Thomas Rennie Hutton*, late official assignee of the Bristol Bankruptcy Court.—The audit account of the moneys recovered from the sureties of Mr. Hutton, and the payments thereout incurred in the investigation of the various estates, law charges, &c., was passed to-day, and showed a balance of £6009 19s. 4d. in the hands of the accountant in bankruptcy, subject to the order of the Court for division among the various estates. It will be recollected that the deficiencies, as ascertained by the late Mr. P. R. Power, amounted to £12,096 6s. 1d.

LEICESTER.—*Leicester Law Society.*—A meeting of the solicitors of Leicester was held on the 27th ult., Mr. Richard Toller (clerk of the peace for the borough) in the chair, when resolutions approving of the formation of a Law Society were passed unanimously, and a committee was appointed to consider the rules. An adjourned meeting was held on the 13th instant, Mr. Richard Toller in the chair, and the rules of the society and the report of the committee were read. The committee reported that they had framed the rules of the society on the basis of those of the Liverpool Law Society, and after referring to several matters of detail relating to the finances and library, the committee concluded their report by expressing their satisfaction that the society would number amongst its members nearly all the solicitors in the town, and by congratulating the profession both in the town and county upon the formation of a society which would seek to elevate the character of the profession and to promote confidence, good feeling, and honourable practice amongst its members. On the motion of Mr. Berridge, seconded by Mr. Luck, a resolution proposing the immediate formation of the society was carried unanimously, and on the motion of Mr. Stone (town clerk) seconded by Mr. George Toller, the rules of the society and the report of the committee were adopted unanimously. Mr. Harris was appointed President—Mr. Stone, Vice-President—Mr. Ingram, Treasurer—and Mr. Bouckell, Secretary for the ensuing year. The managing committee was afterwards appointed, and the proceedings terminated with a vote of thanks to the chairman and to the preliminary committee and secretary.

NEWCASTLE.—The 34th annual meeting of the Newcastle and Gateshead Law Society was held on Wednesday, the 12th inst. when the following gentlemen were elected officers for the ensuing year:—Mr. H. W. Fenwick, president; Mr. Geo. Armstrong, vice president; Mr. R. R. Dees, treasurer; Messrs. Wm. Crighton and James Radford, secretaries. The standing

committee were re-elected, with the addition of Mr. J. A. Bush, Messrs. Robert Spence Watson, Thomas Swinburne, Edward Leadbitter, and W. B. Mortimer, were elected members. The annual dinner was afterwards held at the Queen's Head in Newcastle, Mr. G. W. Hodge (vice-president), in the absence of Mr. Clayton, the Town Clerk (the president), in the chair; Mr. Crighton taking the vice-chair.

ROCHDALE.—In a recent case at the Rochdale County Court, before Mr. Temple, the judge declined to receive the evidence of a witness for the plaintiff, who stated that she did not believe in a future state of rewards and punishments, in any responsibility for telling a lie, or in a God; and nonsuited the plaintiff with costs.

Foreign Tribunals and Jurisprudence.

(From the *Gazette des Tribunaux*, by WILLIAM HACKETT, Esq., Barrister-at-Law.)

COUR IMPERIALE DE PARIS.

LES NOCES DE FIGARO—RIGHTS OF AUTHORS.

It is legal for the Committee of the Society of Dramatic Authors to stipulate with the directors of theatres for fixing the rights of the associated authors, and the latter cannot by particular agreements modify the treaties thus entered into, to the prejudice of the society.

The celebrated work of Beaumarchais (*Le Barbier de Séville*) was recently discussed in the *Cour Imperiale* of Paris, in a suit between M. Jules Barbier, and the Society of Dramatic Authors and Composers. M. Barbier and M. Carré had been intrusted by M. Carvalho, the director of the Théâtre-Lyrique, with the task of adapting the play of *Les Noces de Figaro* to the music of Mozart, on the usual terms of remuneration, that is to say 6 per cent. on the receipts. In May 1858, the first representation of the opera took place, and obtained a complete success; but unhappily a dispute arose as to the quantum of remuneration to be received by the authors. A claim was made on behalf of the heirs of Beaumarchais for a moiety of the receipts payable to the author. M. Barbier conceiving that his work had the merit of originality, and that the Committee of the Society of Dramatic Authors were not justified in depriving him of the fruits of his labours, resisted the claim and commenced an action for the recovery of his demand. The cause turned on the effect of a treaty entered into by the Committee of the Society of Dramatic Authors, with the director of the Théâtre Lyrique.

By the French law, the heirs of dramatic authors are only entitled to thirty years' enjoyment of their rights, reckoning from the time of the death of these authors, and the death of their widows; after this period the works become part of what is called the public domain, that is to say, they may be represented by the directors of theatres without paying any per centage on the receipts. The Society of Dramatic Authors and Composers is a society established for the protection of the rights of the members, and for that purpose it from time to time enters into agreements with the directors of the different theatres, providing for the terms upon which the productions of dramatic authors and composers are to be represented. This society, conceiving that the provisions of the existing law were inequitable as regards the heirs of dramatic authors, some time since entered into an agreement with M. Carvalho, the director of the Théâtre-Lyrique, by which it was determined that every time any work entitled of the public domain should be represented, the representatives of deceased authors should receive a sum equal to what would be allotted to these works if they were the works of living authors. It was also stipulated by this agreement that wherever the works of deceased authors were altered for modern representation, in such cases the per centage payable in respect of the works so altered should be divided equally between the representatives of the deceased author, and the person or persons employed in altering or adapting the original work for the stage.

M. Barbier, in support of his claim, maintained that although the plot of the work which caused the litigation "*Les Noces de Figaro*," was taken from the celebrated work of Beaumarchais, yet that in fact and really it had every claim to be considered as an original work: that this being so, the committee of the Society of Authors had exceeded their powers by making an agreement which would have the effect of depriving an author of the just reward of his industry. The Court, however, was

of opinion that it was quite competent for the Committee of the Society of Authors to make such a stipulation as that which was called in question by M. Barbier; that the society was instituted for the purpose of protecting the rights of dramatic authors generally, and that no individual could be permitted, on the ground of personal loss, to break through an agreement which undoubtedly was for the benefit of the community of authors: accordingly the suit of M. Barbier was dismissed with costs.

An English gentleman named Grant recently brought before the Civil Tribunal an action against a tailor named Ville to recover 1,000*fr.* as damages for a vexatious arrest. From what was stated it appeared that Mr. Grant had been a customer of the tailor for about two years, and paid him regularly. Some time back a dispute arose as to a garment which did not fit him, and which he refused to receive; an angry altercation ensued, and the Englishman turned the tailor out of doors. The tailor, on the representation that Mr. Grant was a foreigner, lived in an hotel, and might leave the country, obtained from the President of the Civil Tribunal an order for his arrest for the value of the garment. Mr. Grant was taken into custody, but immediately paid the sum claimed, and was released. The Tribunal declared that the arrest was "a measure of excessive rigour, not justified by a legitimate fear of the disappearance of the debtor," but that nevertheless Mr. Grant had not sustained any real injury, and that therefore no other damages than costs need be awarded.

Reviews.

Concise Forms of Wills, with Practical Notes. By W. HAYES and T. JARMAN, of the Middle Temple, Esqs., Barristers-at-law. Fifth Edition, by THOMAS SMITH BADGER, M.A., of Trinity Hall, Cambridge, and of Lincoln's Inn, Esquire, Barrister-at-law, Reader on the Law of Real Property to the four Inns of Court. Sweet, 1860.

The little book familiarly known as "Hayes and Jarman" has long been the *vade mecum* of conveyancers. It is said, with what truth we know not, that some old-fashioned lawyers invariably make it a travelling companion, for the sake not only of its law but of its literature, although the former is mainly to be found in the shape of short notes, and the latter finds expression in the difficult form of concise precedents. The joint production of two of the most accomplished conveyancing counsel, one of them being, moreover, about the most elegant legal writer of the time, could hardly fail to find universal acceptance among lawyers, even though its subject were not of such general interest. Solicitors have been accustomed to regard it with peculiar favour, because it is exactly suited to their requirements. Complete but not diffuse, accurate but not pedantic, eminently practical and yet a reliable exponent of principles, it was all that the lawyer engaged in the practice of his profession could desire as a guide in one of his most difficult duties. It is no wonder then that it has so long and so well kept its ground against all comers. Nothing but an ever gathering host of new authorities ranged under some hostile banner could ever drive it from the field; and this undesirable event Mr. Badger has for the present effectually averted. With industry worthy of the cause he has drawn contingents from every available quarter, and with the science of an able general has disposed of his forces in a manner to command entire approval. All lovers of "Hayes and Jarman" may therefore still cling to their treasure, without fear of being surprised by some unhappy ambuscade of the reporters' legion, or of being overwhelmed by the ever rising tide of judge-made law. Whatever may be done for the defence and security of practitioners, who are accustomed to be called upon betimes, without much warning, to do battle with or out-manoeuvre the hosts of recorded decisions, which threaten to cross the purposes, and to defeat the intentions of testators, has been done in this edition of "Hayes and Jarman." Every case of any significance relating to the law of wills is to be found in this still (comparatively) small volume. Very many decisions are no doubt only referred to in groups, without any attempt to exhibit the nice distinctions between members of the same group, such as might be looked for in a more elaborate treatise. But the classification, such as it is, is extremely well made, and is always sufficient, not only to put a lawyer "upon enquiry," but also to point out to him the most direct and useful sources of information. "*Prudens interrogatio dimidium scientiæ*," said Lord

Bacon, when speaking of the value of hypothesis in physical investigations; and so it may be said that the use of a lawyer's manual is not to tell him what the law is, so much as to direct him how and where to search for it amid the hundreds of volumes where it lies veiled from the vulgar view. The book now before us is most skilfully adapted for this purpose; for while it would be impossible in so small a compass to give any thing like a treatise upon the subject of wills, the authors (including the present editor) have noted all the decided cases down to the present time, having special regard to the convenience of persons accustomed to the use of precedents. We have been unable to discover the omission of any cases of importance, whether appearing in what are called the "authorized," or the *hebdomadal*, reports. Indeed Mr. Badger has very much increased the value of the work by adding to it, not merely the modern decisions in courts of equity and common law, but also those of the ecclesiastical courts and the Privy Council, for which diligent search appears to have been made. All the old precedents, moreover, have been revised; and more than a hundred pages of useful miscellaneous forms have been added by the present editor. Among the most valuable contributions which he has made to the notes, may be mentioned those relating to the power of executors to sell under a charge to pay debts, p. 430; and to the law of domicil, p. 19. The appendix also contains a note on the execution of wills at the Cape of Good Hope, which has been adapted by the editor from a communication which has been made to him by Mr. Porter, (the Attorney-General at the Cape) on the Roman Dutch law touching this point.

As there may be some of our younger readers who have not read the prefatory observations to the "Hayes and Jarman" of five-and-twenty years ago, we shall extract from it the following passage which bears the marks of Mr. Hayes' pen.

"A notion," says the writer, "has unfortunately obtained, that, while to the preparation of a deed learning and experience are essential, the disposition of a man's property by will may be safely confided to the minimum of legal knowledge. Hence, the conveyancer is rarely consulted, the solicitor is often dispensed with, and the schoolmaster too frequently called in: or, if the schoolmaster be not at hand, there is commonly to be found in every village a will-maker of equal courage and ignorance; the collector or inheritor of exploded forms and phrases. This notion proceeds upon the two-fold error, that wills are expounded, not according to the rules of law, but according to the dictates of common sense, and that common sense is the same in all men. The rules of law, when applied (as applied they must be) to wills thus unadvisedly prepared, often defeat the intention, that is, the probable intention; but if those rules were discarded for a season, common sense, outraged by the conflict of opinion, making one poor word, perhaps, the sport of many contrariant decisions, would soon demand their restoration. The general impression, however, that wills are not amenable to the strict rules of legal construction extended its influence to the judicature, and induced a certain laxity of interpretation, which confirmed and encouraged the original error. Thus confident ignorance on the one hand and judicial indulgence on the other, produced and reproduced blunders and obscurities of every shape and shade which have swelled the mass of adjudication, without advancing the law as a science."

We shall add only one other extract, which shall be for the peculiar benefit of students.

"There cannot, indeed, be a greater mistake than that of supposing that a very small stock of legal terms, added to a very ordinary education, suffices to accomplish the will-maker. On the contrary, a will is alone capable of exhausting the science and ingenuity of the most able conveyancer. It may embrace every allowable modification of property, every possible scheme of disposition. As it is the duty of the will-maker (at least of the solicitor undertaking that office) not merely to draw, but to advise, he should be conversant as well with the various modes as with the various forms of gift; prepared alike to suggest the aptest kind of destination, and to effect it by the aptest words. Even of those testators whose wills are prepared under professional advice, it may be safely affirmed that while the intentions of not a few are frustrated by failure in point of expression, the intentions of a far greater number are never elicited by presenting to their consideration the arrangements most suitable to their views and circumstances. In a large proportion of cases, the nature as well as the language of the disposition, is determined, not by the deliberate choice of the person who makes the gift, exercised over the various modes in which the law allows him to direct the enjoyment of his property after his decease, but by the extent of the knowledge possessed by the person who prepares the instrument, which may therefore be said

to exhibit the mind of the framer rather than the will of the testator."

"On the other hand, it must be admitted, that the blame of miscarriage is not unfrequently attributable to the testator himself. Want of explicitness or candour in the communication of the actual state of his property or circumstances, or an obstinate attachment to some favourite project, may render abortive the most judicious advice."

The suggestions for preparing wills, and the directions for their execution, which have so long been the guide and counsel in these particulars of young practitioners, will no doubt remain so for at least another generation of lawyers. To the former Mr. Badger has added some useful hints; and indeed throughout the work, the hand of a skilful and conscientious editor is everywhere visible.

A Treatise on the Law of Highways, comprising the statute law and the decisions of the courts on the subject of highways, public bridges, and public footpaths, practically arranged; including the law of highways in districts under local government boards, the South Wales Highway Act, 1860, and an appendix of statutes. By W. CUNNINGHAM GLEN, Esq., Barrister-at-Law, Author of "The Law of Public Health and Local Government." Butterworths, 1860.

The Laws of Turnpike Roads, comprising the whole of the general Acts, the Acts as to the union of trusts, for facilitating arrangements with their creditors; the interference of railways and other public works with roads, their non-repair, and enforcing contributions from parishes, (including also the Acts as to South Wales turnpike roads), &c., practically arranged with cases, notes, forms, &c. By GEORGE C. OKE, Author of the "Magisterial Synopsis." 2nd Edition. Butterworths, 1860.

One of the great legislative feats which were to have off last session of Parliament, but stand over until next February, or perhaps indefinitely, was Lord Redesdale's Bill to consolidate and amend the laws relating to highways, and which, whenever it becomes law, and comes into effect, will make Mr. Glen's book prematurely out of date, so far as it is based upon the statutes now in existence. As Lord Redesdale's Bill, however, proposed to postpone its operation, if passed into a law, until the year 1863, there will be probably time enough for the present edition of Mr. Glen's treatise to be exhausted. Until this work on the law of highways, no book on the same subject had appeared since 1829, except some annotated editions of the General Highway Act. Mr. Glen, therefore, undertook a work which was really required, not only by the profession, but by a large class of persons interested in the law of highways; and Mr. Glen's official position has no doubt qualified him peculiarly to discharge such a task with efficiency. He tells us in his preface that "The author has endeavoured to furnish his readers with a lucid exposition of the law of highways, arranged in what may be described as the natural sequence of events, opening with the appointment of officers for the management of the highways, and closing with the enforcement of penalties and forfeitures for offences against the law; so that anyone desirous of ascertaining the law upon any particular subject, may readily find all that he desires to know upon it, expressed in language devoid of technical phraseology and tautology of Acts of Parliament—which are more than usually conspicuous in the General Highway Act. With the same object he has endeavoured to place the decisions of the courts in such a manner as would elucidate the statute law and regulate future proceedings." Mr. Glen has succeeded in what he here proposes, and his treatise will be indispensable to practitioners interested in the law of highways. All the statutes bearing upon the subject appear to have been carefully investigated, and a great number of authorities have been incorporated into the text.

Mr. Oke's book is confined, as its name imports, to the subject of turnpike roads. It commences with a tabular list of the principal General Turnpike Road Acts, showing the time of passing, what each repeals or amends, and where the provisions in force are to be found. Mr. Oke appears to have a genius for the tabulation of statutory enactments, as we recently had occasion to observe when noticing his "Magisterial Synopsis." If another proof were wanting of this observation, it would be found in the book now before us, in which the tables to which we have referred are admirable specimens of tabular exposition of a branch of law. In the introduction to the present work,

Mr. Oke treats of the difference between that portion of our highways known as turnpike roads, and the other very numerous class of public roads not turnpike roads, but which come within the designation of highways. He then proceeds to give a view of the general Acts, 3 Geo. 4 to 9 Geo. 4 (1822 to 1828), and goes on to discuss the alterations in the law since the last-mentioned date. The remainder of the work is composed of chapters treating of trustees and their officers, their appointment, duties, liabilities, &c.; the union of trusts; the purchase of lands by the trustees, and the property in roads; mortgages on the tolls, and the creditors of trusts; the making and diverting of roads, the repairs of roads, and contributions to the same; tolls, their imposition, letting, &c.; the interference of railways and other public ways with roads; and offences as to turnpike roads, their penalties, and mode of prosecution. The appendix relates to Acts affecting South Wales only; and there is to the whole an elaborate index, such as to make the book very convenient for the purpose of reference. All Mr. Oke's books are well done in their way; and his "Turnpike Lawss" is an admirable specimen of the class of books which are required for the guidance of magistrates and legal practitioners in country districts.

Juridical Society.

THE TAXATION OF SUITORS.

At a meeting of the Juridical Society, held on Monday last, Mr. F. S. Reilly in the chair, Mr. S. MARTIN LEAKE read a paper on this subject, which was in substance as follows:—

I have been induced to bring this subject before the Society in consequence of several opinions recently expressed upon it as a ground for important practical conclusions, not having any new theory to propound, but thinking that it would be expedient to come to a clear understanding as to the precise nature of the doctrines involved in the term "taxation of suitors," and wishing to suggest that some points connected therewith are susceptible of a more minute development than they have as yet received.

In the report on the concentration of the courts recently delivered to Parliament, the Vice Chancellor Wood, one of the commissioners, expresses his opinion as follows:—"I entertain a strong opinion that all courts for the administration of justice should be supported by general taxation, and that the protection of property requires that the maintenance of civil tribunals, no less than the police and military force of the country, should be a public burden. Hitherto, however, this principle has not been generally admitted, and the courts have, more or less, been supported by a tax on the suitors of each court in the shape of fees." The Master of the Rolls, in giving evidence before the same commission, states his opinion to a similar effect:—"It is, in my opinion, the duty of the country to provide for the administration of justice without the slightest expense to the suitors. In that respect, I go to the full extent of the speculations of Mr. Jeremy Bentham, but I am also satisfied that you will not at present induce the country to do it." These opinions lead the holders of them to the conclusion that the most appropriate application of a large sum of money now held by the court of chancery, called the Suitors' Profit Fund, would be to relieve the suitors in that court from the payment of fees—a conclusion which I here refer to only for the purpose of pointing it out as a strong illustration of the important practical ends to which the doctrine in question may be made subservient.

On the other hand, in the discussion which arose in the last session of Parliament on the vote for the county courts, much disapprobation was expressed at the large proportion of the expense of these courts which was thrown upon the country; and complaint was made that the funds thus devoted to the aid of litigation were diverted to other purposes, and that these courts were used systematically by loan societies, hawkers and others for the mere purpose of collecting their debts instead of employing regular paid agents for that purpose; and some measures were even suggested as expedient for limiting the facilities for the recovery of small debts.

Bentham's well-known "Protest against Law Taxes," which, I presume, contains the speculations referred to by the Master of the Rolls, is directed exclusively against impositions on judicial proceedings for revenue purposes, and makes no reference to fees imposed upon any other grounds or for any other purposes; whereas the opinions first above quoted maintain a

complete exemption of the suitor from all contribution towards the costs of administering justice. The justice and expediency of the imposition of taxes for purposes of revenue depend upon fiscal rather than juridical considerations, and are discussed by Bentham chiefly in that light. He explains how the tax on law proceedings infringes nearly all the conditions which, according to political economists, a tax for revenue purposes should satisfy. It falls at the most unfavourable moment, when the tax payer is already deprived of some property, or right, or subjected to other claims. It is uncertain both in time of incidence and in amount, and cannot at all be foreseen or provided against. The penalty for non-payment is a total denial of justice, carrying with it consequences quite incommensurate and incongruous with the default in payment. Its only fiscal virtue is facility of collection; it executes itself, and gives no room for evasion or smuggling. Bentham further urges many other arguments, on grounds of expediency against the tax, and exposes the fallacy of the common arguments in its favour. I need not here refer to the Protest further than to point out the exact nature of its object, and of the chief arguments used, in order to distinguish them at the outset from the different objects and views proposed for discussion in this paper to which they appear to me to have no application. In Bentham's time, the term taxation of suitors was far more plain and significant than it is at the present day, importing then an actual profit to the State at the expense of the suitor. Fees on law proceedings were very burdensome in all cases, and, there being no effective small debts courts, fell with an equal burden upon all actions, whatever was the amount in dispute. It was computed that the expense of carrying through an action was, at the lowest rate, not less than £24 on the plaintiff's side alone. In the case of small debts, the charge for fees so far exceeded the fair remuneration for the services conferred by the Court, as to leave a large balance to be devoted to other purposes, and was thus equivalent to taxation in the strictest sense of the term. In this broad light the system was regarded by Bentham, and protested against with vigour and success. The diffusion of his doctrines brought about a great curtailment and diminution of fees of all kinds, and probably conducted in a great degree to the establishment at a later date of an efficient system of courts for the recovery of small debts, conducted upon a simple procedure, and in which the fees are proportionate to the amount in dispute.

Bentham's "Protest" has, I believe, been generally considered as conclusive on the fiscal question of raising revenue from law proceedings; and probably no Chancellor of the Exchequer at the present day would think of reverting to litigation as a subject of taxation. Fees, however, still continue to be exacted in all courts, and not without a general feeling that fees to some extent ought to be exacted and are justifiable, at least without any strong feeling to the contrary. This could hardly be the case if arguments, as conclusive as those used by Bentham in his "Protest," were equally applicable to all payments of the kind, with whatever view and for whatever purpose they may be demanded. The term taxation of suitors is vague, in not clearly conveying the purpose for which the tax is levied. Taxation of suitors may be justifiable for some special purpose, though unjustifiable for others; some proceedings in law suits may properly be charged upon the suitors, though others may not. Entirely agreeing with Bentham that law proceedings are not a proper subject for taxation for the general purposes of the revenue, the question appears to me still to remain, whether some payments for some proceedings in actions may not fairly be demanded; and I propose on the present occasion to put the question in the more definite form, whether the taxation of suitors is justifiable for the limited purpose of maintaining the judicial establishments used by the suitors? Ought the courts of justice, with their appendant executive offices, to be provided by the State gratuitously to the suitors; or ought the suitors to bear some, and if so, what share of the expense? The first step towards the solution of these questions seems to be, to determine the exact nature of the relation between the administration of justice and the application for it—the Court and the suitors, with a view to appreciate justly what it is the latter are called upon to pay for, and upon what terms they receive it; and the determination of this relation seems to lie in the general nature of the proceedings in all litigation.

A law suit, properly so called, may be described briefly as a claim by one party against another who repudiates it, an appeal to the court to enforce it, inquiry by the court into the matter in difference, judgment by the court, followed by compulsory execution. In such a transaction there are three distinct parties involved, the plaintiff, the defendant, and the

court—in the language of the civil law, *actor, reus, and iudex*, including here, however, in the term court, all the share contributed by the State, by means of judicial or executive officers, in the progress of a law suit. Each of these parties has his peculiar part to perform: the plaintiff, to prefer his claim in the prescribed form and to support it by all means in his power; the defendant, to state and maintain his case in answer; the court, to decide between them, and regulate the proceedings generally. Each party has to expend time and labour in performing his share in the proceedings; and the costs may accordingly be considered as incurred by these parties, correspondingly to their respective expenditure of time and labour; and we may call them, for the sake of convenience, the costs of the plaintiff, of the defendant, and of the court. The question then of the incidence of the costs of the court as between the court and the parties, becomes the question here proposed for discussion.

It will be found useful to touch briefly upon the other questions which arise as to the distribution of the costs between these parties with the view to distinguish them clearly from the question in hand, and to avoid confusion by assigning the proper place and limits to the familiar maxims and principles connected with the subject. These are, then, the questions as to the costs of the plaintiff and defendant as between themselves; as to the costs of the court as between the plaintiff and defendant; as to the costs of the plaintiff and defendant as between them and the court—all which phases of the great question of costs are quite unconnected with the present, and may be dismissed in a few words.

The costs of the plaintiff and defendant as between themselves are regulated by the well-known rule that the loser pays costs to the winner. It was the practice of our common law to compute the costs of a successful plaintiff as part of his damages, which he recovered against the defendant—a practice which was further enforced by the Statute of Gloucester. The right of a successful defendant to his costs against the plaintiff was not recognised until the statute of Henry 8, since when we may be said to follow strictly the Roman maxim, *victus victori in impensis condemnandus est*. The general rule, however, is occasionally modified by a discretionary power, which the court exercises over these costs in some instances.

The incidence of the costs of the court as between the plaintiff and defendant follows the same general rule. The rule, indeed, includes all the costs which the successful party is put to, whether incurred in his own behalf, or imposed upon him by the court; so that, where the court makes the suitor pay for its services in the first instance, the successful suitor is reimbursed ultimately by the unsuccessful one, who is thus made to pay the costs of the whole proceedings, both of the successful suitor and of the court. In such case, however, if the unsuccessful suitor becomes insolvent, the successful suitor fails to recover his costs, and the costs of the court in part fall upon him—that is to say, the loser ultimately pays all the costs of the court, but the winner guarantees to the court his share of them by prepayment. Thus, as between the court and the suitors, the maxim that the loser pays costs has no application.

The question respecting the costs of the suitor, as between the suitor and the court, does not appear to have ever raised any difficulty. Though it has been strongly maintained that the Court should pay its own costs, and should charge nothing to the suitor, or at least to the successful one, for its intervention. I am not aware that it has ever been seriously considered that the suitor, though successful, had any claim against the Court, for indemnity against his own peculiar expenses; that is, that it is the duty of the country to conduct the litigation of the suitor entirely at the public expense. Indeed, there would be the greatest difficulty, if not an impossibility, in carrying such an arrangement into effect, as the Court would certainly not indulge the suitor with discretionary expense in collecting evidence and retaining counsel, and the suitor would not submit to have his cause taken out of his own hands and conducted by a mere officer of the Court. In the event of the abolition of all fees the state of things which is contemplated to prevail by the advocates of gratuitous justice is described by the Master of the Rolls, on the occasion previously referred to, as follows:—"A suitor then will have to pay his own solicitor's bill, which is very proper, and his counsel's fees, which is also very proper; but he would not have to pay towards the support of the court, or the support of the judge, or the support of the offices, or even for the purpose of obtaining an authenticated copy of a particular document. He would have merely to pay what it cost, and everything else would be provided for him free of expense. I think that that would be a most desirable state of things." This phase of the question may therefore be dis-

missed with the assumption that the suitor may be justly charged, as against the Court, with the costs of all the labour which is properly assignable to his share in the drama.

The remaining question is the one to which attention is here particularly invited: Whether the costs of the Court should be paid for by the State or the suitors? That is to say, whether the services of the courts and their attendant offices should be supplied gratuitously to the suitors at the expense of the public, or whether they should be paid for by the individual suitors who require them? These services comprise, speaking in general terms, process, trial or hearing, judgment, and execution, together with the regulation of the necessary accompaniments of records, documents, and evidence. For the purpose of determining on whom the burden of these things should fall, it seems necessary to ascertain what is the position in which the Court stands relatively to the suitor, the nature of the services rendered, for what purpose they are rendered or undertaken, and for whose benefit?

Now independently of the artificial establishment of courts of justice, under what may be called natural procedure, every one would have to depend upon his own resources in seeking redress for an injury, and might avail himself of all his powers of persuasion or force to obtain it. If his own powers were not sufficient, however, he would naturally invoke the assistance of others. He would publish his wrongs and rely upon the justice of his cause for some answer to his appeal. His neighbours and acquaintance would certainly not stand by indifferent, and even strangers would not suffer wrong to pass before their eyes without an attempt at redress. Their moral sense, combined with a regard for their own security under similar circumstances, would prompt an intervention; and their mediation would be rendered, not as a matter of bargain, but as the performance of a duty.

In the present age of the world such a state of things is imaginary, but an analogy may perhaps be found in the intercourse of civilized nations, which are not amenable, in their dealings with one another, to any other law than that of nature, reason, or morality. Amongst the nations of Europe, in theory, at least, the weakest enjoys the protection of the strongest against unjust aggression and injury, and can invoke an assistance which the latter are actuated by motives both of morality and of policy to render. Upon the occasion of a dispute arising between two of this family of nations, it is common, if the matter in difference is an honest one, to appeal to a congress of the other powers for a settlement. Services of this kind are rendered as a matter of duty, and not in the expectation of reward or compensation. The voluntary services of other States, as allies and arbitrators, are regarded with respect and honour, which, as the services of mercenaries, would meet with universal scorn and repugnance. But though the party injured may justly appeal to others for redress, he cannot expect that the efforts of others will supersede all exertions of his own. Assistance will only be extended to him who is wakeful as to his own rights and earnest in maintaining them. It lies upon him to make known his wrong, to prefer the necessary appeals in the proper quarter, and to substantiate his cause by every necessary means in order to convince the world of its justice, and to justify the intervention. As he can have no claim on others to relieve him of these exertions, he can as little claim compensation in respect of them except against his adversary, who has occasioned their necessity. A civil wrong is essentially a private misfortune befalling the individual sufferer only, who can expect no further relief at the hands of the public than an answer to his appeal for redress.

A consideration of the natural order of things upon abstract principles of morality and justice seems to lead to the conclusion that the audience of plaints and adjudication of disputes should be gratuitous. If we turn to the more practical consideration, how and why the administration of justice is embodied in the establishment of a judicature, we shall here find, I think, an additional and more certain reason for the gratuitous intervention of the State. The first duty of a State is to provide for the maintenance of peace and order, and this object imperatively requires the suppression of everything in the nature of private warfare, violence or exaction. The penal laws for the preservation of order at once render every attempt at private redress impossible. It then becomes an act of mere justice on the part of the State to provide a substitute; and the establishment of courts of justice supplies a regular and efficient procedure for the settlement of disputed claims, in place of the irregular and desultory redress by private means. The laws of civil procedure do not alter substantially the characters of the disputants, or the nature of the State intervention; but

prescribes a regular and settled form, according to which only redress may be pursued and obtained. The final object of the institution of civil tribunals is the peace of society. The immediate object and most efficient means towards the final end is the exact distribution of justice to individuals. The civil judicature is a general benefit to all, both suitors and non-suitors, though the former only have occasion to use it. If individuals incidentally receive a special benefit, they on the other hand, especially feel the corresponding restriction of liberty; and in consideration of the benefit they tolerate the restriction. The design of the institution is to benefit all equally by the preservation of peace and order, and to this design all should equally contribute. So clear it seems that the suppression of violent redress and private warfare is the prominent and final end of the institution, and the substituted mode of decision merely the means employed to effect it, that in the infancy of jurisprudence we find the final end directly attained with very little regard to the means. Before the intervention of law private quarrels ripened into family feuds which rapidly involved whole provinces in warfare. The first step was to confine the contest to the real litigants; and in the age of judicial combats, courts went no further than to restrict the battle to the actual parties to the suit, and sat by only to secure fair play. Trial by ordeal applied to civil disputes, as a substitute for private feuds was at least highly conducive to peace, and beneficial to the public at large; but it would be hard to maintain that the suitors should be compelled to pay for the privilege of thus deciding their quarrel. In these cases the courts had not yet assumed the jurisdiction of themselves deciding according to settled law, which was ultimately found the most effectual means of suppressing the evil for which it was substituted.

It would seem, therefore, that the State, in assuming the exclusive dispensation of justice, for purposes entirely subservient to its own interests, should do so at its own cost; but that the suitor has no claim to be relieved of his own peculiar costs, being those occasioned by his appeal to the judicature, and the maintenance of his cause before it. A few important subsidiary arguments and explanations remain yet to be noticed.

The rule of law, as between the plaintiff and the defendant, throws all the costs on the loser. It is sometimes suggested that a like rule might be applied with respect to the costs of the court; that they might be fairly imposed on the loser by way of penalty for his false claim. It is imputed to the loser that he is in the wrong, and therefore should be made liable for the consequences. It appears to me that such a rule would be eminently unjust and unreasonable; nor do I think that the prevalence of this rule between the plaintiff and defendant can be accounted for by imputing moral blame on the loser. In causes turning on points of law, the rule operating between the parties would, it is true, be the necessary conclusion from the legal presumption that everyone knows the law. If this presumption were as true in fact as it is sound in theory, the party wrong in his law would also be wrong, in fact, in his conduct, and would justly be made to pay for all the consequences of his wrong. This presumption, however, if carried to its full extent would produce harsh consequences, and is not necessary for a satisfactory explanation of the rule where the law is really doubtful. Each party has at any rate equal means of ascertaining the law, and the same liberty of opinion in construing it, and by resorting to litigation he stakes his construction against that of his opponent; and there seems at least no injustice that as between themselves their expenses should abide the event and be thrown upon him whose construction is erroneous. Besides, it is a general principle pervading all civil transactions, that a party should be held responsible for his acts without any regard to his moral intentions. As between the State and each party, the case is very different. The same rule has no application at all. The doubt in the law is a real hardship upon the parties, and is the cause of their litigation. The State, which makes the law, is the creator of the doubt and the real cause of the litigation, and, therefore, should be held responsible for the costs of the decision. It cannot in justice call upon the parties who are embarrassed by the doubts in the law to pay the expenses of courts which it is found necessary to appoint to decide them: where the dispute is respecting a matter of fact there is not the same special reason why the Court should decide it gratuitously, but the general reasons urged above apply wherever the dispute arises upon a genuine and honest doubt. The jury may be considered as, *par excellence*, the constitutional English tribunal for trials of fact, and it is worthy of remark that the services of juries are always rendered gratuitously, except where the suitor is not satisfied with the average common sense

of the country, and requires a special jury drawn from a superior class. The jury in its origin appears to have exactly embodied the appeal to the neighbours for the settlement of disputes which may be considered as the method of natural procedure.

It may be urged, however, that litigation is sometimes conducted from motives not honest or justifiable, and that it is advisable to cast all the costs of the court upon the suitor, in order to repress frivolous and vexatious litigation. The only justifiable ends of litigation, which the institution of it is designed to satisfy, are those already referred to, namely, the settlements of doubts as to the law, and of differences on matters of fact. A third cause of litigation is often found, in fact, in the wilful assertion of unjust claims and repudiation of just ones; the former dictated by motives of annoyance or extortion, the latter for the purpose of annoyance or delay. But the legitimate ends of litigation only are strictly admissible to consideration in the present discussion. Where there is no real matter in difference either of law or of fact, the suit can have but one result, adverse to the party who promotes it without a cause. The motives of maintaining such a suit can have no further effect than to occasion unnecessary proceedings and costs. A groundless suit is an abuse of the process of the court. Courts were not established nor rules of procedure framed for such cases, and they throw no light upon their organisation, further than as shewing the necessity of stringent exceptional rules to meet them. There can be no question that the party knowingly in the wrong should be condemned in all expenses which he wilfully occasions. He can be entitled to no favour; his appearance as a suitor is a false pretence, and he may be justly made to pay all the costs both of his adversary and of the public. The proper mode of dealing with such a case, however, does not appear to have any bearing upon the question now before us, which arises only where the law suit is, so to speak, an honest one, the occasion of which is produced by a justifiable doubt, either as to matter of law or matter of fact. It is true that at the outset the real cause of the law suit is not discovered, and it is presumed that the parties are acting honestly, and that the suit is a matter of necessity; but if it should appear in the progress of the suit that it is maintained from sinister motives, every court has a sufficient jurisdiction to prevent the abuse of its process, and to stop the proceedings, throwing the costs upon the delinquent party. If these means are not sufficient, and if such abuses are of so frequent occurrence as to become a public inconvenience, they might be further met with suitable penalties. But a strong line of demarcation should be drawn between the civil and criminal bearing of such conduct, and the proceedings of civil courts should not be made subservient to the repression of a public wrong. All suitors should not be subjected to loss and inconvenience in order to punish the misconduct of a few.

In applying the results of the above observations some difficulty may be found in fixing the limits between the functions of the Court and those of the suitor. The common rules of procedure make no practical distinction of this kind. The whole course of litigation from first to last is brought under the jurisdiction of the Court, and the Court intervenes more or less at every step for the preservation of formal order and accuracy. The actual work of litigation is divided between the Court and the suitors, with the view of most conveniently arriving at the final termination, but with little regard to their characteristic functions. For instance, it seems strictly the province of the Court to analyse the opposite statements of the suitors, to balance one against the other, to refer contradictions to trial, and to apply the law, to reason deliberate and decide. Yet in our system of procedure the analysis of the dispute, and the elimination of the issues, is effected by pleadings; and the costs and conduct of the pleadings are thrown wholly upon the suitors, who are also called upon to supply the Court with reasoning and argument. The suitors, in these respects, are made to perform in some degree the functions of the Court. On the other hand, the Court does much for the suitors; it assists in summoning the defendant and the witnesses; it executes the judgment and puts the party entitled in possession of his property. In these offices the Court seems to act rather as the agent and on behalf of the suitor, and it may be reasonably doubted whether the public should be called upon to pay for the assistance given to the suitor in supporting his own case, or for the costs occasioned by the obstinacy of a suitor in evading process. The case may be put thus: the suitor applies to the Court for the assistance of the public force; it may be said that as he wants it for his private affairs he should pay for it; but the embarrassment and doubt felt by the Court in answering his application,

arising upon a consideration of the law and the facts, is peculiarly the difficulty of the Court, and the imperfections of the law or of the judges should be made good by the public. Where the law suit is an honest one the doubts of the judge are the chief difficulty and the chief expense; every good procedure gives facilities to suitors for presenting a case to the Court in an amicable manner with the fewest possible formalities and with little expense. Where the law suit is occasioned by the insolvency or unwillingness to pay of the defendant, it is employed merely as a process for the collection of debts, which though undisputed are often found to require a gentle pressure to enforce. In such cases the strictly judicial functions of the Court are seldom called into exercise, it being difficult if not impossible to extend litigation to a hearing, without a substantial ground of difference. There seems no reason why creditors should not be called upon to pay for the collection of their debts; but at the same time there seems no inherent anomaly in the country providing an establishment for that purpose. There are numerous associations for the protection of property and trade, to which the members contribute equally for the purpose of gratuitously providing legal assistance to those who suffer injury. The courts of justice may be regarded, in one point of view, as the instruments of an extended association for a similar object.

English jurisprudence in early times seems to have favoured the gratuitous administration of justice, but her later practice contradicts her early profession. The primitive conception of administering justice seems to have been unalloyed with mercenary motives. The emphatic declaration of *Magna Charta nulli vendemus iusticiam*, as delivered by the Crown on behalf of all courts of justice, seems to repudiate pecuniary advantage of all kinds, and to promise generally free access without fees. Sir E. Coke commenting on the Statute of Gloucester, which first gave costs to the plaintiff, says, that by this statute it may be collected that "justice was good cheap of ancient times, for in King Alfred's time all writs remedial were granted freely." The eagerness of the suitors themselves to propitiate justice with gifts may, perhaps, first have induced her to sell her favours; until at last she may have found herself compelled in self defence to exact fees impartially from both sides. It became a prerogative of the Crown as the fountain of justice to levy fees on law proceedings; and the profits of courts of justice were enumerated as a branch of the Royal Revenue. Manorial and inferior courts enjoyed a similar prerogative. The church lent its countenance to the system by exchanging things even holier than justice for fees. By degrees, fees were enacted by judges and officials on all possible occasions, and in many cases the form in which they were paid assumed the appearance, either by grant from the Crown or by prescription, of a perquisite to the individual receiver and was invested with the rights of private property, retaining no semblance of a tax paid to the State. In modern times a strong reaction has set in against this system, both in respect of the amount of fees and the mode of exaction.

With respect to the mode of exaction, fees in courts of justice are now universally recognised as rightfully levied only towards the general expenses of the court, and not for the private emolument of any individual official. With respect to the amount of fees charged, a sort of compromise seems to have been struck between the two contrary opinions that the courts should be paid for by the State and by the suitors. In all our courts both the State and the suitors contribute towards the payment of the expenses, though not according to any fixed general proportion. The scales of fees are from time to time revised and settled according to some sort of practical instinct determining what share should be cast upon one party and what upon the other. According to the plan of assessment adopted, the share of the expenses from the suitor is spread evenly over all the proceedings in which the courts or the offices intervene, so that the payments are made concurrently with the progress of the suit. No sort of fine is paid at the commencement or at the conclusion of the proceedings, but the fees are levied upon the particular step taken, and in return, as it were, for the particular services then rendered.

The contribution towards the costs of the court thus assessed upon the suitors is obviously irreconcilable in principle with the free administration of justice in the widest sense of the term. In the result, however, there may perhaps be a nearer approach to gratuitous justice than at first sight appears, the true state of things being in some degree disguised by the mode of assessment. As no exact distinction is made in our procedure between the separate functions of the court and of the suitor, so no such distinction appears in the assessment of fees, every step in

the cause which must be taken with legal formality being subject to a fee. Court fees are charged for judgments and decrees, and also for trials, and the proceedings connected therewith; and these seem beyond all doubt to be assignable exclusively to the strictly judicial functions of the court, and, if the principles suggested above be correct, should be free and gratuitous. On the other hand, the fees paid upon other proceedings simply executive, which might be charged to the suitor, are probably far less in amount than the expenses incurred and the services rendered, so that while some portions of the proceedings may be paid for by the suitor too highly, or are such that he ought not to pay for at all, other portions he receives at too low a rate; and it is possible that in this interchange of offices the suitor may be the gainer, and on the whole may not be so heavily taxed as he appears to be. This, however, it must be confessed, is at present a matter of mere conjecture.

It would be interesting to know precisely what proportion of the expenses of our courts of justice is paid by the suitors, and what proportion by the public. The total amount of fees exacted in each court may be found in Mr. Redgrave's "The Judicial Statistics." They are, in the common law courts, £58,902; in the courts of chancery, £97,984; and in the county courts, £215,623. But it is remarkable that in this collection of judicial statistics, in other respects apparently so complete, no return is made of the expenses of the various courts. It would be difficult for a private inquirer to estimate these expenses, in consequence of the complex manner in which separate portions of them are charged upon various funds. If complete returns of the costs of the courts were comprised in the returns of judicial statistics, we should be enabled to say what portion of the expenses was paid by the country, and might then draw a comparison between the positions of the several courts with respect to the gratuitous administration of justice, and ascertain whether the suitors in one court are more favoured than those in another. The returns of Mr. Redgrave show that in proportion to the total sums in litigation, the Court of Chancery is far the most favoured tribunal, and the suitors are the worst off in the county courts, as might be expected from the smallness of the sums there in dispute. There is much reason for supposing that the courts stand in the same relative position with respect to the proportions of the cost of administering justice contributed by the suitors in each, and if so, there would seem to be no comparative grounds for granting further relief to the suitors in chancery, or for casting additional burdens on suitors in the county courts; but, on the contrary, justice would seem to require that they should all be placed as nearly as possible on the same footing, and that fees should either be diminished in the county courts, or increased in the courts of chancery. Notwithstanding that the county courts may still be more highly taxed comparatively than the courts of common law, and the courts of chancery, they have nevertheless been a great boon to the country, because they have introduced a scale of taxation more commensurate with the small amounts of the debts, and when complaint is made of the large sum these courts cost the country in comparison with the total value of the debts and property dealt with, it should be remembered that the amount in dispute is a very imperfect test of the cost of litigation. The complaints respecting these courts that they supply too great facilities for recovering debts, sufficiently answer themselves. The disuse of professional assistance for the collection of debts is a proof of the simplicity and efficiency of the procedure. The increase of lawful trades and businesses such as those of hawkers and loan societies, which could not be carried on without the aid of these courts, must be beneficial to the public. Indeed, it is difficult to conceive what evil can arise from the utmost facility being extended to the recovery of debts.

In the discussion which ensued upon this subject, several speakers referred to the important distinction between contentious law suits, such as were contemplated in the paper read, and quasi law suits, instituted merely for administrative business connected with property and other rights, such as the chief business in the courts of bankruptcy, some branches of Chancery jurisdiction, the business in the Probate Court, and some speakers included the Matrimonial Court. The general feeling seemed to be that law proceedings of this character, like mere conveyances, were not only open, but suitable for taxation, even for general purposes of the revenue. In other respects the tone of the discussion was, generally speaking, in accordance with the views taken by the reader.

University Intelligence.

CAMBRIDGE, Dec. 10.

The following subjects of examination for honours in law have been issued for December, 1862.

Roman Law.—Cicero, Pro Quintio; Digest, Book 44; Gaius and Justinian's Commentary and Institutes; for translation. The paper of questions on the Roman Law will be taken principally from Linley's Jurisprudence, Part II., Chapters I., IV., V.

English Law.—(a) Blackstone, Vol. III., any recent edition that follows the original arrangement; (b) Chaudelov v. Lopes (2 Croke), together with the notes in 1 Smith's Leading Cases; Pasley v. Freeman (3, T. R.), together with the notes in 2 Smith's Leading Cases.

English History.—The reigns of James I. and Charles I., with special reference to the Statute Book and Hallam's *Constitutional History*; State Trial, Earl of Strafford (Howell's *State Trials*); see also Rushworth and Nelson.

International Law.—International Rights of States in their Hostile Relations, see Wheaton's *Elements*, to be compared with Phillimore's *International Law*; Treaty of Paris, 1856.

THE HABEAS CORPUS IN ITALY.—The following letter from Count Cavour is in reply to a communication addressed to him by Mr. Edwin James, M.P., on the subject of the introduction of a law analogous to our "Habeas Corpus," and of a measure for the institution of a tribunal for immediate public investigation into all charges of a penal nature similar to that in use by our police magistracy:—"Ministry of Foreign Affairs, Turin, Nov. 29.—Dear Sir—I hasten to thank you for the letter in which you have suggested to me the introduction of the law of 'Habeas Corpus' into the system of Italian legislation. I am fully aware of the importance of that guarantee of individual liberty, and I beg to assure you that we have already made great advances in that direction. According to the present state of our law, every prisoner must within 24 hours be examined by some judicial authority, who, in pursuance of by no means arbitrary rules, either orders the immediate discharge of the accused, with or without bail, or continues his arrest, at the same time taking steps for placing him at once on his trial. Every illegal arrest, duly proved, subjects the functionary who shall have caused it to inquiry and punishment. At the same time, I quite acknowledge that the direct judicial action given by the law of 'Habeas Corpus' to persons illegally arrested assures more completely the liberty of the individual. I will at once bring the subject under the notice of my colleague, the Keeper of the Seals, within whose special province are all questions of penal legislation; and I have no doubt that he will propose to the Parliament to approximate as nearly as possible to the law of England in this matter. My colleague, Minghetti, is preparing a law which will confer most complete self-government on all the provinces and communes. In this matter, also, it is our endeavour to accomplish by other means the same results which England, the classical mother of all liberty, has already achieved. Allow me to renew to you, with thanks for the interest you take in the cause of Italy, the assurance of my most distinguished consideration.—C. CAVOUR. To Edwin James, Esq., M.P., &c."

THE CRYSTAL PALACE.—This popular place of resort is likely to be the scene of great gaiety this Christmas. The movement for making Monday a general holiday has met with so much success that the company has determined to commence the usual Christmas festivities on that day instead of on Boxing-day, as hitherto. The centre transept and naves of the Palace have been beautifully decorated, and a variety of amusements will be provided for the visitors. Additional facilities for railway communication are now offered by the opening of the Victoria Station, as well as the line to Canterbury, which passes through the Crystal Palace Station. The Palace will be open as usual on Christmas day itself from nine till dusk.

Marriages and Deaths.

MARRIAGES.

BIDD—BEDWELL.—On Dec. 18, Thomas Hayward, son of Thomas William Bidd, of No. 13, Norfolk crescent, Hyde park, Esq., to Clarissa, daughter of the late Francis Robert Bedwell, Esq., one of the Registrars of the Court of Chancery.

DARLEY—BROWN.—On Dec. 13, Frederick M. Darley, Esq., Barrister-at-Law, Wingfield, county Wicklow, to Lucy Forrest, daughter of Syvester John Brown, Esq., of Melbourne, Australia.

HARWOOD—PELLEREAN—On Oct. 12, Emily, daughter of the late John Harwood, Esq., Fenchurch-street, to Etienne Pelleran, Esq., of Mauritius, Barrister-at-Law.

PATTERSON—WALLACE—On Dec. 13, James Henry Patterson, Esq., Barrister-at-Law, of the Middle Temple, son of the Right Hon. Sir J. Patterson, of Feniton Court, to Annie, daughter of the late Rev. T. H. Wallace, vicar of Hickleigh, Devon.

SINNEY—BOULTON—On Dec. 18, Thomas Sinney, Esq., of Serjeant's-inn, Fleet-street, to Mary Ann, daughter of Thomas Boulton, Esq., of Addison-road, Kensington.

TURNER—HEATH—On Dec. 18, Thomas Turner, Esq., of Mardlin Bury Manor, Thetford, Herts, to Francis Emma, daughter of Edward Heath, Esq., Solicitor, Manchester.

DEATHS.

BAILEY—On Dec. 17, at 13, Lincoln's-inn-fields, George Bailey, Esq., Curator of the Soane Museum, in his 69th year.

BLUCK—On Dec. 11, at Tranmere, aged 16, Matilda, daughter of Edward Bluck, Esq., Solicitor.

BROMLEY—On Dec. 16, aged 68, Joseph Warner Bromley, Esq., of Gray's-inn, one of Her Majesty's Justices of the Peace for Suffolk.

SCOTT—On Dec. 14, aged 17 months, Ada, daughter of John Scott, Esq., Solicitor, King William-street, City.

SPIRES—On Dec. 8, in the 69th year of his age, Mr. William Spires, for upwards of forty-eight years a faithful and confidential clerk in the office of J. Arnold, Esq., Solicitor, of Birmingham.

URE—On Dec. 12, James Canning, eldest son of James Ure, Esq., Solicitor, Birmingham.

Unclaimed Stock in the Band of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BOYER, JOHN WILLIAM ROBERT, Perpetual Curate of Quorndon, Leicestershire, and **MATTHEW BAXINGTON**, Banker, Leicester, £300 Consols.—Claimed by **REV. JOHN BOYER** and **JOSEPH BOYER**, executors of Rev. John William Robert Boyer, who was the survivor, who have claimed the same.

BRADSPER, ANNETTE, Spinster, Streatham, £105 4s. 9d., New Three per cents.—Claimed by the said **ANNETTE BRADSPER**.

FARDELL, ELIZA, wife of Rev. Henry Fardeall, of the Vicarage, Wisbeach, £100 15s. 1d. New Three per Cents.—Claimed by **ELIZA FARDELL**, Widow.

LIVETT, JAMES GRIEVE, Gent., Highbury-place, **RICHARD SMITH**, Gent., Goodman's-fields, **JONATHAN FOX**, Merchant, Cheap-side, and **DAVID HENNELL**, Silversmith, Foster-lane, £4,000 Imperial Three per Cents.—Claimed by **FREDERICK HALSETT JAMSON**, one of the executors of Robert Riddell Bayley, who was the general executor of the said Richard Smith, who was the survivor.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	233	Stock Ditto A. Stock	105
3 per Cent. Red. Ann.	92½	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann.	92½	Stock Great Western	74½
New 3 per Cent. Ann.	92½	Stock Lancash. & Yorkshire ..	120½
New 2½ per Cent. Ann.	92½	Stock London and Blackwall.	64
Consols for account	92½	Stock Lon. Brighton & S. Coast ..	118
India Debentures, 1858.	100	25 Lon. Chatham & Dover ..	53
Ditto 1859.	100	Stock London and N.-Westm.	102½
India Stock	100	Stock London & S.-Westm.	95½
India 5 per Cent. 1859.	100	Stock Man. Sheff. & Lincoln.	54
India Bonds (£1000) ..	100 dis	Stock Midland	135½
Do. (under £1000)	100	Stock Ditto Birm. & Derby ..	110
Exch. Bills (£1000)	100	Stock Norfolk	57
Ditto (£500)	2 dis	Stock North British	65
Ditto (Small) ..	2 dis	Stock North-Eastn. (Brweck.) ..	105
RAILWAY STOCK.		Stock Ditto Leeds	65
Stock Brk. Lan. & Ch. Junc.	43	Stock Ditto York	95½
Stock Bristol and Exeter	101	Stock North London	103
Stock Cornwall	6½	Stock Oxford, Worcester, & Wolverhampton ..	..
Stock East Anglian	17½	Stock Shropshire Union	52
Stock Eastern Counties	54	Stock South Devon	44
Stock Eastern Union A. Stock ..	34	Stock South-Eastern	47½
Stock Ditto B. Stock	29	Stock South Wales	62½
Stock Great Northern	110½	Stock S. Yorkshire & R. Dun ..	80
		25 Stockton & Darlington ..	43½
		Stock Vale of Neath	69

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, Dec. 21, 1860.

FITZGER, MATTHEW ALEXANDER, and **GEORGE WARREN**, Attorneys & Solicitors, Birmingham; by mutual consent. Dec. 19.

Windings-up of Joint Stock Companies.

TUESDAY, Dec. 18, 1860.

MITRE GENERAL LIFE ASSURANCE, ANNUITY, AND FAMILY ENDOWMENT ASSOCIATION.—The Master of the Rolls, on Dec. 12, appointed Robert Palmer Harding, of 3, Bank-buildings, London, and 5, Serle-street, Lincoln's-inn, Middlesex, Accountant, to be official manager of this company.

LIMITED IN BANKRUPTCY.

HADFIELD'S PATENT CASE AND PACKAGE COMPANY (LIMITED).—Mr. Com. Perry has appointed Monday, Jan. 7, at 12, at Liverpool, to settle the list of contributories of the said company.

FRIDAY, Dec. 21, 1860.

MERCANTILE GUARANTEE AND ASSURANCE COMPANY.—V. C. Wood will proceed, on Jan. 9, at 1, to settle the list of contributories of this Company.

NANTLE VALE SLATE COMPANY.—The Master of the Rolls purposes, on Jan. 15, at 12, to make a call on all the contributories of this Company for 1s. 6d. per share.

LIMITED IN BANKRUPTCY.

CORPORATION RESTAURANT COMPANY (LIMITED).—Commissioner Evans, will sit on Jan. 24, at 12.30, at Basinghall-street, to make a dividend of the estate of the said company.

Creditors under 22 & 25 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Dec. 18, 1860.

BARRY, Sir CHARLES, Knt., Old Palace-yard, Westminster, and the Elms, Clapham, Surrey. (Solicitor not named.) Feb. 11.

BOWMAN, MARGARET, Licensed Victualler, formerly of 3, Mayfield Bootle, and late of 78, St. Anne-street, Liverpool. Wright & Hunter, 6, Brunswick-street, Liverpool.

BOWMAN, WILLIAM, Licensed Victualler, formerly of 3, Mayfield Bootle, and late of 78, St. Anne-street, Liverpool. Wright & Hunter, 6, Brunswick-street, Liverpool. Feb. 14.

BRADSHORNE, JOHN, Maltster, Muxton, Lilleshall, Salop. R. Pearce, Wholesale Brewer, Market Drayton, Salop, and S. Winnall, Farmer, Muxton-bridge, Lilleshall, Executors. March 25.

CLAYTON, WILLIAM RAY, Clerk, Norwich. Goodwin, Solicitor, Norwich. Feb. 1.

DERING, Rev. OSWOLD, Clerk, Rectory, Edworth, Bedfordshire, but lately staying at 6, Upper Seymour-street, Portman-square, Middlesex. Parkin & Paglen, Solicitors, 5, New-square, Lincoln's-inn. Jan. 31.

GLAENTZER, GEORGE, Hatter, 55, Piccadilly, Middlesex. Lucas, Solicitor, 23, Lincoln's-inn-fields, London. Feb. 1.

GOLDEN, SAMUEL, Farmer, Benwick, Isle of Ely. Orton, Solicitor, March, Cambridgeshire. Jan. 16.

HULATT, ROBERT, Maltster & Brewer, Bedford, Bedfordshire. Turnley & Sharnham, Solicitors, Bedford. Jan. 31.

JEFFERY, ANN, Widow, Canterbury-road, Folkestone. G. Fielding, Solicitor, 3, Stroud-street, Dover. Jan. 6.

MASSER, SARAH, Spinster, Selby, Yorkshire. J. L. Haigh, Solicitor, Wide-street, Selby. Dec. 1.

RODDE, PIERRE, otherwise **JULES FELIX RODDE**, Gent., Bedford. Turnley & Sharnham, Solicitors, Bedford. Jan. 31.

SALMON, CHRISTOPHER, Gent., West Hartlepool, Durham. Crosby, Solicitor, Stockton. Feb. 1.

FRIDAY, Dec. 21, 1860.

BROWN, EDWARD, Uxbridge, Middlesex. Shackel v. Brown, M.R. Jan. 18.

CHAPMAN, EVE, Widow, Bimbrooke, Lincolnshire. Clark v. Clark, V. C. Stuart. Jan. 21.

CHARLTON, WILLIAM, Gent., Drassington, Derbyshire. Fox v. Charlton, V. C. Kinderley. Jan. 19.

COOMER, LUDIA, Spinster, Rochester, Kent. Gonlee v. Bowmer, V. C. Stuart. Jan. 10.

COCHE, EDWARD, Deputy-Commissionary-General, Badleigh, Devonshire. Morgan v. Bignell, V. C. Wood. Jan. 14.

DAY, Rev. JEREMY, Clerk, Hethersett, Norfolk. Day v. French, V. C. Stuart. Jan. 16.

FRAWIN, JAMES, Gent., 24, Dorchester-place, Marylebone, Middlesex. Frawin v. Higgs, V. C. Wood. Jan. 7.

GADBURY, THOMAS, Gent., 16, Austin-street, Bethnal-green, Middlesex. Kennett v. Gadbury, V. C. Kinderley. Jan. 21.

ONE, WILLIAM SOMERVILLE, Publisher, Amen-corner, Paternoster-row, London. Pritchard v. Tupling, Tupling v. Hodgson, M.R. Jan. 11.

SMITH, JOHN, Innkeeper, Black Horse Inn, St. Clement, Oxfordshire. Smith v. Springthorpe, V. C. Kinderley. Jan. 31.

SOAME, Sir PETER SOAME JOHN EVERARD BUCKWORTH HERRICK, Bart., Heydon, Essex. Soame v. Procter, M.R. Jan. 14.

TAUSS, ALEXANDER, Gent., William-terrace, Commercial-road, Old Kent-road, Surrey. Bouquet v. Gould, V. C. Stuart. Jan. 21.

(County Palatine of Lancaster.)

FRIDAY, Dec. 21, 1860.

M'CURDY, ELLEN, Widow, Edge-hill, Liverpool. Angus v. Jones, Registrar of Court, 1, North John-street, Liverpool. Jan. 16.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Dec. 18, 1860.

BAKER, DAVID, Leather Cutter, Kidderminster. Dow v. Baker, V.C.K. Jan. 22.

GERBISH, SAMUEL, Yeoman, Bitton, Gloucestershire. Gerrish v. Gerrish, V.C.K. Jan. 18.

QUEST, ROBERT MEKIS, Gent., Edgbaston-place, Birmingham. Guest v. Richards, V.C.W. Jan. 12.

HANDLEY, RALPH, Coal Master, Fenton, Stoke-upon-Trent, Staffordshire. Dean v. Handley, V.C.W. Jan. 11.

KING, FREDERICK BENJAMIN, Gent., Charter House, Charter House-square, Middlesex. King v. Brown, V.C.W. Jan. 7.

PIELES, JOSHUA, Stone Mason, Merrepoint-row, Islington. Mark v. Kent, M.R. Jan. 11.

REED, JAMES, Master Mariner, late of the merchant ship Hawatha. Rowell v. Rowell, M.R. Jan. 14.

RIMMER, WILLIAM, Gent., Garston, Lancashire. Rimmer v. Rimmer, M.R. Jan. 11.

SMITH, JOHN, Esq., Tanfield Lodge, Horsham, Sussex. Hartley v. Smith, V.C.S. Jan. 16.

TILBURY, JOHN, Job Master, Hatch End, Pinner, and 48, Mount-street, Grosvenor-square, Middlesex. Tilbury v. Tilbury, V.C.S. Feb. 1.

TURNER, SAMUEL, Master Bricklayer, Lavenham, Suffolk. Turner v. Turner, V.C.K. Jan. 30.

FRIDAY, Dec. 21, 1860.

ADDIS, TIMOTHY, 12, York-place, Stepney, Middlesex. Ewens, Solicitor, 61, Moregate-street, E.C., London. Feb. 17.
BRIGSHAW, WILLIAM DAVIS, formerly Farmer, Amerden-farm, Taplow, Bucks, and late Gent., Huntercombe-cottage, Burnham, Bucks. Brown, Solicitor, Park-road, Maidenhead. March 1.
BROWN, JAMES, Innkeeper & Fishmonger, Newbiggin-by-the-Sea, Northumberland. W. & B. Woodman, Solicitors, Morpeth. Feb. 6.
BOSTOCK, DOROTHY, Widow, formerly of Stoke-upon-Trent, but late of Uttoxeter, Staffordshire. Hand, Solicitor, Uttoxeter. March 1.
BOSTOCK, LEWIS, Gent., Stoke-upon-Trent, Staffordshire. Hand, Solicitor, Uttoxeter. March 1.
DAVIS, JOHN, Merchant, Houndsditch, London, and of Hyde-house, Thorne-road, Clapham-park. Simpson, Samuel, & Emanuel, Solicitors, 31, New Broad-street, London. Jan. 18.
HART, MAURICE, Esq., 77, Gloucester-place, Hyde-park, Middlesex. Lindo, Solicitor, 17, King Arms-yard, Moorgate-street. Jan. 20.
LYGON, General, the Honourable EDWARD LYNDA, Spring-hill, Worcester-shire, and 12, Upper Brook-street, Grosvenor-square, Middlesex. T. F. and H. Walford, Solicitors, 27, Bolton-street, Piccadilly. March 1.
MASON, SAMUEL, Saddler, Weaverham, Cheshire. Dunstan, Solicitor, Northwich. Feb. 1.
PAMPLIN, MARY, Toll Collector, Godmanchester, Huntingdonshire. Hunnybun, Solicitor, Huntingdon. Feb. 1.
YOUNG, ROBERT, Farmer, Knockholt, Kent. Withall, Solicitor, 7, Parliament-street, Westminster. Feb. 6.

Assignments for Benefit of Creditors.

TUESDAY, Dec. 18, 1860.

ASHWIN, EDWARD, Leather Factor, Birmingham. Dec. 4. *Sols.* Badham & Brookes, High-street, Tewkesbury.
BUCKLEY, JAMES, Spinner & Waste Dealer, Oldham. Dec. 3. *Sol.* Ponsonby, Oldham.
DAVIS, JAMES, Builder, 35, Upper Baker-street, Regent's-park, Middlesex. Nov. 23. *Sol.* Hackwood, Walbrook.
GRIFFIN, JOHN HENRY, Music Seller, Kingston-upon-Hull. Nov. 21. *Sol.* Moron, Lincoln's-inn fields.
HAMILTON, ROBERT PROUD, Farmer, North Otterington, York-shire. Dec. 12. *Sol.* Hider, Thirsk.
LAMPER, THOMAS, Linen Draper, Alfred House, Newington-causeway, Surrey. Nov. 26. *Sol.* Baylis, Church-court-chambers, Old Jewry.
LYTHGOE, JOHN, Licensed Victualler, Warrington. Dec. 3. *Sol.* Stanley, Bank-street, Warrington.
MARSDEN, BENNY, Grocer, Trinity-street, Leeds. Nov. 29. *Sol.* Markland, Leeds.
MESSENT, CHARLES RAFFLE, Linen Draper, Croydon, Surrey. Nov. 20. *Sol.* Linklater, 7, Walbrook, London.
MORGAN, THOMAS, Grocer, Draper, & Ironmonger, Aberdare, Glamorgan-shire, and Treacastle, Breconshire. Dec. 3. *Sol.* Smith.
SCHUMMANN, SIGISMUND, Cotton Manufacturer, Burnley, and Manchester, and Bradford. Nov. 30. *Sols.* Langford and Marsden, 59, Friday-street, Cheapside; Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester.
SMITH, JAMES, Draper, Blaenavon, Monmouthshire. Nov. 27. *Sol.* Girling, 3, Small-street, Bristol.
WARDEN, THOMAS, Builder, Sheffield. Dec. 13. *Sol.* Marsh, Sheffield.
YOUNG, GEORGE, Baker & Shopkeeper, Bruton, Somersetshire. Nov. 27. *Sol.* Dyne, Bruton.

FRIDAY, Dec. 21, 1860.

BALLARD, HENRY, Watchmaker & Jeweller, Cranbrook, Kent. Dec. 12. *Sol.* Williams, Cranbrook.
BRACE, MATTHIAS, Yeoman, Lydeard Farm, Broomfield, Somersetshire. Dec. 6. *Sol.* Pain, Bridgwater.
BURGESS, ALFRED, Farmer, Wortham, Suffolk. Nov. 28. *Sol.* Hazard, Redenhall, Harleston, Norfolk.
BUXTON, JOHN, Saw Manufacturer, Sheffield. Dec. 14. *Sol.* Unwin, 42, Queen-street, Sheffield.
DONNISON, JAMES, Underwriter, Lloyd's Coffee-house, London. Nov. 23. *Sols.* Cotterill & Sons, 32, Throgmorton-street.
DOWNES, WILLIAM, Baker & Grocer, Guildford, Surrey. Nov. 27. *Sol.* Lovett, Guildford.
HOLMAKER, HENRY, Sugar Refiner, 13, Finch-street, Whitechapel, Middlesex. Nov. 26. *Sols.* Wright & Bonner, 15, London-street, Fenchurch-street.
MCCLUNE, PETER, Shopkeeper, Wistanstow, Salop. Dec. 14. *Sols.* Kough & Son, Shrewsbury.
MOORE, JOHN SAMUEL, Cabinet Maker, 25, Curtain-road, Shoreditch, and 29, Bridport-place, Hoxton, Middlesex. Dec. 15. *Sols.* Hoppe & Boyle, 3, Sun court, Cornhill.
NOWLAN, STEPHEN, Cooper, Pump-street, Oldham-road, Manchester. Dec. 10. *Sol.* Andrew, Manchester.

Bankrupts.

TUESDAY, Dec. 18, 1860.

CORSBEN, THOMAS BAGLEY, Underwriter, Lloyd's Coffee-house, and 3, St. Michael's-alley, London. Com. Holroyd: Jan. 1, at 12; Feb. 5, at 1; Basinghall-street. *Off. Ass. Lec. Sols.* Linklater & Hackwood, 7, Walbrook, London. *Pet.* Dec. 17.
GEORGE, JOHN, Licensed Victualler, 101, Pemberton-row, London. Com. Holroyd: Jan. 1, at 2.30; and Feb. 5, at 2; Basinghall-street. *Off. Ass. Edwards. Sol.* Smith, 13, Tokenhouse-yard, London. *Pet.* Dec. 15.
HARRIS, THOMAS, Cabinet Maker, Cardiff, Glamorgan-shire. Com. Hill: Jan. 1, and Feb. 5, at 11; Bristol. *Off. Ass. Miller. Sols.* Bevan, Girling, & Press, Bristol. *Pet.* Dec. 6.
LEGS, PHILIP, Artificial Manure Manufacturer, Moretown Ringwood, Hants. Com. Fonblanque: Jan. 2, at 1.30; and 29, at 12.30; Basinghall-street. *Off. Ass. Stansfeld. Sols.* Morris, Stone, & Co., Moorgate-street-chambers, London. *Pet.* Dec. 15.
ROBSON, GEORGE, Saddler, Handsworth, Staffordshire. Com. Sanders: Jan. 7, and 28, at 11; Birmingham. *Off. Ass. Whitmore. Sols.* Hodgson & Allen, Birmingham, or Caldwell & Canning, Dudley. *Pet.* Dec. 14.
SELLARS, JOHN, Manufacturing Chemist, Newton-heath, Manchester (John Sellars & Co.). Jan. 3 and 22, at 12; Manchester. *Off. Ass. Pott. Sols.* Kerahaw & Bullock, Manchester. *Pet.* Dec. 11.

STARK, CHARLES, & WILLIAM STARK, Corn and Cheese Factors, Mark, Somersetshire. Com. Hill: Dec. 21, and Jan. 29, at 11; Bristol. *Off. Ass. Acraman. Sols.* Clark, Fussell, & Pritchard, Bristol. *Pet.* Dec. 8.
WILLIAMS, EDWARD, Builder & Joiner, Wrexham, Denbighshire. Com. Perry: Dec. 31, and Jan. 18, at 11; Liverpool. *Off. Ass. Bird. Sols.* Jones, Wrexham, or Evans, Son, & Sandys, Liverpool. *Pet.* Dec. 12.
WILLIAMS, WILLIAM NEWLAND, Chemist & Hop Planter, Farnham, Surrey. Com. Holroyd: Jan. 1, at 2; and Feb. 5, at 12; Basinghall-street. *Off. Ass. Lee. Sols.* Dydes & Harvey, 61, Lincoln's-inn-fields. *Pet.* Dec. 17.
YOUNG, FREDERICK, Wooden Warehouseman, 29, Basinghall-street, London. Com. Fonblanque: Jan. 2, at 12.30, and 29, at 12; Basinghall-street. *Off. Ass. Graham. Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pet.* Dec. 13.

FRIDAY, Dec. 21, 1860.

BROOKS, JAMES, & SAMUEL PITTS, jun., Wholesale Ironmongers, 28, Upper Thames-street, London. Com. Goulburn: Dec. 31, at 11; and Feb. 4, at 12; Basinghall-street, London. *Off. Ass. Pennell. Sol.* Yonge, 151, Strand, London. *Pet.* Dec. 10.
DODD, GEORGE, Shoe Dealer, Tunstall, Staffordshire. Com. Sanders: Jan. 10, and Feb. 2, at 11; Birmingham. *Off. Ass. Whitmore. Sols.* Smith, Birmingham, or Harding, Burslem. *Pet.* Dec. 19.
FOULKES, HENRY, Cab and Omnibus Proprietor, & Hackneyman, 23, John-street, Union-street, Kennington-road, Surrey. Com. Goulburn: Dec. 31, at 2.30; and Feb. 4, at 12.30; Basinghall-street. *Off. Ass. Pennell. Sol.* Grant, 37, Nicholas-lane, London. *Pet.* Dec. 18.
GRAY, JOHN, & JOHN ROBERT HENSON, Upholsterers, Undertakers, & Builders, Epson, Surrey (Gray & Henson). Com. Holroyd: Jan. 1, at 3; and Feb. 5, at 2; Basinghall-street. *Off. Ass. Lee. Sol.* Michael, 7, Old Jewry, London. *Pet.* Nov. 5.
GRIMMETT, GEORGE, Corn Dealer & Commission Agent, Birmingham. Com. Sanders: Jan. 14, and Feb. 11, at 11; Birmingham. *Off. Ass. Whitmore. Sol.* Smith, Birmingham. *Pet.* Dec. 20.
HINDLE, THOMAS, Builder & Timber Dealer, Everton, Lancashire. Com. Perry: Dec. 31, and Jan. 33, at 11; Liverpool. *Off. Ass. Cazenove. Sol.* Yates, jun., 22, Fenwick-street, Liverpool. *Pet.* Nov. 16.
HODGSON, JAMES LEVLAND, Money Scrivener, Manchester. Com. Jemmett: Jan. 3 & 30, at 12; Manchester. *Off. Ass. Herniman. Sols.* Thomas & Wharton, Dickinson-street, Manchester. *Pet.* Dec. 19.
RIDER, WILLIAM, Provision Dealer & Grocer, Tunstall, Staffordshire. Com. Sanders: Jan. 10, and Feb. 2, at 11; Birmingham. *Off. Ass. Kinnear. Sols.* Smith, Birmingham, or Harding, Burslem. *Pet.* Dec. 18.
SAMPSON, WILLIAM, Innkeeper & Maltster, Saint Thomas the Apostle, Highampton, Devonshire. Com. Andrews: Jan. 3, and 30, at 12; Exeter. *Off. Ass. Hirtzel. Sol.* Terrell, Exeter. *Pet.* Dec. 13.
SCHENCK, JOHN JACOB, Merchant, 179, Gresham House, Old Broad-street, London (John J. Schenck & Co.). Com. Holroyd: Jan. 8, and Feb. 12, at 12; Basinghall-street. *Off. Ass. Lee. Sols.* Jennings, Naylor, & Robins, 9, Tokenhouse-yard, London. *Pet.* Dec. 11.
STRACHAN, JOHN, Common Brewer, Newcastle-upon-Tyne. Com. Ellison: Jan. 8, at 11.30; and Feb. 12, at 12; Newcastle-upon-Tyne. *Off. Ass. Baker. Sols.* Scaife, Royal-arcade, Newcastle-upon-Tyne; or Bolding & Simpson, 17, Gracechurch street, London.
WILKINS, FREDERICK, Egg Merchant, 4, Gloster-terrace, New-road, Whitechapel-road, Middlesex. Com. Holroyd: Jan. 8, at 2.30; and Feb. 12, at 2; Basinghall-street. *Off. Ass. Edwards. Sol.* Simpson, 13, Wellington-street, London-bridge, London. *Pet.* Dec. 12.
WILKINSON, GEORGE, Joiner & Builder, Macclesfield. Com. Jemmett: Jan. 3 and 23, at 12; Manchester. *Off. Ass. Fraser. Sols.* Parrott, Colville, & May, Macclesfield. *Pet.* Dec. 19.
WINTER, JAMES, Surgeon & Apothecary, Rosslyn-terrace, Hampstead, Com. Evans: Jan. 3, at 1; and 31, at 12; Basinghall-street. *Off. Ass. Johnson. Sol.* Stoper, 36, Coleman-street, City. *Pet.* Dec. 20.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Dec. 18, 1860.

DICKINS, WILLIAM, Shoe Manufacturer, Daventry, Northamptonshire. Jan. 9, at 11; Basinghall-street.—**DOYLE, PETER**, Sail Maker, 74, Wapping-wall, Middlesex. Jan. 10, at 11; Basinghall-street.—**EDMONDS, WILLIAM HENRY**, Horse Dealer, Miller, and Baker, Wroughton, Wilts. Jan. 10, at 11; Bristol.—**HANCOCK, THOMAS**, Timber Merchant, Hereford. Jan. 16, at 11; Birmingham.—**HEAD, SAMUEL**, Upholsterer and Furniture Dealer, Woodbridge, Suffolk. Jan. 12, at 1; Basinghall-street.—**HOPKINS, ALFRED EDWARD**, Law Stationer, 20, Gresham-street, London, and Shrewsbury. Jan. 10, at 12.30; Basinghall-street.—**JONES, JOHN WILSON**, Commission Merchant, Liverpool. Dec. 31, at 11; Liverpool.—**PEREIRA, SILVANO FRANCISCO LEIS**, and **JOHN GRANT**, Wine Merchants, 91, Great Tower-street, London (Pereira and Grant). Jan. 10, at 1; Basinghall-street.—**PITT, WILLIAM**, Hosier, 11, Bishopsgate-street, Without, London. Jan. 10, at 2; Basinghall-street.—**RUSSELL, JOHN THOMAS**, Linen Draper, Northampton. Jan. 8, at 1; Basinghall-street.—**STARKEY, JAMES**, Builder, 75, Horseferry-road, Westminster, Middlesex. Jan. 15, at 1; Basinghall-street.—**WAWLEY, PHILIP, THOMAS HAMMERLEY, and FREDERICK HAMMERLEY**, Silk Manufacturers, Leek, Staffordshire (Wawley, Hammerley & Co.). Feb. 1, at 11; Birmingham.—**WATTS, WILLIAM**, Builder, Southam, Warwickshire. Jan. 16, at 11; Birmingham.—**WHITE, ROBERT DENNIS**, and **JOHN GREGORY**, East India Army Agents and Bankers, 11, Haymarket, Middlesex. Jan. 1, at 2; Basinghall-street.—**WILLIAMS, JOHN**, Chemist, Druggist, Printer, Bookseller, and Stationer, Horsley Heath, Tipton, Staffordshire. Jan. 24, at 11; Birmingham.—**YOUNG, WILLIAM OCTYOW**, Ship and Insurance Broker, Underwriter, and Merchant, 4, Sun-court, Cornhill, London, also 54, Cross-street, Manchester, and of 19, Dale-street, Liverpool. Jan. 15, at 1; Basinghall-street.

FRIDAY, Dec. 21, 1860.

ATACK, SAMUEL, Builder, Leeds. Jan. 11, at 11; Leeds.—**FULFORD, JOSEPH**, Brewer, Manchester. Jan. 22, at 12; Manchester.—**GUTHRIE, MAXIMILIAN**, Merchant, 39, Noble-street, London (M. Guthrie & Co.). Jan. 11, at 1; Basinghall-street.—**TURNBULL, EDWARD**, Shipowner, West Hartlepool. Jan. 11, at 12; Newcastle-upon-Tyne.—**WARD, ROBERT CLARKE**, Linen Draper, Queen's-terrace, Marlborough-road, Chelsea, Middlesex. Jan. 11, at 12.30; Basinghall-street.—**WRIGHT, WILLIAM**, Cattle Dealer, Fulshaw, Chester. Jan. 24, at 12; Manchester.

We cannot notice any communication unless accompanied by the name and address of the writer

*Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, DECEMBER 29, 1860.

CURRENT TOPICS.

The Lord Chancellor's dissertation upon long judgments, and upon the importance of having them written in complicated cases, has given rise to a discussion in the morning journals of a more animated character than is generally produced by extra-judicial observations in the Court of Chancery. It is not often, however, that a Lord Chancellor takes to task one of his judicial subordinates for the manner and style in which he delivers his decisions—decisions, moreover, which are in themselves the subject of general admiration. The *Times*, in a leading article upon the subject, while admitting the distinguished judicial ability of Vice-Chancellor Wood, agrees in the main with what Lord Campbell has said, and finds no fault with the occasion or the manner in which the lecture was delivered. The *Daily News*, on the other hand, is of opinion that not only should every judge be permitted, without observation, to deliver his decisions in a manner most consistent with his own habits of mind, and, therefore, most likely to be conducive to a good result; but that the Lord Chancellor—having no right by virtue of his office, and being hardly qualified by reason of his comparative inexperience in the business of the Court of Chancery—ought not to make a public statement which must necessarily be hurtful to the distinguished judge against whom it is directed. It has also been remarked that extra-judicial observations of such a character, by one member of the court upon another, are likely to lead to unseemly personal dissensions in open court, and, therefore, that they tend to interfere with that judicial calm which is essential to the even course of justice. We have not thought it right or becoming in us to offer any opinion whatever upon either the right or the good taste of the Lord Chancellor, in publicly making the observations which have been the subject of so much comment. We believe, however, that the general feeling of both branches of the profession is opposed to an over elaboration of judgments, and is in favour of having them committed to writing by the judge, in important cases—where it is desirable that the decision should be expressed with that caution and preciseness of language which is sometimes necessary in discussing questions of law, and which is scarcely ever attainable by extempore speakers.

Mr. Henry Thring has been appointed to succeed Mr. Coulson as parliamentary draftsman to the Home Office—at least, such is the form of the announcement which has appeared in an official journal. There is no intimation whether this appointment is to be considered as indicating an adherence on the part of the Government to the hap-hazard, unsystematic, but most expensive, procedure which it has adopted for many years past. It is well known that although Mr. Coulson nominally had the duty of preparing the Bills not only of the Home Office but of those of most of the other departments of Government, the greater part of the work was in fact done by other draftsmen specially employed for the purpose. Thus to Mr. Thring himself we are indebted for the numerous joint stock companies Acts and Bills for the last five years; and if it were necessary to go through a list of other important measures proposed to Parliament during

the same time, by members of the Government, with the preparation of which Mr. Coulson had notoriously nothing to do, we might enumerate the great majority of Bills of any importance before Parliament during that period. We shall content ourselves by reference—merely for the sake of illustration—to Lord Chelmsford's Debtor and Creditor Bill, the numerous Bills relating to land transfer, introduced by Lord Brougham, Sir Richard Bethell, and Sir Hugh Cairns, and the Bankruptcy and Insolvency Bill of last session. If, therefore, the old system, or rather want of system, is to be adhered to, the probability is, that Mr. Thring will have less to do in the preparation of Bills for the Government, now that he is the official draftsman than he had when he was employed as occasion required. We have long urged upon the Government the necessity for greater attention to the machinery of legislation, and the vast importance of adopting a good system in the preparation of Bills. We are convinced that indirectly the consequent gain to the country would be very large, while the direct saving would not be inconsiderable. It seems to be generally felt on all hands, that something must be done for the improvement of legislation by private Bills, and various proposals have been made upon this subject, with which our readers are familiar. We now allude to the appointment of Mr. Thring merely for the purpose of expressing our hope that the Government do not intend to adhere to the miserable system which has hitherto proved the source of infinite embarrassment and vexation to lawyers, and, in addition to these, of no little disgust, and of very great expense, to the public. Plans of reform without number have emanated from commissions, parliamentary committees, and private individuals; and surely amendment in this respect is not so impracticable as to be considered hopeless by the executive. Not only the profession but the general public will, therefore, be bitterly disappointed if it should turn out to be the fact that, after all that has been said to the Government upon this important subject, there is no intention at present to attempt any improvement; but that, in the teeth of all that has been written and said upon the subject, the old and expensive system of irresponsibility and hap-hazard, with all its baneful results, is still to be continued in full play.

We present our readers, this week, with a Sheet Almanack for the new year. It is intended to be useful in lawyers' offices, and is embellished by a handsome woodcut of the New Library of the Inner Temple, which has just been completed. The first stone of this building was laid by the late Sir Fortunatus Dwaris, on the 15th of August, 1858. The following description of it is taken from a recent number of *The Builder*:—"The principal floor—the library proper, which may be called 96 feet long, including the oriel, 42 feet wide, and 63 feet in height, to the under-side of the ridge, is covered with a hammer-beam roof, after the fashion of that in Westminster Hall. In fact, when it is looked at from the south end, the window in the north end, not seen in our view, being also very like the great window in Westminster, the likeness is disagreeably striking. The library is warmed with Perkins' hot-water pipes, and the floor is laid with cement, in stone margins. The side windows and that in the northern end are filled with stained glass, by Messrs. Ward. The latter, containing the arms of Templars, is a rich piece of colour. Below the library are two stories, introduced as a commercial speculation, with more advantage in a pecuniary point of view than to the appearance of the building externally. These chambers are not, as is generally supposed, for the temporary reception of persons overcome in the library by the somnific influence of study; but will be let to any parties who wish to reside or carry on business in the

Temple. Mr. H. R. Abraham is the architect, Mr. Geo. Myers the contractor. The carving was executed by Mr. Ruddick. The building is wholly of Bath stone externally; and the cost, including the book-cases, will be something under £13,000."

The admirers of Mr. Edwin James had the satisfaction a few weeks ago, of seeing him portrayed at full length in the dress of a bandit chief, in the *Illustrated London News*; there was something of genius in that effort to intensify the common place. About the same time they had the pleasure of perusing a production of his pen taken up at some interval when his hand had leisure from the sword or the pistols which decorated his ample belt. That celebrated epistle breathed a military fervour which will not soon be forgotten. It is not surprising, therefore, that the Marylebone Institution in Edward-street, Portman-square, should have asked Mr. E. James to deliver a lecture descriptive of his campaigns; although, perhaps, the public were hardly prepared to find that Mr. E. James was ready, on so short a notice, to enlighten the world on "The Revolutions of Europe, their Origin and Results!"

No less, however, is the title under which he has announced his lecture, which is to come off on Thursday week. The topic affords more room for comment than we can spare in this narrow compass, or probably than Mr. James will find that he can well manage in the course of an hour or two at the Marylebone Institution.

TAXATION OF SUITORS AND LEGAL FINANCE.

The great measure of concentrating the law courts and offices, now happily about to be accomplished, will necessitate a review of two subjects, each most important to the profession and its clients; and each demanding much more comprehensive and scientific treatment than it has hitherto received. These two subjects are—first, the taxation of the suitors; and secondly, the banking and financial arrangements of all the judicial establishments superior and local.

The solicitors, as the keepers of the suitor's purse and accounts, are the persons best able to form correct opinions on these two subjects. Their interest is identical with that of the clients. As it was well put at one of the annual meetings of the Metropolitan and Provincial Law Society a year or two ago—"If we are honest, it is our duty to protect our clients from over taxation; but even if we were rogues, it would be our interest to let nobody rob them but ourselves." As the body of solicitors will probably take a serious part in the discussion of these two subjects, which we conceive must ensue on the passing of the Concentration of Courts Bills, we propose in this and some future articles to go over the leading points of each of them.

The first of these subjects involves the following questions:—1st. How far suitors should be taxed if at all? 2nd. Whether every law-tax now levied has not now become a state tax, and one, therefore, which should be voted annually by Parliament, and form part of the annual budget, and be entirely removed from the management of the Judges? 3rd. The incidence of the tax, and whether it should not rather be a property than a poll-tax? 4th. Should not the method of collecting the tax be one for all courts (as it is now for two or three only), e.g., by a law stamp as in Chancery or the Probate Court, and what method is the best? 5th. Should not the supervision of this branch of taxation, and the preparation of the annual budget upon it, be entrusted to some one office of Government in connection with the Treasury, so as to insure Parliamentary responsibility for a due, uniform, and well-considered action in the matter? And 6th. Whether the civil judicial statistics, now for the first time wisely issued by the Government, ought not to contain an annual summary and balance-

sheet—a map, as it were, of the whole area of legal taxation and finance?

The second of these two great subjects—viz., the banking transactions and commercial finance of every court—involves the following questions:—1st. As the transactions of courts under this head are not (to use the expression of one of the witnesses on the late commission) vital to the existence of property as the decisions on questions of title and right are,—should there not always be some profit to the State for discharging, through its courts, these functions? 2nd. If so, should not this profit go in aid of any taxes which may have to be imposed for the maintenance of the judicial establishment? 3rd. However wise it may be to keep separate courts of law, equity, bankruptcy, and so on, ought not there to be a fusion of the finance offices of all the courts, and should not one consolidated banking office do the work for all the courts? 4th. Would it not be better to depute this work to the Bank of England; and at any rate, is it prudent to keep up such an establishment as that of the Chancery Accountant-General? 5th. Would it not be wise to establish a state deposit account, and to receive, at a low rate of interest, monies paid into court, as stakeholders, instead of compelling temporary investments in the funds, or the entire loss of interest? 6th. How far other offices and establishments of the State cannot be called in aid of the judicial establishment; e.g., whether such small sums as county courts have to receive by way of deposit could not be received by the Money Order Office? 7th. The forms of monetary orders, and method of court account keeping (now diverse throughout the law), also require full investigation.

These are some of the points which require consideration in any discussion on the "Taxation of Suitors." Our last number, however, contained a very lengthy paper, with that title, read before the Juridical Society, by Mr. S. Martin Leake. The subject is a great and most shamefully neglected one; but the paper we refer to, instead of being the hearty outpouring of indignation at such neglect, was more like the set thesis of one who wrote on it because he must write on something. The only opinions he quoted in his paper are those of two Judges. These opinions were successfully combated by others in the very report which he had before him; and such counter-views should have been in common justice also stated. Probably Mr. Leake was not aware of the three important reports of the Committee of the House of Commons on Fees of Suitors (1847, Par. paper, No. 643; 1848, Par. paper, 158; and 1849, Par. paper, 559), or of the article in the first volume of the *Law Review* on the Legal Budget, which gave rise to those Committees. Had he known of them, he could hardly have reconciled himself to omit all mention of the fact that it is mainly to the efforts of solicitors (now extended over the last fifteen years) that the subject owes its original investigation, and the elucidation it has since received.

The Juridical Society, we believe, does not admit a solicitor in its ranks. This may be all very well, but, in our opinion, the bar and the Judges do not deal in the way that such a body should deal with the rightful claims of solicitors to priority of action and discovery on some questions of juridical science. The last Chancery commission was almost entirely a bar commission. The Lord Chancellor refused to put a single solicitor upon it. The great question which the Commissioners dealt with was the abolition of the assistant judicial office of Master in Chancery; and a truly great question it was. But neither in their report, nor in the appendix of evidence, did the Commissioners mention the receipt from the Law Institution of a full, thoroughly detailed, report, signed by twenty-nine of the most eminent solicitors practising in the Equity Courts, proposing to them the very measure which they ultimately advised (see Par. paper, 1852, No. 216). Still less did they state, as that paper points out, that "in 1841 the same view

in all material respects was advanced by a solicitor, at that time actively engaged in attempting to promote Equity Reforms in papers published in the *Legal Observer*, in January and February, 1841, where the question is discussed with great ability, and the necessity of the change established.

We do not call this sort of work plagiarism—but neither do we call it altogether gentlemanly dealing. We shall have on a future occasion to mention Mr. Leake's paper, and will therefore only add, that while it professes to be a paper on the "Taxation of Suitors," it deals only with the single question suggested above as the first query under our first head; all the rest he ignores.

The Chancery Commission never completed its labours, but died, we suppose, of inanition—certainly not of repletion. It never got so far as to consider the question of the Accountant General's Office and the Banking department; upon which question the Solicitors' Report contained some most important and able suggestions, touching on many of the points above mentioned. On all or any of those points we now ask for practical communications from the profession, it being clear that the time for action is near at hand.

THE LAW OF JUDGMENTS (23 & 24 Vict. c. 38).

The observations of Q. upon the criticism of Lord St. Leonards' Act to further amend the law of property, which appeared *ante*, p. 44, require to be considered in somewhat of extended detail. The article to which Q. alludes, together with the very practical paper of Mr. Johnson, *ante*, p. 13, may be considered as a tolerably complete commentary on the present law of judgments. The present observations, therefore, being rather supplementary than essential to a general view of this complicated branch of law, may best follow the order of Q.'s pointed comments.

The recent Act contains no provision for the re-registration of judgments or executions; that is, it does not render re-registration imperative, as the analogous quinquennial re-registration of judgments is directed and rendered imperative by the 2 & 3 Vict. c. 11. But one registration must not be necessarily presumed to exhaust the statute. A judgment must be revived every twenty years to bind the conuzor, and re-registered every five years to bind a purchaser from the conuzor; but it might be revived and re-registered continuously if the conuzee should so choose. Registration is proscribed as the indispensable concomitant of execution; as often, consequently, as an execution can be issued, so often may the statutory incident of this registration be attached to it. Therefore, it appears both on principle and analogy that an execution may be issued and renewed every three months, and registered as often as it is issued. If the Act provided that all executions upon the judgment should be void after three months, unless re-registered, just as the 2 & 3 Vict. c. 11, s. 4 enacted that judgments should, as to purchasers, be void after five years, unless re-registered, the case would be different. But, as the Act is worded, a power of renewing this charge every three months appears to remain in the conuzee; the Act, also, implicitly, as it would seem, directing that the writ of execution should have three months to run. The Act is a specimen of legislation by wholesale and inference—a sort of argumentative enactment. Being the product of the Legislature, we must assume that it enacts whatever is necessary to render all its provisions operative to their full extent. Of course, the Act, as also these observations, apply only to the case of purchasers. As to the conuzor and his volunteer representatives, the old law remains intact, as it does also as regards judgments entered up before the 23rd July, 1860, even as to purchase. A step under the last statute—such as the issuing and registering an execution—does not, if the sheriff return *nil*, restore the creditor to the rights which a judgment creditor had

before the 23rd July, 1860. The judgment, of course, continues, as to the conuzor, unaffected by the recent Act, and, therefore, affects his after-acquired property. As to Q.'s third query, an execution could not, it would appear, affect property not in the county of the sheriff to whom the writ is directed. In reply to Q.'s 4th query, the issuing and registering a *fieri facias* would not affect a purchaser of freeholds. The Act was not intended to enlarge the powers, or increase the remedies, of a judgment creditor; and it reduces freehold to the nature of leasehold estates, but not to the nature of goods, in relation to judgments. Q. rightly considers that the article to which he refers recommends the constitution of judgments as plenary incumbering assurances, such as the Irish judgment mortgages are. This would be a step in the consolidation of the law. Codification is not grateful to the British mind; it is too radical and too much like theory. But if a well-defined statutory mode of incumbering land prevailed, it would tend to a simple form of assurances in ordinary cases of conveyance as distinguished from settlements, which always requires varied limitations. The laws that we already have need not be entirely cast away in any process of legal fusion; on the contrary, the sternest rules of the feudal common law may be accepted as a basis for a more elaborate superstructure, even as the grim lines and angles of the mathematician afford an outline for the embellishments of the painter.

Both registration and notice must concur, to render either of any avail as against purchasers. The register of judgments, however, is usually searched; and a search amounts to notice. This may, however, be avoided; and can only militate against the value of the estate to the purchaser when he goes himself into the market to sell the same estate, a contract for the sale of which he cannot then enforce upon an unwilling vendee who, in this particular transaction, either by search of the register, or otherwise, gets notice of unsatisfied judgments against the first vendor. Such a title cannot be enforced upon an unwilling purchaser, as explained *ante*, p. 13 (*vid. Freer v. Hesse*, 4 De G. M. & G. 495).

The observations of Q. are calculated to attract attention to the practical results of the recent Act, which has, indeed, accumulated registrations, although these, without notice, are inoperative, and have hardly any operation but in taxing borrowers, who have to pay ultimately for all expenses attending the securities for their loans.

The letter of W. R. H., which appeared in our columns last week, depicts in a forcible manner the mischief which has resulted from the indefinite character given to judgments by the various legislative experiments, to which they have been subjected. He concurs in opinion with Mr. Johnson, to whose paper we have before referred, in stating that "if it is right so severely to restrict judgment claims, as is done by the late Act, it is equally right, and incomparably more convenient, to relieve purchasers and mortgagees altogether from them." With this opinion, taken as a whole, we concur. The extinction of judgment-charges upon land would be better than a state of the law, which tends, by reason of its numerous and apparently provident enactments regarding judgments, to dissipate unduly the apprehensions of creditors, while its chief effect is to tax the landowner by the litigation which it provokes.

But, while we concur in the opinion of Mr. Johnson, W. R. H., and, we believe, the public generally, that the total abolition of the statutes constituting judgments a charge on land would be an amendment of the existing law; we must, at the same time, say, that such an amputation is not the character of reform that we prefer to see carried out. Landowners will encumber their land, and perhaps no mode of doing so should be prohibited. On the contrary, when a particular form of incumbering land has prevailed from a very remote period down to the present time, and has, consequently, been often the subject of judicial decision, we must assume, that the

legal nature of such incumbrances would be by this time clearly defined, if that process had not been disturbed by frequent interpositions of the legislature. The point at which we should begin to cut off the excrescences caused by legislation, rather than a total eradication of the stock itself, is, as appears to us, the object that should engage our attention. The Statute of Frauds has been said to have cost hundreds of thousands to suitors; yet though they have been, by reason of the ambiguity of the enactment, virtually taxed for the settlement of the law by judicial decisions, we should not wish to see that statute now repealed; as such a step would not compensate the victims of the statute, and would only, perhaps, render us open to an equally severe oppression from the ambiguity of the substituted enactment. We should prefer, therefore, the consolidation of the law of judgments to the extinction of all legal definition of these acts of record as charges upon land; but either alternative would be better than the present state of this branch of the law, which keeps judgments "hovering over the land," sometimes alighting successfully on their prey, and as often prevented from doing so. An additional reason for the preservation of this mode of incumbering land arises from the concise nature of the charge. A judgment is entered upon a cognovit at a small expense, and yet, by means of statutory incidents, it can operate as effectively as an expensive deed of mortgage. If, after the passing of the 1 & 2 Vict. c. 110, the laws relating to judgments had been left unaltered, they would by this time have become a common, because the most effectual mode of incumbering land, and so, perhaps, would to some extent have superseded mortgages and other species of incumbrances. No one, surely, will deny, that such a consummation would be a boon to the creditor for its security, to the debtor for its cheapness and freedom from liability to litigation, and even to the purchaser from its certainty and the consequent necessity of its being satisfied prior to his payment of the purchase-money. The existing ambiguity of the nature of these charges must entail, in every case of purchase, a special inconvenience upon professional men, who, as W. R. H. suggests, have to balance the inconveniences of the risk and the expense, one against the other. The seller and borrower, indeed, as a general rule, ultimately pay for the expense of making out title. All facilities, therefore, for deducing title, granted by the Legislature increase *pro tanto* the value to the owner of the estate for sale, and are, virtually, equivalent to the increase of its acreage. The price will remain unaffected; but the owner will not have to spend so much of it in making out title, as he is obliged to do at present. After the bargain is concluded, a net saving can, of course, in any state of the laws relating to title, be effected by the diligence of the purchaser's solicitor; and although the general incidence of law taxes, whether imposed directly as stamps, or indirectly, as consequent upon a faulty state of the law, is upon vendors and borrowers, as we have stated, it cannot at the same time be denied, that the purchaser does not invariably look far beyond the amount of purchase-money, and has frequently to pay what he had never calculated upon as his share of the expense.

We cannot concur with W. R. H. in the next proposition which he advances—viz., that if judgments should be charges upon one species of property, they should be charges upon every other kind of possessions. Indeed, our correspondent appears to err in his implied assumption—viz., that judgments are not charges upon goods and chattels.

Judgments are charges upon this class of possessions in the hands of the owners, and would be allowed by the Legislature to be charges upon goods even after sale in market overt, only that the general and paramount claims of commerce would be thus disregarded. The lien of a judgment upon property is a public advantage; but when it accidentally conflicts with a greater good, it is then disregarded in comparison with stronger claims. There is, therefore, no foundation for this part of the

argument of W. R. H. Few would advocate the necessity of an action being instituted upon judgments entered upon cognovita. It would be a useless tax upon borrowers, who, as we cannot too often state, are the parties who ultimately pay for all means of enforcing the securities for their debts.

It is not, of course, desirable, that trade in land should be so entirely free, as that the claims of the creditors and incumbrancers of the vendor should be disregarded. Unless this be done, however, there is no use in proscribing judgments. A judgment, indeed, as W. R. H. states, does not operate as a check, at least a sufficient one, upon fraudulent debtors. Nevertheless, it is better to render the check effectual, than wholly to remove it. We should be disposed, contrary to W. R. H.'s opinion, to say, that very many estates are burdened with judgments; but there are no greater objections to judgments as charges upon land, than to incumbrances by mortgage, to which we desire to see judgments assimilated, and, consequently, as a cheaper mode of creating incumbrances, preferred. We have considered the letter of W. R. H. chiefly in its relation to general principles; and as the law of judgments now stands, his observations are pointed and useful.

It is to be hoped, however, that the law of judgments will be amended, and that, instead of being abolished, they will be constituted a standard mode of incumbering land.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH, GUILDHALL.

SECOND COURT.

(Before Mr. Justice CROMPTON and a common jury.)

Dec. 21.—*Kain v. Mahood*.—At the conclusion of this case (in which a juror had been withdrawn,) a juror having expressed a wish to give the plaintiff his costs, Mr. Justice Crompton said, "it is very wrong for juries to think of costs at all. They are bound to give damages according to the circumstances. Costs sometimes follow the damages, and sometimes they do not, and sometimes they depend on the discretion of the judge. Juries ought to remember that they swear by their oaths to decide according to the evidence, and if they make the damages follow the costs they do not attend to their oaths."

Dec. 22.—*Solomon v. Noon*.—In this case the defendant had pleaded a tender, which brought from the judge the following caution:—

The learned JUDGE stated that Lord Abinger, 50 years ago, had said much about the difficulty of proving a tender, and he (Mr. Justice Crompton) had always told young men in pleaders' chambers never to plead a tender, but always to advise a defendant to pay the money into court. This would at once remove the difficulty of proving a tender; and if the plaintiff did not take the money out of court the amount would be deducted from the verdict by the jury. He feared that the only reason why money was not paid into court was to save a few shillings at an early part of the proceedings.

COURT OF COMMON PLEAS.

(Sittings at Nisi Prius, at Guildhall, before the LORD CHIEF JUSTICE and a Special Jury.)

Dec. 20.—While some arrangements were being made for the settlement of a cause, a special juror addressed the learned judge, and expressed a hope that his lordship would have some consideration for himself and brother jurors.

The LORD CHIEF JUSTICE replied,—I have from the very commencement of the sittings endeavoured to suit the convenience of both suitors and jurors; but I may tell you, sir, that the distinction between common and special jurors will shortly be done away with, and instead of being summoned for certain cases you will have to attend from the beginning of the sittings to the end.

ASSIZES,—LIVERPOOL.

(CROWN COURT. Before Mr. Justice KEATING.)

Dec. 21.—Previous to the commencement of the trial of a

man named Niel, and others, Mr. Scott, who appeared as counsel for one of the prisoners, addressing the Court, said that he thought it his duty to call his lordship's attention to a circumstance which had come to his knowledge with regard to the prisoner Niel. It appeared from statements made by that prisoner, which were confirmed by the officers of the gaol, that some person representing himself as an attorney, had obtained access to the prisoner, and had induced him to hand him over such money as the prisoner possessed, for the purpose of instructing Mr. Scott to defend him. That money Mr. Scott had never received, nor, indeed, had any communication been made to him on behalf of the prisoner, who then stood undefended.—His Lordship inquired whether the person referred to by the prisoner was in reality an attorney, as, if so, it was quite clear he would not long remain so.—Mr. Higgin, who appeared for the prosecution, replied, that he believed the person in question could be identified, and that he was not an attorney, but an attorney's clerk.—His Lordship said, he was glad for the honour of the profession to learn that the person who had been guilty of so atrocious a crime was not an attorney, and he was quite satisfied that when that person, whoever he might be, stood at that bar at the next assizes, as he had no doubt he would, he would receive the punishment which his offence so richly deserved.

Mr. Henry Thring, conveyancer, of Lincoln's-inn, has been appointed Parliamentary draughtsman to the Home-office, in the room of Mr. Walter Coulson, Q.C., deceased.

Mr. John Jones, of Dolgelly, in the county of Merioneth, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., *Barrister-at-Law*; *Common Law*, by JAMES STEPHEN, Esq., LL.D., *Barrister-at-Law*.]

EQUITY.

WILL—IMPLIED GIFT TO EXECUTOR.

Juler v. Juler, M. R. 9, W. R. 61.

Previous to 11 Geo. 4, & 1 Will. 4, c. 40, executors were not precluded from claiming by virtue of their office a beneficial interest in the undisposed of personal estate of their testator; on the contrary, unless such a presumption were expressly negatived by the will, the executors were entitled to the beneficial interest. By that Act, however, the rule of law in this respect was reversed. Reciting that testators by their wills frequently appointed executors without making any express disposition of their personal estate; that executors so appointed became by law entitled to the whole residue of such personal estate; and that courts of equity had so far followed the law as to hold such executors to be entitled to retain such residue for their own use, unless it appeared to have been their testator's intention to exclude them from the beneficial interest therein, it was enacted that when any person should die after the 1st September, 1830, having by his will appointed an executor, such executor should be deemed by courts of equity to be a trustee for the next of kin in respect of any residue not expressly disposed of, unless it should appear by the will that he was intended to take such residue beneficially. The Act does not affect the rights of executors, where no person is entitled—where there is no next of kin. Except in the latter case, the effect of the statute is, therefore, as we have said, to reverse the rule which was previously observed by courts of equity; and according to the decision in the present case, the Court will not make any presumption in favour of an executor, unless where the will contains explicit evidence of the testator's intention to confer a beneficial interest on the executor. "What the statute meant to say," said Sir John Romilly, M.R., "was that the burden of proof lay on the executor to prove distinctly, from the testamentary instrument, that he was to take a beneficial interest." It appears that it is not enough that the will contains no other gift from which a general presumption in favour of the executor's claim might be supposed to arise; and the executor, therefore, in this case—although the only gift was to him—was held to be a trustee for the next of kin of the testator.

The cases in which the effect of a gift to executors has been considered, have nearly always been those in which the gift was to the executors not of the testator, but of some other person who was himself intended, if living at the death of the testator, to take beneficially under the will.—As to which see *Hayes & Jarman's Concise Forms*, 5th ed., pp. 161-163 (n).

COMMON LAW.

TENANT HOLDING OVER—ACTION FOR DOUBLE RENT.

Swinfen v. Bacon, 9 W. R., Exch., 105.

This was an action arising incidentally out of the celebrated case of *Swinfen v. Swinfen*, and was brought by the widow and devisee of the testator against one of the tenants of the Swinfen estate, who had retained possession (after receiving due notice to quit), in the interest and at the request of the heir-at-law, by whom the validity of the will was disputed. The chief point of interest, however, in the present case arises from its affording a useful reading of the statutable provision, under which the claim to recover "double rent" for the time during which the tenant so held over, was brought. This provision is that of 4 Geo. 2, c. 28, s. 1, which enacts that in case any tenant for life, or years, or other person claiming under or by collusion with such tenant shall wilfully hold over, after the determination of the term, and after demand made, and notice in writing given by him to whom the remainder or reversion of the premises shall belong for delivering the possession thereof, such person so holding over or keeping the other out of possession, shall pay for the time he detains the lands at the rate of double their yearly value. Now, the gist of the action given by this enactment lies in the word "wilfully;" but, in the present case, the tenant held over *bona fide*, believing that the premises belonged to a person other than the person from whom he had received notice to quit. And the Court of Exchequer unanimously were of opinion that to such a holding over, the enactment did not apply. To this result they were led by considering the principle of the Act and the evil it was passed to remedy. Its object was, to give landlords an additional safeguard against the danger of their tenants putting them at defiance, and retaining the premises against the will of the person entitled to their possession. In some of the cases upon the Act the expression used by the courts is, that the action lies only where there is clear "contumacy" on the part of the tenant; not if he holds over believing, on reasonable grounds, that he himself is entitled, or that another person has the right for whom he holds it against the person really entitled.

The Lord Chief Baron remarked in his judgment that "the very few instances recorded in which landlords have availed themselves of the assistance of this Act, is a very strong and gratifying proof of the general kindness and forbearance of landlords towards their tenants." This may be true enough. But the eulogium thus passed upon landlords is open to the obvious remark that it would have been just as easy to have ascribed the deficiency of cases upon this provision to the "general fairness and regard to their bargains, evinced by tenants towards their landlords." The certainty which the statute secures of having to pay a considerable penalty for the indulgence of mere obstinacy may be suggested as, perhaps, a more probable solution of the rarity of cases, than any extraordinary forbearance on the part either of landlord or tenant.

COUNTY COURT LAW—JURISDICTION—COSTS UNDER 15 & 16 Vict., c. 54, s. 4.

Avis v. Orchard, 9 W. R., Exch., 106; *Warman v. Hallam*, *ib.*, B. C. 108.

These are two cases which should be noted up in books of county court practices—the first of them turning upon a principle of law; the other merely on a rule of practice.

In *Avis v. Orchard*, the question was, whether a contract is *divisible*? that is to say, can certain acts towards the making of a contract be done on one day, and the remaining acts to complete the contract, on a subsequent day; so as to fix the foreign district within which a plaintiff for its breach must be levied: it being required under 9 & 10 Vict., c. 95, s. 60, that the "whole cause of action" must arise within the district within which the trial is. In the present case, there had been a *verbal* agreement for the purchase of a horse (which could not have been sued on by reason of the statute of frauds) in district A, on a certain day, and on the next day an agreement for the purchase of the same animal in district B; which last transaction complied with the statute, and comprised different terms from those entered into on the preceding day. The plaintiff was levied in district B, and the Court of Exchequer (the question arising upon a rule which had been obtained for a prohibition) held that it was rightly so brought. For, said the Court, "a contract is one entire act or thing; it is incapable of being divided so as to say that it consisted of two matters—one of which passed on one day, and another on another day." And again, "this is an endeavour to carry the cases, holding that

the whole cause of action must arise within the county court district, in certain cases, further than they have ever yet been carried by splitting the contract; this cannot be done—a contract is indivisible."

Warman v. Hallam was an application by a plaintiff (who had recovered in an action of debt, less than £20) for costs, under 15 & 16 Viet. c. 54, s. 4. On the argument of the rule nisi it appeared that a prior application had been made and refused at chambers, though the affidavits in support of the rule made no allusion to the circumstance.

Upon this the Court observed, that the application should have been made, if at all, by way of *appeal* from the decision at chambers, not by way of substantive application; and that, in consequence of this, the Court had nothing before them to enable them to decide whether the judge at chambers had been right or wrong in his decision.

Had due attention in this case been paid to the decision in *Heath v. Nesbitt* (11 Mee & W. 669), it would have avoided the defeat of the application—at all events on the ground on which the rule for costs was in fact discharged.

Correspondence.

COPYHOLD MORTGAGE.

Can you or any of your readers inform me the proper mode of discharging copyhold property which has been enfranchised, from a mortgage created prior to the enfranchisement by means of a conditional surrender, upon which admission has not been taken? Does not the 46th section of the Copyhold Act of 1852 make necessary a deed of reconveyance?

X. Y. Z.

V. C. WOOD AND THE CHANCELLOR.

I am sorry to observe that you do not in your leading article of to-day even express regret that the Lord Chancellor should have made such uncalled-for remarks on the most honoured of our Vice-Chancellors. Even if it were better to have had the judgment written, still such observations were uncalled for, unnecessary, and evidence of very bad taste.

The Lord Chancellor cannot but have inflicted pain on the most excellent of judges.

B. P. A.

PROFESSIONAL REMUNERATION.

Referring to "Hints to the Profession" in your Journal of the 8th, on the subject of our remuneration, I have frequently wondered why this subject has not more engaged the attention of the Law Society. The present system of making our charges is alike vexatious and annoying to the solicitor and the client. It is humiliating to us to have to state the subject matter of a letter to warrant a charge of five shillings; and to tell a long story as the subject matter of a charge of 6s. 8d. or 13s. 4d., to say nothing of the waste of time—first, in concocting the entry in the day-book; the accountant's time in posting it; the subsequent settlement of the bill for delivery; the copying it for delivery; and the copy for the fair bill book as delivered. A large proportion of our clients have not the patience to read through many folio pages to see how these trumpery charges have been earned, and regard the bill as a more or less ingenious manufacture.

Most men who are contemplating the purchase or sale of an estate, or the raising a loan on mortgage, naturally desire to ascertain beforehand what will be the cost. The only answer we can give under the present system is, "We cannot possibly say." That is not satisfactory. I have seen the plan suggested of a per centage fee, and I have not seen any sound objection to that mode of remuneration; which would, as it appears to me, be satisfactory to all parties. It seems to be in actual operation in Scotland. I had occasion recently to inquire the mode of remuneration adopted in Edinburgh, on a client proposing to make an investment on a mortgage of an estate in Scotland. Not then being conversant either with the Scotch law, or the professional practice in Scotland, I wrote to solicitors there for some information on the subject. I was informed that the law charges for conveyances and mortgages there were computed for a commission of, so far as I remember, 1 per cent. in the one case, and 1½ per cent. in the other. Now, though such commissions may not, in some particular cases, be equivalent to our ordinary scale of charge in detail, yet, when the saving of time and trouble inseparable from the existing practice, the avoidance

of all civil and dissatisfaction of clients on charges they cannot duly estimate, and the comparative freedom and satisfaction with which they would engage in such transactions when they could exactly compute the cost beforehand, are considered, I am convinced the change would, on the whole be a beneficial one to the profession.

A SOLICITOR OF NEARLY 50 YEARS' STANDING.

Review.

Personal History of Lord Bacon; from Unpublished Papers.

By WILLIAM HEPWORTH DIXON, of the Inner Temple.
John Murray, Albemarle-street.

Some years since, the present Lord Chancellor, then holding a less distinguished judicial position than that which he now fills, delivered a memorable judgment that seriously concerned the reputation of one who, renowned as a philosopher, was also eminent as a lawyer and a statesman. The case, which for some time appeared to be closed to discussion by his lordship's emphatic decision, has been re-opened; and by a higher and final court of appeal the adverse judgment is undergoing reversal. From the nature and constitution of the court the rehearing of the cause will still occupy many months; for although the judges of the tribunal, amounting in all to many thousands, and even tens of thousands, usually sit, each by himself, in solitary separation, and very rarely indeed attend to public business in numbers exceeding three at a time, every one of these important functionaries must examine the arguments and evidence of each case brought before their bench, and separately record his opinion upon it, before the ultimate order of reversal or confirmation can be declared. We need not add that we are alluding to the court of public opinion, and to the renewed discussion of the charges under which Lord Bacon's fame has long suffered, and upon which Lord Campbell, in his "Lives of the Chancellors," gave judgment against the accused, in terms that, to speak of his lordship's conduct with moderation, at least evince no wish to regard leniently the failings of a noble mind.

The vindicator of Bacon's reputation published not long since in the columns of a literary journal the outlines of the arguments which in his "Personal History of Lord Bacon," he has filled up with such a bulk of new evidence, and hitherto unpublished documents, and such a wealth of historic illustration, that the original articles and the present work bear only a faint family likeness to each other. A legal journal is not the place for a critical examination of all that Mr. Hepworth Dixon has to say, and all he has made known, with regard to the domestic fortunes and political labours of his hero. But that which relates to Bacon the lawyer especially concerns every member of his profession. Elsewhere we should willingly admit that to purge the author of the "Novum Organum" of the stains that have for centuries blemished his moral character in the eyes of the world, was a grander achievement than only to prove him an upright judge. But here we have nothing to do with the problems and paradoxes of morality. For all we in these columns care, Pope's line may be true or false; and Bacon may or may not have been "The wisest, brightest, meanest of mankind." Either way, we care not. But as lawyers, we have a peculiar feeling of interest in an endeavour—and, what is more, a successful endeavour, to prove—that Francis Bacon did not corrupt the fountains of justice. And with especial force does this interest assert itself during the perusal of Mr. Dixon's pages, where the proofs of Bacon's judicial purity are the result of a careful search into the professional and social usages of the legal profession during the reigns of James the First, Elizabeth, and their immediate predecessors in the throne of England.

On both sides Bacon was favourably placed by birth for success at the bar, and in the arena of the House of Commons. The son of Sir Nicholas Bacon, he was, in his infancy, introduced to the ruling powers of the court, and ere he had ceased to lip paid daily compliments to Queen Elizabeth, who, in return for his pretty homage, was wont to call him her little Lord Keeper. Through his mother he inherited associations that, to more pliant men, would have been the key to rapid success. Lady Ann Bacon, the Olympia Morata of Elizabeth's court, was one of five sisters—daughters of that fine old scholar who drugged King Edward with Latin, Sir Anthony Cook, of Giddy Hall, in Essex—all the five, pious and learned, as so many muses, but, unlike the muses, all were made happy wives: Mildred, by Lord Burghley; Ann, by the late Lord Keeper; Katherine, by Sir Henry Killigrew; Elizabeth, by Sir Thomas Hoby, and

next by John Lord Russell; Margaret, the youngest of the five, by Sir Ralph Rowlet. Thus, Francis Bacon claimed, through his mother, close cousinry with Sir Robert Cecil, with Elizabeth and Ann Russell, with the witty and licentious race of Killigrews, and with the future statesman and diplomatist, Sir Edward Hoby. Bacon, however, with all the advantages of his position, did not win speedy success. An education that confided him to Cambridge at thirteen, and carried him to Paris at sixteen years of age, placed him in Gray's-inn, a student of law, as early as the summer of 1590, a few months after his nineteenth year. From that date till he gained the custody of the seals, he never failed in attention to the study and practice of his vocation. If philosophy was his Rachel, law was his Leah. It was true that he found time to be conspicuous as a leader, and unrivalled as an orator in the House of Commons, and also to play a brilliant part in that galaxy of wit and splendour that surrounded the virgin queen. But he never at any time neglected his profession. And yet his advances to the highest preferment were slow. Nor is this to be accounted for by any carelessness for place on his part. On all fit occasions he sought office. On every occasion of his seeking office his claims were allowed to be worthy of attention. More than once preferment was within an ace of his grasp, the cup touched his lip, when suddenly the prize was snatched away, and the cup dashed down—by some malignant and unseen power, as distant spectators thought. In this respect Bacon was emphatically an unlucky man. Favoured by the queen, respected in Westminster Hall, supported by powerful friends, and possessed of every minor talent, as well as the fine proportions and subtle inspirations of genius, he was, in the race for social distinctions, repeatedly outstripped by plodding mediocrity or cunning folly. In the September of 1593, he had reasonable hopes of getting the vacant post of Attorney-General; but Coke stepped into it, leaving him to turn wishful eyes on the place of Solicitor-General, left void by Coke. For this appointment he had strong claims. "A bencher and reader of his inn, he enjoyed a good reputation in chambers and in the courts. The best judges at the bar approved his rise. Burghley and Cecil cautiously promoted his suit, and Egerton pressed it with a noble friendship on all who had power to help or harm. Yet in the end, Thomas Fleming got the post, a man only known to the world for having stood in Bacon's way, and to the profession for his singular and disastrous ruling in the case of Bates. Bacon owed this loss of place to Robert Devereux, Earl of Essex; out of which cruel disappointment to him springs the charge of ingratitude to a patron—treason to a friend." The light that Mr. Dixon has been enabled to throw on this memorable passage of Bacon's life deserves especial notice.

"The earl's want of tact and temper" (he says) "is more hurtful to his friends than his foes. He does Raleigh no great harm, he causes Bacon the most grievous loss. Give me this place of Solicitor—he drums and drums at the Queen's ear. She thinks her law officers should be chosen by herself, and for their good parts, not to please the fancy or make good the pledges of a carpet knight. She will not do a right thing for a bad reason, or in a wrong way. Her courts are crowded with able men. She is old enough to choose a servant for herself. As Essex grows hot, she cools; when he storms upon her and will not be denied, she turns from the spoiled boy, her nomination made. Bacon must wait. Fleming shall be her man."

"Lord Campbell says, as writers have said from the days of Bushel, that the Earl atoned to Bacon for his failure by a gift of Twickenham-park. It happens, however, that Twickenham-park was not, and never had been, the Earl's to give. That lovely seat, which blooms by the Thames, close under Richmond-bridge, fronting the old palace, and some of the elms of which stand, venerable and green, in the days of Victoria, had belonged to the Bacons for many years. In 1574, while Essex was a boy at Chartley, Twickenham-park, together with More Mead, and Ferry Mead, the adjoining lands, had been granted by the Queen to Edward Bacon on lease. The lease is enrolled, and a copy of it may be read in one of the appendices of this book. Francis lived in the house, as the letters prove, long before his patent of Solicitor passed the seal. . . . Unable to pay his debt by a public office, Essex feels that he ought to pay it in money, or money's worth. The lawyer has done his work, must be told his fee. But the Earl has no funds. His debts, his amours, his camp of servants, eat him up. He will pay in a patch of land. To this Bacon objects; not that he need scruple at taking wages; not that the mode of payment

is unusual; not that the price is beyond his claim. Four years have been spent in the Earl's service. To pay in land is the fashion of a time when gold is scarce, and soil is cheap. Nor is the patch too large; at most it may be worth £1,200, or £1,500. After Bacon's improvements, and the rise of rents, he sells it to Reynold Nicholas for £1,800. It is less than the third of a year's income from the Solicitor-General's place."

Having lost his chance on this occasion, Bacon had to wait many years for advancement. Elizabeth, contrary to the assertions of Basil Montague, Macaulay, and Lord Campbell, gave him many substantial proofs of her affectionate care for his interest. Besides the reversion of the registry of the Star Chamber, a post worth £1,600 a-year, a grant of land in Zelwood Forest, and other queenly gifts, she made him one of her counsel learned in the law; presented him with a reversion of a lease of Twickenham-park, and avowedly consulted him on important points in the law business of the Crown. But when the Queen died in 1603, he was, notwithstanding her good will to him and her good deeds, still fighting in the foremost ranks of the bar, untitled and unplaced. It was not till 1607, not until he had overcome the opposition to him at court with which the new reign opened, and had proved to James and to Cecil that the government of the country could not be carried on without his assistance, that he gained the first clear step in the official ladder, and was made Solicitor-General, on the 25th of June, 1607, at the age of forty-six years and five months. In 1613, he mounted to the Attorney-General's place. In the March of 1617, he was entrusted with the custody of the seals; and in the January of 1618, the Lord Keeper attained the higher grade of Chancellor.

"In the July of the same year he becomes a peer. His slanderers sink beneath his feet. No severity seems to the Privy Council too great for those, however high in rank, who menace his person or dispute his justice. For a saucy word they send Lord Clifton to the Fleet; for a complaint against one of his verdicts they commit Lady Ann Blount to the Marshalsea. In 1620, he publishes his "Novum Organum"—a book which has in it the germs of more power and good to man than any other work not of divine authorship in the world. He is now at the height of earthly fame. First layman in his own country; first philosopher in Europe—what is wanting to his felicity? Neither power, nor popularity, nor titles, nor love, nor fame, nor obedience, nor troops of friends. All these he has—no man in greater fulness. If his heart has other longings, he has only to express his wish. In January, 1621, he receives the title of Viscount St. Albans, in a form of peculiar honour—other peers being created by letters patent, he by investiture with the coronet and robe.

"Yet only seven months after printing the 'Greatest Birth of Time'—only three months after receiving in the King's presence the robe and coronet—he is stripped of his honours, degraded from his place, condemned to a monstrous fine, and flung into the Tower.

"The tale of this fall is the most strange and sad in the whole history of man."

No common praise is due to Mr. Dixon for the learning and logical precision with which he describes the internal construction of the great machine that so suddenly brought down the Chancellor from his place, and measures out to each person concerned in the drama—puppet or string-puller—his proper amount of pity or condemnation. We cannot do better than give, in the author's own words, the leading passages of the story.

"In striding over Coke's head to the mace and seals, Bacon puts the crown to his many offences against that wealthy and vindictive foe. Their lives have been spent in a daily contest for rank, love, place, and power. Up to the present year, Coke has been able to keep in front. He made more money; he won Lady Hatton; he first got office under the Crown. He went up to the Common Pleas, while Bacon was fighting for his promotion at the bar. Before the great philosopher was commissioned as Attorney-General, the great jurist had been seated on the King's Bench. For the three years and four months that Bacon, as Attorney, waited in the council ante-room, Coke sat at the board. The scene is now changed, the characters reversed. Within a few weeks, Coke has been degraded from the council to make way for Bacon, and reduced from the King's Bench that his rival may feel the insolent joy of refusing to accept his place. The humiliation has now been capped by Bacon filching from him, at the very moment of his negotiation with Villiers, the mace and seals, without paying for them one shilling of those irregular sums which he himself was told he must lay down. Such a success enrages the miser even more than it galls the man."

"How can he drag this rival down? The way is but too easy. Gain the favourite. Virtue is no protection to men in power. He has been thrown. Egerton only escaped an ignominious fall by the approach of death. The story of Egerton's latter days has never yet been told. As an illustration of the time, it is in the highest degree important for a clear comprehension of his successor's fall.

"As Egerton grew old, a host of lawyers and ecclesiastics began to crave the seals; conspicuous among these were Bilson and Bennet, Hobart and Coke. . . . As Egerton would not die, though he had held the seals longer than any Chancellor since the Conquest, nor yield his place except on reasonable terms of surrender, those who meant to make a purse by the transfer began to brood over the possibility of forcing him to yield by means of a criminal prosecution. A sentence in the House of Lords would be legal death. Once it were pronounced the seals would fall into the king's gift. This was a new and perilous game to play; but the plan seemed easy, the profits vast. A trial might be made. Any old lawyer, learned in the vices of the times, could get up an accusation. Buckingham could secure a majority in the House of Lords. The temptations which drew Buckingham into this odious and criminal course were very great. Sir John Bennet offered for the seals no less a sum than thirty thousand pounds."

All was ripe for a criminal prosecution of the aged chancellor. If the intelligence of the conspiracy against him was the final blow that laid him in his coffin, still the grave protected him from Villiers and his associated thieves. Death, however, did not play the desired part for them. The chancellorship was left vacant, but not for them to put up to auction. Without paying a single coin of blackmail to the marauders of St. James's, Bacon obtained the seals, and bade fair to keep them. Muddled with disappointment the gang saw that their only hope of plunder lay in reviving against Bacon the conspiracy they had nursed against Egerton. In the malevolence of Coke, and the chicanery of John Churchill, a perjured rascal who has altogether escaped the notice of historians previous to Mr. Dixon, the gang had instruments in every way fitted for their use. All that was required to be done was, for an outside rabble to declare that Bacon's lawful fees were bribes accepted for the corruption of justice, and for Buckingham's creatures in the House of Peers gravely to assent to the astounding proposition. Nor will any one acquainted with the critical position of judges at the time of Bacon's fall be surprised at the success of the plot. Mr. Dixon observes:—"To see why the threat of prosecution so deeply disturbed Egerton, and how easy it may be for unscrupulous men to frame a charge of corruption against his successor, a reader who is not a lawyer should remind himself of the state of society in the days of James the First.

"There is no civil list. Few men in the court or in the church receive salaries from the Crown; and each has to keep his estate and make his fortune out of fees and gifts. The King takes fees. The archbishop, the bishop, the rural dean take fees. The Lord Chancellor, the Lord Chief Justice, the Baron of the Exchequer, the Master of the Rolls, the Attorney-General, the Solicitor-General, the King's Serjeant, the Utter Barrister, all the functionaries of law and justice, take fees. The Lord Admiral takes fees. The Secretary of State, the Chancellor of the Exchequer, the Master of the Wards, the Warden of the Cinque Ports, the Gentlemen of the Bedchamber, all take fees. Everybody takes fees, everybody pays fees.

"In some public offices and courts the amount to be paid is fixed, either by ancient usage or by such a common understanding as in modern times controls a railway or steamboat fare. In some, particularly in the courts of justice, it is open. Bassanio may present his ducats; three thousand in a bag. The judge may only take a ring. A fee is due whenever an act is done. The occasions on which, by ancient usage of the realm, the king claims help or fine, are many; the sealing of an office or a grant; the knighting of his son; the marriage of his daughter; the alienation of lands *in capite*; his birthday, new year's day; the anniversary of his accession or his coronation; indeed at all times when he wants money and finds men rich enough and loyal enough to pay. In like manner the clergy levy tithe and toll; fees on christenings, fees on churchings, fees on marriages, fees on interments, Easter offerings, free offerings, charities, church reparations, church extensions, pews, and rents.

"In the Government offices it is the same as in the palace and the church. If the Attorney-General, the Secretary of State, the Lord Admiral, or the Privy Seal puts his signature on a sheet of paper, he takes his fee. Often it is his means of

life—to wit, the retaining fee paid by the king to Cecil, as Premier Secretary of State, is a hundred pounds a year. But the fees from other sources are enormous. These fees are not bribes.

"The same at the bar and on the bench. The bar is a free profession: a member of the Temple or of Lincoln's-inn being bound to plead, as the knights, whose swords are rust, were bound to fight, in love and faith, taking no pay nor scrip. It is an order of courtesy and chivalry; its members the soldiers of justice, pledged to protect the weak, to help the needy, to defend the right. Now, all this service is by law and usage free. A barrister may not ask wages for his toil, like an attorney or a clerk, nor can he reclaim by any process of law, as the clerk and attorney can, the value of his time and speech. If he lives on the gifts of grateful clients, these gifts must be perfectly free. This theory of counsel's hire, though old as our language and our institutions, is, of course, a sham. No junior on the Oxford circuit dreams of succouring damsels from love of Dulcinea, or freeing galley-slaves from the obligations of knighthood. No guineas, no speech. The shifts by which lax attorneys are tickled into paying the fees which no law compels them to pay are droll as anything in the immortal laws of Barataria.

"Now, the rules which continue under Victoria to govern the bar, under James I. governed the bench. The Lord Chief Justice, or the Lord Chancellor, like the Secretary of State, is paid by fees. The king's judge is neither in deed nor in name a public servant; he receives a nominal sum as standing counsel for the Crown, and for the rest he depends on the income arising from his hearing of private causes. These facts appear in a comparison of the amounts paid by the Crown to its great legal functionaries, with the estimated profits of each particular post. Thus, the seals, though the Lord Chancellor had no proper salary, were in Egerton's time worth from ten to fifteen thousand pounds a-year. Bacon valued his place as Attorney-General at six thousand a-year; of which princely sum (twenty-five thousand a-year in coin of Victoria) the King only paid him eighty-one pounds six shillings and eightpence. Yelverton's place of Solicitor brought him three or four thousand a-year, of which he got seventy pounds from James. The judges had enough to buy their gloves and robes, not more. Coke, when Lord Chief Justice of England, drew from the State twelve farthings less than two hundred and twenty-five pounds a-year. When travelling circuit, he was allowed thirty-three pounds six shillings and eightpence for his expenses. Hobart, Chief Justice of the Common Pleas, had twelve farthings less than one hundred and ninety-five pounds a-year; Tanfield, Lord Chief Baron of his Majesty's Court of Exchequer, one hundred and eighty-eight pounds six shillings a-year. Yet each of these great lawyers had given up a lucrative practice at the bar. After their promotion to the bench, they lived in good houses, kept a princely state, gave dinners and masques, made presents to the King, accumulated goods and lands. Their wages were paid in fees by those who resorted for justice to their courts.

"These fees were not bribes. If the satirists, from Latimer to Nash, described the bench of bishops and the bench of judges as taking bribes, it was only in the vein common to lampooners in every age of the world; the vein in which Boccaccio describes his friars, and Jonson his Justice Oberdos. Serious men made no complaint. Judicial corruption was not a grievance in 1604. In 1606 an attempt to reduce the fees in one department of chancery business was rejected by the popular party in the House of Commons.

"In the great list of grievances, drawn up in 1604, we find complaints that Cecil lives in adultery, that Parliament is packed with courtiers, that the forest laws have been revived, that pardons are sold to cut-throats and felons, that monopolies are granted to duns, and patents bestowed on extortioners and pimps; not that the great lawyers are thought corrupt or that justice is supposed to be bought and sold.

"Nor is such a grievance felt though undescribed. In the list of grievances there is one charge against the Lord Chancellor Egerton. Had there been a second, it would certainly have been named. In 1604, the charge which law reformers made against Egerton, was that he held the two offices of Master of the Rolls and Keeper of the Great Seals. It never occurred to these men to complain that he took his wages in the shape of fees.

"The evidence produced against him, as Heneage Finch has told the House of Commons, proves his case and frees him from blame; of the twenty-two charges of corruption, three are debts—Compton's, Peacock's, and Vanlore's; two of these, Comp-

ton's and Vanlore's, debts on bond and interest. Any man who borrows money may be as justly charged with taking bribes. One case, that of the London companies, is an arbitration, not a suit in law. Even Cranfield, though bred in the city, cannot call their fee a bribe. Smithwick's gift, being found irregular, has been sent back. Thirteen cases—those of Young, Wroth, Hody, Barker, Monk, Trevor, Scott, Fisher, Lenthal, Dunch, Montagu, Ruswell, and the Frenchmen—are of daily practice in every court of law. They fall under Bacon's third list common fees, paid in the usual way, paid after judgment has been given. Kennedy's present of a cabinet for York House has never been accepted, the Chancellor hearing that the artisan who made it has not been paid. Reynell, an old neighbour and friend, gave him two hundred pounds towards furnishing York House, and sent him a ring on new year's day. Everybody gives rings, everybody takes rings, on a new year's day. The gift of five hundred pounds from Sir Ralph Hornsby was made after a judgment, though, as afterwards appeared, while a second, much inferior case, was still in hearing. The gift was openly made, not to the Chancellor, but to the officer of his court. The last case is that of Lady Wharton, the only one that presents an unusual feature. Lady Wharton, it seems, brought her presents to the Chancellor herself; yet even her gifts were openly made, in the presence of the proper officer and his clerk. Churchill admits being present in the room when Lady Wharton left her purse; Gardner, Keeling's clerk, asserts that he was present when she brought the two hundred pounds. Even Coke is staggered by proofs which prove so much, for who in his senses can suppose that the Lord Chancellor would have done an Act known to be illegal and immoral in the company of a registrar and a clerk? It is clear that a thing which Bacon did under the eyes of Gardner and Churchill must have been in his mind customary and right. It is no less clear that if Bacon had done wrong, knowing it to be wrong, he would never have braved exposure of his fraud by turning Churchill into the streets.

"Thus after the most rigorous and vindictive scrutiny into his official acts, and into the official acts of his servants, not a single fee or remembrance traced to the Chancellor can, by any fair construction, be called a bribe. Not one appears to have been given on a promise; not one appears to have been given in secret; not one is alleged to have corrupted justice."

But the character of the evidence was altogether an immaterial affair with the promoters of the prosecution. Hard pressed by malignant opponents who had already divided the spoils of victory, hopeless of meeting with justice by the notoriety of a public investigation, and doubtless influenced by the King's advice, Bacon made a qualified submission to angry foes and adverse circumstances. A confession of venal practice was never wrung from him. He would not even admit himself chargeable with corrupt intention. But responding one by one to the absurd accusations in terms that were nothing else but an incontrovertible argument for his innocence, he allowed that abuses had crept into the court over which he presided, and conceded that some of those abuses might be attributed to want of vigilance and method on his part. With this admission—not of guilt, but of defeat in a battle of the ante-chambers, he made a courtly bow to his unscrupulous antagonists, and requested that since they had gained their point they would, in decent regard of all chivalric sentiment, cease to molest him. What response this appeal to generosity met, is matter of history.

Societies and Institutions.

NEWCASTLE AND GATESHEAD LAW SOCIETY.

The committee of the Newcastle and Gateshead Law Society, at the 34th annual general meeting of the Society held on the 12th instant, presented the following report of their proceedings:—

As early as the month of February the attention of your committee was called by the Incorporated Law Society to the two Bills to amend the Attorneys and Solicitors Act, 1843. The one was brought into the House of Lords by the Incorporated Law Society; the other into the House of Commons by Mr. John Locke.

The latter was a measure of a limited character and contained some objectionable clauses. The former was a renewal, (with additions,) of the Bill introduced last year by the Incorporated Law Society who had framed the original Bill of 1843 and treated the subject in a comprehensive manner.

A petition from this society in favour of the measure of the

Incorporated Law Society was sent for presentation to the House of Lords on the 5th March.

Many communications passed between the Incorporated Law Society and your committee during the progress of this Bill and also with the Leeds Law Society and between your president Mr. Clayton, and Mr. Keith Barnes, solicitor, of London.

In the month of April, letters were addressed to six of the local members of Parliament asking their support to the Bill of the Incorporated Law Society, which was passed at the latter end of August with a modification of some of the matter considered objectionable in Mr. Locke's Bill.

The other principal Bills affecting the profession were the Bankruptcy Consolidation Bill introduced by the Attorney General, that of Lord St. Leonard's "to further amend the Law of Property" and Lord Cranworth's "to give to trustees and others certain powers now commonly inserted in settlements, mortgages and wills;" also a Bill introduced by Lord Brougham "touching the transfer of real estate and the registration of the titles thereof."

These several legislative measures more or less had the attention of your committee. The Bill of Lord Brougham made no way in the House of Lords, and was soon abandoned; as to the Bankruptcy Bill, your committee was favoured with "remarks" by Mr. Ford, of the firm of Rogerson & Ford, and with "notes" and "further notes" by Mr. Lawrance, of the firm of Lawrance & Plews. After occupying attention for some time the Bill was withdrawn by Sir R. Bethell, but it is understood will be reintroduced during the ensuing Session.

Your committee will take the earliest opportunity of obtaining a print of the Bill as brought before the house when Parliament opens and proposes to call a general meeting of the Society with reference to a measure of such great importance.

The other two Bills of Lord St. Leonard's and Lord Cranworth's passed through both houses and became law.

During the progress of the above mentioned Bills your Committee received many important suggestions from the Metropolitan and Provincial Law Association as well as from the Incorporated Law Society.

Your committee have much pleasure in referring to the aggregate meeting of the Metropolitan and Provincial Law Association which was holden in Newcastle on the 9th and 10th October last.

The preparations for this meeting received the careful attention of your committee, who have much pleasure in recording the cordial co-operation this society received from the members of the profession at large in the town and neighbourhood in giving the Association which did Newcastle the honour of making it their place of meeting a cordial and friendly reception.

Your committee feel a pleasure in recording the meeting not merely as a passing event of the present year, but as being amongst the most valuable and important of the annals of the profession.

Your committee during the events of the year have to lament the death of Mr. James Arnott, and more recently that of Mr. Matthew Forster, who was long a member of this society and had been for many years the father of the profession of Newcastle.

Your committee have been much impressed with the importance of various observations made at the late meeting of the Metropolitan and Provincial Law Association suggestive of the greater unity and approximation of the profession as a general incorporation under an extension of the charter of the Incorporated Law Society, and would take the liberty of suggesting the appointment of a special committee of this society to give this question a careful and deliberate consideration.

Your committee beg to report that the society at present numbers 79 members.

Law Amendment Society.

SUGGESTIONS FOR IMPROVEMENTS IN OUR SYSTEM OF LEGISLATION BY PRIVATE BILLS.

The following paper was read by Mr. PULLING, at a meeting of this society on the 3rd instant.

The phrase—*system of legislation*—in reference to private Bills has, at this day, a received meaning, though it is not altogether appropriate.

The practice of exceptional interference with the general course of the law, by private and special enactments, concessions, and dispensations, rather implies a series of anomalies than *legislation*, and certainly represents no *system* of legislation.

To interfere with the course of the general law, in favour or to the prejudice of individuals, is neither legislation nor judicial administration; it is hardly more or less than the arbitrary dispensation of absolute power.

Under purely despotic governments, whatever receives the sanction of the sovereign becomes legal; and in our own country, under the sway of the Plantagenets, the impress of the great seal or the sanction of the sign manual warped the law to the occasion of every favoured applicant. Letters from the Crown, abundantly to be found on the *Patent and Close Rolls*, assumed to give a ready relief against legal obstructions in the way of private schemes.

Living now under a constitutional government, which admits of no royal grants, concessions, or dispensations, infringing on the general law of the land, we are made to feel that the general law can be adapted to the exigencies of any individuals who pursue the forms prescribed, and have the money required, for obtaining a *private Act of Parliament*.

Private Acts in the present age, if they do not, like the early documents under that title to be found on the *Rolls* of the compliant Parliaments of Edward IV. and Richard III., bastardize a troublesome competitor for the Crown, or partition the possessions of those out of power among the adherents and friends of the ruling body, still work the injustice that is inevitable wherever general laws are made to yield to individual importunities.

If it be the lot of one of us to be involved in a dispute with a company invested with parliamentary powers, we may soon be made to feel that, not the general law of England, but a special statute passed on the private petition of our adversary, is to adjust the differences between us. Even if carefully endeavouring to avoid direct negotiations and transactions with bodies thus armed, we have little chance of ignoring or disregarding the provisions of private Acts of Parliament. We cannot travel or stay at home without bringing ourselves within the operation of some of the special enactments. Every railway, canal, or turnpike-road; every harbour, dock, or pier; almost every town, or large parish, has its collection of local acts. If the street in front of our doors is obstructed; if the supply of water or gas to our houses be capriciously stopped; if the rate collector summarily calls on us for any unexpected contribution, we may rely on finding the imposition sanctioned, not by the general law, but by some extraordinary enactment of the Legislature, passed on a private petition.

The volumes of our Statute Law at this time contain no less than *twenty-seven thousand* local, personal, and private Acts of Parliament, varying the general public law, and containing enactments having almost every variety of object—compulsorily to dispossess the owners of private property, under the pretence of the public good—freely to give certain joint stock companies the management and control of our rivers, harbours, roads, and streets, and other property, essentially public—to confer monopolies and arbitrary powers, tolls and taxes, wholly unknown to the common law.

These special acts introduce an endless variety of conditions and terms into all contracts and transactions with the privileged bodies; penalties and penal proceedings—often of a very vexatious character—innovating on the first principles of the common law, the law of evidence, the rights of property and of civil liberty—mere private trespasses on the privileged property visited with serious punishments—in some instances the offences magnified into *felonies*.

Opposed as such anomalous enactments are to every principle of justice, hardly less objectionable is the way in which they pass the parliamentary ordeal. Framed wholly to meet the purposes of the promoters, a local and personal Bill comes before a select committee in either House, rarely opposed by any one but a rival applicant for similar privileges. The contest in committee is carried on between these rivals week after week, during the Parliamentary Session. Lawyers, engineers, and witnesses—on some occasions there have been as many as four hundred concerned in one Bill (all of them extravagantly paid for their services)—come only to promote the special interests of those for whom they severally appear. No one, professionally or otherwise, is engaged to watch or advocate the interests of the public: and the wearied members of committee, overwhelmed with a thousand sophistries and misrepresentations, are too glad to see the prospect of terminating the contests which actually arise, without volunteering inquiries affecting merely the public interests. Select committees have been over and over again denounced as the very worst tribunals that could be devised for the investigation of the merits of a private bill project. The prodigal costliness of the proceedings before these committees, often amounting, in the case of our

railway companies, to a very large proportion of all their capital—and, in the case of many local improvement bills, to enormous sums, directed to be raised afterwards by tolls and impositions on the public—have made one evil of private bill legislation press where it is sure to make itself felt.

Shareholders who contributed funds thus misapplied and perverted from their legitimate purpose—the public who have been taxed in various ways to meet the deficiency, all feel that Select Committee expenses are a gross abuse. When we find the expenditure of the Great Northern Railway in parliamentary costs amounting to *half a million sterling* before the undertaking itself was even commenced—when we find (as parliamentary reports show us) companies consuming their entire property and proposed capital in obtaining, or endeavouring to obtain, the concession of *parliamentary powers*—the practice which sanctions and necessitates such breaches of trust, might be justly stigmatized as something more than a *mere abuse*.

Last, though not the least, of the evils of private Bill proceedings, is the obstruction they offer to the legitimate business of Parliament. In the great railway session of 1846, there were no less than five hundred sittings of select committees, as many as thirty-four being held in one day. When session after session, amidst the loud complaints of wearied members and of disappointed constituents, private bill committees consume that time which, judiciously applied to the details of public business, might prevent the repetition of the annual outcry about reforms postponed, inquiries refused, the estimates scrambled through, and great public questions neglected—we may justly denounce the private bill system as directly obstructing the business of the nation. Were the labours of private bill committees to be lessened, and the valuable time thus consumed to be devoted to committees to be appointed for the thorough investigation of the details, and expediting the progress of public questions before Parliament, the annual disappointment referred to would indeed be lessened.

The unjustifiable costliness, the anomalous character, the inconvenient and irksome proceedings of private bill committees, obstructive as they are to public business, and so wholly unsatisfactory in their results, have been the subject of vehement condemnation by all classes, for a great many years—by parliamentary committees without number—by judges who have vainly endeavoured to construe and practically apply the exceptional enactments—and by the public, who have to suffer and pay for it all.

The anomalous authority exercised by Parliament in the case of private bills has ever been deemed to require the utmost vigilance. The preliminary investigation by the ancient officers called *Receivers and Triers of Petitions* and the subsequent examination by the Judges summoned in the House of Lords having gone into disuse, standing orders have been made in modern times, with the view to realise the eulogistic apology of Blackstone (vol. iii, p. 345), that “private Acts of Parliament are carried on in both Houses with great deliberation and caution, and that nothing is done without the consent of all parties in being and capable of consent, that *have the remotest interest in the matter*.”

As the practice of parliamentary interference by private bills has gradually extended from mere cases of disentailing private estates with the consent of every individual concerned, to extensive joint stock undertakings of a distinctly public character, at the prayer only of the schemers, it has, after years of experimental change, been found that no standing orders are sufficient to prevent imposition and injustice. The inherent defects of a system by which the distinct functions of the legislator and judge are sought to be united, defy all human efforts to cure it.

In 1846 the abuses practised before private bill committees excited so much attention, that Parliament was induced to pass an Act, 9 & 10 Vict. c. 106, affirming the self-evident proposition, that “it is expedient that facilities should be given for procuring more complete and trustworthy information previous to inquiries before either House of Parliament on applications in certain cases for private Acts.” But the complete and trustworthy information which was directed by that Act, and the amending Act of 1848 (11 & 12 Vict. c. 129), was practically limited to certain matters affecting the special interests confided to the *Commissioners of Woods and Forests*, and the *Admiralty*, and these preliminary inquiries were not required to be made in such a manner as to afford Parliament or the public any light on the real merits of a proposed scheme: which might, for anything that appeared in such preliminary investigation, be most prejudicial to private rights, without producing any commensurate public advantages. These preliminary inquiries, as might be expected, were there-

fore after a short time pronounced a *failure*, and the statutes prescribing them repealed (by 14 & 15 Vict. c. 129).

With some alterations in detail in the routine of select committees, the regulations affecting private bills remain almost as they were. The chief objections to them continue, and with, perhaps, the exception of parliamentary agents and practitioners, every class affected by private bills and private Acts of Parliament unite in denouncing them as a *monstrous inconvenience* and a *monstrous abuse*.

The instituting a preliminary investigation of the facts, which is a principle of our whole system of justice, which the common law requires before judgment can be pronounced, which is followed in every tribunal in this country, either in the shape of a trial by jury or reference to some subordinate officer, or to some competent person specially appointed to reduce the facts into the shape of a special case, is practically ignored by Parliament, who proceed to the second stage of a private bill, *without any investigation* of the merits, and then, in the objectionable manner already spoken of, *delegate the investigation and the real power of ultimate decision* to a few members of their own body.

Anticipating, from a notice of motion already given for next session, that Parliament will, before long, again take into consideration the whole question of private bill procedure, it may be worthy the attention of this Society whether the following suggestions might not, with some advantage, be submitted to the attention of the Legislature:—

1. Let competent persons be appointed by both Houses of Parliament, invested with the full powers of the ancient *triers* and *receivers of petitions*, and the modern *examiners*; and let every petition for a private bill be referred to one of such persons, who, having summoned before him, and fully heard all parties interested, and fully examined all material evidence, parol or documentary, should make a full and complete report to Parliament not only of the compliance with the standing orders, but of the objects and proved facts relating to each petition, and the evidence, conflicting or otherwise, by which it is promoted or opposed, and the precise way in which the proposed Bill deviates, in any clause, from the general law of the land.

2. Let no petition for a private bill be presented to either House without such report, accompanied with copies of all maps, plans, and documents referred to therein.

3. Let the attention of Parliament, in committee or otherwise, be confined to the disposal of the *questions arising on the report*, and any exceptions to such report duly presented by any party having a recognised *locus standi*; and let the facts shown on such report, or any report on any fresh investigation, directed in consequence of such exceptions, be conclusive.

4. Let general regulations be made for petitions for such private bills being presented at any period of the year, and being referred at once to the appointed examiner by the Lord Chancellor or Speaker—for the purpose of such examination, altogether or in part, in the immediate locality to be affected by the proposed bill—and for visiting with exemplary costs all persons guilty of vexatious proceedings.

5. Let all *common form* clauses, of every class of local and personal Act, be consolidated into one or more general Acts, and made to operate in all cases of a similar character, both as regards existing and future local and personal Acts, whether such clauses regulate the mode of procedure, the form of conveyance, &c.; and

6. Let Parliament, as speedily as possible, pursue the course taken with respect to local courts, the enclosure of waste lands, watching, lighting, police, and various other matters formerly regulated by *special Acts*, and substitute general and systematic legislation for that which is now merely anomalous and pernicious.

These amendments in the mode of proceeding with respect to applications for private Acts of Parliament, would not only materially diminish the present expenditure of public and private time and money before committees, and secure to Parliament complete and trustworthy information respecting each application, but the reform could, unlike any change hitherto suggested, be effected without in any way intrenching on the legitimate function or privileges of either House of Parliament.

In lieu of the loose and unsatisfactory investigation under the present mode of proceeding, an authentic record of the facts of every case would come before Parliament, enabling each branch of the Legislature to decide on those proved facts, and apply the redress which the constitution has empowered Parliament to afford.

Lord Stanley, M.P., Mr. Cranford, M.P., and Mr. Ewart, M.P., were present, and took part in the discussion.

Births, Marriages, and Deaths.

BIRTHS.

LAWSON—On Dec. 24, the wife of William Norton Lawson, Esq., Barrister-at-Law, of a daughter.

NORTON—On Dec. 27, at 13, Clifton-place, Camberwell New Road, the wife of Mr. Francis Norton, Solicitor, of a daughter.

MARRIAGES.

BRADY—HATCHELL—On Dec. 15, the Right Hon. Madere Brady, Lord Chancellor of Ireland, to Mary, second daughter of the Right Hon. John Hatchell, Fortfield-house, county Dublin.

SHAKESPEARE—HARTILL—On Dec. 20, William Shakespeare, Esq., of Oldbury, Solicitor, to Anne, second daughter of the late Mr. Joseph Hartill, of the same place.

DEATHS.

CURRIE—On Dec. 23, at Hill Side, Abbot's Langley, Hertfordshire, James Currie, Esq., of that place, and No. 32, Lincoln's inn-fields, aged 63.

NICKOLS—On July 7, at Maryborough, aged 38, Maria, wife of Mr. W. Edward Nickols, County Court and Court of Mines officer, Raglan, Victoria, Australia, late of Leeds.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	92½	Shrs. Ditto A. Stock	106
3 per Cent. Red. Ann..	92½	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann..	92½	Stock Great Western	74½
New 3 per Cent. Ann..	92½	Stock Lancash. & Yorkshire	120
New 2½ per Cent. Ann..	92½	Stock London and Blackwall	64
Consols for account ..	92½	Stock Lon. Brighton & S. Coast	119
India Debentures, 1858.	..	25 Lon. Chatham & Dover	51½
Ditto 1859. ....	..	Stock London and N.-Westm.	102½
India Stock .....	..	Stock London & S.-Westm.	96
India 3 per Cent. 1859..	..	Stock Man. Sheff. & Lincoln..	56½
India Bonds (£1000) ..	..	Stock Midland	136½
Do. (under £1000)....	9 dls.	Stock Ditto Birm. & Derby	110
Exch. Bills (£1000)...	par.	Stock Norfolk	57
Ditto (£500).....	..	Stock North British	65½
Ditto (Small) ..	..	Stock North-Eastn. (Brwk.)	105½
		Stock Ditto Leeds	65
		Stock Ditto York	95½
		Stock North London	102
RAILWAY STOCK.		Stock Oxford, Worcester, & Wolverhampton ..	..
Shrs. Stock Birk. Lan. & Ch. June.	83	Stock Shropshire Union	52
Stock Bristol and Exeter....	101	Stock South Devon	42½
Stock Cornwall	6	Stock South-Eastern	88½
Stock East Anglian	17½	Stock South Wales	64
Stock Eastern Counties	54½	Stock S. Yorkshire & R. Dun	60
Stock Eastern Union A. Stock	39	25 Stockton & Darlington	43½
Stock Ditto B. Stock	28	Stock Vale of Neath	70
Stock Great Northern	11		

London Gazettes.

Professional Partnership Dissolved.

TUESDAY, Dec. 25, 1860.

WALTER, ALFRED, and SAMUEL BALDEN, JUN., Attorneys and Solicitors, 48, Cherry-street, Birmingham (Walter and Balden), by mutual consent. Dec. 19.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, Dec. 25, 1860.

LIVERPOOL TRADESMAN'S LOAN COMPANY (LIMITED).—Petition to wind-up presented Dec. 22, will be heard before Commissioner Perry, at Liverpool, on Dec. 31, at 12.

FRIDAY, Dec. 28, 1860.

UNLIMITED IN CHANCERY.

MERCANTILE GUARANTEE AND ASSURANCE COMPANY. V.C. Wood will proceed on Jan. 9, at 1, to settle the list of contributories of this company.

LIMITED IN BANKRUPTCY.

AUSTRALASIAN LAND AND EMIGRATION COMPANY (LIMITED). Creditors to prove their debts before Commissioner Goulburn on Jan. 9, at 12.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Dec. 25, 1860.

BARNES, WILLIAM, Wine Merchant, Foregate-street, Worcester. Huxley, Solicitor, Worcester. Feb. 10.

COTTE, ROBERT, Printer, Bookseller, & Stationer, Basingstoke, Southampton. Lamb, Brooks, & Chellis, Solicitors, Basingstoke. Feb. 20.

ILLINGWORTH, THOMAS, Farmer, formerly of Mottley, Yorkshire, but late of Charlton Field, Rothwell, Yorkshire. Lumb & Sons, Solicitors, Wakefield. Jan. 28.

SPENCER, JOSHUA, Merchant, Bengal-place, New Kent-road, Surrey. Wates, Solicitor, 15, Harmer-street, Gravesend, Kent. Jan. 31.

TOSWILL, ROBERT, Esq., Victoria-road, Clapham-common, Surrey. McLeod, Stenning, & Watney, Solicitors, 16, London-street, Fenchurch-street. Jan. 31.

WOOD, JONATHAN, Gent., Hadleigh, Essex. Woodward, Solicitor, 106, Fenchurch-street, London. March 25.

FRIDAY, Dec. 28, 1860.

CROSBY, THOMAS, Farmer, Coleby, Lincolnshire. Moore, Solicitor, Lincoln. March 25.

DAVIS, JOHN, Merchant, Honnslitch, London, and 47, Porchester-terrace, Baywater, Middlesex. Sampson, Samuel, & Emanuel, Solicitors, 31, New Broad-street, London. Jan. 30.

MAWBY, NATHAN, Grocer & Draper, Great Bently, Essex. R. & J. Mawby, Executors, 24, Old Jewry, London. Feb. 1.

PLATT, MR. JOSEPH, Croft-street, Hyde, Chester. Drinkwater, Solicitor, Hyde. Feb. 1.
SLADEN, JOHN BAKER, Esq., Ripple-court, Kent. Sladen, Solicitor, 14, Parliament-street, Westminster. Feb. 1.
WINCUP, GEORGE, Farmer, Earl Soham, Suffolk. Clibbe, Solicitor, Framlingham, Suffolk. Feb. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Dec. 25, 1860.

BARNES, THOMAS, Esq., Sawbridgeworth, Hertfordshire. Wollen v. Temple, V.C. Stuart. Feb. 9.
BRISTO, THOMAS, Gent., Ipswich, Suffolk. Bristo v. Ashford, V.C. Wood. Jan. 17.
CALDWELL, JAMES STAMFORD, Esq., Linley Wood, Andley, Staffordshire. Caldwell v. Caldwell, V.C. Wood. Jan. 20.
GREGORY, ELIZABETH, Spinster, Woodville, Forest Hill, Surrey. Milburn v. Gregory, V.C. Wood. Jan. 7.
GREGORY, RICHARD, Ship & Insurance Broker, 3, Ingram-court, Fenchurch-street, London, and of Woodville, Forest Hill, Surrey. Milburn v. Gregory, V.C. Wood. Jan. 7.
LAWTON, EDWARD, Canklow Wood Farm, near Rotherham, Yorkshire. Lawton v. Lawton, M.R. Jan. 18.
LOCKYER, ISABELLA LANCASTER, Widow, 4, Kimbolton-place, Brompton, Middlesex. Hogg v. Reid, V.C. Stuart. Jan. 28.
READ, ROBERT, Farmer, Norton Subcourse, Norfolk. Read v. Read, M.R. Jan. 22.
SIMES, WILLIAM, Carpenter, Ellis-street, Chelsea, Middlesex. Marquet v. Simes, V.C. Stuart. Jan. 22.
SIMPSON, JOHN, Jun., Gresley, Derbyshire. Pass v. Simpson, V.C. Wood. Jan. 20.
WATERS, WILLIAM WATERS, Flour Factor, Holland-street, Blackfriars, Surrey, and Thurlow-square, Brompton, Middlesex. Waters v. Savio, V.C. Stuart. Feb. 4.

FRIDAY, Dec. 28, 1860.

HATCHETT, JOHN, Farmer, West Drayton, Middlesex. Hatchett v. Watmore, V.C. Stuart. Jan. 10.
NOAKS, JOHN, Brewer, Cheam, Surrey. Noaks v. Hodges, V.C. Stuart. Feb. 4.
PHILLIPS, GEORGE, Farmer & Tile Manufacturer, Lowick, Northumberland. Phillips v. Phillips, V.C. Wood. Jan. 23.
WOOD, JOHN, Merchant, Kingston-upon-Hull, and of Beverley, Yorkshire. Wood v. Farthing, M.R. Jan. 22.

Assignments for Benefit of Creditors.

TUESDAY, Dec. 25, 1860.

FERGUSON, JAMES, Draper, Stouchouse, Devonshire. Dec. 18. Sol. Fowler, Courtenay-street, Plymouth.
FISHER, JAMES, Boot & Shoe Manufacturer, Nottingham. Nov. 28. Sols. Cowley & Everall, Nottingham.
HANDABSON, JOHN, Bookseller & Stationer, New-street, Birmingham. Dec. 21. Sol. Boyer, 14, Old Jewry Chambers, London.
HINDSON, THOMAS, Farmer, Brougham Rectory, Westmorland. Dec. 13. Sol. Arnison, Penrith.
KING, SAMUEL, Linen Draper, Reading, Berks. Nov. 30. Sol. Mardon, Christchurch-chambers, 99, Newgate-street, London.
LINSELL, WILLIAM, Shopkeeper, Stebbing, Essex. Nov. 29. Sols. Craig & Rankin, Braintree, Essex.
LISTER, JOHN, Carpenter, Sheffield. Dec. 4. Sols. Branson and Sons, Sheffield.
MACNAMARA, JOHN ROBINSON, & ELIZA MACNAMARA, Shopkeepers, Cork. Dec. 8. Sol. Davidson, Bradbury, & Hardwick, Weaver's-hall, 22, Basinghall-street, London.
NEWMAN, PHILIP ROBERT, Hosier, North-street and East-street, Brighton, Sussex. Dec. 12. Sol. Taylor, 19, Old Burlington-street.
WOODS, JEREMIAH EDWARD, Hosier & Glover, Liverpool. Dec. 8. Sols. Davidson, Bradbury, & Hardwick, Weaver's-hall, 22, Basinghall-street, London.

FRIDAY, Dec. 28, 1860.

BISHOP, THOMAS, Licensed Victualler & Tailor, Kidderminster, Worcester-shire. Dec. 7. Sol. Rea, 31, Foregate-street, Worcester.
LE CHEMINANT, THOMAS, Licensed Victualler, Rainbow Public House, 3, Queen-street, Ratcliff, Middlesex. Nov. 22. Sol. Rushbury, 32, Coleman-street, London.
LEWIS, WILLIAM, Railway Work Contractor, Bath-road, Worcester, Dec. 10. Sol. Rea, 34, Foregate-street, Worcester.
REDFERN, JAMES, Draper, Ashton-under-Lyne, Lancashire. Dec. 3. Sols. Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester.
STEAR, JOHN, Boot & Shoe Maker, Belper, Derbyshire. Dec. 7. Sol. Borough, Derby.

Bankrupts.

TUESDAY, Dec. 25, 1860.

ACATE, JOSEPH, Grocer, Tallow Chandler & Baker, Emsworth, Hants. Com. Holroyd: Jan. 8, at 3; and Feb. 12, at 2.30; Basinghall-street. Off. Ass. Edwards. Sols. Watson & Son, 12, Bouverie-street, Fleet-street, London; or Way, Portsea, Hants. Pet. Dec. 31.
AYLES, PETER WESTON, late Shipwright & Ship Builder, now a Builder, Weymouth, Dorsetshire. Com. Andrews: Jan. 4 and 31, at 12; Exeter. Off. Ass. Hirtzel. Sols. Tizard, Weymouth; or Turner & Hirtzel, Exeter. Pet. Dec. 22.
BEARD, ROBERT, Wheelwright, Snow's-fields, Bermondsey, Surrey. Com. Fonblanque: Jan. 9, at 2; and Feb. 6, at 12; Basinghall-street. Off. Ass. Stansfeld. Sols. J. & W. Butler, 191, Tooley-street, London. Pet. Dec. 23.
BESLEY, GEORGE, Innkeeper, Highbridge, Somersetshire. Com. Hill: Jan. 7, and Feb. 4, at 11; Bristol. Off. Ass. Miller. Sols. King & Plummer, Bristol. Pet. Dec. 15.
BOULD, JOHN, Draper, Hay, Breconshire. Com. Hill: Jan. 15, and Feb. 12, at 11; Bristol. Off. Ass. Acraman. Sols. Cheese, Hay, Brecon; or Brittan & Sons, Albion-chambers, Bristol. Pet. Dec. 22.
DEMPSEY, JOHN, Grocer & Flour Dealer, Hodge Hill, Audenshaw, Lancashire. Com. Jemmett. Jan. 10 and 31, at 12; Manchester. Off. Ass. Pott. Sol. Reddish, 52, Princess-street, Manchester. Pet. Dec. 20.
DODGE, NATHANIEL SHATTAWELL, & RAFFAELLO LOUIS GIANDONATI, Dealers in India Rubber Goods, & Warehousemen, 44, St. Paul's-church-yard, London. Com. Evans: Jan. 8, at 1.30; and Feb. 7, at 2; Basinghall-street. Off. Ass. Johnson. Sols. Atkinson, Pilgrim, & Phillips, Church-court, Lothbury. Pet. Dec. 23.

GRAFFITH, JOHN, Bookseller & Stationer, 21, Hanway-street, Oxford-street, Middlesex. Com. Fane: Jan. 4, at 2; and Feb. 8, at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Lawrence, News, & Boyer, 14, Old Jewry-chambers, Old Jewry. Pet. Dec. 22.
HATFIELD, JOHN, Milliner & Dress Maker, formerly of 15, South Molton-street, Oxford-street, Middlesex, but now of 56, Connaught-terrace, Hyde-park. Com. Holroyd: Jan. 8, at 3; and Feb. 12, at 2.30; Basinghall-street. Off. Ass. Edwards. Sol. Chapple, 19, Gt. Carter-lane, London. Pet. Dec. 21.
HOLLIN, DAVID, Boot & Shoe Manufacturer, Leicester. Com. Sanders: Jan. 10 and 31, at 11; Nottingham. Off. Ass. Harris. Sol. Haxby, Leicester. Pet. Dec. 20.
WEST, CHARLES, Baker, Braisted, Kent. Com. Evans: Jan. 8, at 11; and Feb. 7, at 1; Basinghall-street. Off. Ass. Bell. Sols. Matthews, Son, & Stoten, 2, Arthur-street, West, London-bridge. Pet. Dec. 23.
WOOD, MATTHIAS, Plumber, Glazier, & Blue Slater, Barnsley, Yorkshire. Com. Ayton: Jan. 14, and Feb. 4, at 11; Leeds. Off. Ass. Hope. Sols. Cariss & Cudworth, Leeds; or Barnitt, Wakefield. Pet. Dec. 23.

FRIDAY, Dec. 28, 1860.

COX, WILLIAM, Grocer & Provision Dealer, 77, Dale End, Birmingham. Com. Sanders: Jan. 10 & Feb. 7, at 11; Birmingham. Off. Ass. Whitmore. Sol. Marshall, Birmingham. Pet. Dec. 27.
FENNEL, WILLIAM TUGWELL, Hatter, Poole Valley, Brighton. Com. Fonblanque: Jan. 9, at 2.30; & Feb. 8, at 12; Basinghall-street. Off. Ass. Graham. Sols. Linklaters & Hackwood, 7, Walbrook, London, and Lamb, Brighton. Pet. Dec. 26.
HARRIS, ISABELLA LILIAS MARY, Widow, Hosier, Liverpool. Com. Perry: Jan. 7 & 28, at 11; Liverpool. Off. Ass. Morgan. Sols. Lowndes, Bateson, Lowndes, & Robinson, Brunswick-street, Liverpool. Pet. Dec. 24.
HAYES, MARK, Cheesemonger, New Brentford, Middlesex. Com. Goulburn: Jan. 9, at 1.30; & Feb. 10, at 11; Basinghall-street. Off. Ass. Pennell. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London. Pet. Dec. 23.
MILLER, NOAH, Builder, Sidmouth, Devon. Com. Andrews: Jan. 16, & Feb. 13, at 12; Exeter. Off. Ass. Hirtzel. Sol. Clark, Exeter. Pet. Dec. 19.
PALMER, JOHN, Picture Dealer, Mutley House, Mutley, near Plymouth, Devon. Com. Evans: Jan. 10, at 2; & Feb. 8, at 11; Basinghall-street. Off. Ass. Bell. Sols. Wilde, Rees, Humphrey, & Wilde, 21, College-hill, City. Pet. Dec. 17.
WATSON, HENRY, Miller & Baker, Longford, Derbyshire. Com. Sanders: Jan. 10, & 31, at 11; Nottingham. Off. Ass. Harris. Sol. Tomlinson, Ashbourne. Pet. Dec. 27.

BANKRUPTCIES ANNULLED.

TUESDAY, Dec. 25, 1860.

BOWMAN, EDWARD BARONS, Apothecary, Archerfield House, Highbury New Park, Islington, and of 1, Alma-villas, Dalston, Middlesex. Dec. 21.
BURGES, WILLIAM, Dealer in Candles & Soap, formerly of 100, Cambridge-street, Pimlico, Middlesex. Dec. 21.
JOHNSON, JOHN, RICHARD CLARKSON, & FREDERICK FURNESS, Tailors & Woollen Drapers, Ashton-under-Lyne (Johnson, Clarkson, and Co.). Dec. 20.
THOMAS, WILLIAM, Publican, Salutation Inn, Cardiff, Glamorganshire. Dec. 21.

FRIDAY, Dec. 28, 1860.

ANDREWS, RICHARD, Stationer & Rag Merchant, late of Fareham, Hants, and now of the Lord Nelson, Morning-lane, Homerton, Middlesex, Beer Retailer. Dec. 27.

MEETINGS FOR PROOF OF DEBTS

TUESDAY, Dec. 25, 1860.

ARNSBY, GEORGE ERINS, Boot & Shoe Manufacturer, Earls Barton, Northamptonshire. Jan. 16, at 12; Basinghall-street.—HILLS, JONATHAN, & ROBERT HILLS, Bankers, High-street, Gravesend, and High-street, Dartford, Kent. Jan. 15, at 12.30; Basinghall-street, joint estate. Same time rep. est. of Jonathan Hills. Sep. est. of Robert Hills.—MILLER, JOHN, Pawnbroker, Nottingham. Jan. 17, at 11; Nottingham.
MOULTON, GEORGE CANNING, Dealer in India Rubber & other Goods, 4, Gresham-street, London, late of 24, Brunswick-square, Bloomsbury, Middlesex. Jan. 16, at 12.30; Basinghall-street.—PEARSON, WILLIAM, Market Gardener, East Bergholt, Suffolk. Jan. 18, at 11.30; Basinghall-street.—KITCHIE, GEORGE, Grocer, Newcastle-upon-Tyne. Jan. 8, at 11; Newcastle-upon-Tyne.—SCHUBERT, GISEPPE LUIGI, Merchant, 150, Lundenhall-street, London. Jan. 18, at 11; Basinghall-street.—SKYINGTON, EDWARD, & JAMES JOHN CLUTTERBUCK, Leather Dressers, 15 & 16, Russell-street, Bermondsey, Surrey. Jan. 15, at 1; Basinghall-street.—SPIKINS, CHARLES, Bottled Beer Merchants, 9, Duke-street, Portland-place, Middlesex. Jan. 18, at 11; Basinghall-street.—TINGER, WILLIAM, Warehouseman, late of 194, Tottenham court-road, Middlesex, and Richmond, Surrey, and Portland-terrace, Notting-hill, Middlesex, Baker. Jan. 18, at 12.30; Basinghall-street.—VOKINS, JOHN, and WILLIAM HIRD, Horticultural Builders, Jubilee-place, Chelsea, Middlesex. Jan. 18, at 12; Basinghall-street.—WAGNIN, MARK, Haberdasher, 69, Shoreditch, Middlesex. Jan. 18, at 11; Basinghall-street.—WILKINSON, GEORGE, Grocer & Flour Dealer, Durham. Jan. 15, at 12.30; Newcastle-upon-Tyne.

FRIDAY, Dec. 28, 1860.

HORNBY, THOMAS, House Decorator, 15, Hart-street, Bloomsbury, Middlesex. Jan. 21, at 11.30; Basinghall-street.—KEYTE, HENRY, Silk Manufacturer, 4, Church-court, Old Jewry, London. Jan. 21, at 1; Basinghall-street.—LEWIS, EDWARD, Lithographer, Printer, & Engraver, 18, Coleman-street, London (Edward Lewis & Co.) Jan. 9, at 11.30; Basinghall-street.—MARSON, HENRY, Butcher, Ecclesfield, Yorkshire. Jan. 19, at 10; Sheffield.—MANNING, THOMAS, Hotel Keeper, Aldershot, Hants. Jan. 18, at 1; Basinghall-street.—REDFATH, LEONARD, Dealer in Shares, 27, Chester-terrace, Regent's-park, and of the Great Northern Railway Company's Offices, King's Cross, Middlesex. Jan. 21, 1861, at 11; Basinghall-street.—SHARP, WILLIAM, Jun., Underwriter, 11, New Broad-street, London. Jan. 10, at 11; Basinghall-street.—SKINNER, JOHN, Boot & Shoe Manufacturer, Northampton. Jan. 17, at 11.30; Basinghall-street.—SMITH, WILLIAM, & WILLIAM FRANCIS PATENT, Tanners & Leather Merchants, Bermondsey New-road, Surrey (Smith, Patent, & Smith). Jan. 18, at 11; Basinghall-street.—STACKY, MARSHALL THOMAS, Dealer in Tea & Tobacco, Leeds. Jan. 18, at 11; Leeds.—WILSON, WILLIAM, Carrier & Leather Cutter, Thirsk and Northallerton, Yorkshire. Jan. 18, at 11; Leeds.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

Mr. George J. Kain, of 69, Chancery-lane, asks us to state that he was not the plaintiff in the case of Kain v. Mahood, reported ante, p. 144.

THE SOLICITORS' JOURNAL.

LONDON, JANUARY 5, 1861.

CURRENT TOPICS.

Mr. Hallard, one of the sheriffs' substitutes of Midlothian, has recently published an interesting pamphlet containing a proposal to facilitate the abolition of feudal conveyancing. It consists for the most part of a paper which he read in September, at the Glasgow Conference. In Scotland, as our readers are aware, a tenure by which land is held under a perpetual feu-duty or rent is common; and the essential question raised by Mr. Sheriff Hallard is, whether it would not be generally beneficial that the superior lord should always be compellable to dispose upon certain prescribed conditions of the feu-duty payable to him? "Assuming," he says, "that feu-duties and casualties are capable of valuation at a certain sum as their just and lawful price, I propose to enable proprietors to obtain immunity from these burdens on payment of that price." In the discussion which followed the reading of Mr. Hallard's paper, Lord Neaves and Lord Curriehill took the opposite side, and insisted that there was no reason why burdens on land should not be perpetual if the parties chose to make them so; to which it was rejoined by Mr. Hallard, that neither was there any reason why burdens on land, in form perpetual, should not be made redeemable by the debtor on equitable terms for his creditor, if a public good is to be attained thereby. By the phrase "equitable terms," Mr. Hallard means to guard against the obvious embarrassment which would arise from the possibility of the disturbance of existing settlements. The remedy he proposes is, that the annual payment might be declared irredeemable for a certain term of years, and that a due "interval of premonition" might always be fixed by law or left to private stipulation.

The subject discussed by Mr. Hallard is one of great interest in Scotland where the feu-tenure is common, and also in Ireland, where the fee-farm tenure, which is of a similar nature, is not unfrequent. The same principle, however, would have some application in England, and its discussion will not be without interest, not only to lawyers, but to all persons conversant with social and political economy.

The following advertisement appeared in the *Manchester Guardian*, of the 2nd instant:—

DIVORCE ACT.—Persons wanting a DIVORCE or PROTECTION, should apply to KNOWLES & ISAACS, law agents, 37, Brown-street, Manchester.

We have not been able to find in the *Law List* the names of either of the above-mentioned practitioners, and presume, therefore, that they are poachers on our grounds. Divorce and protection business, however, requires the intervention of some regularly admitted solicitor, and we are curious to know who is the gentleman that lends his name as a stalking horse to Messrs. Knowles & Isaacs, or for whom they act as jackals. Do they keep a lawyer as Moses & Sons do a poet, or does a lawyer use them to hunt up business for him?

The *Globe* of yesterday evening has an amusing letter on the tonsorial etiquette of the bar. The writer

mentions the case of a barrister "whose practice had latterly, it is believed, been principally in the East," who recently appeared at an assizes, wearing a moustache and beard, which called down upon him some comments from the bench not unlike those which Dr. Wigram lately hurled at the Rochester clergy. Since the present military fashion came into vogue the question has often been mooted whether it is allowable for barristers to appear in court with all the hirsute honours of manhood. Sir George Bowyer, who wears a very manly beard, has appeared in it, not only in courts of law but we believe also at Lincoln's-inn. Mr. Crauford, M.P., has more than once appeared professionally in his ample moustache and beard, in appeal cases in the House of Lords; and we think it is very doubtful whether there is any judge on the bench on either side of Westminster Hall to whom a barrister would be invisible because he was unshaven. The correspondent of the *Globe*, however, is very witty upon the subject, and we have no doubt, if any judge likes to emulate the fame of the Bishop of Rochester, that he need have no difficulty in accomplishing his wishes by reading the bar such a lecture as Dr. Wigram has given to his clergy.

On New Year's day the Act to Amend the Law relating to the Election Duties and Payment of County Coroners (23 & 24 Vict. c. 116), came into operation. It is enacted by section 3, that from and after the 31st of December, 1860, so much of any Act as provides for the remuneration of county coroners by fees, mileage, and allowances, shall be repealed; and by section 4, that in lieu of fees, mileage, and allowances, each county coroner shall be paid such an annual salary as shall be agreed upon between him and the justices in general quarter sessions assembled, such salary not being less than the annual amount of the fees, mileage, and allowances actually received by such coroner, or his predecessor, for the five years immediately preceding the 31st of December, 1859; and by the same section it is provided that in case any such justices, and any such county coroner, shall be unable to agree as to the amount of the salary to be paid, the Secretary of State for the Home Department may determine the amount of such salary.

At most of the county sessions the subject has already been under the consideration of the magistrates, and the salaries of the coroners have been fixed, but all those gentlemen do not appear to be satisfied with the amount which has been allotted to them, and in some instances have expressed their intention to appeal to the Secretary of State, under the power reserved to them by the Act.

LIABILITIES OF SHIPOWNERS.

The case of *Cope v. Doherty* (6 W. R. 537, on app. 695), to which we referred in a previous number (*ante*, p. 85), expressly decides that the 504th section of the Merchant Shipping Act, which limits the liability of shipowners to the value of the vessel and the freight, does not apply to foreign ships. In that case both vessels were American, and the collision, which was the subject of inquiry, took place within British jurisdiction, that is to say, off the coast of Ireland. The importance of the decision was at once recognised by the mercantile community, both in this country and in America. Had both vessels been British, the liability of that in fault would not have exceeded £10,000. As it was, the liability was declared to be limited only by the amount of damage done, and this appeared to be upwards of £33,000. In the case of collisions between British and foreign vessels, the decision in *Cope v. Doherty* will involve inconsistencies of a still more glaring kind. If, for example, the British ship is in fault, the liability of its owners will be limited in the

manner already described; whereas, if the foreign ship is in fault, the measure of liability will be the amount of damage done. The nationality of the vessel having been once ascertained, it will be the duty of the Court simply to apply the rule of limited or unlimited liability as the case may be. That this state of the law is both unsatisfactory and unjust is sufficiently apparent. It creates a distinction between the British and foreign shipowners so manifestly to the disadvantage of the latter, that we need not be surprised that the decision in *Cope v. Doherty* has been regarded with much uneasiness in the United States, and that it has, as we are informed, been the subject of frequent discussion in the Chamber of Commerce in New York, with the view of effecting some international arrangement whereby the present defective state of the law may be remedied. The Chamber of Commerce at Liverpool had previously taken the matter up, and their recommendation upon the subject is a very simple one. They are of opinion that the limitation of liability secured to the British shipowner by the 504th section of the Merchant Shipping Act, should be extended forthwith to foreign ships. And they are further of opinion that this boon should be conceded at once, and without any attempt to negotiate with foreign governments upon the subject. They express these opinions, as they stated in their report, which was published some eighteen months ago, in the full confidence that foreign nations would soon follow our liberal example.

The Committee of the House of Commons, which was appointed last session to inquire into the condition of our merchant shipping, appears to have arrived at a different conclusion. It did not fail to perceive that the application of the rule in *Cope v. Doherty*, if followed up in foreign countries, might involve the British shipowner in ruinous liabilities. The municipal law of the United States with reference to the subject seems to be identical with our own. On the 3rd of March, 1851, that is three years previous to the passing of our Merchant Shipping Act, a statute was passed which provides that "the liability of the owner or owners of any ship or vessel for any embezzlement, loss, or destruction by the masters, officers, mariners, passengers, or any other person or persons, of any property, goods, or merchandise shipped or put on board of such ship or vessel, or for any loss, damage, or injury by collision, or for any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of such owner or owners, shall in no case exceed the amount or value of the interest of such owner or owners respectively in such ship or vessel and her freight then pending." So far as we are aware, it has not yet been decided by the tribunals of the United States, whether or not this statute is restricted in its application to American shipping; but after the decision in *Cope v. Doherty* there can be little doubt, whenever the question may arise, as to the result. The law of France and of Holland, though differing somewhat in its details, is substantially the same with that of England and America with respect to the liability of shipowners, and questions may any day arise between any two of these countries such as have arisen in the above-named case. We can easily imagine the case of a new and valuable ship, with a valuable cargo on board, being run down by an old and worthless vessel, and the owners of the latter being held responsible for the whole amount of damage done. But in order to provide against such contingencies, the Committee of the House of Commons does not recommend us to follow the liberal advice of the Liverpool Chamber of Commerce—namely, to extend at once to the foreign shipowner the protection enjoyed by our own. The Committee of the House of Commons has apparently less faith in the liberality of foreign countries than the merchants of Liverpool; for it recommends that the matter should be settled upon principles of interna-

tional reciprocity. It suggests the adoption of some uniform rule upon the subject among maritime nations; and until this rule is adopted, it seems to think that our own law, as it now stands, should be maintained.

We are inclined to think that this, upon the whole, would be the wiser course. The principle of reciprocity as applied to commerce may be repudiated by the political economist, but it always has been the basis of international law. The only question is, whether the object which we have in view would not be sooner attained by adopting the advice of the Liverpool Chamber of Commerce? But there seems to be no good reason why we should go out of our way to relieve the foreign shipowner from responsibility without some kind of guarantee that the same advantages will be extended to our own. Our recent experience of the liberality of foreign countries and foreign codes is not such as to induce us to leave the matter entirely at their discretion; and it is only by an international agreement between the principal maritime countries of the world that this matter can be settled on a satisfactory basis. We believe that Mr. W. S. Lindsay, during his recent visit to the United States, found a strong disposition on the part both of the mercantile community and of the Government, to come to some understanding on the subject. It is but natural that the two first commercial countries in the world should take the initiative in a matter equally interesting to both, and likely to increase in interest every day, on account of the rapid progress of commerce and shipping. We trust, therefore, that Mr. Lindsay's efforts may be eventually attended with success.

There are one or two other points upon which, in the opinion of the Committee on Merchant Shipping, a change in the law is desirable. Their report states that since the passing of the Act of 1854, what are called "Protecting Societies" have been formed at several of the outports, upon principles of mutual insurance, in which it is customary to insure vessels at far beyond their real value, in order to cover the liabilities to which the owners might be subjected in the case of passengers on board being lost or injured. Much conflicting evidence was given before the Committee respecting the legality of these insurances, the prevailing opinion being, in the absence of any express decision upon the subject, that they would not be sustained by a court of law. The Committee, therefore, recommend that the doubts which now exist upon the subject should be settled by statute, "declaring with reference to the liabilities recited in the 503rd and 504th sections of the Merchant Shipping Act, that no policy of insurance shall be deemed to be invalid by reason of the nature of this risk." To the adoption of this suggestion we do not see any valid objection. As it is now the policy of the law to render the shipowner liable in case of loss of life incurred through negligence at sea, it is but fair that he should be allowed to protect himself against these additional risks. Passengers by railway are insured every day, and there seems to be no reason why there should be another rule with regard to passengers at sea.

With another recommendation of the committee we are not inclined to agree. The report states that at present "the law inflicts a heavier punishment upon the owner of the vessel best adapted to provide (from her superior construction) for the safety of passengers; and the responsibility of the owner actually increases with the increased means he employs to provide for the health, safety, and comfort of those who embark in his vessel." The committee is, therefore, of opinion, that an absolute sum of £15 per ton, whatever may be the actual value, should in all cases be fixed as the definite valuation of the ship, and that all consideration of freight should be excluded. Why the freight should be excluded they do not inform us; and we can see no reason why a rule long recognised by this as well as by other maritime countries should be thus capriciously set aside. It

is for the interest of the shipowners of all countries, that the amount of their liabilities should be rendered as nearly as practicable the same; but were the recommendations of the committee adopted upon this point, a distinction would be established with regard to the British shipowner, which foreign countries in all probability would not be inclined to follow. We showed on a former occasion that our law is derived from them, not theirs from us.

Such are the chief points touched upon by the committee in that branch of their report which relates to the legal liabilities of shipowners. It is very easy to make laws so stringent as to defeat the objects of their authors; and we are told in one part of the report, that many wealthy British shipowners have refused to take passengers on board, on account of the great and uncertain risks attending such traffic; if this is really so the public are the true sufferers. If the better class of shipowners are now prevented from engaging in the passenger traffic, no better reason can be assigned for the amendment of the law.

PUBLIC PROSECUTORS.

A question of considerable importance to both branches of the profession was mooted in the Leeds Town Council, on Tuesday last; and we think it well deserves the attention of our readers. Some fourteen years ago, the Council appointed two gentlemen, who are known as public prosecutors, to conduct all prosecutions arising within the Borough of Leeds, although it is very difficult to see whence the Council derived power to make such an appointment. Indeed it may be safely averred that the appointment would have been utterly nugatory, had not the borough magistrates combined with the council to render it effectual. This they did by binding over to prosecute, in every case, not the party aggrieved, but some police officer who it was understood should, as a matter of course, retain one or other of the gentlemen appointed by the council to conduct the prosecution at sessions or assizes. We have no doubt that this system has worked admirably for the interests of the two gentlemen referred to, and that they have every reason to congratulate themselves upon its adoption; but their professional brethren have certainly suffered from it, and it may reasonably be doubted whether the public have in any appreciable degree been benefited.

With regard to the injury inflicted upon the great body of the Leeds attorneys, there can be no question as to its existence, for they have been utterly shut out from the borough prosecutions, even although the parties aggrieved may have been their own clients, and they may have conducted the case before the magistrates up to the committal of the prisoner. At that stage the public prosecutor steps in and says virtually, "Now that you have got this case up for me I take it out of your hands; you have done all the drudgery, but I claim the substantial rewards." It really seems, however, unnecessary to enlarge upon this part of the subject, because, when it is an admitted fact that the two appointees of the council have all the borough prosecutions, no one can doubt that the other members of the profession practising in the town are damnified.

But are the public benefited by this arrangement? It must be observed that the public prosecutors do nothing in the way of detecting crime or of sifting the evidence before the magistrates. That is left altogether to the party aggrieved or his attorney or to the police, and it is only when the case is ripe for trial that the public prosecutors make their appearance on the stage. The public, therefore, derive no advantage from the services of the public prosecutors in the most important stages of the inquiry in criminal cases. These functionaries neither initiate the proceedings, nor exercise any discretion as to their initiation, and thus they do nothing

either to prevent, in the first stage, a failure of justice, or trumpery cases from being committed for trial. Nor is anything saved in the costs of the prosecution, for the public prosecutors receive just the same fees as any other attorney would do, and the very fact that they know that they must be employed in every case has a tendency to make them less vigilant than if the prosecutions were open to the profession at large—unless indeed Leeds human nature is superior to the same article elsewhere.

Cases, moreover, might easily be put where the party aggrieved would feel it a monstrous hardship that the prosecution should be conducted by an entire stranger to himself, as for example in the case of forgeries on banks, embezzlements by merchant's clerks, and other important crimes, where the real prosecutor would deem it as important to have the advice and assistance of his own attorney, as on a purchase or mortgage. Such advice and assistance, however, he cannot have at Leeds unless he pay for it out of his own pocket, and unless the public prosecutor will allow the interference of another attorney. The official of the Town Council and the policeman, the nominal prosecutor, have the matter entirely in their own hands, and the unfortunate aggrieved has no control whatever over it.

With regard to the effect of this system upon the bar, it is at once ludicrous and painful. The public prosecutors, in order to avoid the appearance of partiality, deal out to every barrister who makes his appearance at the Leeds Borough Sessions one or two briefs, with an additional one to those connected with the town, and to those who are of long standing at the bar. This distribution of briefs is known as *soup*, and it obviously has a tendency to lower the tone of the bar, and to take away an important stimulus to exertion. Every man is sure of his soup, and had he the ability of an Erskine he would at Leeds get nothing more, at least in the shape of prosecutions. So notorious is it that every counsel coming to the sessions there will get his share of soup briefs that some half-dozen gentlemen who never make their appearance elsewhere in the West Riding find themselves regularly in the robing-room at the Leeds Town Hall, on the day of holding the borough sessions in that town.

It is, we think, high time that a system which is at once so unjust to the attorneys, so detrimental to the interests of the public, and so degrading to the bar, should be abolished.

INDIAN JUSTICE.

The case of *Rogers v. Rajendro Dutt*, reported in the last number of the *Weekly Reporter*, was one which few Englishmen can read without pain, or perhaps incredulity. Rogers, the appellant, was a captain in the merchant service, who had been appointed to the responsible office of Superintendent of Marine at Calcutta, part of the duties of which were to control and regulate the pilotage of the port. With a view of rendering this service more efficient, a body of pilots were organised under the special control of the superintendent, who were known as the Bengal Pilot Service; but free scope was given to other pilots, who did not belong to the service, to exercise their calling, and over these of course the superintendent had no authority. In September, 1857, when the Indian mutiny was at its worst, her Majesty's ship *Belleisle*, 74, Captain Rodd, arrived in the river with troops on board, and Captain Rodd, having obtained a pilot, applied to the captain of a steam tug, called the *Underwriter*, to tow the ship up to Calcutta. The captain of the tug demanded at first 3,000 rupees, and then 2,500 rupees, the latter sum being much more than the usual Government allowance; and Captain Rodd, not choosing to incur the responsibility of acceding to this demand, telegraphed to Mr. Beadon, the secretary

to the Government, for instructions. Mr. Beadon thereupon sent for Captain Rogers, and asked his advice, which was that to accede to the demand at that moment of peril would be a bad precedent, and injurious to the public service; and he proposed that if the owners of the tug persisted in taking advantage of the necessities of the Government, he should prohibit the pilots under his command from employing that tug. To this proposal Mr. Beadon gave his sanction, and left the matter in the hands of Captain Rogers, who went immediately and carried out what he considered to be the instructions of the Government, and on the 22nd September issued a notice prohibiting the Bengal Pilot Service from employing the steam tug in question.

Up to this point it is difficult to see that any blame attaches either to Mr. Beadon or to Captain Rogers. The order may have been an arbitrary one, but the moment was critical, and the exigencies of the public service demanded vigorous action. The captain of the man-of-war had demanded instructions from the secretary to the Government, who consulted the chief officer of marine, and authorised him to adopt a certain course, the effect of which was undoubtedly beneficial to the public service. But the sequel of the story is of a less pleasing character. The owner of the tug wrote to the Government complaining of the order; and on the 24th of September—only two days after he had sanctioned the issuing of the order—Mr. Beadon actually subscribed his name to a letter stating that the order complained of did not emanate from the Government, and referring him to Captain Rogers for redress. And on the 15th of October, Mr. Beadon wrote an official despatch to Captain Rogers, in the name of the Governor-General in Council, severely censuring the conduct of Captain Rogers in issuing the order, and commanding its immediate withdrawal. This command was carried into effect on the 29th of October, and it is not surprising that after this public disavowal and reprimand of an officer in the position of Captain Rogers, the owners of the tug, being natives, conceived that his star was declining, and that they might make him pay for the damage which they had sustained. They accordingly commenced an action against him in the Supreme Court, and obtained a verdict, with damages to the amount of 6,624 rupees, calculated on the entire period during which the order was in force, all of which delay (be it remarked), except the first two days, was occasioned by the length of time which elapsed before Mr. Beadon thought fit to direct Captain Rogers to withdraw the order. This last circumstance appears to have been quite lost sight of by the judge who tried the case. Captain Rogers, as might have been expected, obtained a rule to set aside the verdict, or at least reduce the damages; but Sir James Colvile, and Sir Charles Jackson, the judges of the Supreme Court, in a long and learned judgment, in which the authorities on torts and injuries were discussed with great minuteness, but in which the merits of the case were scarcely alluded to, discharged the rule with costs.

The situation of Captain Rogers was then, indeed, a hopeless one. Disarmed, deserted, and disgraced by the Government whose instructions he had only too faithfully followed; denied ordinary justice by the highest court of the country; saddled with heavy costs and heavy damages, occasioned almost wholly by the delay of the Government in recalling their own order; his courage might well have failed him. There was but one resource left to him, and that a perilous one to a man in his position, but, with a perseverance which does him honour, he adopted it. He appealed to Cæsar. From the injustice of the provincial government and the provincial judicature, he appealed to the Queen in Council; and his persistency was rewarded. The facts of the case, sifted by the experienced and unbiassed minds of the Judicial Committee, assumed a different aspect, and the acts of the various parties appeared in

their true light. The legal obscurity which had gathered round the case was dissipated, and after a patient hearing and due deliberation the judgment of the Calcutta judges was reversed with costs.

The frequency of instances in which the decisions of Indian judges are reversed on appeal, and the consequent uncertainty of the law in that country, must be a matter of grave anxiety to independent persons who may be tempted to embark their fortunes in India. But the absence of that official honour which leads nearly all governments and departments to support and indemnify their own officers, when acting *bonâ fide* according to the instructions of their superiors, is even more serious, as no government can ever be effectually served on such terms. Let us hope that the time may be come when free discussion and a higher tone of feeling in our Indian dependencies may render the recurrence of such scandal impossible.

THE AMERICAN SLAVE CASE.

The struggle between freedom and slavery in America has, in the eyes of our countrymen, become one great question of the union or disunion of the States. Minor points of the question are merged. Even when it has reached Canada, and a yellow man of Missouri, flying from bondage and slaying his pursuer in his flight, takes refuge on the British side of the St. Lawrence, and is adjudged by the Queen's Bench at Toronto to be given up to the gibbet or the stake under an extradition treaty as a murderer, our readers regard the proceeding merely as a local extension of the struggle. They speculate upon the features of it as politicians, or shudder at the issue as men, rather than feel concern as lawyers. Yet the treaty under which the Governor of Canada has been required to give up John Anderson to southern "justice," is no less applicable to the mother country through an Imperial Act than to her American colony by a statute of Canada. The Queen and the United States are the original contracting parties. In 1843 it was agreed between them that they should, upon mutual requisitions by them or their ministers, officers, or authorities, deliver up to justice all persons who, being charged with murder or other crimes mentioned, committed within the jurisdiction of either of the high contracting parties, should seek an asylum, or be found within the territories of the other. It was at the same time provided, that this should only be done upon such evidence of criminality as, according to the laws of the place where the fugitive should be found, would "justify his apprehension and commitment for trial," if the crime had been there committed; and that the judges or magistrates of the two governments should have power, upon complaint made under oath, to issue a warrant that he might be brought before the judge or magistrate, and the evidence be heard and considered; and if the evidence should be deemed "sufficient to sustain the charge," it should be the duty of the judge or magistrate to certify to the executive authority, that a warrant might issue for the surrender of the fugitive. In the present case, a magistrate of the county of Brant had exercised his jurisdiction, and committed the fugitive to gaol, with a view to his surrender. The latter was now brought up before the Queen's Bench, at Toronto, on a *habeas corpus*. The difference between the above expressions in inverted commas appears, from Chief Justice Robinson's judgment, to have afforded ground for an argument by the fugitive's counsel that, although there might be evidence sufficient to justify an apprehension and commitment for trial, there was not sufficient to sustain the charge. But the Chief Justice held that nothing more was meant by the one form of expression than by the other. He considered the intention to be, that the judge who has heard the testimony is to determine whether the evidence of criminality, if fully cre-

dited by a jury, and not refuted in any essential point, is such that it can be truly said that the facts are strong enough, and the proof clear enough, according to the laws of the province, to sustain the charge. This necessarily opened up the main argument on the fugitive's behalf—namely, that all the circumstances which might have influenced the party in committing the act, should be regarded as within the cognizance of the jury. But such a construction seemed to the Chief Justice to exact that there should be a similarity between the law of the state from which the person has fled, and the law of the country of refuge in all the features and attributes of the crime. To some extent he admitted that the laws should correspond; as, for instance, that, if by the law of Missouri the killing by a slave of his master in self defence were murder, there should not be extradition in such an event. In the case of this fugitive, his pursuer, Digges, the man killed, had it appears, authority to take him up, according to the law of the state. Digges was not abusing such authority, when Anderson rushed upon him and stabbed him. Therefore that the killing was not justifiable; and that, as between murder and manslaughter, it would be for the jury to dispose of the charge. Mr. Justice M'Lean, while he considered that in the particular case there had not been a sufficient charge of murder, nor a proper hearing and determination on evidence, and that the commitment was informal and defective—points which we may pass by as having only a special bearing—differed from the Chief Justice, on the ground that the offence stated in the warrant was not one for which the prisoner was liable to be detained according to the law of the province. This opinion, we may conclude from the accompanying remarks of the judge, was not formed upon the technical words of the warrant, that the fugitive did "wilfully, maliciously, and feloniously stab and kill," but upon the circumstances of the homicide. Mr. Justice M'Lean argued that the law of the British Empire not only does not recognise slavery but imposes on British subjects owning slaves the severest penalties. "Could it be expected from any man indulging the desire to be free, which nature has implanted in his breast, that he should quietly submit to be returned to bondage and to stripes, if by any effort of his strength, or by any means within his reach, he could emancipate himself?" In Mr. Justice M'Lean's judgment, the prisoner was justified in using any necessary degree of force to prevent what to him must inevitably have proved a most fearful evil. All our sympathies and all the sympathies of every one in the British Empire will go with this judgment. Were law a matter of sympathy, we might shut our eyes to the perplexities of its international administration between a free and a slave country. But if an extradition treaty is in fact made between two such states, the free country knowing the while that slavery exists lawfully in the other, no amount of hatred for slavery can relieve us from the difficulty that, on the broadest view of the obligations created, the unlawfulness of slavery in the free state cannot more imply an exclusion from the treaty of homicides arising out of the slavery, than the knowledge by the free country of the lawfulness of slavery in the other imply an inclusion of such homicides. The third judge, Mr. Justice Burns, having concurred with the Chief Justice, there was to be an appeal to the Court of Appeal; and, if necessary on the fugitive's behalf, a further appeal to the Privy Council was intimated.

STATISTICS OF THE COURTS OF DIVORCE, PROBATE, ECCLESIASTICAL, ADMIRALTY, JUDICIAL COMMITTEE OF PRIVY COUNCIL, AND HOUSE OF LORDS FOR 1859.

The Court of Divorce and Matrimonial Causes, which has had transferred to it from the Ecclesiastical Courts a jurisdic-

tion in all suits and proceedings in matters matrimonial, is now in the fourth year of its existence. Its returns are as follows:—

Petitions filed:—

In <i>forma pauperis</i>	3
For nullity of marriage	2
For dissolution of marriage	211
For judicial separation	80
For restitution of conjugal rights	9
For jactitation of marriage	—
For declaratory act	1

306

Applications for protection of property 25

Petitions for alimony:—

<i>Pendens lite</i>	63
Permanent	3
Citations issued	423
Appearances entered	210
Answers filed	182
Replies by petitioner	93
Replies by respondent	13
Motions	521
Summonses	477

Causes tried before full Court:—

On oral evidence	139
On affidavit	1
Causes tried before full Court and jury	17
Causes tried before the judge ordinary	47
Causes tried before the judge ordinary and jury	7

211

Judgments given:—

By the full Court	154
By the judge ordinary	48
Applications for new trial	2

There were no applications for reversal of decree, and no appeals to the House of Lords. The fees amounted to £2,414 3s. The report states that the returns do not show the state of the business before the Court, but that it may be estimated from the fact, that in 1858 proceedings were commenced in 352 cases, and judgments given in 52 only, and that in 1859 proceedings were commenced in 306 cases, and judgments given in 202 cases. As these, however, were the first years of the operation of this judicature, we may assume that the proportion of judgments to proceedings will in future be greater than these returns indicate. In 262 of these cases, the causes of suit, as alleged, occurred before the passing of the Act, August 28th, 1857. All the expenses of the Court are paid by means of stamps used in the Court of Probate and Divorces. In 1858 these amounted to £46,092 12s. 3d.

To prevent collusion in this court, the plaintiff should be required in all causes to prove the existence of merit on his side, as well as of misconduct on the part of the defendant. It is also suggested that there should be a citation of the Attorney-General; the public being more concerned in the practical administration of this judicature than it is as to rights of patent, or legitimacy, in which causes the intervention of the Attorney-General on behalf of the public has been deemed necessary. The prevention of domestic strife and personal violence is one of the objects of the Act likely enough to be accomplished. But, on the other hand, the Act operates as a bounty on immorality, and, although the safeguards we have mentioned may be useful, we doubt whether even these will be sufficient checks to collusion. The Act indicates a social revolution in our law. For 300 years previous to its passing, only 365 cases of divorce occurred. The rich man, therefore, had virtually under the old law only a theoretical privilege, as it was kept in check by social considerations, which are not at present found to operate with any considerable efficacy amongst

the increased numbers admitted to a participation in this doubtful boon. The Act, therefore, is not so much an extension of the privilege of a class, as it is the grant of a new right, which may finally be found to weaken the most important social ties of every class in the state.

The proceedings of the Court of Probate, established by a statute of the same session that instituted the Court of Divorce, are returned by the chief registrar for the principal registry, and by the district registrars for the forty local registries. The proceedings in the Court and for the principal registry were, in the year 1859, as follows:—

Total number of probates granted	8,069
Administrations	4,541
Caveats	892
Appearances	237
Motions	595
Petitions	11
Causes	439
Trials by special jury	12
Trials by common jury	15
Causes heard by judge only	29
Probates and administrations granted:—	
On hearing of causes	54
On motion	238
On summons	7
Causes in progress at the end of the year	111
Revocations of probate or administration	35
Total amount of fees in court and contentious business (estimated)	£2,685
Total amount of taxed costs	£8,012

Of the above 439 causes, the greater number was disposed of by motion in court, and 81 by orders on summons. In the latter cases, 7 excepted, probate or administration was granted by the registrar's order. The district registrars, within their own districts, have power to grant probate or administration in common form; that is, in non-contentious cases; and in contentious cases, upon the decision of the County Court.

The total of the business of the district registries in 1859 was as follows:—

Probates granted in common form	13,874
Letters of administration granted in same manner	4,870
Probates granted under direction of judge	19
Letters of administration granted in same manner	5
Caveats against grants of probate or letters of administration	288
Caveats refused under direction of judge	—
Probates granted on decrees of county courts	1
Letters of administration granted in same manner	1
Number recalled or varied on decrees of county courts	—
Total amount of fees received	£53,521
Amount of duty stamps for probate and administration	£452,563

A convenient place for a registry is a practical desideratum for the requirements of this court.

The administration of assets has been always considered as savouring of equity, the comprehensiveness of suits in chancery, as to parties, being adapted to a complete and effectual distribution of assets, whether testamentary, bankrupt, or arising from the produce of incumbered estates. Hence, in addition to the division of judicial labour into the two branches of law and fact, as suggested by us in a former paper, the administration of assets among numerous parties, being dependant mainly upon questions of law, appears to be an adjunct of that jurisdiction which is chiefly engaged in determining issues of law. If the foregoing principles be correct, and they are cer-

tainly in harmony with the current of legal opinion at the present day, the administration of testamentary assets would appear in principle to be rightly appropriated to courts of equity. There is, therefore, some argument for a complete consolidation of the Court of Probate with the Court of Chancery, which is somewhat sanctioned by the existing partial fusion. It is an inconvenient arrangement, that the Court of Chancery should, as at present, determine the rights of parties to property, and that the Court of Probate should control the right to administration, which is a privilege mainly consequential upon the former. If, then, the Court of Chancery rightly possesses a jurisdiction as to the distribution of testamentary assets, which few, we think, will deny, why should it not also enjoy the incidental power to determine the right to administration?

The business of the Ecclesiastical Courts has been sufficiently meagre since the transference of its chief jurisdiction to the Court of Divorce and the Court of Probate. The only ecclesiastical courts now exercising judicial powers are the Arches Court for the province of Canterbury and for the province of York, and the Consistory Court for each diocese. The business of the Court of Faculties, and of the Court of Peculiars, is virtually only ministerial. The judicial proceedings of the Arches Courts and the Consistorial Courts are hardly worth noting. There were 15 suits in matters of church rates; but in none of the other classes of cases, of which these courts take cognizance, did the number of causes exceed 2. The total number of these suits was 29. As to suits for faculties, 73 were instituted for altering, or rebuilding, churches. The total number of suits of this class, including 4 for pew seats, was 85. In 79 of these cases faculties were decreed. The total amount of fees on all the above suits was £281.

The returns of the Registrar of the High Court of Admiralty are very full and complete as to the business of that court. The causes in 1859 were as follows:—

	Causes pending at commencement of year.	Causes instituted.	Amount at which causes were entered.
Salvage	31	137	£153,430
Damage by collision	71	182	223,985
Bottomry	14	46	61,650
Actions for necessities supplied to			
foreign ships	4	46	20,070
Towage	—	22	3,700
Subtraction of wages	29	72	27,600
Pilotage	—	12	900
Actions to enforce bail for the safe return			
of ships	1	15	12,200
Possession	2	4	—
Total	152	536	£503,635

The judgments were as follows:—

Final judgment in contested causes:—	
For plaintiff	107
For defendant	28
	135
Incidental decrees in contested causes	17
Decrees in <i>in personam</i> causes	61
	213

The Court also adjudicated upon 160 motions, 42 of which were opposed.

References to registrar and merchants:—

Cases heard and reported on by Registrar	56
Amount of sums claimed	£127,437 14 10
Amount disallowed	44,182 10 3
Bills of costs taxed by the registrar.	210

Taxes varied or altered by the Court:—

	Bills and charges submitted.			As taxed.		
	£	s.	d.	£	s.	d.
Costs in <i>in person</i> causes	3,698	13	1	267	15	7
Costs in contested causes:						
Plaintiff	16,602	14	0	12,515	11	5
Defendant	3,585	8	8	2,531	9	2

Number of instruments prepared in the registry:—

Commissions for bail	111
Warrants	448
Writs of superadeas	114
Subpoenas	41
Motions, commissions, and attachments	110
Numbers of acts or minutes of court	3,867
Office copies issued from the registry	201
Admiralty commissions enrolled	5
Letters patent issued from the registry	38

The proceedings of the marshal in executing the process of the court were as follows:—

Instruments executed, warrants, &c.	161
Arrests made of ships, cargoes, &c.	242
Appraisements of ships and cargoes	14
Sales of ships and cargoes	10
Cargoes released, &c.	176
Reports as to sufficiency of sureties	206
Amount of bail reported	£207,483
Proceeds of ships and cargoes sold, paid into registry	£5,583

Statistics afford a strong light to estimate the relative merits of courts having concurrent jurisdiction, such as the common law courts and Court of Admiralty have in all cases, except that of prize. The court preferred by suitors, we may rest assured, is more effective than its less favoured rival. Until the 3 & 4 Vict. c. 65, the common law courts had from the time of Lord Coke progressively narrowed the jurisdiction of the Court of Admiralty. Lord Coke, it appears, was jealous of it, as he was of the jurisdiction of Chancery, and the prejudice seems to have descended to his successors. The Act referred to has altered this, and the court now enjoys its full rights concurrently with the common law courts in all marine cases, while it continues to have the peculiar jurisdiction already mentioned. This court has power to arrest the ship. The suit being in such cases *in rem*, there is an obvious desirableness in local jurisdiction to render such rights on the part of creditors effectual over property which may be so readily shifted. It is also, perhaps, an unnecessary hardship upon suitors that, in any class of marine cases, the parties aggrieved must initiate and try their suits in London, although the cause of action may have occurred on the coast of Cheshire or of Cornwall. A special jurisdiction certainly appears necessary for cases so technical as marine matters are, or rather courts with concurrent jurisdiction would sufficiently provide for the best determination of all causes. But under any mode of jurisdiction, a local judicature appears the most essential requisite for the cheap and speedy administration of justice in admiralty matters, the right of appeal being reserved to the court in London for such classes of cases as might require special knowledge in the judge. The criminal jurisdiction of this court was taken from it by the 7 & 8 Vict. c. 2, and is now vested in the Central Criminal Court. The most numerous class of cases which the Court of Admiralty is called upon to decide are those of collision. However unnecessary it may be to stimulate our judges to an honourable rivalry with one another, yet the existence of concurrent jurisdictions, whose working is testified by statistical records, operates as a wholesome spur to ambition for a high place in the public estimation, and also as a test of their relative claims to still further promotion; although there is, doubtless, some risk resulting

from the temptation to hurry through their judicial business, for the sake of making a good figure in the annual returns.

The total number of appeals entered in 1859 before the Judicial Committee of the Privy Council was 59; of these 7 were dismissed for non-prosecution, and 37 heard and determined. Judgment was affirmed in 16 and reversed in 16. The amount of the Council Office fees was £626 19s. 6d.; the amount of costs taxed £11,348. Sixty-six appeals remained for hearing at the end of the year.

The judicial proceedings of the House of Lords for 1859 consisted of the following appeals and causes in error:—

From the Court of Chancery—

England	20
Ireland	5

From the Court of Exchequer Chamber—

England	9
Ireland	1

From the Court of Session—

Scotland	25
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From the Court of Probate—

England	1
Ireland	—

From the Court of Divorce and Matrimonial

Causes	2
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Total 63

Of these appeals 18 were dismissed for want of prosecution and for incompetency, and only 36 were heard. Of the cases heard, 20 were affirmed simply, 4 affirmed with declarations, 3 reversed simply, and 6 reversed with declarations. Forty-nine cases remained for hearing at the end of the year. The total amount of the fees was £2,023.

These returns conclude the judicial statistics for the year 1859. They appear to us to deserve great praise for their simplicity and lucid arrangement. We do not think that the incorporation of many other particulars besides those which they at present contain, would be useful. Social philosophy may desire voluminous data, but the law reformer, whose sphere is more limited, had better not incumber his thoughts with reflections upon varied or minute details. The present returns comprise, we think, all the most necessary statistics. The periods of judicial sittings should, however, in future be distinctly recorded for each court. We could thus determine more easily to what cause the existence of large arrears should be referred. This observation is also applicable in an especial manner to our courts of appeal. Ballads, are not, indeed, superior in force to laws, as is often alleged, but the judicial is more important than the legislative because it has a more extensive sphere of action. The law operates only through the judicial; and this latter function of Government, in all its departments, is most powerfully influenced by the conduct of the Supreme Court of Appeal, just as political economists tell us that the price of all corn is regulated by the price of that which is produced at the greatest expense. A knowledge, therefore, of all particulars relating to judicial sittings, especially in courts of appeal, which enjoy only a divided attention from the members of the bench in this respect, is an essential element for our consideration of the actual working of the law.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's Inn,
Barriater-at-law.)

III.

OF THE DIFFERENT KINDS OF DOMICIL.

Domicils are of four kinds: first, domicil of origin, secondly, domicil of birth; thirdly, domicil by operation of law, and, fourthly, domicil of selection. Some domicils are

called necessary, and these probably would come within the third class; these are, those of a wife, an infant, a servant, a student, a prisoner, an exile, a servant of the Crown, a domestic servant, an emigrant, an apprentice, a lunatic, and some others; but these would more properly, I think, be described by the word compulsory. It is very doubtful whether a man can have a domicile of origin different from his domicile of birth; for, up to the time when he attains his majority, his domicile would follow that of his father, unless he were illegitimate, in which case, although a minor, his domicile would refer to the country in which he was born, and so far be a domicile of origin and not of birth only. A domicile of birth does not properly arise during minority, but being acquired by birth would become a domicile of origin if continued after the party came of age; but domiciles of origin, and the fact of birth or death in a particular country, are in the nature of *derniers resorts*, and never called into play, except in the absence of all others. Domicile, by operation of law, would include all those cases where the act of the party has no hand in creating the domicile; thus the domicile of an illegitimate child would be by operation of law, the domicile of a person born on board of a ship would be by operation of law as belonging to the country to which the ship belonged, &c.,—see Vattel, p. 102, s. 216. Domicile of selection would be, where a party actually became a resident with the intention to remain, and chose that particular locality as his home. The third class, as I have said, are divided into what I shall call compulsory domiciles, and which I have treated of at large in another place. And, first, a wife's legal existence, except in some few particulars, is merged in that of her husband, and these very exceptions, which cannot arise unless under express provision, shew the truth of the general assertion. But none of these exceptions, as, where she has property to her separate use, where she has a power of appointment over property, where she possesses real estate, &c., affect the question of domicile; for a wife, ordinarily speaking, resides with her husband, and therefore his domicile would be her domicile, and unless she were separated *à vinculo matrimonii*, when she would cease to be a wife, her residence in a particular place could not affect her legally; because the mere effect of a deed of separation, or a separation *à mensa et thoro*, would not interfere with the legal bond; for, I apprehend, the general law looks only at general rights according to that law, and until these general rights are interfered with, which they could not be by private agreement, or by anything which does not touch the legal tie, the legal consequences of that tie follow and remain as they subsisted the moment after the marriage. As is well known according to our law a certain period (three weeks or three sabbaths) must elapse of continued residence by one of the parties, in a parish where a marriage is to take place, before the parties can be married by banns; and this rule finds a parallel in the *Code Civile*, 74th art., where it is provided that "the marriage shall be celebrated in the *commune* in which one or other of the parties shall be domiciled (see *Robins v. Paxton*, 6 W. R., 457), and the domicile, as regards the marriage, shall be established by six months' continued habitation within the same *commune*." The domicile of an infant follows that of its parents, as, in the ordinary case, the domicile of both would be the same; but if the child be posthumous, the then residence of the mother would be the domicile of origin or birth of the child; and this would apply to an illegitimate offspring, for although a bastard (that is, a child not born in lawful wedlock according to our law), is *hæres neminis, filius* or *filia nullius*, yet, for the purpose of domicile that rule can only apply to the father, because he is not legally his father, however certain and notorious the fact of his paternity may be; but this cannot be the case with the mother, for, whatever doubt there may be whose

son or daughter it is on the father's side there cannot be any, ordinarily speaking, on the mother's. With respect to the case of a prisoner, if his imprisonment be for any crime which does not create the absolute forfeiture of his property, real and personal, such as treason and crimes of that nature, or of his personalty as felony (*vid. Harrop's Estate*, 5 W. R., p. 449), there can be no doubt as to his domicile being that of the country in which he is imprisoned. The same observations apply to the case of an exile, or one banished from his native country for some crime; but this could only apply to the case of one exiled for life, for unless the party exiled for a term confirms his compulsory domicile thus acquired by acts sufficient for the purpose, his former domicile would immediately revert on his return to the country from which he was exiled or banished. The case of a servant would stand somewhat on the same footing, except that his domicile is not so compulsory as in the cases of prisoners or exiles, but rather may be called a domicile of selection, although circumstances may create such a pressure as to make it in a manner involuntary or that in which his will has little or no concern. As appendant to this is the case of a servant of the Crown; and this branch may be divided into two classes—those who hold a direct office under Government, and are constantly engaged in the performance of active duties, and those who are in the pay of Government, but not performing any duty, and under the liability only to be called upon at any moment to serve. Many cases have occurred which have received judicial decision coming under both of these heads, and chiefly respecting military men, who, either being on service, were transferred from station to station and country to country, or being in the receipt of half-pay followed some other calling; but up to the time of death continued to receive pay, got leave of absence extended from time to time, and died without ever having been called upon to serve.

In the first case it would be difficult to say that a domicile could be acquired by ever so lengthened a residence, where there was a liability to change it at any moment, and that at the will too of another power, over which the party himself could have no control; but still this is certainly a compulsory or necessary domicile, and if a person thus circumstanced remained or rather resided a number of years in one country, although perhaps not in the same place, and died there, that country would certainly be his domicile. On the other hand, it has been held that the mere extension of leave and continuance of half-pay from time to time did not prevent a domicile being acquired in another country than that by the Government of which the half-pay was granted, because the mere neglect of an application for leave would have forfeited the commission and dissolved the tie at any moment; *Cockrell v. Cockrell*, 4 W. R., p. 730. Having thus touched lightly upon the different kinds of domicile, I shall next proceed to consider what it is which constitutes the thing itself.

Vid. Vattel's Law of Nations, p. 203.

IV.

WHAT CONSTITUTES A DOMICIL.

We have seen the etymology of the word "domicile," that it is a "house of residence," and not only so, but a house in which it is the intention of the party permanently to reside, and probably the shortest and truest meaning of the word is expressed by the one syllable "home," although no doubt that again depends upon what is considered as "home." We have also seen what is an abandonment, what is an acquirement of a domicile, and what is a domicile *ab origine aut nativitate*. We now come to a thing apart from all these, namely, what is necessary to constitute a domicile? To possess a domicile the necessary ingredients are, *residence*, and *intention*; and it is therefore a *sequitur*, that for the

purpose of residing there must not only be the act called residence, but the thing called a residence; and I think, at this present period, it must be assumed that there is some kind of property in that residence to make it a domicile. On the other hand, intention may be manifested almost without the possession of property, although the proof in that case is of a very negative nature, that is, where a party having acquired an undoubted domicile in one country either by birth or act of his own, abandons but does not lose such domicile; but does not acquire another, in which case we are compelled to prefer the best of two very unsatisfactory states of circumstances. However, it generally happens that a man has some species of "home" in some country, and if he has not, yet possesses or retains some species of property, which raises an inference that he intended at some period to return to this spot and there permanently abide, or at all events, that he has never had an intention to abide or reside anywhere else. Of course, if a man possesses no property, no question of the sort can arise: because there is nothing whereon the law of any country can act, as it is in consequence of the possession of property and upon that possession that the law of domicile arises. In the case of *Cochrane v. Cochrane* (now subsisting under the title of *Lord v. Colvin*), *Sir Launcelot Shadwell*, the late Vice-Chancellor of England, decided that the retention of furniture was a sufficient *indiciu*m to fix the domicile as Scotch, and expressed that to be his opinion upon general principles and specially as showing the *animus redeundi*, including of course the *animus manendi*, when the former *animus* had become a *factum*, and which might be assumed as a natural or rather as a highly probable consequence; but also upon this further principle that the domicile had been Scotch, and was not displaced by another on the fact of the retention of furniture which was in fact tantamount to a retention of a domicile which had been acquired, and was prevented by this circumstance from being lost. This case occurred in May, 1848, and was argued upon exceptions, but is unreported, except in the public press; and it is worthy of notice that in the case referred to, not only did the present Vice-Chancellor, Sir John (then Mr.) Stuart, give an opinion that the domicile was Scotch, but the present Vice-Chancellor Kindersley has at the hearing decided it to be Scotch. The soundness of this decision, I think, cannot be called in question, and hence *a fortiori*, if the possession of furniture is sufficient to support a domicile, the possession of a house and land would be, even though there were no immediate appliances sufficient to enable the party actually there and then to reside, annexed to it. Nay more, in the case of *Attorney-General v. Fitzgerald*, 4 W. R., p. 797; it was held by Vice-Chancellor Kindersley, that the leaving books and trunks was sufficient among other *indicia* to constitute a retention of an English domicile. The length of residence has always been thought an important *substratum* whereon to build a domicile; no doubt, for the obvious reason, that whatever the intention of the person may have been, that is, at all events, a substantive fact, or in other words, an act done sufficient *per se* to constitute a domicile, or if not, wanting very slight circumstances conjoined with it, to do so. In this sense, however, I imagine that the length of time must be considerable (for I know of no actual limit which has been fixed by decision, except in the case of *Bremer v. Bremer*, 1 Denne, 192, where in the course of Sir John Dodson's judgment there is this passage:—"Time alone will not constitute a domicile; a person may remain for fifty years in a particular place with an intention to return, and the original domicile is not considered to have been abandoned, and undoubtedly this is quite true." Long residence in one place is a material ingredient from which intention may be collected; but it is also absolutely necessary that there should be evidence of some sort of

animus, although of course the longer the residence, the less necessary is the amount of *animus*. Whereas, supposing a house and land are taken, furniture purchased, and servants regularly hired, either where it is on a twenty-one years' or some long lease, or where the property is purchased out and out, a much shorter time would be sufficient, supposing at the time of the death under such circumstances, there was nothing to show an intention permanently to break up such establishment, and therefore, a mere residence, even of some months elsewhere, and leaving the establishment of servants upon board wages, would not prevent there being still sufficient to constitute a domicile, *vid. Forbes v. Forbes*, 1 Kay, p. 341. It is scarcely possible to conceive a case in which one solitary fact could create a domicile (except in the cases of necessary domiciles treated of in another chapter), and therefore is it that every minute circumstances attending the conduct and position of the party is so requisite to be brought forward. It oftentimes happens that there may be *indicia*, many in number, and yet it is still doubtful whether they constitute a domicile; but the addition of one circumstance, of some weight, completes as it were the necessary sum total and constitutes the domicile, and this circumstance in *Forbes v. Forbes* was the residence of the wife. It would, perhaps, be very difficult to enumerate all the circumstances necessary to create a domicile, but the guide to determine what circumstances are necessary, is that, coupled with facts, there must be some circumstance or circumstances to show an intention permanently to reside, and after all that is the key-stone upon which the whole question turns. It is not necessary for the purpose of proving a domicile in any particular country that a residence should be proved to exist in any particular portion of or place in that country; it being enough that a domicile having been there acquired, no domicile has been acquired elsewhere, or that there are *indicia* to show an intention at some time or other to return to and reside in it, and therefore I think it is clear upon this principle, that where a party is possessed of property sufficient for a residence in one country, but procures tenants for it and spends his time in travelling from place to place abroad (a common case), his domicile is still subsisting in the country wherein his property is situated. A question has often been raised with regard to persons in the service of Government; and as bearing upon this question the case of *Brown v. Smith*, at the Rolls (21 Law Journ. N. S. 356), is a somewhat singular one. In that case William Cornborough Watt, a Scotchman by birth, and a surgeon by profession, came to England and was appointed hospital mate at Haslar hospital; he afterwards acted as assistant-surgeon and surgeon on board of various vessels of the Royal Navy during several years, as also on board several convict ships, and twice during these periods, being on half pay, he visited Scotland, and remained there up to the time of being again on service, but ultimately, being on the Malta station, he there died. At this time he had entirely removed every article of property he possessed, and likewise his sister and only relation, from Scotland, on the last occasion of his visiting that country; but the *Master of the Rolls* thought that he had not lost his Scotch domicile, and decided accordingly. This, no doubt, is a very strong case; but it only carries out the principles I have endeavoured to evolve, namely, that where a domicile has been acquired, and subsists *ipso facto*; until another is acquired, such domicile of acquirement or origin is not lost, although it may be apparently abandoned. The latest case upon this part of the question is that of *Cockrell v. Cockrell*, 4 W. R., p. 730; where the Crown claimed legacy duty on the ground of an English domicile. The circumstances were shortly these. The testator, Mr. Cockrell, being on half pay and invalided from his Majesty's ship *Weazel*, went to Calcutta, where he

founded the well-known house of Cockrell & Co., and amassed a fortune of nearly £200,000 in the course of ten years, married, had children and died there; and it appeared that he had from time to time obtained leave of absence from our Government, and still retained his half pay up to the time of his death. In this state of things he made his will, and left large legacies, &c.; and legacy duty being payable if his domicile was English, but not if it was Anglo-Indian, the matter was contested with some energy. The Vice-Chancellor took time to consider the case, for the purpose of investigating the nature of the Admiralty orders; and as it appeared that the effect either of outstaying the leave of absence or neglecting to apply for further leave when one period was expired, would be simply a forfeiture of the half pay, his Honour thought it so very improbable that, had the occasion arisen, Mr. Cockrell would have elected to retain his half pay against such a profit as he was then making by his business, that he decided his intention to have been all along permanently to reside in India, although as long as he could, he had retained his half pay, and held accordingly that his domicile was Anglo-Indian and not English. This case, therefore, was decided on the intention as constituting the domicile joined with ten years' residence, and it cannot be doubted that the mere fact of being in the service of a Government, unless accompanied by permanent residence, will not of itself constitute a domicile; *vid. Hodgson v. Beauchesne*, 7 W. R. 397; and 33 L. T. 36. Coverture, minority, imprisonment and exile, may *ipso facto*, constitute a domicile; but this subject will be found discussed under the head of "compulsory domicile." Of the insufficiency of intention only to constitute a domicile there can be no doubt, and it has also been held that a testator's description of himself is not sufficient for that purpose. *Vid. Whicker v. Hume*, 13 Beav. 366, afterwards carried to the House of Lords, and which will be hereafter referred to.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

MIDDLESEX SESSIONS.

Jan. 1.—The criminal business of the county of Middlesex was resumed this morning at the Sessions-house, on Clerkenwell-green, for the first time since the completion of the alterations, which appear to give great satisfaction to the public, and for the future the whole of the sessions business (excepting appeals) will be conducted at Clerkenwell.

The learned Assistant-Judge, Mr. Bodkin, presided; with Mr. Payne, deputy; Mr. Pownall, chairman of the bench, and a great number of magistrates, were present.

The Lord Chancellor has ordered the name of Mr. Warde, of Clepton House, Warwick (who was the defendant in the action of *Hooper v. Warde*, recently tried in the Court of Queen's Bench), to be struck out of the commission of the peace for that county.

Recent Decisions.

(Equity, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; Common Law, by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.)

EQUITY.

DEBTOR AND CREDITOR—RIGHT TO POLICY OF ASSURANCE AFTER PAYMENT OF DEBT.

Courtenay v. Wright, V. C. S., 9 W. R. 153.

There have been before the Court of late years several cases in which the question of the right of a creditor to retain a policy of assurance after the payment of his debt, has been discussed; but until lately there was hardly any express

authority upon this point. A short review, therefore, of the decisions relating to it will not be without use.

It was decided in *Burridge v. Rows* (1 Y. & C. 183), that the voluntary payment of premiums on a policy of assurance, confers on the payer no interest in the policy; and according to *Triston v. Hardey* (14 Beav. 232), where a person effects a policy in his own name upon the life of another, declaring that the assurer is interested in the other's life, the fact that some of the premiums were paid by the other does not rebut the presumption that the policy belongs to the assurer. In *Morland v. Isaacs* (3 W. R. 397), a creditor insured his debtor's life, charging him, by consent, with the premiums. There was not any express contract as to the ownership of the policy; but the creditor admitted that he would have assigned the policy to the debtor, if requested to do so, upon payment of the debt; and the debtor having died, the question was to whom the proceeds of the policy belonged? There could be little doubt in such a case that the balance of the money so obtained, after payment of the debt and premiums, belonged to the estate of the debtor; and accordingly Sir J. Romilly, M.R., decided that the creditor was a trustee of this balance. In his judgment, his Honour refers to the distinction between the case of an annuitant and that of an ordinary creditor insuring a debtor's life, and charging him with the premiums. "If," said the Master of the Rolls, "an annuitant insures the grantor's life, the expense comes out of his own pocket, and is an equivalent for the loss he might otherwise sustain by the premature death of the grantor. The case of a creditor who makes the debtor pay the premiums is different." Since this decision an important case of an annuitant secured by a policy of assurance has come before the Court:—*Gottlieb v. Cranch*, 4 D. M. & G. 440. In that case a money lender agreed to advance a sum at £8 per cent. per annum, "besides insurance of the life" of the borrower, who executed a bond with sureties conditioned for the payment of an annuity during his life, equal to the aggregate sums of the annual percentage and premiums, there being a condition for the cesser of the annuity on payment of the sum advanced—but nothing was said as to the policy. The case was originally heard before the Vice-Chancellor Stuart, (see 17 Jur. 686.) who declared that the policy on payment of the original sum borrowed belonged to the borrower, being of opinion that the evidence showed that the bond was not an entire transaction in itself, but that the whole transaction was intended only to provide for the repayment of the sum lent, the object being merely a security and indemnity to the lender. The Lords Justices, however, decided on appeal that the borrower had no equity to have the policy delivered to him. The main ground of their lordships' decision was that the lender was an annuitant, and effected the policy for his own protection. "It generally or often happens," says Knight Bruce, L.J., "that when an annuity is purchased, the amount of the annuity, or the price to be given, is fixed on the principle of obtaining for the purchaser a certain amount per cent. for his purchase money, and enough also to insure on the ordinary terms the life on which the annuity depends;" and this being so their lordships were of opinion that there were no special circumstances in the case or contract between the parties to take it out of the general rule. Wherever, therefore, the intention is that the grantor of an annuity by way of security should have the advantage of a policy of assurance upon payment of his debt, there should be an express stipulation to that effect. At the same time it is not very easy to understand the equity which, in such a case as *Gottlieb v. Cranch*, gives to the lender not only the amount of his debt, but also a fund which admittedly was intended for his security only, and which was provided at the expense of the borrower.

The cases of annuitants, however, as has already been mentioned, are distinguishable from those of ordinary lenders, in which it is not so easy to arrive at anything like a definite principle. In *Drysdale v. Pigott*, 4 W. R. 518, Sir John Romilly, M.R., laid it down that where a creditor insures his debtor's life, the question whether the debtor was in his lifetime liable to repay to the creditor the amount of premiums paid by him, is the test by which the title to the policy money on the debtor's death is ordinarily to be determined; and this was in accordance with his Honour's decision in *Morland v. Isaacs*. In *Drysdale v. Pigott*, however, although the debtor paid the first premium he refused to pay the second which had been paid by the creditor. Under these circumstances the Master of the Rolls was of opinion that the policy was continued by the creditor for his own benefit; that he could not have compelled repayment of the premiums to him; and that therefore he was entitled to the proceeds of the policy. On

appeal, however (5 W. R. 773), the Lords Justices held that the policy belonged to the estate of the debtor subject to the lien of the creditor for his payments in keeping it on foot upon the grounds that originally the policy belonged to the debtor; and, although by his refusal to pay subsequent premiums, he risked its destruction, yet that the creditor was to be regarded only as preserving by his payments his debtor's pledge, which would be for the benefit of the owner (the debtor) subject to the creditor's lien on it for his debt, and the expenses of its preservation. Turner, L.J., observed that the creditor "was mortgagee of a policy, and there was nothing to bar the right of the debtor to redeem, except the fact that when applied to for payment of the premium to keep the policy on foot, he refused to pay it." The same question in effect was raised in *Lea v. Hinton*, 19 Beav. 324, of which the marginal note is as follows:—"If A. effects a policy of assurance upon the life of B. to cover a debt due to him from B.; or if A. effects a policy in the name of B., in whose life he has no interest, the representatives of B.'s estate could have no claim upon it. But where there is a presumption from the dealings and transactions between the parties, that the policy was effected with the privity and concurrence, and on account of B., for the purpose of securing a debt due by B. to a third party, for which A. is surety, the onus is thrown upon A. of rebutting that presumption." In that case, A. had borrowed £300, and B., his solicitor, had joined with him in securing it. Very shortly afterwards, B. insured A.'s life in the name of B., after communications with A. The evidence being unsatisfactory at the hearing, and the Court being of opinion that the onus of proving the title was thrown on B., and he having failed to rebut the presumption that the policy was effected to secure the debt, it was held by Sir John Romilly, M.R., that the policy belonged to A.'s estate. It ought to be mentioned that the security in which B. joined was a joint and several promissory note which was of the same amount as the policy of assurance. Upon appeal the Lords Justices held that to the extent to which the insurance money was not required for indemnifying the surety it ought to be applied in payment of the debt. (See the observations of Knight Bruce, L.J., explanatory of his judgment in this case, 2 De G. & Jones, 595.)

In *Courtenay v. Wright*, the question arose between the grantor and grantee of a life annuity; and Stuart, V.C., in his judgment, thus states the principle which is to be extracted from *Lea v. Hinton*, and *Drysdale v. Pigott*. "Where," said his Honour, "the relation of debtor and creditor subsists, and the true construction of the instrument and the evidence of the real nature of the transaction shows that the policy of assurance was effected by the creditor as a security or indemnity, if the debtor substantially bears the expense of that security, he is, on a principle of natural equity, entitled to have the security delivered up to him when he pays his debt, which it was directly or indirectly at his expense effected to secure. This is an application of the maxim, 'Qui sentit onus sentire debet et commodum.'" The same principle is recognised by the civil law, as appears by the following passage in the Digest (30. 17. 10):—"Secundum naturam est, commodum cuiusque rei eum sequi quem sequuntur incommoda." The Vice-Chancellor distinguishes this case from *Lea v. Hinton*, and *Drysdale v. Pigott*, that in both of the latter the insurance was optional, and the creditor was not supplied beforehand by the debtor with money sufficient to defray the premiums, but that the payment of them by the creditor was optional, and made with his own money for a purpose beneficial to himself. The contrary would of course be the fact where provisions for the premiums was made by an annuity; and this distinction appears to be plainly founded on natural equity. The decision of the Vice-Chancellor, however, appears to be hardly reconcilable with *Gottlieb v. Cranch*.

COMMON LAW.

PROCEDURE—AMENDMENTS AT NISI PRIUS—15 & 16 VICT. c. 76, s. 222.

St. Losky v. Green, 9 W. R., C. P., 119.

There is probably no single section in the whole of the Common Law Procedure Act, 1852, which worked a greater change in the system existing prior to that statute, than the 222nd, which (as it were) gathered up into a single proposition all the previous declarations of the Legislature in favour of common sense against mere technicalities, and provided in the most sweeping terms that "it should be lawful" for a judge, at all times, to amend all defects and errors in any proceeding in civil causes, whether there was anything in writing to amend by or not, and whether the defect or error were that of the

party applying to amend or not, and that all such amendments might be made with or without costs, and upon such terms as to the court or judge should seem fit. And, not content with conferring these large *permissive* powers of amendment, the Act proceeds in the following way, "and all such amendments as may be necessary for the purpose of determining in the existing suit the real question in controversy between the parties shall be so made."

Had this clause been acted upon according to the very liberal terms in which it was framed, and in the way in which it was probably intended by its original proposer to operate, it is obvious that considerable inconvenience would have followed in practice. There would have been a total cessation of all attempts at precision in the pleadings, or even in duly launching the case by placing the proper parties on the record, as plaintiffs and defendants. Hence the judges, instead of the litigants, would have been saddled with the burthen of laying the real matter to be decided before the jury—a result which would, also, have materially increased the expenses of both parties, by making it necessary for them to provide themselves with evidence for the trial which, after all, might turn out not to be material or required, at the risk of being met with some claim or defence for which they were totally unprepared. At the first outset, some attempt was in fact made to persuade judges under this provision of the new Act to make amendments which would have been attended with results of the nature just alluded to; but matters soon settled down to a more reasonable footing, and it was felt that, like other single texts, the 222nd section of 15 & 16 Vict. c. 76, was not capable of sound construction without referring to other parts, and the entire spirit and bearing of the statute of which it formed a part.

Mr. Justice Maule, with the acuteness for which he was so remarkable, was one of the first to perceive the necessity for some caution in construing the new powers of amendment given by the Act. In *Wilkin v. Reed* (15 C. B. 192), he refused to amend a declaration, by inserting therein an allegation which had become necessary to the plaintiff's success, owing to the evidence given at the trial, but which raised a new question not *previously* in the contemplation of the parties. The Court in banco held his decision to be right, and this doctrine has since been often acted on. It was also soon determined by all the three Courts, that notwithstanding the obligatory words at the end of the section, it is not imperative on the judge to add a pleading, whatever his obligation may be with regard to altering one already on the record. And they have also repeatedly intimated that they will seldom interfere with the discretion of a judge in refusing to amend (see, for example, the observations of the Court in *Brennan v. Howard*, 1 H. & N. 138). In consequence, probably, of this intimation, points for judicial decision upon this provision have been more rarely brought before the courts in banco, the parties being content with the decision of the judge presiding at *nisi prius*, where it forms a fertile resource for a speculative application by the losing parties (see *Fost. & Fin.*, N. P. Rep. *passim*).

In the present case, an amendment under the following circumstances, which had been acceded to at *nisi prius* by Erle, C.J., was made the ground for an application for a new trial.

The action was by a consumer of coals against a coal merchant for delivering coals of a different and inferior description from those contracted for. And the defence was, that the plaintiff had agreed to the substitution. The terms used in the declaration described the whole quantity of coals contracted for, as being both *screened* and *unscreened*; which, of course, was manifestly inconsistent; but, inasmuch as the real question between the parties was whether the coals delivered were screened or not, the judge amended the declaration accordingly, and at the expense of the defendant. In taking this course, he was upheld by the Court, who at the same time took occasion to express their opinion—first, that under the provision of the Act, the judge was *bound* to correct the faulty description of the goods in the declaration, so as to make the pleadings fit the contract; and second, that in such a case, the costs of the amendment ought not to be paid for by the plaintiff if he succeeded generally in the cause, inasmuch as it must be taken that the defendant knew the real matter in dispute, and being aware of the blunder in the pleadings, was desirous to take advantage of the mistake.

PRACTICE—RENEWING WRIT TO SAVE STATUTE OF LIMITATIONS.

Bailey v. Owen, 9 W. R., B. C., 128.

In *Cornish v. Hochin* (1 Ell. & Bl. 602), an application was

made to the Queen's Bench, to amend a writ of summons which (a writ for the same debt having been regularly sued out while the plaintiff's claim was alive, and having been continued by *alias* and *pluries* writs, according to the practice then in force, for the purpose of saving the Statute of Limitations), bore on it a faulty date, and one which made it appear to have issued when in fact it did not issue, i.e., when the first writ issued. The Court acceded to the application, though with some little hesitation, chiefly on the strength of the 222nd section of the Procedure Act, discussed in the account above given of *St. Losky v. Green*, for the real question between the parties (it was remarked) was, whether the suit was or was not barred by the Statute of Limitations. They intimated, however, that neither before nor since the Act would an amendment, with the object of saving the Statute of Limitations, be ordered, if it was sought thereby to make the record not conformable with the actual facts of the case.

In the present instance, they carried this resolution into effect; for an application was made to them to cause a writ to be revealed (according to the present practice of renewal) *sine pro tunc*, that is of such a date as would keep the action alive—the case being that the writ had not been, in fact, renewed in time, owing to the error of a clerk. This course the Court refused to authorise, observing that by so doing they would be extending the time for suing given by the Statute of Limitations; which, of course, was beyond their power.

Correspondence.

POWERS TO TRUSTEES, MORTGAGEES, &c. 23 & 24 VICT. CAP. 145.

By section 34 it is provided that the provisions of the Act "except as hereinbefore otherwise provided," shall only extend to deeds, wills, &c., after its date. I have gone through the Act, and cannot find any clause which is expressly made retrospective. I shall be obliged to any of your readers who can enlighten me by stating the clauses which are retrospective. Contrast sections 17 and 21 of the same Act as to receivers. Will not the 21st section (which regulates the salary, and provides that it may be fixed in the appointment, which section 17 provides, is to be made by the mortgagee), verbally render nugatory the provisions of the Act? Will not a mortgagee fix such an inadequate salary or commission as to prevent the receiver accepting the office?

See section 11 of the same Act. Suppose A. B. by a deed charges his estate, but does not hand over any deeds, and then creates an ordinary mortgage, and does hand over the deeds.—in what position would the second mortgagee be? Would it be negligence in the party having the charge that he did not get the deeds? Would he be able to sue the mortgagee, under section 16, for the deeds? Will not these provisions open the door to frauds?

Again. See sections 11 & 15. If the charge is a charge on a term only, and the party who gave the charge had the fee, can the fee be sold under section 15? The language of these sections is very large. B. P. A.

POOR LAW BOARDS AND ATTORNEYS. 22 & 23 VICT. CAP. 49, s. 5.

By this Act it is enacted that guardians shall not be required by any rule of law to pay the bill of any solicitor or attorney until the final determination of any suit or proceeding, or until he shall cease to be retained by them, but the bill of costs shall be duly taxed.

It is true that besides the above enactment there is a proviso that nothing contained in the Act shall prevent payments on account to an attorney; but why should solicitors and attorneys be compelled to wait the final determination of a suit or proceeding which may not be in their own control?

What do our two Law Societies say to this Bill having passed into law? B. P. A.

COPYHOLD MORTGAGE.

In answer to (X. Y. Z. see *ante*, p. 146), presuming that the enfranchisement in question was made with the consent of the copyhold commissioners, the effect of it will be to pass the legal estate to the tenant on the court rolls at the time of the enfranchisement, who in this case appears to be the mortgagee. The mortgagee had not the legal estate, but only a right to be admitted; he will, therefore, I apprehend, stand in the position

of an equitable mortgagee upon the freeholds. The endorsement upon the conditional surrender by the mortgagee of the repayment of the mortgage money, would, I should think, be a sufficient discharge. I cannot find anything in the 46th section of the Copyhold Act, 1852, to make a deed necessary, A. G. P.

The Provinces.

BIRKENHEAD.—*The Birkenhead Street Railway: The right of the road.*—At the Birkenhead Police-court, on Thursday the 27th ult., James Connolly, a cab-driver, appeared in answer to a summons charging him with having wilfully obstructed one of the Birkenhead Street Railway Company's omnibuses, and also with having assaulted Joseph Garrow, the conductor of the omnibus. From the evidence of Garrow, who was the complainant, it appeared that on the morning of the 12th ult., having changed horses at the Park end, he was proceeding on his journey along the railway towards the ferry terminus. Just as he was about to start the defendant drove his horse and car on to the line of rails. In doing so he was about 100 yards in front of the omnibus, and was proceeding at a walking pace. Witness had to stop his omnibus in consequence of the slow pace at which the defendant was going, and he went to the latter and requested him either to move quicker or to draw to one side, in order that the omnibus might be allowed to pass. Instead of doing either, the defendant turned round and laughed at him, and then struck him with his whip across the shoulders. The same slow pace was maintained by the defendant until he reached Bridge-street, about fifty yards from the ferry terminus, at which point he went off the rails. In consequence of being so hindered, the omnibus, which had been impeded by the defendant for about a mile, was considerably later in reaching the ferry than it should have been, and many of the passengers missed the boat. The facts were not disputed, and the question resolved itself into one of "right of way." It was contended on the part of the complainant, that under the Birkenhead Improvement Act, which constituted them surveyors of high-roads, the Birkenhead Commissioners had power so to alter, amend, and construct those roads as they thought would add to the public convenience; and also that they were empowered to try experiments with the view of facilitating the passage of vehicles. The complainant, it was stated, was proceeding on the only part of the road he could use, whereas the defendant, who wilfully obstructed his progress, could at once have allowed him to pass by going on one side, without trouble or inconvenience to himself. On the part of the defendant it was contended that the commissioners had no right to authorise the laying down of a line of rails along the roads. The defendant was proceeding along the highway in the ordinary manner, which he had an undoubted right to do, and if the complainant wished to pass him he should have done so by driving to one side, and not have expected the defendant to move aside for him. After a brief consultation the magistrates dismissed the charge of obstructing the complainant. The charge of assault was then withdrawn. Notice of appeal was given. [For an exposition of the law upon this novel point see *Foreign Tribunals, ante* p. 70.]

BIRMINGHAM.—The following is a copy of the circular addressed by the Town Clerk to the principal boroughs in England and Wales, numbering about 135. The replies received lead to the expectation that a powerful influence will be brought to bear on Parliament when the question comes before it:—"Birmingham, November 28th, 1860. Dear Sir,—I beg to call your especial attention to the reports of the application made by the Solicitor-General to the Court of Queen's Bench on the 8th instant, for a rule calling upon the justices of this borough to show cause why a mandamus should not issue commanding them to concede to the Mayor the right he claimed to preside at all sessions and meetings of the justices, by virtue of the precedence conferred upon him by the 57th section of the 5th & 6th William 4th, cap. 76. I venture to call your attention to the interpretation put upon the section in question by their lordships, and particularly by the Lord Chief Justice, who considered that the precedence 'in all places' thereby conferred upon the Mayor was merely social precedence; as, for example, that he would be entitled to go first into a room, and the like. Now it is quite clear that on all occasions social precedence would be readily accorded to all gentlemen holding the office of Mayor, and would continue to be accorded to them by all persons with whom they might come in contact, of mere courtesy and politeness, in the absence of any enactment on the subject. Indeed, it is diffi-

cult to conceive the effect or utility of any enactment conferring mere social precedence, as it is described by the Lord Chief Justice. It is still more difficult to conceive that it could have been the intention of the Reformed Parliament which enacted the Municipal Corporations Act to confer such precedence upon the mayors of boroughs as that described by the Lord Chief Justice. That Act was passed for the abolition of the alleged corruption and the unnecessary paraphernalia and parade of the old corporations, and it is not very likely that at such a time and in such a mood the Commons would consider it necessary to give a dinner-party precedence to the high public functionary they were creating by the Act referred to. Under the circumstances, some decided action is necessary, and to that end I shall be glad to be informed that your corporation will be prepared in the next session of Parliament to assert the right of your Mayor to the position so rightfully claimed by the Mayor of Birmingham, and to join a deputation of the whole of the Mayors and Town Clerks of the kingdom, to the Home Office, for the purpose of vindicating and restoring (if possible) by legislation the privilege intended to be conferred by Parliament upon the people's magistrate. I am, dear sir, yours truly, THOMAS STANDBRIDGE, Town Clerk."

WAKEFIELD.—At the West Riding Christmas Sessions, held in this town on the 1st inst., the subject of the salaries of coroners was brought before the Court. The Finance Committee had taken into consideration the Act providing for the payment of coroners by salaries instead of fees, which came into force that day. The Act provided that the salaries should be fixed on the average of the fees of the five years ending December 31st, 1860; and the committee considered that they should be paid according to the Act. The coroners, at a consultation they had had with the committee, wanted to bring the disallowed fees into the average, but that the committee would not assent to. If the coroners were dissatisfied, however, they could appeal to the Treasury. The coroners who were present were asked if they had any objection to the course proposed, and Mr. T. Taylor said that for his part he could not as a matter of principle accept the average. He had fees disallowed which ought to be allowed. He did not wish, however, to make the question merely a pecuniary one; and he should, therefore, be content with a slight advance on the average. He should for instance be content to receive £150 per annum. After a short discussion, it was arranged that the coroners and the committee should have another conference on the subject. It is stated that the question has been postponed to the adjourned sessions at Sheffield, in the hope that some settlement may be arrived at which will render an appeal from the coroners to the Treasury unnecessary.

YORK.—Our readers will recollect that during the recent assizes a jury were locked up, owing to their foreman dissenting from the opinions of his fellows. It is stated that the jury did not fare so badly as refractory jurymen generally do—that they had the advantage of gas and fire, and were kindly supplied by the High Sheriff with tea. Notwithstanding these concessions to their comfort, the feelings of the jurymen may well be imagined, locked up, as it is stated they were, through the obstinacy of an ignorant or prejudiced foreman. It is rumoured that their remarks upon that individual were by no means courteous, and that when he made preparations for a comfortable night by reclining on a couple of chairs, and commenced eating some monster sandwiches, evidently provided for such a contingency, their indignation reached a climax. The night became bitterly cold, and to keep themselves warm the prisoners had to stamp about the room. Any man with tobacco and a pipe or a pocket flask would have been looked upon as an angel of mercy. The colder it grew the more frantic were the jurymen, and the stronger their denunciation of their torturer, who was gradually subsiding into a slumber, betraying symptoms of an asthmatical affection. Here was an opportunity for revenge! Accordingly, some paper was ignited, and whenever the foreman slumbered he was smoked into a severe fit of coughing. But the fire burnt low and threatened to expire—and towards dawn the cold became so severe, that longing glances were cast at the books, bookcases, and massive table. Fuel was the great want, and, fortunately, a deal-box was espied in a corner. It was immediately smashed open and disclosed a complete set of burglar's instruments—ready for a case which was to come on next day. This served again to kindle the fire, and the jury managed to exist till morning, when they were discharged; not, however, until they had heard themselves roundly abused by the county policeman, to whom the box belonged.

Foreign Tribunals and Jurisprudence.

SUPREME COURT, CEYLON.

APPEAL FROM COURT OF REQUESTS, JAFFNA.

(Present—Sir EDWARD S. CREASY, C.J., the Hon. Mr. Justice MORGAN.)

The following judgment contains an interesting discussion on the difference between the English and the Roman-Dutch law as to the liability of the owners of ferocious animals.

Judgment.—*Folkard v. Anderson.*—This is an action brought on account of injuries which the plaintiff sustained from some dogs belonging to the defendant. Evidence was adduced before the Commissioner of the Court of Requests, as to the ferocious habits of the dogs; but he considered that there was no sufficient proof of the owner's being aware of their ferocity. We agree with him in thinking the proof, as to this point insufficient. The commissioner dismissed the case, holding that proof of the owner's knowledge of the dogs' mischievous habits (technically called proof of the *scienter*) is indispensable for the plaintiff's right to a verdict. According to English law the commissioner's judgment would be correct. The English courts hold that "the gist of the action is the keeping of the animal after knowledge of its mischievous propensities" (see the judgment of Lord Denman, C. J. in *May v. Burdett* 9 Q. B. 101). But according to the Roman-Dutch Law, which we are bound to follow, the decision ought to have been the other way. The Roman-Dutch law does not require a man, who has been injured by the mischievous animal of another man, to prove that the owner knew the animal's mischievous habits. This difference between the two systems of jurisprudence is pointed out by Lord Campbell in the recent case of *Gething v. Morgan*. Lord Campbell there contrasted the law of Scotland (which like the Dutch law is founded upon the Roman, though the Dutch and Scotch systems are not in all respects the same) with the law of England; his lordship ruled indeed that the circumstances of the case then before him made the defendant liable, and showed sufficient proof of the *scienter* even according to the law of England: but his lordship added, "According to the law of Scotland there is no occasion to shew the ferocious habit of the animals or the *scienter*; and where an injury has been done to an innocent person, it certainly seems more reasonable that the loss should fall upon the owner of the animal which has done the mischief than upon the party injured." Lord Campbell in these expressions evidently alluded to the well known jural principle that where one of two innocent persons must suffer, the loss ought to fall on the one by whose act or omission the loss has been occasioned. As the rules of law respecting the liability of owners of animals are matter of frequent practical importance, we have, in framing our judgment in this case, thought it desirable to deal more fully with the subject, than we should have done, if cases of this kind were more rare. It is a general rule of Roman-Dutch law, that the owner of a brute animal, which has injured another person, is liable for such injury, but the degree of liability varies, according to the nature and the habits of the animal, and the circumstances under which the injury was inflicted. The authorities on this part of the law are most fully collected in the commentary of Voet on the ninth book of the Pandects, title 1, "*Si quadrupes pauperiem fecisse dicatur.*" Von Leewen in the 29th chapter of his fourth book, being the chapter "on obligations arising from causes similar to crime," is explicit on the subject. He also treats of it in the 31st chapter of his "*Censura Forensis.*" To these may be added Vandevater's commentary on the ninth chapter of the fourth book of the Institutes; the commentary of Vinnius on the same, Gronewegen, "*De legibus abrogatis,*" p. 54; and Grotius pp. 252, 253 of Herbert's translation. The most ancient of all the authorities and the foundation of a great part of the law on the subject, is a law of the twelve tables cited and incorporated in the Institutes and in the Digest. By the law an "*actio de pauperie*" was given to a person who had been injured by the brute animal of another, such brute animal being of a *species* not naturally mischievous to mankind. The owner of the animal was under an alternative liability. He was bound to make good the damage, or to give up to the injured person the animal that had done the injury. The Edictian edict forbade the keeping of savage animals in or near to a place of general resort and thoroughfare, so as to endanger the public. If such an animal, so kept, injured a freeman, the owner was bound to make full compensation, and could not release himself from such liability by giving up the animal. Without discussing

here in detail the subsequent legislation of Rome and Holland on this subject, we may state the general results, as applicable to the administration of justice in Ceylon, to be as follows. Where a man's brute animal does an injury to another person (such injury not being done through mere accident, and not being provoked and caused by the wrongful act of the injured party, and not being immediately caused by the wrongful act of a third person) the owner is always liable. But the owner's liability is limited, if the animal were not of a *species* naturally savage, and if also the individual animal were not of mischievous habits. The limit of the liability of such an innocent owner is this: the amount to be given for compensation must not exceed the value of the animal which did the injury. But, if the animal were of a savage *species* or if though not of a savage genus, it were of mischievous habits, whether the owner knew those habits or not, the owner must make full compensation for the injury done by the animal, and cannot limit the damages to be assessed against him by the amount of the animal's value. There may be cases in which animals not mischievous by *species* or by habit may be kept in such places and under such circumstances as to make them dangerous to the public. If, in such cases injury is done by such animals, the owner is liable to make full compensation. Applying these principles to the present case, we find abundant evidence that the dogs were of mischievous habits. There is also evidence as to the place and mode in which they were kept, which might be important as to fixing full liability on their owner: but that full liability is already established by the evidence as to the mischievous habits of the dogs. It follows that there must be a verdict for the plaintiff. As the defendant's liability is not limited by the value of the dogs, there is no need to remit the case for any evidence as to this to be taken. It is proved that the amount of the plaintiff's doctor's bill was £3 15s. He asks in his plaint for this sum only, and it is therefore unnecessary to estimate what he might have recovered for personal suffering and annoyance. The judgment of the court is that the judgment of the commissioner be set aside, and that there be a verdict for the plaintiff for £3 15s. and costs.

Review.

A Treatise on the Liens of Attorneys, Solicitors, and other Legal Practitioners. By WHITLEY STOKES, Esq., of the Inner Temple, Barrister-at-Law. Sweet. 1860.

If the readers of this little volume estimate its merits as highly as its author does, he will have good reason to congratulate himself. A text book on any legal subject does not afford much ground for egotistic display; and the particular subject which Mr. Stokes has selected constitutes no exception to this general rule. Any topic, however, is sufficient for this purpose in the hands of some persons; and a treatise on the law of attorneys' liens, affords Mr. Stokes a sufficient opportunity for expressly or inferentially, throughout the course of 190 pages, informing the public of his superiority as a lawyer, not only over all preceding text writers on the same topic, but over the majority of judges who from time to time have been called upon to handle it. Thus we find him in the first page of his preface, alleging "the inaccuracy with which this subject is handled by some of the text writers," as a reason why such a work is wanted; he then proceeds to enumerate four of such alleged inaccuracies in his own language and without any reference to where they may be found; and winds up his short address to the reader by a little quotation modestly intimating his own advantage in one important respect over all his predecessors,—"C'est icy un livre de bonne foy, lecteur." As a specimen of the mode in which Mr. Stokes treats the judgments of the superior and even the highest courts, we may content ourselves with a reference to his observations on the recent well known case of *Shaw v. Neale*. We have not sufficient space to refer at length to his criticism on the judgment of the Master of the Rolls, although it would furnish a telling example of our author's style; but as to the "startling reason" on which Lord Chelmsford rested his judgment in the House of Lords in that case, Mr. Stokes says that it would, if valid, "convict the common law judges of folly in framing their rule as to set-off subject to the attorney's lien, and overturn a host of cases which constitute a body of jurisprudence not, perhaps, inferior in importance to the decision in *Shaw v. Neale*," (p. 125). Now, although we agree with Mr. Stokes in considering as untenable the alleged ground of Lord Chelmsford's decision, and that his lordship attributed to the term "lien" too

limited a meaning; yet we think that Mr. Stokes would have exhibited better taste in discussing the language of the learned judge in a more ingenuous if not a more respectful manner. Mr. Stokes, however, flatters himself that he has discovered a "lapseus lingue" of Vice Chancellor Wood (p. 38, note b.); and in considering as untenable the ground of Lord C.'s decision, that he has detected Sir Anthony Hart in a blunder that would reflect discredit upon a tyro (p. 35, note i.).

Having said so much upon the manner and style of Mr. Stokes' performance—which, although they are no doubt objectionable, will nevertheless be found upon the whole very entertaining—it is time that we should give our opinion upon the more important question of the merits of the work regarded as a law treatise; and upon this we have no hesitation whatever in saying that the performance altogether is creditable to the author, and that the treatise will no doubt be very acceptable to the profession. It is evident that Mr. Stokes was sufficiently familiar with the subject before he commenced to write a book upon it, which gave him an important advantage over the majority of contemporary legal authors. His treatise is not a mere collection of the marginal notes of cases, with some attempt at classification, but is throughout characterised by intimate acquaintance with the subject. A mere statement of the heads of the chapters will give our readers the best notion of the manner in which he has gone about his work. Part I. Chapter I., treats of the subject matter of the retaining lien. Chapter II., of the person enforcing the retaining lien. Chapter III., of the person against whom the retaining lien may be enforced. Chapter IV., of the extent of the retaining lien. Chapter V., of the enforcement of the retaining lien. Chapter VI., of the time of enforcing the retaining lien. Chapter VII., of the defences which may be set up to the retaining lien. Part II. Chapter I., treats of the subject matter of the charging lien. Chapter II., of the person enforcing the charging lien. Chapter III., of the person against whom the charging lien may be enforced. Chapter IV., of the extent of the charging lien. Chapter V., of the enforcement of the charging lien. Chapter VI., of the time of enforcing the charging lien. Chapter VII., of the defences which may be set up to the charging lien. Part III. Chapter I., treats of the liens of town agents. Chapter II., of the liens of proctors, parliamentary agents, and other legal practitioners.

The work also contains an appendix of references to forms of orders, enquiries, and rules, in relation to the liens of attorneys and solicitors.

Law Students' Journal.

HILARY TERM EXAMINATION.

The examiners appointed for the examination of persons applying to be admitted attorneys have appointed Tuesday, the 22nd, and Wednesday, the 23rd of January next, at half-past nine in the forenoon, at the hall of the Incorporated Law Society, in Chancery-lane. The examination will commence at ten o'clock precisely, and close at four o'clock each day.

Articles of clerkship and assignment, if any, with answers to the questions as to due service, according to the regulations approved by the judges, must be left with the secretary on or before Thursday, the 17th of January.

Where the articles have not expired, but will expire during the term, the candidate may be examined conditionally; but the articles must be left within the first seven days of term, and answers up to that time. If part of the term has been served with a barrister, special pleader, or London agent, answers to the questions must be obtained from them, as to the time served with each respectively.

On the first day of examination papers will be delivered to each candidate, containing questions to be answered in writing, classed under the several heads of—1. Preliminary. 2. Common and statute law, and practice of the courts. 3. Conveyancing.

On the second day further papers will be delivered to each candidate, containing questions to be answered in—4. Equity, and practice of the courts. 5. Bankruptcy, and practice of the courts. 6. Criminal law, and proceedings before justices of the peace.

Each candidate is required to answer all the preliminary questions (No. 1); and also to answer in three of the other heads of inquiry—viz. common law, conveyancing, and equity. The examiners will continue the practice of proposing questions in bankruptcy and in criminal law and proceedings before

justices of the peace, in order that candidates who have given their attention to these subjects, may have the advantage of answering such questions, and having the correctness of their answers in those departments taken into consideration in summing up the merit of their general examination.

In case the testimonials were deposited in a former term, they should be re-entered, and the answers completed to the time appointed.

QUESTIONS TO BE ANSWERED BY THE CLERK.

Under the 4th section of the Attorneys Act, 1860.

1. How many years, before the execution of your articles of clerkship, were you a *bonâ fide* clerk to any, and what, attorney or solicitor?

2. State the nature of the business in which you were *bonâ fide* engaged during that period, and whether under the direction and superintendence of such attorney or solicitor?

3. State the names and places of business of the attorneys or solicitors with whom you have been so engaged, and the time of service to each respectively, before the date of your articles of clerkship.

4. What was your age at the commencement of the ten years' service prior to your articles?

QUESTIONS TO BE ANSWERED BY THE ATTORNEY.

1. How many years before the execution of the articles of clerkship of — was he a *bonâ fide* clerk to you?

2. During that period what was the position he occupied in your office, and what was the nature of the business transacted and performed by him under your direction and superintendence or of your partner?

3. Was he *bonâ fide* engaged in the transaction and performance of such matters of business as are usually transacted and performed by you as an attorney or solicitor?

4. Did he during the whole of that period faithfully, honestly, and diligently serve you as such clerk?

5. State your places of business during the time the said — was so engaged, and the length of time of his service to you before the date of his articles of clerkship, in the matters of business above referred to.

These questions are to be answered in the affirmative or negative, and any observations that may be thought necessary should be separately added.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Monday, January 7.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Friday, January 11.

Court Papers.

Court of Chancery.

SITTINGS.—HILARY TERM, 1861.

LORD CHANCELLOR.

Lincoln's-inn.

Friday, Jan. 11...Appeal Motions and Appeals.
 Saturday 12...Petitions and Appeals.
 Monday..... 14 }
 Tuesday 15 } Appeals.
 Wednesday ... 16 }
 Thursday 17...Appeal Motions and Appeals.
 Friday 18 }
 Saturday 19 }
 Monday..... 21 } Appeals.
 Tuesday 22 }
 Wednesday ... 23 }
 Thursday 24...Appeal Motions and Appeals.
 Friday 25 }
 Saturday 26 }
 Monday..... 28 } Appeals.
 Tuesday 29 }
 Wednesday ... 30 }
 Thursday 31...Appeal Motions and Appeals.

MASTER OF THE ROLLS.

Chancery-lane.

Friday, Jan. 11...Motions.
 Saturday 12 { Petitions, Short Causes, Adjourned Sum-
 monses, and General Paper.

Monday Jan. 14 }
 Tuesday 15 } General Paper.
 Wednesday ... 16 }
 Thursday 17...Motions.
 Friday 18...General Paper.

Saturday 19 { Petitions, Short Causes, Adjourned Sum-
 monses, and General Paper.

Monday..... 21 }
 Tuesday 22 } General Paper.
 Wednesday ... 23 }
 Thursday 24...Motions.
 Friday 25...General Paper.

Saturday 26 { Petitions, Short Causes, Adjourned Sum-
 monses, and General Paper.

Monday..... 28 }
 Tuesday 29 } General Paper.
 Wednesday ... 30 }
 Thursday 31...Motions.

The unopposed Petitions must be presented and Copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard: and any Causes intended to be heard as Short Causes, must be so marked at least one clear day before the same can be put into the Paper to be so heard.

LORDS JUSTICES.

Lincoln's-inn.

Friday, Jan. 11...Appeal Motions and Appeals.
 Saturday 12 { Petitions in Lunacy and Bankruptcy
 Appeal Petitions and Appeals.

Monday..... 14 }
 Tuesday 15 } Appeals.
 Wednesday ... 16 }

Thursday 17...Appeal Motions and Appeals.
 Friday 18 { Petitions in Lunacy and Bankruptcy
 Appeal Petitions and Appeals.

Saturday 19 }
 Monday..... 21 } Appeals.
 Tuesday 22 }
 Wednesday ... 23 }

Thursday 24...Appeal Motions and Appeals.
 Friday 25 { Petitions in Lunacy and Bankruptcy
 Appeal Petitions and Appeals.

Saturday 26 }
 Monday..... 28 } Appeals.
 Tuesday 29 }
 Wednesday ... 30 }

Thursday 31...Appeal Motions and Appeals.

The days (if any) on which the LORDS JUSTICES shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

Vice-Chancellor Sir RICHARD T. KINDERSLEY.

Lincoln's-inn.

Friday, Jan. 11...Motions.
 Saturday 12 { Petitions, Short Causes, and Adjourned
 Summonses.

Monday..... 14 }
 Tuesday 15 } General Paper.
 Wednesday ... 16 }

Thursday 17...Motions and General Paper.
 Friday 18...Petitions.

Saturday 19 { Short Causes, Adjourned Summonses,
 and General Paper.

Monday 21 }
 Tuesday 22 } General Paper.
 Wednesday ... 23 }

Thursday 24...Motions and General Paper.
 Friday 25...Petitions.

Saturday 26 { Short Causes, Adjourned Summonses,
 and General Paper.

Monday 28 }
 Tuesday 29 } General Paper.
 Wednesday ... 30 }

Thursday 31...Motions and General Paper.

Any Causes intended to be heard as Short Causes, must be so marked at least one clear day before the same can be put into the Paper to be so heard.

Vice-Chancellor Sir JOHN STUART.

Lincoln's inn.

Friday, Jan. 11...Motions.
 Saturday 12 { Petitions, Short Causes, and General
 Paper.

Monday..... 14 }
 Tuesday 15 } General Paper.
 Wednesday ... 16 }

Thursday 17...Motions and General Paper.

Friday	18...	Petitions and General Paper.
Saturday	19...	Short Causes and General Paper.
Monday	21	General Paper.
Tuesday	22	
Wednesday	23	
Thursday	24...	Motions and General Paper.
Friday	25...	Petitions and General Paper.
Saturday	26...	Short Causes and General Paper.
Monday	28	General Paper.
Tuesday	29	
Wednesday	30	
Thursday	31...	Motions.

Any Causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put into the Paper to be so heard.

Vice-Chancellor Sir W. P. WOOD.

Lincoln's-inn.

Friday, Jan. 11...	Motions and General Paper.
Saturday	12 { Petitions, Short Causes, and General Paper.
Monday	14 {
Tuesday	15 { General Paper.
Wednesday	16 {
Thursday	17... Motions and General Paper.
Friday	18... General Paper.
Saturday	19 { Petitions, Short Causes, and General Paper.
Monday	21 {
Tuesday	22 { General Paper.
Wednesday	23 {
Thursday	24... Motions and General Paper.
Friday	25... General Paper.
Saturday	26 { Petitions, Short Causes, and General Paper.
Monday	28 {
Tuesday	29 { General Paper.
Wednesday	30 {
Thursday	31... Motions and General Paper.

Any Causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put into the Paper to be so heard.

Queen's Bench.

Sittings at Nisi Prius in Middlesex and London, before the Right Honourable Sir ALEXANDER EDMUND COCKBURN, Bart., Lord Chief Justice of her Majesty's Court of Queen's Bench, in and after Hilary Term, 1861.

IN TERM.

<i>Middlesex.</i>	<i>London.</i>
1st Sitting, Monday, Jan. 14	1st Sitting, Friday, Jan. 18
2nd Sitting, Monday, Jan. 21	2nd Sitting, Friday, Jan. 25
3rd Sitting, Monday, Jan. 28	

For undefended causes only.

AFTER TERM.

<i>Middlesex.</i>	<i>London.</i>
Friday	Friday

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

CROWN PAPER.—HILARY TERM, 1861.

Kent.	The Queen v. The Lords, Bailiffs, and Jurats of Romney Marsh.
Towkesbury.	The Queen v. The Severn Navigation Commissioners.
Worcestershire.	Lord Ward, Appellant; Thomings, Respondent.
Metropolitan Police District.	Empton, Appellant; The Metropolitan Board of Works, Respondents.
"	Peckham, Appellant; The Metropolitan Board of Works, Respondents.
Monmouthshire.	Gwatkin, Appellant; The Chepstow Water Company, Respondents.
Metropolitan Police District.	The Queen v. Mourilyan and Another.
Derbyshire.	Sudbury, Appellant; Knifton, Respondent.
Surrey.	The Queen v. Rendle.
London.	The Queen v. Blundell.
Northumberland.	Dickson, Appellant; Doubleday, Respondent.
Berkshire.	The Queen v. The Great Western Railway Company.

Southampton.	Estcourt, Appellant; Sir H. Oglander, Bart., Respondent.
W. R., Yorkshire.	Walls, Appellant; Scott, Respondent.
Lancashire.	Seddon, Appellant; Cocker, Respondent.
Devon.	Batting and Others, Appellants; The Bristol and Exeter Railway Co., Respondents.
Essex.	Bunton and Others, Appellants; Dare, Respondent.
Metropolitan Police District.	Walsby, Appellant; Auley, Respondent.
Kingston-on-Hull.	The Queen v. The Overseers of Holbeck.
Bucks.	Gibbons, Appellant; The Vicar, Churchwardens, and Overseers of Bledlow, Respondents.
Hampshire.	Everett, Appellant; Grapes, Respondent.
Lincolnshire.	Bimrose, Appellant; Hampton, Respondent.
Kent.	The Queen v. The Overseers of the Poor of Blackmanstone.
W. R., Yorkshire.	Gledhill, Appellant; Sutcliffe, Respondent.
Cornwall.	Luke, Appellant; Charles, Respondent.
Surrey.	The Queen v. The Inhabitants of St. George the Martyr.
Liverpool.	M'Ferran, Appellant; Scott, Respondent.
Margate.	Thorne, Appellant; Colson, Respondent.
"	Thorne, Appellant; St. Clair, otherwise Gomersal, and Another, Respondent.
Gateshead.	Dunn, jun., Appellant; The Gateshead Local Board of Health, Respondent.
Salop.	Davies, Appellant; Lord Berwick, Respondent.
Warwickshire.	Chandler, jun., Appellant; Ratliff and Another, Respondents.
Gloucestershire.	The Queen v. The Churchwardens, &c., of Tiverton, Devon.
Surrey.	The Queen v. The Governor, &c., of the Licensed Victuallers Society.
Hampshire.	The Queen v. The Commissioners acting in execution of 43 Geo. 3, c. 21, and 50 Geo. 3, c. 168.
Worcestershire.	The Queen v. Aulton.
Devonshire.	The Queen v. Facey.
Leeds.	The Queen v. The Leeds, Bradford, and Halifax Junction Railway Co.
Northamptonshire.	The Queen v. The Inhabitants of Banbury, Oxfordshire.
Gloucestershire.	The Overseers of East Dean, Appellant; Everett, Respondent.
Dover.	Tucker, Appellant; Rees, Respondent.
Cheshire.	The Queen v. Pickford.
Warwickshire.	The Queen v. The Guardians of the Cambridge Union and the Inhabitants of the Parish of St. Edward.
Chester.	The Queen v. The Inhabitants of the Parish of Ruyton of the Eleven Towns, Salop.
Bedfordshire.	Davies, Appellant; Toller, Respondent.
Birmingham.	The Queen v. The Birmingham Waterworks Company.
Cheshire.	Tunstall, Appellant; Lloyd, Respondent.
Leeds.	The Queen v. The Inhabitants of Aughton.
"	Francis, Appellant; Smithies, Respondent.
Surrey.	Stephenson, Appellant; Taylor, Respondent.
Lancashire.	The Queen v. The Guardians of the Poor of Toxteth Park.
W. R., Yorkshire.	The Queen v. The Sheffield United Gas Light Co.
"	The Queen v. Firth.
Hampshire.	The Queen v. The Isle of Wight Ferry Co.
"	The Queen v. The Rev. C. Shrubb and Another.
Cardiff.	Wadley, Appellant; Godwin, Respondent.
Kent.	The Queen v. The Overseers of Toxteth Park, Lancashire.
Metropolitan Police District.	Anderson, Appellant; Gutteridge, Respondent.
Cheshire.	Stretch, Appellant; White, Respondent.
Surrey.	Newton and Another, Appellant; Skates, Respondent.
W. R., Yorkshire.	Thewlis, Appellant; Kay, Respondent.

ENLARGED RULES.—HILARY TERM, 1861.

Betts v. Menzies.	Enlarged till Judgment given in Exchequer Chamber.
In the matter of Woodcock, Gent., &c.; Ex parte the Rev. J. E. Armstrong, D.D.	

In the matter of the Great Ship Co. and J. S. Russell.
 In the matter of the Great Ship Co. and J. S. Russell.
 Monteaux v. Mason.
 The Queen v. Sir J. W. Awdry and Others.
 The Queen v. The Lords, &c., of the Manor of Howden.
 The Queen v. George Gibbs, Esq. and Two Others, Justices,
 and Charles Matthews.
 The Queen v. The General Council of Medical Education, &c.
 The Queen v. The Senior Warden of the Watermen's Co. and
 Another.
 The Queen v. The Recorder of Leeds.

SPECIAL PAPER.

FOR JUDGMENT.

Demurrers. Castrique v. Behrens and Others.
 Special Case. Sinclair. Administratrix, &c. v. The Mari-
 time Passengers Assurance Co.

FOR ARGUMENT.

Demurrers. Shrubb v. Eyre. To come on for argument
 with the Special Case.
 Demurrer. Crampton v. Walker, sued with another.
 " Barton v. The Burham Brick, Pottery, and
 Cement Co. (Limited).
 Special Case. Cooper and Another v. Billing and Others,
 Executors, &c.
 Demurrer. Milvain v. Perez and Others.
 County Ct. App. Little and Another v. Burge and Others.
 Sheriff's Ct. App. Israel v. Oastler and Another.
 Demurrer. Regents Canal Co. v. Midford.
 " Dixon v. Fawcus.
 " Eastwood v. Fletcher.
 " Dutton and Another v. Powles.
 Special Case. Dollman, Executors, &c. v. Patching.
 " The Irish Peat Co. v. Phillips.
 Demurrer. Scott and Others v. Pilkington and Another.
 " Munro and Others v. Pilkington and
 Another.
 " Aubert v. Gray.
 Special Case. Gordon v. The North Staffordshire Railway
 Co.
 " Cazenove and Another, Assignees, &c. v.
 Lister, P. O.
 " The Great Indian Peninsular Railway Co.
 v. Saunders
 Demurrers. Holmes v. Pemberton.
 " Lungley v. Ponsford.
 County Ct. App. Cox v. Allen.
 " Cope v. Norton.

NEW TRIAL PAPER.

FOR JUDGMENT.

Durham. Ashworth v. Stanwix and Another.

FOR ARGUMENT.

Michaelmas Term, 1858.

Cornwall. Lyle v. Richards and Others. Stands over
 till after the decision of the Court of
 Error, in Reynolds v. Buckley.

Michaelmas Term, 1859.

Pembroke. Goode v. The South Wales Railway Co.

Easter Term, 1860.

Middlesex. Bickford and Another v. Binning, sued, &c.
 (part heard). Stands over till after the
 trial of Bickford and Another v. The
 Royal Mail Steam Packet Co.

London.

Barry v. Shipley.

"

Kopetzky v. Rudhall.

Oxford.

Cole and Others v. Denny and Another.

Gloucester.

Evison v. The Oxford, Worcester, and Wol-
 verhampton Railway Co.

"

Dorsett v. Muff.

Carmarthen.

Thomas v. Rogers.

"

Davies an Infant v. Brown, Clerk.

Glamorgan.

Evans v. Thomas.

Chester.

Adsham v. Needham and Another.

"

Hall v. Crawford and Another.

TRIED DURING TERM.

Middlesex.

Noble v. Le Gros.

"

Cohen and Wife v. De Maillepre.

"

Payne v. Revans.

"

Romillio v. Halahan.

Middlesex.

Lloyd v. Shaw.

"

Stevens v. Taylor.

London.

Cook and Others v. Wright.

Trinity Term, 1860.

Middlesex.

Dixon and Wife v. Bush.

"

St. Albyn and Wife v. The London General

Omnibus Co. (Limited).

"

Wood v. Smith.

London.

Mitchell v. Hall.

Michaelmas Term, 1860.

Middlesex.

Saward v. Walkden.

"

Mackley v. Pattenden.

London.

Lane and Others v. Tindal.

"

Paterson v. Harris.

"

Havill v. Hamber.

"

Tamvaco v. Lucas.

"

Somes and Others v. Ford and Another.

"

Lowrie v. Parker.

"

Layne v. Seymour.

Essex.

Pow v. Davis.

"

Dickenson and Another v. Lane.

Sussex.

Scott v. Sykes.

"

Stevens v. Austin.

Surrey.

Linden and Others v. Banks.

"

Moody v. The London, Brighton, and South

Coast Railway Co. and Others.

"

Ogle v. O'Flynn.

Leicester.

Goff v. The Great Northern Railway Co.

Derby.

Packs v. Mee.

Oxford.

Marples v. Hartley.

Worcester.

Gardner v. Harrop.

Gloucester.

Anderton v. The Midland Railway Co.

York.

Bennet v. White.

"

The Queen v. Leatham.

"

The Queen v. The Inhabitants of South

Crossland, &c.

"

The Queen v. Bradley.

"

The Queen v. Boyce.

"

Laverack v. Johnson.

Northumberland.

Gibson v. Chater.

Liverpool.

Mayer v. Spence and Another.

"

Mayer v. Firth and Others.

Glamorgan.

Jones v. Jones.

Chester.

The Stockport Waterworks Co. v. Turner

and Others.

Hants.

Pennell and Others v. Legan.

Wilts.

Scammell v. Glass.

Devon.

Snow v. The Bristol and Exeter Railway

Co.

TRIED DURING TERM.

Middlesex.

Beuchimol v. Gallagher.

London.

Wood and Ux. v. Bosanquet, Treasurer, &c.

Common Pleas.

REMANET PAPER.—HILARY TERM, 1861.

ENLARGED RULES.

To the first day of term.

Lomas v. Grimshaw.

Ex parte Lord Portsmouth and in an Issue between Partridge

v. The Enclosure Commissioners.

Davenport and Another v. Bennett and Another.

Morewood v. Morewood.

To the second day of term.

Stansfield and Others. Assignees v. Mossop.

To the sixth day of term.

Baxendale and Others v. The Great Western Railway Co.

Until application to Court of Chancery is disposed of.

Nutt v. The Midland Railway Company.

To fourth day of term next after trial.

Slipper v. Back.

Erwin v. Back.

Until proceedings in chancery are disposed of.

Walter and Ux. v. Whitaker.

DEMURRER PAPER.

Special case. Jones v. Tapling. Stands over till Hut-
 chinson v. Copestake is disposed of.

Demurrer.	Maitland, Liquidator, v. Graham.
"	Earle v. Hopwood.
"	Reade v. Conquest.
"	Oxlade v. The North Eastern Railway Co.
	New trial to be argued herewith.
County Ct. App.	Dunn, Appellant; Lawson, Respondent.
Case by order.	The Mersey Docks and Harbour Board v. Cameron and Others.
Case Nisi Prius } and Demra.	The Medway Co. v. The Earl of Romney.
Demurrer.	Brown and Others v. The Mayor, &c., of London.
Case Nisi Prius.	Cahill v. The London and North Western Railway Co.
App. from Justices.	Draper, Appellant; Sperring, Respondent.
"	The Guardians of the Cambridge Poor Law Union, Appellants; Parr, Respondent.
"	Wallington, Appellant; White and Others, Respondents.
"	Purnell, Appellant; The Wolverhampton New Water Works Co., Respondents.
Demurrer	Traves and Another v. Worms.
"	James v. Worms.
"	The European and Australian Royal Mail Co. (Limited) v. The Royal Mail Steam Packet Co.
Special case.	In the matter of the Hainault Forest.
Sp. case on award.	Bird v. Webb.
Demurrer.	Richbell and Wife v. Alexander, Bart.

NEW TRIAL PAPER.

Trinity Term, 1860.

London.	Bailey and Another v. Sweeting.
	Michaelmas Term, 1860.
"	Wilson and Others v. Miers and Others.
"	Yeames and Others v. Lindsay and Others.
"	Jones v. Newport.
Beds.	Hartwell v. Veasey and Ux.
Cambridge.	Hunt and Others, Churchwardens, v. Allgood and Others.
Staffordshire.	Whitehouse v. Fellowes, Clerk.
Bristol.	Tupper and Others v. Foulkes.
"	Haller v. Worman.
Kent.	Brady v. Tod.
"	Berridge and Another v. Ward.
Surrey.	Wilton v. The Atlantic Royal Mail Steam Navigation Co.
"	Fielder v. Marshall.
"	Hotson v. Howitt.
Sussex.	Hare v. Henty and Another.
"	Turner v. Hutchinson.
Liverpool.	Chapman v. Callis.
"	Wilson v. The Lancashire and Yorkshire Railway Co.
Yorkshire.	Oxlade v. The North Eastern Railway Co.
	Demurrer to be argued herewith.
York.	Walker v. The Manchester, Sheffield, and Lincolnshire Railway Co.
Durham.	M'Sweeney v. Douglass.

Cur. adv. vult.

Gye v. Hughes.

Eschequer of Pleas.

SITTINGS IN BANCO.—HILARY TERM, 1861.

Friday,	Jan. 11...	Motions and Peremptory Paper.
Saturday,	" 12...	Errors, Peremptory Paper, and Motions.
Wednesday	" 16 ..	Special Paper.
Thursday	" 17...	Circuits Chosen.
Saturday	" 19...	Criminal Appeals.
Monday,	" 21...	Special Paper.
Wednesday	" 23...	Special Paper.

ERRORS AND APPEALS.

FOR JUDGMENT.

Error on Bill of) Exceptions.	Field v. Lelcan.
Appeal.	Clarke and Others, Representatives, &c. v. Wright.

FOR ARGUMENT.

Appeal.	Barkworth and Others, Assignees, &c. v. Ellerman.
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Appeal.	Watts v. Shuttleworth.
Error on Bill of) Exceptions.	The Mersey Docks and Harbour Board v. Penhallow and Others.
Error.	Barrow v. Tootal.
Appeal.	Trow and Another, Executrix and Executor, &c. v. The Railway Passengers Assurance Co.
"	Barkworth and Others, Assignees, &c. v. Blundell.
Error.	Swinfen v. Bacon.
"	Swinfen v. Lewis.

PEREMPTORY PAPER.

To be called on the first day of the Term, after the Motions, and to be proceeded with the next day, if necessary, before the Motions.

Tapling and Others v. The Isle of Wight Hotel Co. (Limited).

Adams v. The Great Western Railway Co.

Danks v. Rose }

Rose v. Danks }

Stephenson and Another v. Chapman.

SPECIAL PAPER.

FOR JUDGMENT.

Special Case.	Morant v. Chamberlin.
Demurrer.	Morant v. Chamberlin.
"	Hazard v. Mare.
Special Case.	The Grand Union Canal Co. v. Ashby.
Demurrer.	Tregelles and Another v. Sewell.
Special Case.	Hamer v. Knowles and Others.
Demurrer.	Stroyan and Another v. Knowles and Others.
Appeal under 20 } and 21 Vict.	The Lancashire Wagon Co. v. Fitzhugh.
	Read, Appellant; Storey, Respondent.

FOR ARGUMENT.

Demurrers.	Brewer v. Dimmack and Another. Standing over for arrangement.
Demurrer	The London and North Western Railway Co. v. The Great Western Railway Co. Standing over for arrangement.
"	The Anglo-Californian Gold Mining Co. v. Lewis. To stand over.
"	Fresart v. Lawrence, sued with others. To stand over till issues in fact tried.
Special Case.	Pennington and Others v. Cardale and Another. Part heard; to stand over.
Demurrers.	Oxenham v. Smythe.
Special Case.	Blackburn v. Marsden and Others.
Demurrer.	Rogers v. Hadley. Rule for new trial to come on with demurrer.
Special Case.	Hutchinson v. Burrow.
Demurrer.	Heugh and Another v. Escombe and Another.
Appeal under 20 } and 21 Vict.	The Queen v. Youle.
Demurrer.	The Welland Railway Company v. Berrie.
"	Lyall and Another v. Edwards.

NEW TRIAL PAPER.

FOR JUDGMENT.

Middlesex.	Croxon and Others v. Moss and Others.
Chester.	Plant and Another v. Taylor and Others.
"	Plant and Another v. Taylor and Others.
Liverpool.	Robson v. Lees.
Middlesex.	MacCarthy v. Young.
"	Morgan v. Ravey and Another.
Durham.	Cowley and Wife v. The Mayor, &c., of Sunderland.
Liverpool.	Pott and Another, Assignees, &c., v. Lomas.
"	Bradley v. Dunipace.

FOR ARGUMENT.

Moved Easter Term, 1860.

Liverpool. Seymour v. Greenwood.

Moved Michaelmas Term, 1860.

York.	Bower and Another v. Hinchliffe.
Liverpool.	Holmes v. Clarke.
Exeter.	Pring and Another v. Pring and Another.
Wells.	Burridge v. Nicholetts.
Chelmsford.	Richards v. Leigh.
Maidstone.	Hole v. The Sittingbourne and Sheerness Railway Company.

Guildford.	Hutton v. Hambro.
"	Terry v. Reynolds.
Nottingham.	Smith and Ux., Executrix, &c. v. Wilson.
"	Searson, Administrator, &c. v. Robinson.
Stafford.	Bussat v. Gibbons.
"	Taylor v. Meeson.
Gloucester.	Rogers v. Hadley and Another.

Moved after the 4th day of Michaelmas Term, 1860.

Middlesex.	Jackson v. Hay.
"	Atkinson v. Denby.
"	Walker v. Gode.
"	Weber v. Mowbray.
"	Wilkinson v. Ibbett.
"	Eales v. The Cumberland Black Lead Mine Company.
"	Rabey v. Gilbert.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	233	Stock Ditto A. Stock	110
3 per Cent. Red. Ann.	92½	Stock Ditto B. Stock	133
3 per Cent. Cons. Ann.	92½	Stock Great Western	74
New 3 per Cent. Ann.	92½	Stock Lancash. & Yorkshire ..	119
New 2½ per Cent. Ann.	92½	Stock London and Blackwall.	64
Consols for account	92½	Stock Lon. Brighton & S. Coast.	119
India Debentures, 1858.	92½	Stock Lon. Chatham & Dover ..	52
Ditto 1859.	92½	Stock London and N. Western.	102
India Stock	92½	Stock London & S. Western.	95½
India 5 per Cent. 1859.	92½	Stock Man. Sheff. & Lincoln.	55
India Bonds (£1000)	6 dis.	Stock Midland	137½
Do. (under £1000)	6 dis.	Stock Ditto Birmingham & Derby ..	110
Exch. Bills (£1000)	3 dis.	Stock Norfolk	57
Ditto (£500)	3 dis.	Stock North British	66
Ditto (Small)	3 dis.	Stock North-Eastern (Brwk.) ..	106½
		Stock Ditto Leeds	63
		Stock Ditto York	90
		Stock North London	103
		Stock Oxford, Worcester, & Wolverhampton ..	100
		Stock Shropshire Union ..	52
		Stock South Devon	43
		Stock South-Eastern	48½
		Stock South Wales	64
		Stock S. Yorkshire & R. Dun ..	40
		Stock Stockton & Darlington ..	43½
		Stock Vale of Neath	69

RAILWAY STOCK.

Stock Birk. Lan. & Ch. June.	83
Stock Bristol and Exeter	101
Stock Cornwall	6½
Stock East Anglian	16½
Stock Eastern Counties	54
Stock Eastern Union A. Stock ..	39
Stock Ditto B. Stock	28
Stock Great Northern	113½

Lord Cranworth is at present in Paris, and, it is rumoured that the object of his lordship's residence there is to collect information respecting the judicial organisation in France.

Births, Marriages, and Deaths.

BIRTHS.

ALDER—On Dec. 29, the wife of William Alder, Esq., Solicitor, of Wells, Somersetshire, of a daughter.

FEAKES—On Dec. 29, the wife of Thomas Eyre Feakes, Esq., of the Middle Temple, Barrister-at-Law, of a son.

MARRIAGES.

BRADSHAW—HALKETT—On Dec. 27, Thomas Bradshaw, Esq., of Lincoln's Inn, to Emily Isabella, only child of the late Colonel Frederick Halkett, Coldstream Guards, and granddaughter of General Sir Hugh Halkett, G.C.H.

COLTMAN—SMITH—On Dec. 24, William B. Colman, Esq., son of the late Hon. Mr. Justice Colman, to Bertha Elizabeth Shore, second daughter of Samuel Smith, Esq., of Combe Hurst, Kingston-on-Thames.

SPARK—SANDERSON—On Dec. 20, Frederick Spark, Esq., to Eliza, daughter of the late H. S. Sanderson, Esq., Solicitor, all of Leeds.

WATSON—KEENE—On Jan. 3, at the parish church, Streatham, by the Rev. John Jessopp, M.A., honorary chaplain to the King of the Belgians, assisted by the Rev. Jordan Palmer, M.A., Mary Ann, third daughter of Charles Watson, Esq., of Leigham Lodge, Streatham, to Thomas Keene, Esq., Solicitor, of 77, Lower Thames-street, London.

WEARING—CLARK—On Oct. 4, at Christ Church, Adelaide, South Australia, by the Ven. the Archdeacon, William Alfred Wearing, of Lincoln's Inn, Esq., Barrister-at-Law, and Crown Solicitor for the said province, to Jessie, eldest daughter of William Henry Clark, Esq., of Melbourne.

DEATHS.

BABB—On Dec. 28, at Great Grimsby, Elizabeth, wife of George Babb, Esq., aged 65; and, on the 31st Dec., George Fabb, Esq., aged 67.

BAUGHAN—On Dec. 27, Charles Algernon Baughan, Esq., aged 28, of the firm of Messrs. Robson and Baughan, Solicitors, 13, Clifford's Inn.

BENNETT—On Dec. 23, Anne, wife of Robert Bennett, Esq., formerly of Manchester and Gorton-hall, Solicitor, aged 65 years.

BOLLAND—On Dec. 29, Elizabeth Joanna, relict of Sir William Bolland, Knt., late one of Her Majesty's Barons of Exchequer, in her 77th year.

BRIDGMAN—On Dec. 30, at Plymouth, Cleland, daughter of C. V. Bridgman, Esq., aged 16 years.

BROWN—On Dec. 27, at Newcastle-upon-Tyne, John Brown, Esq., Solicitor.

CLOSE—On Dec. 28, at Dublin, in the 33rd year of his age, Arthur Close, Esq., Barrister-at-Law, of the North East Circuit.

O'GRADY—On Dec. 29, in Limerick, Miss Martha O'Grady, sister of the first Viscount Guiltmore, Chief Baron of the Court of Exchequer.

PRIDHAM—On Dec. 28, at Stoke Devonport, William Pridham, Esq., aged 76.

SANSON—On Dec. 31, Samuel Sanson, Esq., in his 38th year, of the firm of Barton and Sanson, Great James-street, Bedford-row, and Richmond, Surrey.

TEMPLE—On Jan. 3, Ellen, wife of Stephen Temple, Esq., Q.C.

WRIGHT—On Dec. 28, Margaret Eliza, wife of William Walton Wright Esq., of Maise-hill, Greenwich, and Paper-buildings, Temple.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

FORSEY, SAMUEL, Fisherman, Fortune-bay, Newfoundland, £100 Consols.

—Claimed by THOMAS HOLDSWORTH BROOKING, of 14, New Broad-street, London, the administrator of the said Samuel Forsey.

MANGNALL, JAMES, Attorney-at-Law, Aldermanbury, £5,000 Four per Cents.—Claimed by MARY BENWELL, Widow, sole executrix of Charlotte Mangnall, Widow, who was the sole executrix of the said James Mangnall.

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, Jan. 1, 1861.

LLOYD, OLIVER WIMBURN, & ALFRED HOSHER, Attorneys & Solicitors, 31, St. Swithin's-lane, London (Lloyd & Hoshier); by mutual consent. Dec. 28.

LYON, JAMES WITTIT, KEITH BARNES, & GEORGE HENRY ELLIS, Attorneys, Solicitors, & Parliamentary Agents, 7, Spring-gardens, Westminster (Lyon, Barnes, & Ellis); by mutual consent; the business will be carried on by Keith Barnes & George Henry Ellis. Jan. 1.

SALTER, GEORGE, & WILLIAM HENRY RANDELS, Attorneys, Solicitors, & Conveyancers, Eldon-street, Salop (Salter & Randels); by mutual consent. Dec. 29.

SMITH, BAKER, & GEORGE JAMES OLIVER, Attorneys & Solicitors, 77, Basinghall-street, London (Baker Smith & Oliver); by mutual consent. Dec. 29.

FRIDAY, JAN. 4, 1861.

BAKER, JOHN, SAMUEL EDWARD BAKER, and ROBERT PHILLOTT, Attorneys-at-Law, Solicitors, and Conveyancers, Weston-super-Mare, Somersetshire, by mutual consent. Dec. 31.

MOORES, SAMUEL, and SALLS, WILLIAM, Attorneys, Solicitors, and Conveyancers, 18, Old Broad-street, London (Moore and Salls), by mutual consent. Dec. 31.

PHILLIPS, ANDREW, and GEORGE PHILLIPS, Attorneys and Solicitors, Shiffnal, Salop. Dec. 31.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, JAN. 1, 1861.

GREAT WESTERN COAL COMPANY.—V.C. Kimbelsley will proceed on Jan. 17, at 2, to settle the list of contributories of this Company.

FRIDAY, JAN. 4, 1861.

LIMITED IN BANKRUPTCY.

PATENT WOOD OR FIBROUS SLAB COMPANY (LIMITED).—Commissioner Fane will proceed, on January 31, at 1.30, Basinghall-street, to settle the list of contributories of this company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, JAN. 1, 1861.

BEAUCHAMP, ANNE, Spinster, Twickenham, Middlesex. Blake, Tylee, & Tylee, Solicitors, 14, Essex-street, Strand. Jan. 31.

COOK, GEORGE WILLIAM, Tailor, formerly of Prince's-street, Hanover-square, Middlesex, then of Kew-green, Surrey, and of Twickenham, Middlesex, but late of Turnham-green, Gent. G. H. Cook, Army Clothier, 6, Albemarle-street, Middlesex, or W. H. Cook, Coach Builder, 12, Mount-street, Grosvenor-square, Executor. Feb. 20.

GREEN, HENRY, Farmer, High-green, Croome D'Abitot, Worcestershire. H. Green, High-green, Executrix. Feb. 1.

HARFORD, FREDERICK PAUL, Esq., Down-place, Maidenhead, Berkshire. C. H. Moore, 22, Lincoln's Inn-fields, Executor. Feb. 21.

HARGREAVES, JOHN, Common Carrier, Hart-common, within Westhoughton and of Southport, Lancashire. Rushton & Armitstead, Solicitors, Bolton. Feb. 14.

HARLEY, JOHN, Gent., 1, Saville-row, Walworth, Surrey. G. Serroll, Solicitor, 14, Upper King-street, Russell-square. Feb. 14.

HODGSON, ISAAC, Esq., formerly of Kirby Frith, Leicester, but late of Clifton, Bristol. Stone, Paget, & Billson, Solicitors, Welford-place, Leicester. March 1.

RING, ELIZABETH, 21, Bedford-street, Reading, Berks. Hoffman, Solicitor, 59, Broad-street, Reading. May 2.

SHEPHERD, JOHN, Gent., Hereford. Lloyd, Solicitor, Leominster. Feb. 1.

TWIGG, JOHN, Gent., Wrawby, Lincolnshire. Nicholson, Hett, & Freer, Solicitors, Brigg. April 1.

FRIDAY, JAN. 4, 1861.

BAGULEY, JOHN, Farmer, Cossington, Leicestershire. Latham, Solicitor, Melton Mowbray, Leicestershire.

CARR, WILLIAM SWINBURN, Farmer and Veterinary Surgeon, Crooklands, Preston Richard, Heversham, Westmoreland. W. R. & H. A. Gregg, Kirby Lonsdale. Feb. 14.

BOIS, ELIZA DU, Spinster, Bath. Lindo, Solicitor, 17, King's Arms-yard, Moorgate-street, London. Forthwith.

GARRETT, JAMES, Gent., 22, Carter-street, Walworth, Surrey. Scarborough & Alderson, Solicitors, 5, Moonsbury-square, W.C. March 6.

HARGREAVES, JOHN, Common Carrier, Hart-common, Westhoughton, Southport, Lancashire. Feb. 14. Rushton & Armitstead, Solicitors, Bolton.

HART, ESTHER, 77, Gloucester-place, Hyde-park, Middlesex. Dec. 28. Lindo, Solicitor, 17, King's Arms-yard, Moorgate-street. Forthwith.

HAY, CHRISTOPHER WILLIAM, Merchant, Riga. Aug. 10. Brooks & Du Bois, Solicitors, 7, Goddman-street, Doctors'-commons, London.

HAYES, NEVILLE, Gent., Western-villas, Great Ealing, Middlesex. Feb. 15 Surman, 11, New-square, Lincoln's-inn.

HUNT, JOHN, Subscrier, Lower College-green, Bristol. Feb. 1. Redell, Solicitor, 6, John-street, Bristol.

JONES, WILLIAM, Omnibus Proprietor & Livery Stable Keeper, Grove-yard, Camberwell-grove, Surrey. Feb. 14. Drake & Son, Solicitors, 38, Walbrook, London.

PEAR, JAMES, Gent., 38, Clarges-street, May-fair, Middlesex. March 1. Walter & Moogin, Solicitors, 8, Southampton-street, Bloomsbury Middlesex.

ROGERS, WILLIAM, otherwise **WILLIAM GOURLAY ROGERS**, Parliamentary Solicitor, Fludyer-street, Westminster, and late of 20, Great George-street, Westminster, and 2, Shaftesbury-villas, Kensington, Middlesex. Feb. 1. Miller & Smith, Solicitors, 6, Chatham-place, Blackfriars, London.

SPAY, WILLIAM, Labourer, late of Tavistock, and formerly of Devonport. Jan. 10. Chilcott, Solicitor.

WEBB, RICHARD, Innkeeper & Boat Owner, Bourne, Stroud, Gloucestershire. Feb. 1. Ball & Purchas, Solicitors, Stroud.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, JAN. 1, 1861.

BRENNAUD, WILLIAM, Cotton Spinner, Byerden House, near Burnley, Lancashire. Chaffer v. Brennaud, V. C. Kindersley. Jan. 17.

MACHINERSON, KENNETH, Esq., formerly of the Isle of Man, afterwards of the City of London, and late of Mount Vernon and Moffatt, in the parish of St. Thomas in the East, in the Island of Jamaica. M. R. Feb. 26.

FRIDAY, JAN. 4, 1861.

ELWORTHY, JOHN MORRIS, (commonly called John Elworthy), Gent., formerly of King's-road, Middlesex, afterwards of Larkhall-lane, Clapham, Surrey, afterwards of the Rue Hauteville, in Paris, and late of Passy, in France. Percival v. Corsi and Others, V. C. Stuart. Feb. 1.

Assignments for Benefit of Creditors.

TUESDAY, JAN. 1, 1861.

BEICHER, WILLIAM, Brewer, Abingdon, Berks. Dec. 15. Sols. Moreland & Godfrey, Abingdon, Berks.

HANCOCK, WILLIAM, Timber Merchant, Union-wharf, Millwall, Poplar, Middlesex. Dec. 21. Sol. Kingdon, 3, Lawrence-lane, Cheapside.

LAWSON, WILLIAM SIMPSON, Grocer, Bucklersbury, London. Dec. 5. Sol. Mathews, 102, Leadenhall-street, London.

REAY, THOMAS, Merchant Tailor & Draper, Newcastle-upon-Tyne. Dec. 6. Sol. Joel, Newcastle-upon-Tyne.

SPICER, THOMAS RICHARD, Grocer, 65, John-street, Clerkenwell, Middlesex. Dec. 22. Sol. Thompson, 60, Cornhill, London.

TRUDGELL, ROBERT, Tailor & Draper & General Shopkeeper, Aslacton, Norfolk. Dec. 1. Sol. Sudd, Theatre-street, Norwich.

FRIDAY, JAN. 4, 1861.

DAVID, MORGAN WILLIAM, Draper & Grocer, Aberaman, Aberdare, Glamorganshire. Dec. 29. Sol. Hottler, Aberdare.

REYD, JOHN, Coal Merchant, Fogwill, Totnes, Devonshire. Dec. 21. Sol. Kellock, Totnes.

GOODWIN, JOSEPH, Miller, Duffield, Derby. Dec. 15. Sol. Sale, St Mary's-gate, Derby.

LEONARD, WILLIAM, Timber Merchant, 33, Euston-square, Middlesex. Dec. 19. Sols. Wild & Barber, 104, Ironmonger-lane, Middlesex.

MITCHELL, JOHN, Common Carrier, Poulterer, &c., Louth, Lincolnshire. Jan. 2. Sols. Ingoldby & Bell, Louth.

NIGHTINGALE, HENRY, Ironmonger Brighton, Sussex. Dec. 4. Sols. Tippetts & Son, 2, Sise-lane, London.

REAY, THOMAS, Merchant Tailor & Draper, Newcastle-upon-Tyne. Dec. 6. Sol. Joel, 76, Grey-street, Newcastle-upon-Tyne.

REES, THOMAS HENRY, & JOHN DANIEL SPRAGUE, Ink Manufacturers, 84, Union-street, Southwark, Surrey. Dec. 17. Sol. Strong, 44, Jewin-street, Cripplegate, or Howard, Halse, & Trustram, 66, Paternoster-row.

Bankrupts.

TUESDAY, JAN. 1, 1861.

BARTON, THOMAS, Tanner & Fellmonger, Liverpool (Thomas Barton & Son.) Com. Perry: Jan. 15, and Feb. 7, at 11; Liverpool. Off. Ass. Turner. Sol. Banner, Liverpool. Pet. July 28.

BRENT, WILLIAM, Tanner & Currier, Blue Anchor road, Bermondsey, Surrey, and 14, Wilbourn-terrace, Grange-road, Bermondsey. Com. Fonblanque: Jan. 15, at 12.30; and Feb. 12, at 1.30; Basinghall-street. Off. Ass. Stansfeld. Sol. Roberts, 8, Barge-yard-chambers, Bucklersbury. Pet. Dec. 31.

BROOKS, ALFRED, Optician, 41, Ludgate-street, London. Com. Holroyd: Jan. 12, and Feb. 16, at 12; Basinghall-street. Off. Ass. Edwards. Sols. Lumley & Lumley, 41, Ludgate-hill, London. Pet. Dec. 28.

BYANT, WILLIAM, Tailor & Outfitter, 494, Oxford-street, Middlesex. Com. Fane: Jan. 11, at 11.30; and Feb. 6, at 12; Basinghall-street. Off. Ass. Cannan. Sols. Hinson & Parker, 4, King-street, Cheapside. Pet. Dec. 28.

EDOK, THOMAS, Gas Meter Manufacturer, 59, Gt. Peter-street, and 39, Vincent-square, Westminster. Com. Fonblanque: Jan. 15, and Feb. 13, at 1; Basinghall-street. Off. Ass. Stansfeld. Sol. Skilbeck, 19, Southampton-buildings, London. Pet. Dec. 18.

FLOOD, THOMAS, Hardwareman & General Dealer, Honiton, Devonshire. Com. Andrews: Jan. 16, and Feb. 13, at 12; Exeter. Off. Ass. Hirtzel. Sols. Reece, Birmingham; or Turner & Hirtzel, Exeter. Pet. Dec. 19.

GROVE, WILLIAM, Licensed Victualler & Cab Proprietor, Spread Eagle Tavern, Kingsland-road, Middlesex. Com. Fonblanque: Jan. 11, and Feb. 13, at 12; Basinghall-street. Off. Ass. Graham. Pet. Dec. 28.

HEWITT, OWEN, Baker, Windsor. Com. Holroyd: Jan. 12, at 1; and Feb. 19, at 12; Basinghall-street. Off. Ass. Lee. Sols. Harrison & Lewis, 6, Old Jewry, London. Pet. Dec. 27.

HODGMAN, AARON MARTIN CRAMP, Miller, Broadstairs, Kent. Com. Fane: Jan. 11, and Feb. 15, at 2; Basinghall-street. Off. Ass. Whitmore. Sols. Mercer, 8, Billiter-square; or Mercer & Edwards, Ramsgate. Pet. Dec. 31.

HUTCHINS, WILLIAM, Butcher & Innkeeper, Neath, Glamorganshire. Com. Hall: Jan. 15, and Feb. 12, at 11; Bristol. Off. Ass. Miller. Sols. Goodsons, Swansea; or Bevan, Girdling, & Price, Bristol. Pet. Dec. 29.

KINCH, GEORGE WILLIAM, Livery Stable Keeper, Paragon Livery Stables, Paragon-road, Church-street, Hackney, Middlesex, theretofore residing at Penn, Buckinghamshire, under the name of GEORGE WILLIAM BONE. Com. Goulburn: Jan. 10, at 12; and Feb. 11, at 1; Basinghall-street

Off. Ass. Pennell. Sols. Greville & Tucker, St. Swithin's-lane, London; or Pulley & Clarke, High Wycombe. Pet. Dec. 28.

LEVISON, LUDWIG, Merchant, Leamington, Warwickshire. Com. Sanders: Jan. 16, and Feb. 11, at 11; Birmingham. Off. Ass. Kinnear. Sols. Duignan & Ebsworth, Walsall. Pet. Dec. 12.

SLATOR, HENRY, Common Brewer, Holbeach, Lincolnshire. Com. Sanders: Jan. 17 and 31, at 11; Nottingham. Off. Ass. Harris. Sol. Ashwell, Nottingham. Pet. Dec. 28.

FRIDAY, JAN. 4, 1861.

CLARK, JAMES JOSEPH, Leather Merchant, 94, Aldersgate-street, London. Com. Holroyd: Jan. 15, at 2, and Feb. 19, at 1; Basinghall-street. Off. Ass. Lee. Sols. Lumley & Lumley, 41, Ludgate-street, Saint Paul's, London. Pet. Jan. 2.

DETHIER, LOUIS, Cook & Confectioner, 2, Carpenter-place, Carpenter-street, Berkeley-square, Middlesex. Com. Evans: Jan. 18, at 11, and Feb. 21, at 12; Basinghall-street. Off. Ass. Bell. Sols. Dod & Long-staffe, 19, Great Portland-street, Oxford-street. Pet. Dec. 29.

GIBBS, JOHN, Licensed Victualler, Three Cranes Inn, Church-street, Hackney, Middlesex. Com. Fane: Jan. 17, at 9, and Feb. 15, at 11.30; Basinghall-street. Off. Ass. Cannan. Sols. Lumley & Lumley, 41, Ludgate-street. Pet. Jan. 1.

GRAY, THOMAS, Woollen Warehouseman, 44, Bread-street. Com. Holroyd: Jan. 15, at 1.30, and Feb. 16, at 12.30; Basinghall-street. Off. Ass. Edwards. Sol. Bailey, 8, Tokenhouse-yard, Lothbury, London. Pet. Nov. 28.

GROVE, WILLIAM, Licensed Victualler & Cab Proprietor, Spread Eagle Tavern, Kingsland-road, Middlesex. Com. Fonblanque: Jan. 11 & Feb. 13, at 12; Basinghall-street. Off. Ass. Graham. Sol. Beard, 10, Basinghall-street, London. Pet. Dec. 28.

HARLAND, JOSEPH, Cloth Merchant, Leeds. Com. West: Jan. 24 & Feb. 15, at 11; Leeds. Off. Ass. Young. Sols. Upton & Yewdall, Leeds. Pet. Jan. 3.

MILLWARD, WILLIAM, Grocer & Provision Dealer, formerly of Birmingham, afterwards of Aston, near Birmingham, and now of Kate's-hill, Dudley. Com. Sanders: Jan. 21 & Feb. 11, at 11; Birmingham. Off. Ass. Kinnear. Sols. Lowe, Dudley, or E. & H. Wright, Birmingham. Pet. Jan. 2.

PAINE, HENRY, Tailor & Draper, 234, Strand, Middlesex. Com. Evans: Jan. 18, at 1, & Feb. 14, at 1.30; Basinghall-street. Off. Ass. Johnson. Sols. Taylor & Jaques, South-place, Finsbury. Pet. Jan. 4.

PIKE, ROBERT GEORGE, Grocer, Week-street, Maidstone, Kent. Com. Goulburn: Jan. 16, at 11; and Feb. 18, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Doyle, 2, Verulam-buildings, Gray's-inn, London; or Morgan, Maidstone, Kent. Pet. Jan. 2.

REYNOLDS, JOHN, Grocer and Provision Dealer, Newcastle-street, Burnley, Staffordshire. Com. Sanders: Jan. 17, and Feb. 7, at 11; Birmingham. Off. Ass. Whitmore. Sols. Litchfield, Newcastle-under-Lyme; or James and Knight, Birmingham. Pet. Dec. 27.

ROGERS, JOHN, Hotel and Lodging-house Keeper, 109, Queen's-road, and 35, Queen's-road, Brighton. Com. Goulburn: Jan. 14, at 11; and Feb. 11, at 12.30; Basinghall-street. Off. Ass. Pennell. Sols. Sydney and Son, 46, Finsbury-circus, London. Pet. Jan. 1.

SAINSBURY, GEORGE BRUCE, Coal Merchant, 6, Church-lane, Whitechapel, Middlesex, and 78, Leadenhall-street, London. Com. Evans: Jan. 17, and Feb. 14, at 12; Basinghall-street. Off. Ass. Johnson. Sols. Smith and Son, 6, Barnard's-inn, Holborn. Pet. Jan. 3.

WHITELOCK, PETER, Grocer, Leeds. Com. West: Jan. 18, and Feb. 15, at 11; Leeds. Off. Ass. Young. Sol. Simpson, Leeds. Pet. Jan. 2.

WISEMAN, JOHN, Printer, Bookseller, & Stationer, Luton, Bedfordshire. Com. Fonblanque: Jan. 16, and Feb. 20, at 12; Basinghall-street. Off. Ass. Stansfeld. Sol. Linklaters & Hackwood, 7 Walbrook, London. Pet. Jan. 2.

BANKRUPTCIES ANNULLED.

TUESDAY, JAN. 1, 1861.

ATKINSON, GEORGE, Joiner & Carpenter, Bradford. Dec. 26.

FRIDAY, JAN. 4, 1861.

CHANDLER, BENJAMIN, Attorney and Money Scrivener, Sherborne, Dorsetshire. Jan. 2.

JENNINGS, WILLIAM OWENS, Horse Dealer, Uggeshall, Suffolk. Dec. 20.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, JAN. 1, 1861.

ANIM, REUBEN, Tailor, 35, Conduit-street, Regent street, Middlesex. Jan. 22, at 11; Basinghall-street.—**BATTERS, GEORGE**, Printer and Stationer, Nottingham. Jan. 24, at 11; Nottingham.—**BEVIL, JOHN WILLIAM**, Tobacconist, Cheltenham. Jan. 23, at 11.30; Basinghall-street.—**ELLIOTT, WILLIAM**, Builder, Church-street, Chelsea, and 3, Oxford-terrace, King's-road, Chelsea, Middlesex. Jan. 29, at 11.30; Basinghall-street.—**GRIDLEY, GEORGE**, Coach Maker and Cab Proprietor, 1, Matilda-street, Caledonian-road, Islington, Middlesex. Jan. 22, at 1; Basinghall-street.—**JOHNSON, HENRY**, House Decorator, 2, Spencer-road, Stoke Newington-green, and of St. James's-walk, Clerkenwell-green, Middlesex. Jan. 22, at 12; Basinghall-street.—**MILLER, JOHN**, Pawnbroker, Nottingham. Jan. 17, at 11; Nottingham.—**RAMAGE, EDGAR ROBERT**, Wine Cooper and Bottle Merchant, 10, Bond-court, Walbrook, and 674, Upper Thames-street, London, and Gloucester-cottage, Peckham, Surrey. Jan. 23, at 11; Basinghall-street.—**WARREN, MARK**, Haberdasher, 69, Shoreditch, Middlesex. Jan. 14, at 11.30; Basinghall-street.—**WIKES, THOMAS GEORGE**, Linen Draper, 30, Beckford-row, Walworth, Surrey. Jan. 22, at 11.30; Basinghall-street. **WILKINSON, GEORGE**, Grocer and Flour Dealer, Durham. Jan. 15, at 12; Newcastle-upon-Tyne.

FRIDAY, JAN. 4, 1861.

AMBLER, JOSEPH, Worst Manufacturer, Bradford. Jan. 25, at 11; Leeds.—**ANDERSON, ROBERT HENRY**, Scrivener, High Peter-gate, York. Jan. 23, at 11; Leeds.—**BOREHAM, HENRY**, Plumber, Painter, & Glazier, 26, Wilmot-street, Russell-square, Middlesex. Jan. 16, at 1.30; Basinghall-street.—**BROAD, JAMES**, Coach Ironmonger, 149 & 150, Drury-lane, Middlesex. Jan. 15, at 12; Basinghall-street.—**HERFUTING, JAMES**, Hotel Keeper & Postmaster, Norwich. Jan. 25, at 12.30; Basinghall-street.—**KNATON, WILLIAM**, Iron & Brass Founder, York. Jan. 25, at 11; Leeds.—**MURRELL, THOMAS ROBERT**, Farmer & Brickmaker, Hedenham, Norfolk. Jan. 25, at 1; Basinghall-street.—**POOLE, LEWIS ROBERT**, & SAMUEL BRYAN, Boot & Shoe Manufacturers, 504, New Oxford-street, Middlesex. Jan. 15, at 1; Basinghall-street.—**STARKER, RICHARD**, Draper, Stroud, Gloucestershire. Jan. 31, at 11; Bristol.—**STEVENS, FRANCIS**, & GEORGE ARBUTT, Curriers & Leather Sellers, Earl's Barton, Northamptonshire. Jan. 25, at 1; Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

ERRATUM.—In line 6, col. 2, ante, p. 166, omit the words, "in considering as untenable the ground of Lord C.'s decision," which were erroneously inserted.

THE SOLICITORS' JOURNAL.

LONDON, JANUARY 12, 1861.

CURRENT TOPICS.

The inauguration of the Hartley Institution at Southampton affords the *Times* an opportunity for having a fling at law and lawyers, with what fairness we hope the public may have some opportunity of judging. In the report which appeared of the proceedings upon that occasion, it is stated that Mr. Hartley's "splendid property having been subjected to the sifting process of law, it was by the time it once more got free from the Chancery Court, found to be sweated down from £100,000 to £40,000;" and the next morning we find in a leader of the same journal, that the sum of "£40,000 was paid as a moderate tribute to the presiding genius of the Court of Chancery; but as even for this price the Court of Chancery could not be got to make an end of the suit, £20,000 more was spent in compounding the quarrel." The writer in the *Times*, no doubt, was not unwilling to assume the accuracy of the figures supplied to him by the reporter in the country, who gives no authority whatever for the startling statement which he has made. We do not desire unnecessarily to say anything which can spoil the flavour, or lessen the effect of any of those spicy productions for which the *Times* is famous; but it is right in this case that we should express our serious doubts of the accuracy of the appalling figures of our great contemporary. Heavy and hard-fought as was the suit in question, it is extremely improbable that anything like half the amount was incurred by the proceedings in chancery. Of the round sum named by the *Times*, more than one quarter (£10,000) at the very least, must have been expended on legacy and probate duties. The gift being residuary, it was of course subject to all the expenses of administering the estate, which, as the property was very large, and there were annuities and other legacies, must have been very considerable; and, thus, although we have got no peculiar means of information it is easy to conceive how very different the actual cost of this formidable chancery suit must have been from the round estimate of it which we have mentioned. But it is said that, notwithstanding all the costs incurred, the Court of Chancery could not be got to make an end of the suit, but that £20,000 was expended in "compounding the quarrel." The fact was, that with the exception of the legacies and other annuities to which we have referred, the entire residue of this large property was bequeathed by the testator away from his heir-at-law and next of kin, and for a purpose which, until recently, was altogether illegal; and which even now many persons insist to be equally opposed to the policy of our law, and the principles of political economy. A very difficult question, moreover, arose upon the operation of the recent Act of Parliament, which alone could have the effect of rendering legal the large charitable bequest made by the testator. It was hardly to be expected then under such circumstances that those who were disinherited by him should not adopt every means in their power for defeating his object. Nor is it fair that the Court of Chancery should bear the blame of an act of the Legislature which, although it did not plainly meet the case of such a bequest as this, yet introduced

considerable doubt into the law bearing upon the subject: neither is it reasonable to attack the Court of Chancery because in such a state of things the Corporation of Southampton deemed it advisable to effect a compromise with the heir of Mr. Hartley.

We hope that some person conversant with the actual cost incurred in this admittedly onerous litigation will enlighten the public as to the amount which was in fact caused by the proceedings in the Court of Chancery. We feel quite satisfied that whenever the truth is known it will be found that the *Times* has lent itself, for the sake of a popular cry, to a most monstrous and unfair piece of exaggeration.

Some complaints as to the manner in which judgments are drawn up in the Probate and Divorce Court have reached us. We are informed that the Registrar draws up and enters the decree of the Court without any notice to the solicitors on either side, and, therefore, without giving them an opportunity of seeing that the decree is right, not only in substance, but in form—the latter sometimes being as important as the former. From the general character of the business of the Probate and Divorce Courts it might be naturally supposed that the procedure of the Court of Chancery would have afforded the former Courts useful precedents in this respect. In Chancery, minutes of the decree are first drawn up by the Registrar, and are passed only after notice to, and in the presence of, the solicitors on both sides; and, if no objection is made, the decree is formally passed by the Registrar, after which it is "entered." But no decree in that Court can ever be entered without a full opportunity to all the parties in the cause of discussing its details and seeing that the decision of the judge is satisfactorily expressed. The advantages of this system are obvious, and we know of no reason why Sir C. Cresswell should eschew them. We have heard, indeed, of one or two instances in which very awkward results have followed from the present system, which gives to the parties no opportunity whatever of preventing any misconception on the part of the Registrar.

Our attention has also been called to the inconvenient practice of delivering reserved judgments at the close of the day, which the Judge Ordinary has adopted, notwithstanding the usage to the contrary which all the courts on both sides of Westminster Hall have uniformly observed. The delivery of a judgment is generally a work of short duration. It has, therefore, been always considered a convenient practice to deliver reserved judgments at the sitting of the Court, and not at its rising; as in the latter case the effect is to detain parties and perhaps their solicitors and counsel in court during the entire day, for what is generally disposed of in a few minutes.

Another singularity in managing the Divorce business is the taking of causes out of their turn. Not one of the cases heard since the first day of Michaelmas Term, 1860, was taken in the regular course of the paper. This is unquestionably a hardship upon litigants. Some cases which commenced in 1858 are still undisposed of; while in others which commenced in the end of 1859 decrees were pronounced in Michaelmas Term last.

Hilary Term commenced yesterday. The number of causes set down for hearing are as follows:—

Appeals	10
Master of the Rolls	121
V. C. Kindersley	56
V. C. Stuart	74
V. C. Wood	96

The Court for Divorce and Matrimonial Causes, which will commence its sittings on the 18th inst., has nearly 200 causes set down for hearing.

The Probate Court will commence its sittings to-day, with 150 causes down for hearing.

The following statement represents the state of business in the common law courts:—Court of Queen's Bench, arrears 104, Common Pleas 53, Exchequer 65. In the Queen's Bench there are in the new trial paper one rule for judgment and 61 for argument, while in the special paper there are two for judgment and 29 for argument; in addition to these there are 11 enlarged rules. In the Common Pleas there are 10 enlarged rules and 21 new trials; one matter stands for the opinion of the Court, and 21 demurrers and special arguments are entered. In the Court of Exchequer there are two errors and appeals from the Court of Exchequer for judgment and eight for argument; in the peremptory paper there are five rules for discussion, and in the special paper there are eight rules for judgment and 13 for argument. Of new trial rules there are nine for judgment and 20 for argument.

Lord Brougham, in a characteristic reply to an invitation to attend the Boston "Convention" on the anniversary of the death of Captain Brown, states that the well-known aphorism, according to which no slave can live on English ground, has not, as is generally supposed, Lord Mansfield, but one of the Scotch judges, for its author. Lord Brougham does not mention to which of the Scotch judges he attributes the authorship of the memorable saying in question; and he is taken to task by a provincial newspaper, the *Bury Post*, for not knowing that it was first delivered by Lord Mansfield in 1772, in the "great case of the negro Somerset." The case referred to is *Somerset v. Stewart*, reported in Loft's Reports. In this case the master of a ship was required to show cause upon a *habeas corpus* for the seizure and detention of a negro who had been purchased by the defendant as a slave, and who having been brought to England by his master, was sent by him on board a vessel lying in the river, there to be detained in custody of the captain until the sailing of the ship. The arguments of Mr. Hargrave and Mr. Alleyne, on behalf of the negro, and of Mr. Dunning and Mr. Serjeant Davey on the other side, are admirable specimens of forensic logic, while in truth the decision of Lord Mansfield, although in favour of liberty and humanity, was not supported by a judgment at all equal to the occasion, it being not only very brief but very common place. The figure of speech that, "no slave can breathe the air of England," or that he is made free by touch of the English soil, turns up here and there in the argument of counsel; but nowhere is to be found in the judgment of Lord Mansfield. Mr. Hargrave more than once says that the air of England is too pure for slavery; but he attributes the authorship of the saying to some advocate of the cause of a Russian slave before the Star Chamber: Mr. Dunning, in reply, said, that "neither the air of England was too pure for a slave to breathe in, nor had the laws of England rejected servitude." Perhaps some of our readers will be able to refer us for the authorship of the saying in question still further back than the date of the case before the Star Chamber; or some of our Scotch friends will possibly "condescend to particulars" as to the name and period of the Scotch judge to whom, according to Lord Brougham, we are indebted for it.

The magistrates of Norfolk at the last quarter sessions for that county had a discussion upon the subject of Expenses on Criminal Prosecutions. They have added their testimony to the justice of the complaints made by the grand juries of York, Lancashire, and other counties, as to the insufficiency of the scale of Expenses of the Prosecution of Criminals which was some two or three years ago adopted by the Home Secretary. It appears that in addition to the complete disallowance of expenses incurred before the commitment of prisoners for trial, £8 per cent. had been struck off the last account pre-

sented by the county for repayment. The disallowance of expenses connected with the apprehension of prisoners is no doubt calculated in many cases to ensure the impunity of crime; and this feature, which has been particularly insisted on by the Norfolk magistrates, affords another reason, if one were wanting, for the entire revision of the present scale of charges connected with Criminal Prosecutions.

The important changes which have been made in the tests required of articled clerks in Ireland, and which some weeks ago (*ante*, p. 91) were detailed in this journal, are thus announced by the Irish correspondent in yesterday's *Times*:—

"A change of considerable importance to the profession of attorneys and solicitors in Ireland has recently been made with respect to the admission of apprentices. Hitherto no qualification was required beyond the payment of stipulated fees, but, in compliance with the recommendation of the Society of Attorneys and Solicitors, the Benchers resolved upon subjecting the candidates to strict tests of their general knowledge, and a regular examination of a comprehensive and severe character has been instituted."

Mr. Phinn, Q.C., has published a denial of the very general rumour which there was some weeks ago of his appointment to the Chief Justiceship of Madras. It is intimated that the appointment was offered to him, but declined.

TAXATION OF SUITORS—No. II.—SHOULD SUITORS BEAR ANY OF THE EXPENCE OF COURTS AND OFFICES OF JUSTICE?

We are glad to hear rumours that the whole subject of legal finance, which for nearly twenty years has excited so much interest among solicitors, and so often been the subject of petition to Parliament and memorial to legal authorities, is likely to be brought under the consideration of a Royal Commission. Lawyers though we are, we trust any such commission will rather be a commission of financiers and bankers than of lawyers; for surely those whose studies have been mainly conversant with Coke and with Littleton and their congeners, have found there little bearing on the questions of legal taxation and its incidence, its supervision, and its collection; and still less on the questions of banking departments of courts and the best system of bookkeeping; whether these departments should be fused, and how far profit can be best derived from the deposits; whether these departments should all employ the Bank of England as most courts do, or a private banker as the Queen's Bench does; the best method of drawing court orders upon the funds; and how far any other financial machinery of the State can be called in aid of our judicial system. Still, although we should as soon think of employing a judge as architect for the new concentrated courts of justice, as of relying on legal wisdom to determine these questions; yet, on the other hand, as the judge is the first who should be consulted on the conveniences required, so is the profession the first to be consulted on the financial needs and interests of the suitors. Therefore it is that we propose in some detail to discuss the subjects stated in a recent article, and now again indicated.

As to the question whether the suitor should be taxed at all, our readers are aware that many of those who consider themselves the especial disciples of Jeremy Bentham, hold, that every court and office of justice should be maintained by the State, the suitors paying their own expenses and that of their witnesses. The late and the present Master of the Rolls seem to hold these views (see Report on Fees, 1848, and on Concentration of Courts, 1860). It is impossible, however,

we think, to contend for so wide a rule, unless, indeed, the subjects and area to which the legal State machinery is now applied are materially narrowed; and are confined to those matters which are *vital* to the very existence of property.

To try to elicit the true principles which should govern legal taxation, let us take the more extreme cases, and begin with criminal law. Crime is destructive of the ultimate bases and objects of society—individual property and individual freedom; and therefore not only should all the criminal establishments be maintained by the State; or else (and this is an important question) by the locality where the crime is committed (as in the old case of the hundred being made liable to a civil action for damage by rioters)—but the State should also bear every expense which might deter either prosecutor or witness from aiding in the conviction of the particular crime, and therefore in the suppression of all crime. The shamefully insufficient allowance for expenses of prosecutions—the shabby treatment of coroners by counties, all often commented on in this Journal, come under this head of consideration. It will be seen, therefore, that for the criminal establishment we have got to a rule larger than that attributed (though incorrectly) to the great jurist; for here the witness must be paid by the State; and this shows that the proportion of State contribution should vary with the extent of the State's interest in the question under determination. At the same time inducements to make false charges (such as rewards to individual policemen on conviction) must be avoided. The abstract and scientific rule, if one be discoverable, will be found, further, to be one which must in application be from time to time modified to meet the general changes of education and morals. In a more rude state of society, the allowance of half the penalty to an informer; and the permission to bring *qui tam* actions were probably, on the balance of considerations right.

Let us next go to the other pole of the legal sphere, and take the case, say, of the office for registration of deeds in Middlesex. Nothing would be more unjust than to throw the burthen of such an establishment on the country at large,—or on the county even,—or on other than the particular owners of land who benefit by the security (if such it be) that registration affords.

Take next the Court of Probate, that is to say, the Will register office. Clearly the estate of the will makers (and by way of *ad valorem* too) ought to pay the expense of this establishment, except so far as there may be court hearings, to determine the law on questions of will or no will or the like. But why not that expense also? Because all the kingdom is interested in that decision. The decision is in effect an Act of Parliament—a law for the whole State for the future. On the one hand the cost of judge and officers, if not more, should be paid in respect of everything which would be *reportable* for the law books—(with perhaps some exceptions of nicety and interest referred to below)—on the other hand, the expense of everything purely administrative, e.g., the management of funds and trusts, all accountant-general's work for instance; all ascertainment of testator's debts and closing the accounts of his estate except judicial decisions on them; should, we conceive, be clearly charged on the funds under administration. Courts have perpetually to employ auctioneers in the course of such work. The State might as well be asked to maintain them. Formerly Chancery auctions were exempt from the auction duty then in force. We have known more than the whole cost of a suit saved by this exemption. The State thus, as it were, subsidized the Court for that particular class of business it should least have paid for. But this is all rightly at an end now.

Let us now consider the case of Bankruptcy. Creditors have found it to their interest and profit to sell on credit. The debtor fails. Surely the State ought

not to pay for realizing and dividing the assets! Probably it also follows (though it is beside our present purpose to consider) that the State has no right to impose official assignees upon the creditors to do their work. On the other hand, when the bankrupt has committed frauds, the State should pay for his prosecution; and we think the whole of such prosecution should be entirely removed from the Bankruptcy Administration Court. So little is a bankruptcy jurisdiction one vital to society and property, that although the constitution of the United States allows the enactment of bankruptcy laws, none such exist—where they have existed they are repealed. The effect is to make debts in the States, to a larger extent than here, debts of honour; and authorities have considered that trade faith is all the better kept there without a bankruptcy law.

Let us come next to such matters as the Common Law Courts deal with. So far as all actions bearing on title—trespass—tort, &c., go, the functions of Courts are vital. As to contracts it is certainly not wholly so. An important political party in America have laid it down as what is there called part of their platform, that not only shall not the State maintain or subsidize courts for the recovery of debts arising from dealings on credit; but that no such court should be allowed to exist. Their arguments are to the effect that the creditor, for his own advantage and higher profits, chooses to enter into such contracts; that such contracts are of doubtful advantage; if not, when at long dates, mischievous to the State, and that the State is not interested in keeping up law screws or other instruments of legal compulsion for the benefit of the creditor; that there are fraudulent creditors quite as often as fraudulent debtors; and that creditors have been far too powerful and too much considered in the making of laws. Wild as such notions at first sight appear to our habits of thinking, there is a fragment of serious truth involved in them, to which at present we must do no more than allude, as one we think much overlooked in this country, especially in the county court system. That system has created an immense amount of dealing and credit of a nature almost unknown in England before; and we think, in the main, very deleterious. It is curious to see, that while in this country the tendency of legislation is continually to enlarge the area of judicial or quasi-judicial interference; in America, the tendency is the other way. Each country at its Revolution had nearly the same laws. Each has since been diverging in an opposite direction. The operative causes in each of those divergencies deserve the most careful study of the practical jurist.

The correct rule on the question at the head of this article, on the whole, seems to us to be that the cost of our whole judicial establishment should be borne by the public, except so far as its functions are administrative; and, perhaps, except so far as it is employed to enforce voluntary contracts on credit; at any rate when entered into for long dates.

A LAW UNIVERSITY.

The tendency of systems of education appears to be subject to the same general laws of reaction as those which govern other social institutions. In the middle ages, when the monks were the sole schoolmasters of England, young men were supposed to be instructed in the complete curriculum of what were then called the seven liberal arts—grammar, rhetoric, logic, arithmetic, music, geometry, and astronomy. After a time, however, logic or dialectics was imagined to comprise the whole domain of human wisdom, and to this great study every other was deemed to be subsidiary. In like manner, upon the first institution of universities, not only such ordinary branches of learning as from time to time should be comprehended under the general term of “arts,” but also all other “faculties” were included in the programme of those now venerable

institutions. But the time has long gone by when people look to Oxford or Cambridge for a supply either of music masters, or medical doctors; and for some time the notion has been common that a large percentage of those who have acquired the highest degrees in the faculty of law, are not of necessity even passable lawyers. To be sure, the old universities continue to have doctors of music who never composed an opera or even a ballad, and doctors of law who never opened a text book or a volume of reports; and so the original notion of universality in teaching is theoretically maintained. It is stated, however, that the University of Oxford is willing to abate a little of its pretensions as to the teaching of law, with a view to making itself somewhat more practically useful. The Regius professorship of Civil Law, which derives its title and endowment from a grant of Henry VIII., and the Viner professorship founded at a later period, are to be fused into one, with a view of enabling the university to procure the real and not the sham services of a competent lawyer. We believe it is not yet decided what are to be the precise duties of the new professor. We assume, however, from the nature of the change, that it is not the intention of the university to popularise jurisprudence, or to reduce it from the position of an independent "faculty" to be one of the occasional subjects of study in the undergraduate course. The design is probably to enable both graduates and undergraduates to acquire some general notion of the principles of law before they leave the university. In this, however, success to any extent can hardly be expected. Young men go to the university to complete their general education; but the time is gone by when any except those who intend to become clergymen or schoolmasters will go there for the purpose of professional training. Except in these two cases it is full time, therefore, for Oxford and Cambridge to relinquish their pretensions to train men for the various professions, and especially for the profession of the law. Not that we mean for a moment to depreciate in the least the value of the undergraduate course at these universities. What we say is, that having given a youth a liberal education, they had better not also affect the responsibility of fitting him for discharging the special duties of a profession—especially of such a profession as that of the law. If this be so it would be more decent for them to relinquish the pretensions and the profits which are implied in the granting of University degrees in the faculty of law; and as many people will have such degrees, one source of profit would thus be secured for a real Law University, whenever it may be established in this country.

The law officers of the Crown are at present, engaged in preparing their plans for a new Palace of Justice. The time is not inopportune, therefore, for urging upon their attention the foundation of a great national law school, which would in reality be able to accomplish what Oxford and Cambridge do not pretend even by a make-believe to undertake. Such an institution should provide for the instruction in the principles of law, not only of those who are intended for its practice, but also of those numerous classes of persons for whom, although they are beyond the pale of professional lawyers, more or less knowledge of law is indispensable. The recent exhibition of justices' justice at Cirencester, although luckily brought under the notice of the general public by the spirited conduct of Mr. Boodle, is unfortunately not a rare instance of the injustice done to the poorer classes through the administration of the law by persons who are ignorant of its first principles; and even if some slight smattering of law were attainable at Oxford or Cambridge, it is not likely that it would do much to remedy this evil. It would, therefore, be highly desirable that country gentlemen who are intended for the magistracy should have some opportunity of ac-

quiring the necessary training in a university suitable for that purpose. Another class of persons for whom such training is also required, are our foreign consuls. In the discussion which lately took place between Mr. Lindsay and the New York Chamber of Commerce, it appeared to be generally admitted that it was necessary to confer upon consular agents a limited jurisdiction for the trial of certain offences, whether committed by subjects of their own, or even of a foreign country. It is not difficult, however, to conceive what serious international questions might arise, in the event of such power being given to persons unacquainted with the principles of jurisprudence; and yet there are at present no suitable means in this country for imparting a legal education to persons intended for the consular service.

It has been proposed that a university shall be established which would provide for the education in law not only of our ambassadors, consuls, and justices, but also to some extent—so far as general principles are concerned—of barristers and solicitors; leaving the special training of the two latter classes of persons as it is now provided for by the Inns of Court and the Law Institution. The task would present apparently but little difficulty if all the scattered agencies which at present exist were brought into a common centre; and the first step towards this desirable object would be the relinquishment on the part of the universities of their present unjustifiable and inordinate pretensions to supply the want which they are obviously unable to meet. The medical profession has long successfully asserted its claims to independent action in this respect; and has its centres of education in the metropolis—where they ought to be. We claim no more on behalf of the profession of the law; and we have little doubt that the time is not far distant when there shall be in London a law university adequate to meet the requirements not only of the profession, but of the entire country.

THE LAW OF REAL PROPERTY IN SOUTH AUSTRALIA—REPORT OF THE REGISTRAR-GENERAL, 1860.

Our readers may remember that in February, 1859, Sir Hugh Cairns, during his tenure of office, presented to Parliament two Bills relating to title, which were intended to effect sweeping changes in the existing laws of real property. One of these Bills proposed to introduce a system of indefeasible Parliamentary titles, such as can be obtained at present in Ireland under the Landed Estates Court Act; the other Bill was intended to establish a system of registry for those titles only in respect of which a declaration under the previous Bill, if constituted law, had been obtained. Land once on the register should always, according to this Bill, continue there. No trusts were to appear on the register. Trustees, however, when registered, were to be deemed tenants in common, so that no less than the original number of trustees could exercise a power of disposition over the land. The *cestuique trusts* were intended to be further secured by the privilege (accorded to them by the bill) of lodging caveats or injunctions against the trustees, as also by a direction in the Bill that judges should direct inhibitions or caveats of a somewhat permanent character on behalf of *cestuique trusts*, who might require this protection. The Act was intended as a compromise between the claims of trade in land, and of the interests usually protected by the tying up of land by family settlements. At present the chief security for trusts is the doctrine of notice; for this, inhibitions—the indices of a judicial recognition of dormant trusts—appear to us to have been an unnecessary and inadequate substitute. Sir Hugh Cairns' Bill was,

generally, somewhat severely treated both for its principle and machinery. The copious obliterations and amendments which its clauses underwent prior to its final rejection would, certainly, seem to indicate that the practical merits of the Bill were not greatly underrated. But, as to the principles embodied in Sir Hugh's Bills, they had, doubtless, been for many years the watchwords of a considerable number of law reformers. The principles had been moreover discussed and favourably considered by numerous royal commissions, and verified in fact by the ten years' siege which the Incumbered Estates Court Act had laid to feudal monopoly in the sister island. These principles will, doubtless, re-appear on the legislative arena in some less vulnerable form than the vapour of Parliamentary discussions has hitherto permitted them to present. To the advocate of such changes, we earnestly recommend the consideration of the Real Property Act, passed by the Legislative Council for South Australia, to which the royal assent was given on 17th October, 1860.

The first Australian Act of this nature was passed by the Legislative Council in 1858. Certain *casus omisi* were provided for by an enactment of the subsequent year; and now the experience of two years is embodied in the Act of 1860, which repeals and consolidates both the former Acts, besides adding some amendments of its own. The report of Mr. Torrens, the Registrar-General, condenses the substance of these Acts, and explains their operation with a practical minuteness (not wanting in perfect comprehension of principle), which no black-letter lawyer, unpractised in dealings with stock and ship registries could perhaps exhibit in a similar performance. We may thus contemplate Mr. Torrens as Lord Macaulay's traveller, fresh from the antipodes, sketching the time-honoured fabric of our law with a view to assisting us in its repair.

The report of the Registrar-General explains both the principles and the machinery of the Act in most ample detail. The report commences by attributing the complications of our law of real property to the dependent or derivative character of titles—in other words, to the absence of a parliamentary title, except such as is given by the Statute of Limitations—to the absence, in short, of a *terminus*, a *ne plus ultra* to the objections of a scrutinizing purchaser. This objection does not apply to the Irish law of real property, which, in this respect, is identical with the law of South Australia. In order to abolish the dependent character of titles, and to prevent all occasion for investigating the retrospective history of property the Act, the subject-matter of the report and of these observations, has substituted "registration of titles" for "transfer by deeds." Instead of distinct systems of parliamentary titles and registration as in Ireland, the Australian law accomplishes both objects by the single process of registration.

In order to cut off the derivative character of titles, the "indefeasibility of title" acquired by registration is, the report states, "a first principle." It is the sum and substance of the system. This title so acquired is a bar to all prior claims. A rightful owner, deprived of land by the registration of the title of an unlawful possessor, will either recover the money value of the land from the person benefited by the registration, or will be indemnified out of the assurance fund hereinafter explained; but the registration has intercepted and cut off his title to the land itself. Registration, in short, gives an indefeasible parliamentary title, and extinguishes all prior claims of every kind. The entry in the register is the assurance or transfer; the deeds *inter partes* merely operate as authorities for the performance of the act of record. Upon every fresh transfer, or transmission of the fee, the new proprietor holds directly of the Crown. A new *terminus* is thus created. The original transfer annihilated all previous complications of title; the new one extin-

guishes any complications that may have since arisen. The land is thus kept always ready for the market. Lands alienated in fee from the Crown after 1st July, 1858, come *ipso facto* under the operation of the Act. Other lands may be brought under its operation, upon the application of the owner in fee, or of a tenant for life in possession. In cases of a tenancy in common, all the tenants in common must join in making the application. If the land be in mortgage both mortgagor and mortgagee must concur, unless the mortgagee have a power of sale, in which case the application of the mortgagee alone is sufficient. The application has to state the nature of every estate or interest held in the land whether by the owner or others, and also to describe the boundaries, and give a diagram of the land; it specifies its value, and whether it be mortgaged, leased, tenanted, &c., and whether it be subject to easements, or any other rights limiting the interest of the proprietor. He must, besides the title deeds, lodge also an abstract of title, if required. The application together with the deeds is then submitted to the solicitors appointed under the Act, who, after a search in the General Registry Office, make their report to the Board of Lands Titles Commissioners. The board consists of the Registrar-General, and two other commissioners. If the land, the subject of the application, has been granted by the Crown to the applicant since the 1st March, 1842—the period of the establishment of the first system of registry in the colony—and if no transaction affecting the land appears on record, then the land is immediately brought under the operation of the Act. In other cases advertisements are exhibited in the courts, and published in the local papers, as also in the South Australian and in the London Gazettes; and the board considers the decision it should pronounce, which must be given within a period not less than two months, nor more than three years. Notices are issued likewise to the tenants, and to previous owners. Caveats with abstracts of the title of the caveator will suspend the proceedings, as also the registration of every instrument affecting the land to which the caveat applies, until an adjudication shall have been pronounced upon the caveat. If no caveat be lodged within the time limited by the board, a certificate of title is issued to the applicant in exchange for the title deeds, which are delivered up. The deeds are then stamped as cancelled, and, together with the application, the diagram and the solicitor's report, which is endorsed with the minute of the board, are deposited in a bag marked with the name of the applicant, the date of the application, its number, and the volume and folio of the register-book in which the original of the certificate of title is preserved. The preservation of these deeds appears to us cumbrous and unnecessary, and calculated to foster the prejudice that no system of registration can be devised for a long-established community that would not break down under its own weight.

Land so brought upon the register is subject only to such incumbrances, estates, interests, liens, &c., as are notified by memorial on the certificate of title. There is thus but one title deed, an original, constituting a folio of the register, and a counterpart delivered to the proprietor. Deeds of grant or transfer in fee are registered, or, as we should say, enrolled, at their full length, which consists of only a half dozen lines, while incumbrances are registered by a short memorial upon the deeds relating to the fee. The register books are thus composed of the deeds relating to the fee with their indorsements, bound together in volumes. These original sheets or certificates, and the counterparts in the hands of the proprietors, are, as it were, mutual tallies, upon which all incumbrances are to be afterwards noted—integer representatives of the fee of the land, the endorsements upon which are so many

negative quantities to be subtracted from the value of the interest of the proprietor. The indefeasibility of his title is beyond dispute, and the value of that interest can be computed at a glance. Nothing can be more simple or unambiguous. All claims not notified upon the "certificate of title" are ignored and incapable of being enforced, and virtually cease to exist. *De non apparentibus et non existentibus eadem est ratio.* The only exceptions to this rule are cases of fraud, rights of way or easements, wrong description of boundaries, and prior grants from the crown, or prior certificates of title, of the same land. Land, for which a certificate of title has been obtained through fraud, can be recovered in ejectment, or its value can be recovered in an action by the rightful owner, unless it shall have been aliened to a purchaser without notice of the fraud. A rightful owner, deprived of his land by an error or omission in the register, or by the issue of a certificate of title to another person in error without fraud, can recover the value of his land from the person benefited by the issue of the certificate, or by the omission in the register. If the rightful owner, dispossessed in any of these modes, fail to recover the land or its value from the parties liable, as we have just stated, then he is indemnified for his loss out of the assurance fund. This is a fund created by a per-centage of a halfpenny in the pound levied upon all lands bought or transmitted under the operation of the Act.

The deeds submitted upon application for a certificate of title, if relating to other property, are only cancelled as to the land the subject of the application, and, thus partially cancelled, are returned to the proprietor. If the tenant for life of land obtain a certificate, or surrender his estate for life to the next in remainder, the remainderman may then also obtain a certificate for his remainder, upon payment of like fees as the tenant for life, except the $\frac{1}{4}$ d. per centage for the Assurance Fund. A remainderman, when registered as such, must deal with the estate afterwards only in the mode prescribed by the Act. Persons registered as joint proprietors are to be deemed joint tenants; tenants in common must obtain separate certificates. The certificate of title is not open to any objection on the ground of want of notice of the application for a certificate having been made by the certificated proprietor, nor on the allegation of any error, or informality in the application; but it is conclusive evidence of the right of the certificated proprietor, as also of the incumbrancers, and of those only whose incumbrances are noted on the certificate, as we have before described; the order of the priorities of the several incumbrancers being conclusively determined by their order upon the certificate. Instruments registered by memorial are to be deemed part of the register-book. The marking of a mortgage, with the number of the volume and folio of the certificate upon which it is endorsed in the register, as it is also on the duplicate certificate in the hands of the proprietor, renders the mortgage conclusive evidence of its contents, just as the certificate of title is conclusive evidence of its own integrity. The indefeasible character of the latter is impressed on its accessory, the mortgage. Lands brought under the Act can afterwards be dealt with only in the manner and according to the forms prescribed by the Act. Easements and incorporeal rights, except annuities and grants of rent-charge, if charged upon land brought under this Act, and created for the purpose of being enjoyed with other lands likewise brought under this Act, must be registered to affect the land so charged.

Thus far the Act deals with lands in the hands of proprietors not intending to settle them. The principle of the Act in this behalf is simple its machinery; free from cumbrousness, yet perfectly complete and efficacious. A registered index merely referring to lands and their owners and incumbrances, to which, as also to its counterpart, the force of a parliamentary

title-deed is given by law, is really the whole essence of the system.

If an index can be constituted a mode of conveyancing, we can perceive no objection either to the process or the name. That it can be thus successfully applied in a new country is demonstrated as a fact by the foregoing narrative. We now come to the portion of the Act which relates to transfers, transmissions, &c., of land brought under the operation of the Act. A transfer is effected by the vendor signing a memorandum according to a certain short form, given in a schedule to the Act, referring to the certificate of title and specifying the quantity of interest intended to be transferred. When this memorandum is presented to the registrar, he cancels the existing certificate of title, and issues a fresh one to the purchaser; if only part of the land be assigned, the certificate is only cancelled as to that part. Leases of lands brought under the operation of this Act must, when they exceed a term of three years, be according to the form given in the schedule to the Act, and must also be registered. A surrender is effected by the word "surrendered" being endorsed on the lease or counterpart, and recorded in the register. Forms of mortgages and incumbrances are likewise given, and are directed to take priority respectively according to the dates of their registration, notwithstanding that the incumbrancer who registers is effected either with express, implied, or constructive notice of prior incumbrances. This last provision seems superfluous, since no incumbrance can be created except by registration. Contracts, indeed, may be entered into without registration, so as to be enforceable in equity against the owner; but not, even according to the previous provisions of the statute, against a subsequent registered incumbrancer. It would be an improvement in the wording, if not in the force, of the Act, were the section relating to grants of certificate and transfer worded precisely as is the provision we have just referred to (sec. 51) concerning mortgages and incumbrances. Fraud is the only species of wrong that vitiates the two former classes of assurances. But fraud, in its legal acceptance, is more extensive than notice. Where there is notice, there is at least constructive fraud; but an assurance may be vitiated by fraud practised by the vendor, although the purchaser have no notice of prior existing incumbrances. The terms notice and fraud are sometimes used as synonymous, whereas they differ widely in the legal liabilities which they affix upon the parties affected.

A mortgagee has powers of sale, distress, entry, ejectment, or foreclosure, but not the legal estate; the land being in law what it is in England in equity—a security for a loan. On extinguishment or surrender of a mortgage, the owner of the land may have a fresh certificate of title issued to him, thus obliterating all record of prior transactions. If the mortgagee be absent from the colony, the mortgage-money may be paid to the Registrar-General. The assignee of a mortgage or annuity has the legal interest in the claim, and may sue for the chose in action in his own name. This inversion of our rule which gives to an assignee of a mortgage the legal estate in the land, but only an equitable right to the sum so secured, suggests a wholesome amelioration for our adoption in this branch of law.

Mr. Torrens condemns the system of equitable mortgage by deposit of title deeds, an expedient unnecessary under the Australian system. However, as there is but one title deed, money can consequently be raised more easily on its deposit, in proportion to the security the possession of a deed so circumstanced confers. A covenant for further assurance is implied in every instrument. In mortgages, covenants to pay and to keep in repair are implied on the part of the mortgagor. Certain words, such as "insure," "repair," &c., operate according to a provision to that effect in the Act, as effectually for

creating covenants, as if these latter were set out at full length. This is just as if the marginal abridgments of our precedent, were to be interpreted as expressing the substance of the passages indicated by them. This system, although apparently visionary, appears to us to deserve consideration. Every power and covenant implied by force of the Act may be waived by express agreement.

Upon entry in the register of a memorial of the instrument called "nomination of trustees," the estate vests in the parties named as trustees. They then have absolute powers of disposition of the land, and the purchaser is in no case bound to see to the application of the purchase-money. The words, "no survivorship," if inserted, will prevent any number of trustees, less than the original number, from dealing with the estate. But, it would seem that in all other cases the *cestuique trust* have no security whatever; while even in this case the surviving trustees may nominate their co-trustees—a power which affords every facility for collusion. The *cestuique trust* may bring an action of ejectment in his own name, on indemnifying the trustee. The Act, we think, would have been still more commendable in this respect, if it had rendered every species of action open to the *cestuique trust*. The *cestuique trust* may enter a caveat upon the intended disposition of the land by the trustee. But such a privilege appears to be no security whatever for those *cestuique trusts* who may be infants in fact as well as in law, and who stand most in need of the protection afforded by our law through its doctrine of notice. The transmission of property upon the death, bankruptcy, or insolvency, of the registered proprietor is recorded on the register, upon production of a declaration to that effect made by the claimant before the Registrar-General or others appointed by the Act. An heir, &c., may obtain a new certificate in his own name. The 104th section of the Act abrogates the doctrines of actual and constructive notice, with a saving to creditors of their rights under the statute 13 Eliz. c. 5. According to the computation of the Registrar-General, the Act effects a saving of 90 per cent. in transfers, besides precluding the contingencies of litigation founded upon secret deeds, thereby as he insists, adding to the value of the land, whether it be intended for sale, mortgage, or for farming improvements. The cost of a declaration of title under Sir Hugh Cairns' Bill would be, as computed by Mr. Torrens, from £150 to £200, and the time occupied, from eighteen months to two years; while the holder of the declaration could be not only ejected from the land for fraud, but also deprived of the value of the capital sunk by him in improvements. This latter incident of ejectment the Australian Act negatives; while a rightful owner, on the other hand, if another holder of a declaration of title have sold the land to a *bonâ fide* purchaser without notice, will be indemnified to the full value of his loss out of the assurance fund, a provision for such cases not recognised by the Bill of Sir Hugh Cairns. Certainly, nothing can be more complete in its many yet simple details than the principles and machinery of this Act, which reflects the very highest credit upon the practical genius of Mr. Torrens, its author. We must never forget, however, the simplicity of his task, compared with any analogous undertaking in this country.

(To be continued.)

THE CANADA EXTRADITION CASE.—It is stated that the committee of the British and Foreign Anti-Slavery Society have taken the requisite steps to obtain, by a writ of *habeas corpus*, the transference of the case to the Court of Queen's Bench in England. The proceeding is a very unusual one, but there exists a precedent for it, in the case of the *Queen v. Lees*, which was decided in favour of the defendant. Up to that period it was the almost unanimous opinion of the English bar that a writ of *habeas corpus* could not be issued to a colony.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

V.

OF THE EVIDENCE NECESSARY TO ESTABLISH A DOMICIL.

In another portion of this Treatise I have touched cursorily upon the subject of the evidence necessary to establish a domicile, which I shall now proceed to consider in detail. The evidence requisite to be brought forward upon a question of domicile embraces almost every species that can possibly be obtained—direct, indirect, and circumstantial. Direct evidence of facts relating to the birth, parentage, movements, and occupation of the individual whose domicile is in question; indirect, with reference to his intentions and views during such periods; and circumstantial, as regards any events connected with either of the other branches, and which may have any bearing upon them. Thus a man's birth, movements, and occupation, are facts of which, generally speaking, direct evidence may be obtained; whilst communications had with him or made from him to others, and acts done by him may be matters leading to inferences only, and not of themselves sufficient to constitute significant facts, although not without their use and force as connected with facts; habits also may stand on this footing, whilst a variety of circumstances, not, perhaps, coming under either the head of evidence direct or indirect, may still supply a wanting link in the chain, to support "a probable presumption," and are chiefly of consequence where the balance is very nicely poised. Property possessed by the party and its nature would come within this latter class, and the more solid its character the more it would in all probability be of value. Thus the possession of real estate or appendants to realty would be of weightier significance than the mere possession of personal chattels or money, or securities for money, because, although the latter may be much more valuable *per se* than the former, yet it is not necessarily so coupled with an intention to use it in any particular locality, being capable of transmission with so much greater facility; whereas anything in the nature of realty or appendant thereto, as lands, houses, or furniture, are indicative of an intention at some period to reside, and are important therefore as *indicia*. Another class of indirect evidence which often weighs considerably in doubtful cases, belongs to the expressions made use of by the person whose domicile is to be determined, and more especially in the exercise of any dispositional powers, although a correspondence is often of the last consequence as furnishing the means of arriving at a conclusion otherwise unattainable. As I have elsewhere said, it being impossible to see the mind of the party whose intention we wish to collect, it must be got at, and can only be got at, by the consideration of, perhaps, a large mass of evidence, consisting of a variety of component parts, not one of which alone would be enough to furnish a deduction still arrived at with very little moral doubt upon the whole. Thus the retention of a connection with a native country, during a long residence in a foreign one, has been thought to be a very significant circumstance; and it is more than doubtful whether, if the breaking off of such connection would be followed by a loss more than capable of balancing the interest attached to the foreign residence, a domicile that would otherwise be absolutely acquired by length of time and other necessary attendant circumstances in such foreign country would be so regarded by our law. Upon this branch the evidence must be distinct not only as to the connection itself, but as to the effect which such connection has upon the movements and rights of the party, which occurs chiefly where it is of a Government nature, such as half-pay, pensions, &c., which I shall have

occasion to consider in another place. Direct evidence is generally easy of attainment; as, for instance, birth, death, acquirement of property and pursuit of occupation are things notorious, as being necessarily connected with the affairs of other people; whereas intention and personal acts refer only or chiefly to the individual immediately concerned; and it must always be borne in mind that direct evidence standing by itself is of value only as so standing; for it is capable of being rebutted by circumstances, as much as of being confirmed. To illustrate this, suppose the case of a person having two residences in every respect similar in two different countries, the one his birth-place, the other not, and there not being one tittle of direct evidence besides such facts; is it not manifest that attendant circumstances would be capable of very much governing the opinion of a court of law or equity in such a case, either to rebut or confirm a contention for one or the other being the domicile? Assuredly they would, for it requires very little experience to show how little we can judge from mere outward appearances, although no doubt it generally happens that circumstances are capable of leading to a correct and certain decision. Partaking of both kinds of evidence, the habits of the party are oftentimes very significant; but these, of course, are only so taken in connection with facts as that which may be conclusive of a particular intention in the habits of one person may not be so in those of another. It is not necessary to look very deeply into the subject to see this. There are not wanting instances where persons having gained wealth in the morning of their lives, have thenceforth (being without incumbrance, or if not, of a *vagrant turn*), moved from place to place, and from country to country, doing acts and expressing intentions in each amply sufficient, without more, to give them a domicile in each; and yet of course, such habit being known, would render any evidence with respect to them of a very different character than in an ordinary case, and hence the evidence direct depends very much upon the indirect and circumstantial. As it is one of the governing principles in this branch of the law that there must be an abandonment before there can be an acquirement, it follows, that the residence in both cases must be very distinct; and the fact of property or affairs left undisposed of or unsettled, is of importance in doubtful cases, although even here such a fact is capable of being explained, and it may be shown that a conversion or transmission would have taken place and was intended, had it not been for such and such things, &c.; and these attendant circumstances will determine its weight, and therefore the unsold or unsettled state of property or affairs in a foreign country where a domicile has been abandoned, will not be sufficient of itself to re-vest it; but the evidence as to the acquirement of another will, of course, very much affect the question of abandonment. Evidence of intention is only material where the circumstances attending the residence leave the matter in some degree of doubt; for if there be a sufficient case to show the fact the intention may almost be presumed, or at all events is almost inseparable from it.

Before concluding this part of the subject, I will refer to a case, illustrative of the views taken by the courts of justice in America, of the evidence necessary to show the abandonment or acquirement of domicile. A somewhat recent case of *Cole v. The Inhabitants of Cheshire*, was determined in the Supreme Judicial Court of Massachusetts, and is reported in 1 Gray (*Amer. Rep.*) 441. In that case the evidence of domicile was only incidentally considered; but the observations of Judge Thomas are so much to the point that I shall quote them as far as is necessary, without apology. "It was not difficult," he said, "to prove that a party came to a particular place before a particular time, and brought luggage, and made a contract for board and lodging; but the effects of these acts depended upon the intent and purpose with

which they were done. If the intent and purpose was to do work on a particular farm, during the summer and autumn, and return to his family residence and home the ensuing winter, the facts proved would avail the party nothing" (speaking of the party wishing to prove a newly acquired domicile). "Qualified by such intent and purpose, they were perfectly consistent with the intention of retaining his domicile in Cheshire (his family residence), and would not only fail to show a change of domicile, but they would exclude the conclusion. The plaintiff must prove that he left Cheshire with the intent of abandoning his old domicile and of acquiring a new one; the intent was manifested by what he did, and by what he said, when doing was sometimes rendered as significant by what he omitted to do or say. In the negotiation (for his board and lodging), he stated that his purpose was not to live with his father after his time was out, and this negotiation with the declaration of purpose and intent, which not so much accompanied as made part of it, was a fact competent to be proved. Whether the negotiation was successful, whether it ripened into a contract or not, might affect the weight, but not the competency, of the evidence; such declarations were within the strictest rule, proof of the *res gesta* qualifying to give a character to the principal thing done. The sum of the whole matter simply was, that to prove his intent to leave his old domicile, the party was permitted to show that he had been in negotiation for a new one, with the avowed purpose of abandoning the old. It was open to the defendants to show that it was collusive and a sham; but if real and in good faith, that furnished the kind of evidence of which the case was in its nature susceptible; and which, uncontrolled, was satisfactory. It was competent to the plaintiff with a view to show that the purpose he had formed of abandoning his domicile in Cheshire, had been carried into effect, to prove that his domicile still continued in the other place (to which he had removed), and to exclude any inference that he had gone there for a temporary object, and with the intent to return after the object had been attained. To this end he must show that he held an office in his new domicile, or *had engaged in any pursuit or calling indicating the design and purpose of making it a place of permanent residence.*" It is unnecessary to enter into the details of this case, the object of the plaintiff, however, was, to escape being taxed, according to the American law, by showing that he had acquired a new domicile, had been appointed to an office and taken up his abode in a lodging, where he had negotiated for his board and the keep of his horse for a certain sum, and it was held that he had acquired such domicile. It appears hence, and from other cases decided in the American courts, that both abandonment of old domiciles and acquirement of new ones are matters of much easier accomplishment in America than in this country, or even in France; and this is somewhat surprising, considering the *vagrant habits* consequent upon the state of society in so large a continent, where the choice and accomplishment of change is so comparatively easy; but the general observations apply equally to the necessary evidence as the subject is viewed by our law.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF EXCHEQUER.

(Sittings in Banco before the LORD CHIEF BARON, and Barons MARTIN, CHANNELL, and WILDE.)

Jan. 11.—*Manning & Redpath v. Farquharson, Cox, & Co., Garnishees.*—In this case a rule was moved for, calling upon the plaintiffs to show cause why a writ of prohibition

should not issue, to stay proceedings taken by the plaintiffs in the Lord Mayor's Court. The principal point in the case was that of jurisdiction. The plaintiffs Manning & Redpath were army tailors in Bond-street, and Mr. Farquharson, the defendant, had in 1858 obtained a commission in the line, as Ensign in the 65th Regiment, and Messrs. Cox & Greenwood became his army agents. Mr. Farquharson, however, left the army and proceeded to Italy to join the Garibaldians, and had there remained. On the 25th of Sept., 1860, the plaintiffs made an affidavit in the Lord Mayor's Court, claiming a debt of £536 12s. 6d. as due from Mr. Farquharson, and obtained a foreign attachment upon the monies in the hands of Messrs. Cox & Greenwood. The parties appeared to the suit, and on the part of Mr. Farquharson an application was made to the Court of Queen's Bench for a writ of prohibition, on the ground that no cause of action arose within the jurisdiction of the city, when Mr. Justice Crompton considered that the Act of 20 & 21 Vict., cap. 137, altering and amending the proceedings in the Sheriff's Court and Lord Mayor's Court, gave that court jurisdiction, refused the prohibition. It was stated that owing to the fact of the case being heard on the last day of Michaelmas term, the attention of the learned judge had not been sufficiently drawn to the several sections of the Act; and it was now moved on the part of Messrs. Cox & Greenwood, as the garnishees, for the prohibition. The case was one of considerable importance, and had been before Mr. Baron Channell at chambers, who thought it was a case for the opinion of the Court. It was contended that here no cause of action occurred within the city: the plaintiffs Manning & Redpath lived in Bond-street, and Mr. Farquharson in Italy.

Mr. Baron MARTIN.—Cox and Co. are not in the city, are they? they live in Craig's-court.

Mr. M. Chambers (counsel for defendant).—I have an affidavit stating that Cox & Co. never lived in the city, nor had any office in the city; here the plaintiffs live out of the city. The cause of action arose out of the city. The defendant lives in Italy, and Messrs. Cox & Co. out of the city; and, therefore, I contend that the Lord Mayor's Court has no jurisdiction.

The LORD CHIEF BARON.—They had no more jurisdiction than they had in the moon.

Rule granted.

Buckmaster v. Same.—Mr. Chambers said this was precisely a similar application, the plaintiff was also an army tailor in Old Burlington-street.

Rule granted.

CENTRAL CRIMINAL COURT.

Jan. 7.—The sittings of the above court were resumed this morning, pursuant to adjournment. The Court was opened by the Right Hon. W. Cubitt, M.P., Lord Mayor of the city of London, Mr. Russell Gurney, Q.C., the Recorder, Alderman Sir J. Duke, Alderman Sir F. G. Moon, Alderman Sir R. W. Carden, and Alderman Mechi, Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Lusk, Mr. Under-Sheriff Eagleton, and Mr. Under-Sheriff Gammon.

The calendar was light.

THE CASE OF ALL SOULS' COLLEGE, OXFORD.

The hearing of the appeal of three of the Fellows of All Souls' College, Oxford, to the Archbishop of Canterbury, as visitor of the college, against the construction put by the Warden and the majority of the Fellows upon that part of the ordinance of April, 1857, of the University Commissioners which relates to the qualification and the election of Fellows, was commenced on the 8th inst. at Lambeth Palace, before the Archbishop, assisted by two assessors, Lord Wensleydale and Dr. Travers Twiss, Q.C., Judge of the Consistory Court of London, and Regius professor of civil law. On the 17th of May, 1859, the appellants had forwarded a printed appeal to the Archbishop, concluding with the following prayer:—

"We therefore humbly request your Grace,

"1. To declare that every Fellow has a right to be present at all College meetings, whether held in the hall or elsewhere, and to rescind the resolution passed in the Common-room on

April 27, 1859, on the ground that it annexes a condition to the exercise of this right.

"2. With regard to the arrangements for carrying out the election; to declare that no classical work shall be introduced into the examination; to rescind the by-laws passed on the 6th of April, 1858, and on the 27th of April, 1859, so far as they do not require the examiners to place the candidates in order of merit, and so far as they direct that the papers are to be burnt before the election; and to rescind the resolution passed in the Common-room on the 27th of April, 1859, on the further grounds that it is illegal for any College meetings for the discussion of the merits of candidates to be held otherwise than as formal meetings, or for votes to be given otherwise than openly, or for any obligation of secrecy as to college proceedings to be imposed on any Fellow against his will.

"3. To give an authoritative interpretation of the clause in the ordinance prescribing the grounds of election, determining between the conflicting opinions above exhibited.

"4. Lastly, to verify and complete the (necessarily very partial) statements contained in this petition, by making a visitation of the college, or other inquiry authorized by the 37th section of the ordinance, as to your Grace shall seem fit.

"ARTHUR GEORGE WATSON, B.C.L.

"WM. HY. FREEMANTLE, M.A.

"GODFREY LUSHINGTON, M.A."

The Warden and Fellows having put in an answer to the appeal, and the Archbishop considering it unnecessary to have the case argued by counsel, his Grace, on the 24th of October last, made his decision, whereby in substance he rejected the prayer of the appellants. An application was then made to the Court of Queen's Bench, on the part of the three Fellows, for a *mandamus* to the Archbishop to hear and determine the appeal. The rule was argued in May last. In the course of the argument it was intimated to the Court by the counsel for the Archbishop that he was perfectly willing to hear the case; and it was ultimately arranged, with the consent of all parties, that the case should be heard, and the rule for the *mandamus* was not made absolute.

The Archbishop, Lord Wensleydale, and Dr. Twiss, took their seats in the hall of the Palace at 11 o'clock.

The Attorney-General and Mr. Coleridge appeared for the appellants; and Mr. Bovill, Q.C., Sir Hugh Cairns, Q.C., Mr. Kenyon, and Mr. Granville Somerset, for the Warden and Fellows.

At the conclusion of the arguments the Archbishop stated he would reserve his judgment upon the case.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; *Common Law*, by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

PARTITION—FORM OF DECREE.

Clarke v. Clayton, 2 Giff. 333; *Orger v. Sparke*, V. C. W., 9 W. R. 180.

The first of the above-mentioned cases relates to an important change which has been made by one branch of the Court in the common form of partition decrees. The old and well-known form of decree provides for the issuing of a commission for the purpose of making the partition; and the commission directs the persons therein named to make a partition division and allotment of the hereditaments in the decree and pleadings mentioned. The Vice-Chancellor Stuart, however, in *Clarke v. Clayton*, said that "a commission in a partition suit is a very expensive, and generally a very unnecessary proceeding. Under its improved practice, the Court can give facilities for dividing the estate in a way much more satisfactory and less expensive than the old mode of proceeding by commission, even in cases where there is adverse litigation." His Honour's decree, therefore, was, after declaring that the hereditaments ought to be partitioned into equal third parts; Order the same, [usual order as to partition and allotment], and order that proposals for the said partition be laid before the judge for his approval, &c. The judge, or rather the chief clerk, is thus placed in the position in which commissioners are under the ordinary form of decree, except that the judge

or chief clerk is not compelled "to go, enter upon, and walk over and survey the estate in question"—a proceeding which is no doubt frequently "very expensive, and generally very unnecessary"—except where the commissioners are the professional surveyors who would themselves be witnesses, and therefore, in that capacity, would have to do the same thing if they were not commissioners. But there appears to be no benefit in thus changing the proper functions of surveyors, and in delegating to them what properly belongs to some judicial functionary. If the commissioners are not to be surveyors, there is, perhaps, hardly any case in which the form of decree adopted in Vice-Chancellor Stuart's branch of the court would not be less expensive, and much more convenient, than the decree which has long been in common use, and which is still employed in other branches of the court. If it is desired, however, that the commissioners should be surveyors, then the answer is, that their knowledge can be brought to bear in a more effective and less objectionable manner as witnesses than as judges. According to the true theory of the usual decree, the commissioners are supposed to decide upon evidence; and it was for some time a question whether the evidence should not be returned together with the commission, which provides for taking the "depositions of witnesses," although such return is not usually made.

The second of the above-named cases decides that after a decree for partition each party has a right to have the decree executed, and therefore to call on everybody else to execute it; so that where there are three parties one cannot, under the direction to join in all proper conveyances, refuse to execute a conveyance to another, because the other and the third have not executed the conveyance to him.

Two or three comparatively recent decisions relating to partition suits may be conveniently noted here. In *Johnstone v. Baber*, 6 D. M. & G. 439, Lord Cranworth decided that the right to present to an advowson which was vested in trustees, and in which seven persons were beneficially interested equally as tenants in common, was vested in the seven; and they not agreeing among themselves as to the exercise of their right, that it should be determined by lot, and not according to seniority or by the majority, which of them should nominate the clerk to be presented by the trustees.

In *Canning v. Canning*, 2 Drew. 434, the Vice-Chancellor Kindersley held that, on a commission under a partition decree, as between co-heiresses, the eldest has no right of choice.

Before the 3 & 4 W. 4, c. 27, s. 36 conferred upon courts of equity exclusive jurisdiction in partitions—when courts of common law had power to make partition under the writ *de partitione faciendâ*—the usual mode in cases of advowsons was to direct alternate presentations. It was sometimes held that the choice went by seniority; and when *Johnstone v. Baber* was before the Master of the Rolls, his Honour decided that the existing vacancy was vested in the eldest of the tenants in common. The decision of Lord Cranworth, however, is for the present conclusive, that in such a case the choice must be by lot.

There is a common notion that commissioners after "separating and dividing" the estate, are bound to make their allotment by means of lots; which, however, is by no means the case. On the contrary, they are bound to exercise their discretion not only in making the partition and division, but also in making the allotment; and in exercising such discretion they are at liberty, and in some cases they are obliged, to take into account such considerations as eldership, occupation, &c.; and it is their duty in allotting to take into account the question as to which share will be most valuable to each party. So that, in fact, lots should not be resorted to except in such a case as that of an advowson, where no partition can be made, or where the commissioners find that there are no such special considerations as above mentioned to be regarded, and therefore that they have no occasion for the exercise of their discretion.

Another case may also be mentioned here, although not bearing directly upon any of the points already considered. At common law, in partitions under the writ *de partitione faciendâ*, the legal estate was vested by force of the partition. It is not so in equity; and, accordingly, the decree always directs the execution of mutual or other proper conveyances as in the above-named case of *Ogier v. Sparke*; but where infants were conveying parties, the Court was in the habit of postponing the direction for executing conveyances until the infant attained full age. But in *Cole v. Sevell* (17 Sim. 40), where the estate was vested as to one moiety in a trustee in trust for infants, Sir L.

Shadwell, V. C. E., held that a conveyance from a trustee under a decree of the Court in a partition suit, would give a good title to the party entitled to the other moiety; and that, therefore, it was not necessary to order the infants to convey when they came of age.

APPORTIONMENT—TENANT FOR LIFE AND REMAINDERMAN —RAILWAY DEBENTURES.

In re Rogers' Trust, V. C. K., 9 W. R. 64.

Mr. Swanston, in one of his learned and elaborate notes (*Ex parte Smyth*, 1 Swans. 337, n.), has written an historical account of the rules of law which first prevented apportionment of rents, annuities, and other periodical payments, and of the statutory enactments and decisions of courts of equity introducing exceptions to those rules. To the old rule of the common law, according to which no occupation-rent could be recovered on the death of a lessor tenant for life, in the interval between two periods for the payment of rent, Mr. Swanston gives the basis of the two following propositions—first, that an entire contract cannot be apportioned; and secondly, that under a lease, with a periodic reservation of rent, the contract for the payment of each portion is distinct and entire. To prevent the loss arising to the estates of tenants for life by the operation of this rule, the 11 Geo. 2, c. 19, was passed, by which (sec. 15) it is provided that where any tenant for life shall die during such interval, his executors may recover from the under-tenant the proportion of rent due. The 4 & 5 Will. 4, c. 22, reciting the last-mentioned Act, and reciting that doubts had been entertained whether the provisions of that Act applied to every case in which the interests of tenants determined on the death of the person by whom such interests had been created, and on the death of any life or lives for which such person was entitled to the lands demised; the now stating Act in the first section proceeds to remedy that mischief, and by the second section it further enacts that all "rents, annuities, pensions, dividends, moduses, compositions, and all other payments of every description," made payable or coming due at fixed periods under any instrument, shall be apportioned in such manner that on the death of the person interested, he, or his executors, administrators, or assigns, shall be entitled to a proportion of such periodic payments.

The question in the above-named case related to the interest payable on railway debentures, and was not affected by either of the statutes to which reference has been made. A testator possessed of some railway debentures died after the time at which the interest thereon was due, but before it was declared by the company to be payable, the tenant for life contending that it was to be treated as income, and the remainderman that it formed part of the testator's estate; and the Vice-Chancellor held that railway debentures, being in the nature of mortgages upon which interest accrues *de die in diem*, the portion of interest which accrued due in the lifetime of the testator was capital, as between the tenant for life and remainderman. If the Vice-Chancellor had considered that railway debentures were analogous to Government stock, and the interest upon the one analogous to the dividends upon the other, he would probably have held that the provisions of 4 & 5 Will. 4, c. 22, s. 2, applied to the case of railway debentures, so that, whether the Act applied or not, the result in this respect would be the same. His Honour distinguished the two cases. In the case of debentures, as has been remarked, the interest accrues daily, although it is not payable until the end of the half year; whereas, in the case of Government stock, the dividends thereon are one entire thing, which, as it does not become due until a certain period, is properly the subject of apportionment where the party entitled to receive dies before the period of payment. Some cases not very dissimilar to *Re Rogers' Trust* have been before the Court within the last few years. In *Clive v. Clive* (Kay 600), Wood, V.C., was of opinion that in the case of a specific legacy of Bank Stock, where the testator dies a few days before the dividend day, the legatee would take the dividend, although payable in respect of profits earned during the testator's life.

In *Knight v. Boughton* (12 Beav. 312), Lord Langdale, M.R., held that the term "instrument" referred to in 4 & 5 Will. 4, c. 22, s. 2, does not imply an instrument creating the periodic payments, but that which creates a life interest therein. And in *Plummer v. Whiteley* (1 John. 585), Wood, V.C., decided that the section applies to all cases in which the instrument creating the life interest has been executed since the passing of the Act.

PRACTICE—SPECIAL CASE—REVIVOR.

Wilson v. Whitley, V. C. W., 9 W. R. 52.

In this case Wood, V.C., made an order of revivor in a special case, which had been abated by the death of the plaintiff, thus treating a special case as a "suit" within 15 & 16 Vict. c. 86, s. 52.

COMMON LAW.

LIABILITY OF LANDLORDS WHO DEMISE RUINOUS PREMISES.

Todd v. Flight, 9 W. R., C. P., 145.

This case is an instructive one, as it throws light upon a question which frequently arises, and leads to litigation between neighbours—viz., as to the liability which by law attaches in respect of some accident happening, or nuisance existing, on one or other of the premises. The present decision is the more interesting because it lays down a broad and intelligible principle for determining such liability, not easily to be collected from the previous authorities on the subject, which are not, perhaps, altogether harmonious.

The cause of action was the fall of a stack of chimneys, which injured the adjoining house; and the proceedings were taken by and against the reversioner of each house—that is to say, by and against the landlords of the respective tenants. As to the proper plaintiff no question was raised; for it is clear law that in such cases either the occupier or the owner of the injured premises may sue and recover damages for the injury he has suffered; the one in his possession, the other in his reversion. But the proceedings being taken against the landlord of the house from which the chimneys had fallen—relying on the fact that the landlord had demised the premises, knowing them to be in a dangerous condition—the declaration was demurred to; and the substantial question was thus directly raised, whether, under such circumstances, the tenant or the landlord was liable; or, more accurately perhaps, whether the *scienter* of the landlord rendered him liable.

Against the landlord's liability there are not wanting plausible arguments. It might be said, for example, that, though at one time it was considered (see *Bush v. Steinman*, 1 Bos. & P. 404), that a peculiar degree of liability attaches to the owners of land and buildings, and that they are responsible for the conduct of all those whom they either mediate or immediately bring upon their premises, this doctrine has been, by later authorities, completely exploded; and that with regard to nuisances in particular, it has been often held that a man who has once acquired a power to abate one which exists on the premises he occupies, and suffers it to remain nevertheless, may be sued for its continuance. For example, in one case it was held that a tenant who took a house with an unenclosed area, was liable to be sued in damages by a passer by who fell through (*Coupland v. Hardingham*, 3 Camp. 398). In another, the lessee of a watermill was held liable for continuing the banks of the mill-pond at an improper elevation, though they had been so erected by the lessor before the demise (*Brent v. Haddon*, Cro. Jac. 555). And, generally, in reference to the duty of keeping premises in such a state of repair as not to be a nuisance to the neighbourhood, recent cases have established the law to be that the occupier, as distinguished from the owner, is responsible—the tenant of the particular estate as distinct from the reversioner (see *Russell v. Shenton*, 3 Q. B. 449; *Chauntler v. Robinson*, 4 Exch. 169).

The Court of Common Pleas, however, while admitting the authority of the cases cited at the bar (which comprised some of those above instanced) for the defendant, yet gave judgment for the plaintiff on the following ground. The true question they remarked, in such cases is, upon whom does the duty of repairing fall? If the tenant is bound by his lease to repair, and fails to do so, then the action may be brought against him; even if an action lies also against the landlord. Again, if a man has the ownership of premises on which he knows a nuisance to exist, he cannot get rid of his liability for its continuance by parting with the present possession. Once more, the duty of repair, and by consequence the liability for damage caused by non-repair, will be on the tenant and not the landlord, if having taken premises in good repair, and being bound to keep them so by the terms of his lease, he allows them to get into a state of nuisance. Though even in such a case (as was remarked by the Queen's Bench in *Rex v. Pedley*, 1 A. & E. 822) the landlord may make himself liable for a nuisance which has been erected or improperly

suffered to arise by his tenant, if having the opportunity to get rid of him the landlord renews the tenancy.

It is to be observed that in the present case the nature of the covenants, as between the defendant and his tenant, does not appear. It may therefore be that the action might, at the option of the plaintiff, have been brought against the occupier instead of the landlord. All that the case decides is, that it was rightly brought against the landlord, and this by reason of the ruinous condition of the chimneys being known to and as it were adopted by him when he let the premises. Hence in such an action as the present, the whole gist is the knowledge of the nuisance on the part of the defendant.

CONFLICT OF CLAIMS BETWEEN A JUDGMENT CREDITOR AND THE ASSIGNEES OF JUDGMENT DEBTOR, IN RESPECT OF A DEBT ATTACHED.

Tilbury v. Brown, 9 W. R., B. C., 147.

This case establishes the doctrine that the right to attach a debt due to a judgment debtor, under the Common Law Procedure Act, 1854, is qualified by the superior right of such judgment debtor's assignees, if he becomes bankrupt after the service of the attachment order and demand under it, but prior to payment made or to execution levied by seizure and sale.

The question of priority of rights under the garnishee clauses of the Act of 1854 and the Bankrupt Consolidation Act of 1849, did not arise for the first time in the present case. It was discussed and decided in *Holmes v. Tutton* (5 Ell. & Bl. 65). And it was there held that the effect of the service of an attachment order on the judgment debtor was only to make the judgment creditor a creditor of the estate of the bankrupt judgment debtor, with security for his debt under 12 & 13 Vict. c. 106, s. 184; but did not give him a *lien* on the debt attached. Now, by the terms of that section, a creditor of a bankrupt having such security, is only to come in with the other creditors, except before the date of the petition for adjudication of bankruptcy, he has actually issued execution (and seized and sold thereunder), or unless he has a "mortgage" or "lien" on the bankrupt's property. Hence it was also held in *Holmes v. Tutton*, that the rights of the general creditors to share in what was owing to the judgment debtor were superior to those of the judgment creditor; and the present case turned upon precisely the same principle—the only distinction being, that whereas in *Holmes v. Tutton* the garnishee order had been under 17 & 18 Vict. c. 125, s. 61, and therefore was made *ex parte*, in the present case it was made under s. 63—that is, after default made by the garnishee; and was, therefore, to the effect that execution against him should forthwith issue, without giving him any alternative. The Court, however, thought that this distinction made no difference, and again decided in favour of the assignees.

Correspondence.

LIABILITIES OF LODGING-HOUSE KEEPERS.

However we may differ in opinion as to the expediency of the law which exempts lodging-house keepers from liability for the lost goods of their lodgers, the fact cannot be denied, that the law so exempts them, and distinguishes their liabilities, whether rightly or wrongly, from innkeepers, who are liable for the lost goods of travellers. The cases clearly settle this distinction. Instead of asking, however, why lodging-house keepers are not equally liable with innkeepers in this respect, we might, perhaps, more properly ask, why innkeepers are liable to such an extraordinary burthen. The answer for this would appear to be found in the tendencies of the common law to promote commerce by facilitating the inland carrying trade. It consequently imposed extraordinary duties upon innkeepers and common carriers, but not upon lodging-house keepers. Gentlemen's Acts were then unknown, and facilities were given to make profits to pay debt, but not to lose one's goods unnecessarily.

The obligation is imposed by the law, not on account of the moral or natural obligation the innkeeper is under to know the class of persons frequenting his inn, as your correspondent C. (*anté* p. 131), puts it, but because the traveller has not the means or time to acquire this special knowledge; a reason which does not apply to a lodger, who may, if I may state a case testing the principle to the utmost, stay in a hotel with

a legal assurance for his goods, until he ascertains that the character of the house renders it unsafe for him more permanently to sojourn there.
M. N.

COMMISSIONERS TO ADMINISTER OATHS.

The 16 & 17 Vict. c. 78, which is, I think, the latest enactment relating to the powers of commissioners to administer oaths, is silent as to their duties. I have no doubt, however, that such a commissioner is a public officer within the scope of the principle of *Ashby v. White* (1 S. Leading Cases, 105), and would be liable to an action by any party whom he refused to swear after tender of the fee, and without any adequate cause for his refusal. A commissioner is, of course, appointed for the benefit of the public, and not for the convenience of his friends or acquaintances.
T. W.

PROFESSIONAL REMUNERATION.

In reply to "A Solicitor of nearly fifty years' standing" (*ante* p. 146), I beg to state that the Law Amendment Society did publish a report on "Professional Remuneration," in 1858. The report is a remarkably happy application of the principles of economical science to the determination of this question. Its leading principle is, that private contract should, as a general rule, be allowed to determine professional remuneration, as is the case in most other contracts between employers and the employed. A percentage on the purchase-money of estates sold, is likewise recommended by the report—settled scales of costs to be used only for determining the amount of costs to be charged in the absence of special agreements, and to regulate costs as between party and party, or when the fund in court is to be charged with costs. The last-named class of cases would appear suitable to be left to the discretion of the judges adjudicating upon the rights to which the costs are incident, and, therefore, able to estimate the actual work performed. Although, however, recent legislation has extended judicial discretion as to costs—upon which I do not at present offer any opinion—it does not appear to me desirable to give judges such a discretion over persons who are daily appearing before them.

Nothing can be more absurd than that a solicitor, who gives advice during the progress of a suit, can receive no fee therefor, but can by sending a case to counsel; the law thus holds out a temptation to him to protract every case, and spin out every deed with a copious addition of unnecessary matter, the fruitful seeds of an inheritance of litigation to his successors in the profession. It is a fallacy to suppose that cheap law will multiply professional transactions, inasmuch as these are occasioned by a number of causes upon which cheap law and cheap stamps could have little influence. No cheapness of law would much increase the number of settlements, &c.; I might even add conveyances. An easiness, but not a multiplication, of transfers, would be effected by a cheap system of conveyancing. And, even with regard to those classes of cases which a cheapness of the legal remedy would *pro priore vigore* tend to increase, the uncertainty of the amount of the solicitor's bill in each individual case would fully neutralize the abstract advantage. Private agreement is the basis of professional remuneration, which is alike recommended by scientific principles (that can by no means be limited to the sphere of unskilled labour), as well as by the voice of the profession, and doubtless, by the public, if their votes could be taken on the question.
G. H.

MR. LOCKE KING'S ACT, 17 & 18 VICT. c. 113.— EXONERATION.

If you will favour me with the insertion in your journal of this communication, probably some of your readers will be able to throw some light upon the following:—

"A person dies after the 31st December, 1854, seised of an estate in land, which at his death stands charged with the payment of a sum of money by way of mortgage. He leaves a will made before the 1st January, 1855, disposing of all his personal estate, but by which the estate in land cannot pass; which was, in fact, purchased subsequently to the making of the will."

Under these circumstances is the heir entitled to have the mortgage debt paid off out of the personal estate? What is the construction of 17 & 18 Vict. c. 113, with reference to the point? How does the last proviso bear upon it? And is there a decided case upon the construction of that proviso?
L. R. A.

The Provinces.

DEVONSHIRE.—At the Devon quarter sessions, held last week, a committee of magistrates, appointed for the purpose, recommended that salaries, on the basis of a five years' average of fees, travelling expenses, and allowances, in accordance with the recent Act, with 10 per cent. in addition, on account of an anticipated increase in the number of inquests, be paid to the county coroners. Several of the coroners attended, and protested against the small amount of remuneration which this would give them. They complained that they had been receiving only ninepence per mile for travelling expenses, whereas they could not travel for less than a shilling per mile, and that the fees for holding inquests when they were adjourned were not sufficient in such large districts as they had allotted to them. One of the coroners, Mr. Cox, said the salary proposed to be paid to him would only be at the rate of 5s. 8d. per day, and that he should be reluctantly compelled to appeal to the Secretary of State. Ultimately the subject was referred back to the committee for reconsideration.

MANCHESTER.—At the Manchester Chamber of Commerce the Sub-Committee on the Bankruptcy Law brought up their report on Monday last, and the following memorial to Sir R. Bethell was unanimously adopted:—"The memorial, &c., sheweth,—That in the opinion of your memorialists, the Bankruptcy and Insolvency Laws are so defective, expensive, and uncertain in their administration as to induce creditors to accept compositions of an objectionable character under private arrangement rather than incur the cost of bankruptcy; that your memorialists have heard with satisfaction that it is the intention of her Majesty's Government to introduce into Parliament next session a Bill for the Amendment and Consolidation of the Laws of Bankruptcy and Insolvency; that, while your memorialists cheerfully acknowledge the care and attention bestowed by her Majesty's Government on the Bill of last session they, nevertheless, are of opinion that the said Bill was capable of great improvement in many important details. That in the opinion of your memorialists no Bankruptcy Bill can be satisfactory unless it be short and simple in its provisions, inexpensive in its operation, and uniform in its administration. It should also greatly reduce the staff of officers connected with the court, should provide for the payment of those officers by fixed salaries, should give every facility for the proof of debts, should place the control of the estate in the hands of the trade assignees, and should afford opportunity to a majority of the creditors representing three-fourths in value to wind-up the estate of a debtor in any manner they may think best, under the sanction of the court, but without official control or interference. That with a view to effecting the change with as little expense as possible the services of present efficient officers should, wherever practicable, be retained, and compensation to retiring officers should be economically arranged. That your memorialists approve of making an execution upon a judgment an act of bankruptcy for a period not exceeding 14 days, and are of opinion that in all cases the sheriff should be compelled to sell by public auction, and to retain possession of the proceeds of the sale until the execution had ceased to be an act of bankruptcy, when the amount shall be paid over to the execution creditor absolutely. That your memorialists are of opinion that whenever a bankrupt has been proved to have committed fraud, been guilty of reckless trading, extravagance, or any other misdemeanour in connexion with his estate, it shall be in the power of the commissioner to adjudge punishment on his own warrant for any period of imprisonment not exceeding two years, in lieu of the existing power of suspension and classification of certificates. That your memorialists approve of provision being made for winding-up the estates of deceased debtors in the Bankruptcy Court, where there is reasonable ground for believing the estate to be insolvent. That, in the opinion of your memorialists, the Lord Chancellor should have power to remove the judge, or any other officer of the court. Your memorialists therefore pray that you will take the foregoing suggestions into your early and favourable consideration. And your memorialists will ever pray. &c.—EDMUND POTTER, President.—Manchester, Jan. 9."

NOTTINGHAM.—At the recent Nottingham sessions, Mr. Henry Bell, Barrister, of Leicester, of considerable practice in the Midland Circuit, whilst in the robing room, waiting the commencement of business, was seized with apoplexy, and died the same afternoon.

READING.—*Berkshire Quarter Sessions.*—These sessions

began on Monday, the 31st ult., at Reading, and the experiment was made of transacting the business in one of the courts of the new assize building, which has been in course of erection during the last two years. The contract for the courts was taken by Mr. Myers, of London, and it was stipulated that they should have been completed by Easter, 1859, but certain alterations in the original plans, and the strike which occurred several months ago in the building trade, causing a suspension of the work, have greatly delayed the time for opening the courts to the business of the county. It has only been by great exertions that the Crown Court could be got into such a state of readiness as to admit of the present sessions being held in it. The plan for the building was prepared by Mr. J. B. Clacy, architect, of Reading, and in the whole arrangements he appears to have been successful in affording, not only accommodation, but comfort and convenience to all parties attending for business either at sessions or assizes. The gentlemen of the bar present generally expressed themselves satisfied with the arrangements made for their convenience. There were a large number of magistrates present at the opening of the court.

The New Law as to County Coroners—The Clerk of the Peace having read the new Act requiring that on and after the 1st of January, 1861, county coroners should be paid by salary instead of fees, Sir W. G. Hayter, M.P., moved that a committee be appointed to confer with the coroners with reference to the salaries which they were to receive. As the Act of Parliament directed that the magistrates should come to an agreement with the coroners, he did not see how an agreement could be entered into unless both parties met and conferred together. That conference could not take place in open court, but the whole of the facts might be ascertained in committee, and a report made to the Court as to what it would be advisable to do. The Act gave the coroners the power of appealing to the Secretary of State if they were not satisfied with the amount proposed to be paid to them, but that alternative he thought it was desirable to avoid. The motion was unanimously adopted by the Court.

Foreign Tribunals and Jurisprudence.

COUR IMPERIALE D'ALGER.

(From the *Gazette des Tribunaux*, by WILLIAM HACKETT, Esq., Barrister-at-Law.)

FOREIGNERS IN ALGERIA—MARRIED WOMAN—LEGAL MORTGAGE.

The wife of a foreigner, herself a foreigner, has a right of "legal" mortgage upon the property of her husband situated in Algeria, although, by the law of the country where the marriage was contracted, she would not have been entitled to it.

Foreigners established in Algeria are presumed to be domiciled there with the authorisation of the Government, and therefore enjoy the civil rights conferred by the French laws.

In this case an appeal was presented by Madame Frentzel from a judgment of the Civil Tribunal of Constantine. The appellant and her husband were natives of Bavaria settled in Algeria, and the object of the original suit was to obtain a declaration that Madame Frentzel was not entitled to a legal mortgage over the property of her husband. The court below decided that Madame Frentzel being a foreigner, and having contracted marriage under the laws which obtain in Bavaria, was not entitled to a legal mortgage over the property of her husband situated in France. The principal facts of the case will sufficiently appear from the judgment of the Imperial Court. It may, however, be of use to premise that by the civil code of France mortgages (hypothèques) are of three kinds—legal, judicial, and conventional. A legal mortgage is one which arises by operation of law, as in the case of a legacy, where the legatee has a legal mortgage over the property of the testator, and in the case of a sale, where the vendor has a legal mortgage for the amount of the unpaid purchase money. A judicial mortgage is one which results from decision or acts of the court; and a conventional mortgage is similar to an English mortgage, and arises by agreement between the parties. All mortgages must be inscribed on the registry of mortgages, and only date from the time of the inscription. In the present case the appellant was posterior in point of time to the respondent, and ought therefore, it would seem, to have been

postponed to him; but the case was argued solely on the ground that Madame Frentzel, as a foreigner, was not entitled to a legal mortgage on the estate of her husband. The decision was as follows:—

"The Court:—Considering, in fact, that M. Frentzel and Sophia Mayer contracted a marriage on the 9th of September, 1845, at Annern, in the palatinate in the kingdom of Bavaria; that the spouses adopted the régime of a community of goods, confined to the acquisitions made during marriage, in the manner directed by the Code Napoléon (régime de communauté réduite aux acquêts); that in 1850 they left Bavaria for Constantine, where they took up their abode; that on the 8th of July, 1851, M. Frentzel purchased real estate in the suburbs of that city, and established a tannery, which he worked in conjunction with Simon Seligman, up to October, 1856, when the said partnership was dissolved; that the liquidation of the affairs of the partnership having constituted the latter a creditor as regarded Frentzel for the sum of £500, Simon Seligman took, on the date of the 23rd of the same month, an inscription of mortgage on the realty belonging to his debtor; that, on the other hand, Madame Frentzel having obtained a decree of separate estate as regarded her husband, and having ascertained her rights, took, on the 11th of June, 1857, an inscription of legal mortgage over the present and future goods of her husband, as a security for the sum of £450, to which, according to the Act of Liquidation, she was found entitled; that such being the state of things, Simon Seligman did, by a writ of the 27th of June, 1857, summon Frentzel, husband and wife, claiming, first, to annul the judgment of separation as to property between the husband and wife; secondly, to obtain the erasure of the inscription of mortgage taken by Madame Frentzel; that by a judgment of the 20th of July, 1858, the first part of the demand was refused; and that by a judgment of the 30th of November, 1858, the Tribunal of Constantine granted the second portion of the demand made by Seligman, and ordered the erasure of the inscription taken by Madame Frentzel, and that from this latter decision appeal has been made:

"Considering that, without excepting on the ground of a defect in the transcription, or for the lateness of the inscription, Simon Seligman has confined himself, in seeking for this erasure, to objecting to Madame Frentzel, that on principle a foreign woman, married in a foreign country, is not entitled to a legal mortgage over the goods of her husband situated in France; that this, therefore, is the only question to be examined in order to determine the rights of the parties;

"Considering that, in order to solve this question, it is of importance to compare the different modes of disposition which create the various species of hypothecary rights; that in effect, unlike the judicial mortgage and the conventional mortgage, which the law only grants to foreigners in the cases and under the conditions contemplated by the articles 2,123 and 2,128 of the Code Napoléon, legal mortgage, in the terms of articles 2,121 and 2,124 of the same Code, is a result of the law, for the benefit of every married woman without distinction; that if the legislator did not, in the case of legal mortgage, make any of the distinctions which he has introduced into the two other species of mortgage, it is because he desired that the benefit of this special protection should be attached to marriage itself, for the reason that the foreigner as well as the Frenchwoman is placed by marriage in a state of dependence, for which the advantages arising from the right of obtaining a legal mortgage acts as a counterpoise.

"Considering, on the other hand, that realty situated in France, even when the property of foreigners, is governed by the French law; whence it follows that it is subject to all the charges imposed by that law, and that the moment a foreigner acquires realty in France, he acquires it on condition that it be governed by the French law, and, consequently, with the charge of legal mortgage which the law has attached to his quality of married man, whatever may be his country.

"That it is in vain objected that legal mortgage is an effect of civil right, and, consequently, can only benefit the natives of the country; that in effect it is evident that mortgage, whether conventional or judiciary, is obtainable by foreigners; that, consequently, this benefit is not exclusively attached to the quality of French citizens, and that there is no reason, in the case of legal mortgage, to make an exception not formalized by the law; that if the formalities of inscription, and the mode of exercise of the hypothecary right, are a matter of civil right, it must be acknowledged that the right of mortgage, taken in itself, belongs to the law of nations, and that it ought, in consequence, to protect the foreigner as well as the Frenchwoman.

"Considering, moreover, that supposing legal mortgage is exclusively derived from the civil right, Madame Frentzel may still claim the benefit of it; that, in effect, in the terms of the 13th article of the Code Napoléon, the enjoyment of civil rights in the case of a stranger, results from the establishment of his domicile in France, with the authorisation of the Government as long as he continues to reside there; that, on the other hand, this authorisation is not subject to any regular rule, but may tacitly result from facts and circumstances; that this solution, admissible as it is in France, is especially applicable in Algeria, where strangers are admitted to a participation of rights which in France are only given to the natives.

"Considering that, from all that precedes, it results that Madame Frentzel was fully entitled to inscribe herself, and that this inscription is a good charge on the realty in question.

"For these reasons,

"The Court reverses the decision appealed from, maintains the hypothecary inscription, &c., &c."

BOMBAY.

(Before Sir M. R. SAUSSE, C. J., and Sir J. ARNOULD, P. J.)

EXCESS OF JURISDICTION—FOREIGN CONSUL.

Nov. 16th, 1860.—*Bailey v. Hatfield, Consul of the United States of America*.—In this case, where the American consul had been sued in the Small Causes Court of Bombay for moneys received in his consular capacity, and a verdict obtained by the plaintiff, also a domiciled citizen of the United States, a rule to show cause why a prohibition should not issue to the three judges of that court, on the ground of excess of jurisdiction, was obtained by Mr. Chisholm Anstey, on behalf of the consulate of the United States.

The facts of the case were shortly as follows:—The defendant was consul at Bombay, for the government of the United States of America. An American ship arrived at the port of Bombay last year, in a disabled state, and was sold by the captain, when the officers and crew were discharged by the consul, who, in discharge of his duty as consul, required the captain to pay into the consul's hands, three months' extra wages for all the American officers and seamen of the ship, which was done. The present plaintiff was the first officer of the ship, and one of the persons in respect of whom the consul had received three months' extra wages. The plaintiff sought to recover from the defendant two-thirds of that amount, and for that purpose took out a summons in the Small Causes Court at Bombay, to the jurisdiction of which the consul objected, and the question was now tried by a writ of prohibition to stay the proceedings in the Small Causes Court. The ground of the application was that the laws of the United States and the consular instructions were contrary to the decision of the Small Causes Court. A very elaborate argument, which occupies five or six columns of the local newspapers, took place before the Supreme Court. As the question of the privilege of consuls is one of general interest, and as the judgment in the present case was delivered after a full consideration of all the English authorities upon the subject, we have on doubt that the following will be interesting to our readers.

The CHIEF JUSTICE read the judgment of the Court, which, after setting forth the main facts of the case, proceeded to state that the amount claimed in the action being clearly within the jurisdiction of the Small Causes Court, their lordships were of opinion that the exemption claimed in respect to that court ought to be treated as if it were claimed by plea to the jurisdiction of the supreme court itself. The claim is of the most general description, and asserts exemption from the jurisdiction in all matters of merely consular duty. Now the general rule is laid down in the consular regulations of the United States (s. 584) that these consuls are to be considered liable to the jurisdictions of the countries where they dwell (see also Story Conf. of Laws, ss. 541-3). The acts of Congress relating to merchant seamen make consuls liable for their acts and defaults under those enactments, to damages and penalties (Act of July, 1840, s. 18); Act of the 18th August, 1856, s. 26-32). There is, therefore, no ground for the claim to this exemption. Nothing short of extra-territoriality or a treaty, could justify it. In his own courts he would be liable to this suit. Why not here? We are therefore of opinion that this rule ought to be discharged. But we also think that we ought to express our opinion upon the doctrine asserted on the defendant's behalf. It is said that the facts do not constitute a case in the nature of a claim as for a debt. It is conceded that the present claim arises

under the very words of the 3rd section of the Act of Congress. Now substantially this is a sum of money raised by the American Legislature for the benefit of American mariners, and to be applied for their benefit by the consul in the name of his Government. He is made subject to penalties for neglect or misuse of those powers, which penalties none but the United States Government can enforce. The case of *Gidley v. Lord Palmerston* (3 Br. & B. 285, Amer Rep.) has been relied upon by the defendant's counsel in answer to this action, as showing that a public officer like the consul cannot be sued for moneys so received. But the reasons there given by Dallas, C.J., for the decision in question, show that the consul ought to have put his case in a different shape from that in which it comes before us:—a plea to the jurisdiction. He should have shown that, according to the true construction of the Act of Congress, there was not imposed upon him a personal liability. The first judge of the Small Causes Court has not had the benefit of the erudite and able discussion which we have had; nor have we had the opportunity of learning what were the facts upon which he came to the decision he has pronounced. But we think that in the face of Regulations 346 and 347 this plea cannot be supported; yet, as we also think that the decision ought to have been in favour of the defendant on the merits, we discharge the rule without costs. We hope that the litigation will now cease.

Mr. Justice ARNOULD.—It appears to me that the consul should have pleaded below not in the way he has done,—“I have not received any money except in my consular capacity.” That plea was too wide, for it appears by the Acts of Congress that there are some cases in which he does incur a personal liability. But I must say that if he had said, “I have not received any money for James Bailey, but only for the United States,” in my opinion that would have been a good answer to the action.

FRANCE.—A singular point of law was lately submitted to the Imperial Court of Limoges—namely, whether bees are to be ranged in the class of what the law calls “domestic animals,” or are to be considered as “wild and ferocious.” A labourer named Sauvenet, of Chenerrilles, in the Creuse, proceeded on the 8th of October, 1859, to extract the honey from a bee-hive in the garden of his employer, a tax gatherer, named Beraud. This irritated the bees, and they flew wildly about. At that moment a farmer named Legrand, of Perpirolles, accompanied by his son, a boy of 13, came up the road in a gig, and the bees stung them and the horse severely. The animal in terror began prancing furiously, and the farmer and his son jumped from the vehicle; the boy then ran along the road, trying to avoid the bees, but the horse having started off knocked him down, and so injured him that he died in a few hours. Legrand afterwards brought an action before the Civil Tribunal of Aubusson against Beraud and Sauvenet to obtain from them 3,000 francs as indemnity for the death of his son, which he said must be considered as caused by the bees. But the Tribunal held that bees are “ferocious animals,” which no one can be expected to control, and that therefore the action could not be maintained. An appeal was presented to the Imperial Court of Limoges, and after long arguments a contrary decision was come to, the Court laying down that bees are “domestic animals,” and that the owner of them is responsible for any injury they commit. It therefore ordered that 200 francs should be paid to the plaintiff.

On the 21st ult., the Tribunal of Commerce gave a decision of interest to travellers. An advocate of Paris, named Hubbard, had occasion in February last to go to Madrid on business, and he afterwards proceeded to Alicante to take the steamer of the Messageries Impériales for Marseilles, which was advertised to leave at noon of the 17th of the month. But on presenting himself at the office of the company in the morning of that day he learned that the steamer had left on the previous evening, and he had to remain six days in the town before he could get a passage to Marseilles. For the loss of time, the inconvenience, and the expense thus occasioned, he called on the Tribunal to condemn the company of the Messageries to pay him 2,000f. The company represented that it had been obliged suddenly to modify the times of departure in obedience to orders from the Minister of War, and consequently that it was not responsible. The Tribunal, however, held that the company was bound to advertise the modification, and condemned it to pay the plaintiff 200f. and costs.

NAPLES.—By a recent regulation the fees for the extraordinary services of district judges have been fixed and reduced.

Ireland.

ANTICIPATED LEGISLATION OF THE SESSION 1861.

At this season of the year, rumours begin to circulate as to the Law Bills supposed to be in preparation for the next session of Parliament. Of course, no authoritative statement on the subject having been made, the speculations indulged in are not of the most reliable kind. But as it is now the fashion to "amend" the "practice" of some one or more of the courts every year—and it is expedient that the law officers of the Crown should show their zeal in law reform—it is highly probable that a batch of Law Bills will be forthcoming in due time. Chancery, of course, needs "amendment," no less than ten years having elapsed since any changes took place in the procedure of that court. Last term the business there was the reverse of plentiful; and the several equity judges and masters had an easy time of it. The anticipated changes will affect the number and designation of those courts. The masters, of whom there are four, are likely to be abolished, and a smaller number of vice-chancellors substituted. Some minor changes may also take place, pursuant to the recommendations of the Chancery Commissioners' Report, 1858; and among them, the abolition of the sinecure office of clerk of the hanaper, the consolidation of the recognizances-office with the affidavits-office, and the removal of the business arising out of lunacy to the chancery registrar's-office.

It is asserted by a morning journal that a measure will also be introduced having for its object the prevention of the publication of traders' circulars; or, as they are popularly called, "black lists." Undoubtedly these weekly prints have been condemned in strong terms from the bench; but we cannot believe that the Legislature will consent to neutralize the whole benefit derivable from registration of judgments, crown bonds, &c., by forbidding public access to the register. It is stated that many persons subscribe to these "circulars" simply because the judgments, &c., obtained against subscribers are not inserted. This is a species of bribery, and undoubtedly an abuse of the system. It would perhaps be better, considering that a reasonable degree of publicity ought to be given in these matters, that a circular should be prepared by authority of the courts, impartially stating all entries of judgments, &c. On the main question, the propriety of issuing any such circulars, opinions are still divided—lawyers disapproving of, and mercantile men and political economists defending their publication.

It is again rumoured that it is intended to abolish the Vice-Regal Court and assimilate the government of Ireland to that of Scotland or Wales. In theory, the office of viceroy might well be abolished, without injury to any real interest of the country. Socially and economically a visit now and then from any member of the royal family would do more good to Ireland than the constant presence of what cannot be regarded as other than a "mock court." Yet the vice-regal institution was created, or rather allowed to stand, as part of the terms of the legislative union. While the majority of the Irish nation are anxious to retain it, even for reasons of a sentimental kind, it would be ungracious and unwise to abolish the vice-royalty. With this project another is constantly associated in the minds of all opponents of centralization. It is said that the superior courts of law in Ireland must follow the Vice-Regal Court, that the county courts will have enlarged jurisdiction, but that all important causes will be finally heard at Westminster or Lincoln's-inn. This we regard as a groundless fear; for the whole tendency of modern legislation is to localize the administration of justice, and, besides this, it has of late been a common though a pernicious custom to enact separate laws for Ireland.

But although the Irish county courts will in the civil and criminal code retain their place as inferior courts for small causes, they require very much improvement, especially by rendering the session a monthly instead of a quarterly one. This would vastly increase their utility, and would also promote the well-being of the rural districts, by handing over most of the justices of the peace work to more competent hands. It is to be hoped that the coming session will not pass away without this important change being effected.

ACCIDENT TO THE RIGHT HON. A. BREWSTER.

Mr. Brewster, Q.C., formerly Attorney-General, and now leading counsel in the Court of Chancery, met with a severe

accident on the 4th instant, while shooting over the preserves of Mr. Bernal Osborne, in Tipperary. His gun, a breech-loader, exploded, sending the charge and ram-rod through his hand. Medical aid was at once procured, and Mr. Brewster's relatives were telegraphed for, including his son Colonel Brewster, of the Inns of Court Volunteer Corps. The last accounts state that the wound is likely to heal and that all dangerous symptoms have subsided; but Mr. Brewster was not able to attend to his briefs as usual at the beginning of term.

QUARTER SESSIONS ARDEE, COUNTY LOUTH.

At the Ardee Quarter Sessions, on the 3rd instant, all the solicitors practising in the court retired from it in a body, leaving the chairman Mr. John Leahy, Q.C., to conduct personally the cases of plaintiffs and defendants. The cause of this legal "strike" was as follows:—Mr. Leahy at the last sessions declared that in future he should allow one solicitor only to act on each side; whereas at this bar (where counsel do not ordinarily attend) it has long been the custom, in the heavier cases, for two solicitors to appear on each side. Recently the solicitors held a meeting, and resolved not to appear at all in case the chairman persisted in enforcing what they hold to be an arbitrary and illegal restriction. On the present occasion the chairman reiterated his determination; and after a temperate but earnest remonstrance by Mr. McKenna, Mr. McMahon, Mr. Byrne, and Mr. Caraher, which was ineffectual, these gentlemen and also the other solicitors present, rose and left the court.

REFORMATORY SCHOOLS IN IRELAND.

The reformatory movement, commenced in 1851, was for some years confined to England; but in 1858 an Act was passed extending it to Ireland. There are now committees in full operation, of both Protestant and Catholic Reformatories; and their progress, so far, has been very encouraging. The Protestant girls' school was opened in April, 1859, and the boys' school, in December, 1859; and if the numbers of children in these schools is but small, it is because the great majority of juvenile delinquents are intrusted to the Catholic reformatory schools. The Government allowance is seven shillings a week per head, to which 2s. weekly is added by the grand jury or corporation (as the case may be) of the district; the residue of the outlay is made up by voluntary subscription. It is very satisfactory to find that whereas in the year 1857, there were condemned to penal servitude 48 boys, in the year 1860, or since the establishment of these reformatories, only four boys were so condemned. The above facts we gathered from statements made by Mr. C. Cobbe, D.L., and Mr. A. E. Gayer, Q.C., at a meeting of friends of the reformatory movement held on Monday last at the Mansion House, Dublin.

Law Amendment Society.

At a general meeting of this society, held on the 17th ult., Mr. Edward Webster, barrister-at-law, read a very able and elaborate paper, entitled "Observations on the Report of the Select Committee of the House of Lords, 1856, relating to the expediency of carrying into effect the sentence of death before official spectators only, and remarks on a substitute for capital punishment."

Mr. Webster, after referring to the report, and to the recommendations of the committee, that executions should take place, in private in the presence of officials appointed for the purpose, and referring also to the evidence taken before the committee, observed, that though it did not justify the report, yet it established a fact of the last importance, viz., that executions had on the spectators no deterring effect, and therefore, that as public exhibitions, they were useless. With respect to the question whether a sufficient punishment can be substituted for that of death, Mr. Webster said:—

"Let the sentence, after a verdict of guilty, in murder cases be imprisonment for life in a gaol or ward appropriated for murderers; let it be irreversible save by Act of Parliament, for the prerogative of mercy might well be abandoned in exchange for the great public object of making convictions in cases of murder certain. This sentence of perpetual imprisonment would be far more terrible and severe than that of

death, and it would relieve the Crown of a most painful responsibility, doubtless oftentimes personally felt. It would, moreover, inflict a punishment not altogether irremediable, one that might be stayed in its progress and in some degree compensated, should the innocence of the convict be, after verdict, established. All morbid attempts to obtain a remission of the sentence by application through the Home Office to the prerogative would be for ever prevented, and hence the officers employed there would be relieved, for the public benefit, of much and very anxious labour, whilst the convict would have an appeal to the legislature. Moreover, if the convict had no art ready for the purpose, let him after sentence be made to learn one, whereby he might in some way earn money to pay the expense of his maintenance. Let him be placed in solitary confinement at stated intervals, and let him be allowed to associate, and that not frequently, with criminals of his own blood-stained order—and with such criminals only—save such rare intercourse with others as would be necessary to compel him to earn his bread, to secure his escape from gaol, and to afford him the consolations of religion. Let there be one prison for all convicted of this hateful crime, and there let the malicious destroyer of his fellow-creature live, isolated from that society he has so foully injured—a prey to the remorse of a guilty conscience, the associate at intervals of criminals like himself—having no hope in this life, save that of making his peace with his Creator ere his existence on this earth be by a natural death terminated, and his spirit thereby sent into that future and undiscovered world to which he has maliciously, violently, and prematurely hurried that of his unfortunate victim."

Societies and Institutions.

LAW STUDENTS' DEBATING SOCIETY.

The following is the last report of Mr. Wingate, the new Secretary of this society:—

In making my first report to you of the proceedings of the society since the annual meeting in July last, I will avail myself of the opportunity to remark upon some matters which seem to me to be deserving your consideration, as being intimately connected with its support and progress. Before recapitulating the most important of the society's transactions, I would premise that its thanks are due to those old members who showed their kindly feeling and remembrance by attending our annual dinner, as well as to those barristers and gentlemen who honoured us with their presence upon that occasion; and also to the *Solicitors' Journal* and the *Law Times*, for having gratuitously inserted in their columns the last report of the committee. Since July the society has, by Mr. Miller's resignation, been deprived of the valuable services of that gentleman, to whom a vote of thanks was accorded for the energetic and uniform kindness and urbanity which distinguished his conduct during the long period he discharged the office of treasurer. Mr. Lawrance was subsequently elected treasurer, by which a vacancy was made in the committee, and Mr. Bradford has been elected to perform the duties of that important office in conjunction with his colleagues.

At the first meeting a motion of some importance was carried, which has the effect of adhering more strictly to rule No. 6, namely, "That the practice of members present at a meeting of the society, putting down the names of friends who are absent, be discontinued, and those only who have sent written notice to the secretary of their intention of being absent, be not fined." The society was well represented at the Michaelmas examination, 3 members having ably distinguished themselves. We have held 8 meetings, at which 5 legal and 3 jurisprudential questions were discussed. The average number of members present has been 24; of speakers, 7; of members voting, 14; and the average length of the debate 2 hours 6 minutes. It is to be remarked, however, that these statistics are somewhat below the usual average, a circumstance that can only be remedied by individual application and exertion.

The society now consists of about 100 members, 40 senior, 15 of whom have attended the debates, and 60 junior members—16 new members having been elected, but 2 have not qualified. Your committee have met twice for the examination of questions and the dispatch of business connected with the society. Thirteen questions have been discussed, 9 of which were approved and have appeared in the papers. I wish,

however, to draw your particular attention to the danger of the society being left entirely without questions appropriate for discussion. This difficulty has been the constant regret of various reports hitherto presented to you. We are in the constant habit of reading modern cases, which would have been most interesting for this society to discuss, had it been made acquainted with the circumstances giving rise to the litigation. I would suggest that members, if they bear the interests of the society in mind, would frequently, in the course of their business and studies, meet with facts suggestive of, or well fitted for, framing a question to be submitted for debate; and the decision of the point afterwards by the Court would give an excellent opportunity to measure the soundness of the opinion formed by the society; and the great difficulty of providing questions would thus in some degree be obviated. Formerly, there was a rule of the society imposing a fine for not furnishing questions, and rule 10 still provides for their supply by members. I trust, therefore, it may not become necessary to reimpose a penalty, but that the mention of our wants will so stimulate the industry of members, that by a constant plenitude of questions the necessity for further observation may be prevented.

GEO. T. WINGATE, Secretary.

Obituary.

JAMES RUSSELL, ESQ., Q.C.

It is with much regret we have to notice the death of this eminent lawyer, the once well-known leader of Vice-Chancellor Knight Bruce's court. About four years ago Mr. Russell fell into delicate health, and blindness came on, of a character indicating permanency, being, in a great degree, the result of overwork during his thirty years' large practice at the bar. Mr. Russell had graduated with great distinction at Glasgow University, and in 1822 launched himself in the Court of Chancery, having been introduced to Lord Eldon by the late Earl of Harewood. It was not long before Mr. Russell was appointed authorised reporter of the court. Bankruptcy practice quickly allied itself to his already large chancery business, so that, in 1841, he was compelled to take silk, a change of position which he assumed reluctantly, though wisely, as the result proved. Some of his pupils well remember a statement with which their able and kind-hearted instructor used to encourage them (when making his £5,000 a-year)—namely, that his first year at the bar produced him but a guinea; and that in those days he used to be satisfied if the long vacation commenced late in September instead of early in August, as at present. In 1839 Mr. Russell, having acquired an independence, married Miss Cholmeley. Mrs. Russell survives her husband with three daughters and four sons.

Mr. Russell was a man of great learning and ability, having an intuitive aptitude for law; but he was not remarkable for eloquence or brilliancy in court. He was brief in an unusual manner,—not by rapidity of diction, but by putting forward only what was material. There was method in his discourse, which the judicious perceived, though it escaped the multitude. Mr. Russell always seized the right points of a case, and his opinions were universally sought after. In his private relations he was amiable, cordial, social, and generous; after his marriage he practised a laudable and liberal hospitality; and though he was careful of money, no deserving member of the legal profession brought low by adversity ever appealed to him in vain.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

MR. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Monday, January 14.

MR. FREDERICK JOHN TURNER, on Conveyancing, Friday, January 18.

Court Papers.**Court of Probate.**

AND

Court for Divorce and Matrimonial Causes.**NOTICE.**

If the probate causes and causes for judicial separation set down for hearing without juries do not occupy the whole of the time allotted for hearing them, the Court will proceed during the residue of that time with the causes for dissolution without juries.

ALSO,

If the appeals and petitions under the Legitimacy Declaration Act do not occupy all the days appointed for the sitting of the Full Court the Judge Ordinary will employ the remainder of the time in hearing causes for dissolution without juries.

January 7, 1861.

HILARY TERM, 1861.**Sittings at Westminster at eleven o'clock.**

Probate causes, and causes for judicial separation, without juries—January 12, 14, 15, 17.

Full court (for appeals and petitions under the Legitimacy Declaration Act)—January 18, 19, 21, 22, 24.

Probate causes, and causes for judicial separation, without juries—Jan. 25, 26, 28, 29, 31.

Probate causes, with juries—Feb. 4, 5, 7, 8, 9, 11, 12, 15, 16.

Causes for dissolution, without juries—Feb. 18, 19, 21, 22, 23, 25, 26, 28, March 1.

Causes for judicial separation and dissolution, with juries—March 4, 5, 7, 8, 9, 11, 12, 14, 15, 16.

On Wednesday, the 16th of January, and each succeeding Wednesday during the sittings of the Court, the judge will sit in chambers to hear summonses at eleven o'clock, and in court to hear motions at twelve o'clock.

Papers for motions to be left with the Clerk of the Papers before two o'clock on Fridays.

THE TWENTY-NINTH CANON OF THE CHURCH.—Representations have been made by the Clergy at several recent meetings of convocation of the inconvenience of a strict adherence to the provisions of the 29th Canon of the Church, and urging the fact that it was a great impediment in the way of parents of the poorer classes bringing their children for baptism. Accordingly at the meetings of the Convocation of the province of Canterbury held last year, a petition to her Majesty from both houses, was agreed to, praying that Convocation might be granted a royal license to be allowed to repeal the 29th Canon, and to make and promulge a new Canon in its place. Towards the close of the last session of Parliament, Sir G. Lewis, the Home Secretary, stated in the House of Commons that her Majesty had acceded to the petition, and that the royal license had been granted for the purpose required. Since that time a joint committee of both houses of convocation has had frequent sittings in London, and a case was prepared to be submitted to Sir Fitzroy Kelly and Sir Hugh Cairns, the Attorney and Solicitor-General respectively of the late Government. The questions put were the following:—
 "1. Is that portion of the 29th Canon of the Convocation of Canterbury, which enacts that 'No parent shall be admitted to answer as godfather for his own child,' declaratory of the ancient usage and law of the Church of England? 2. If that portion of the 29th Canon be altered or repealed by the Convocation of Canterbury, and the alteration or repeal be sanctioned by her Majesty, would such alteration have the effect of relieving the members of the Church in the province of Canterbury from the obligation now lying upon them in reference to sponsors? 3. If the 29th Canon should be altered or repealed by the Convocations of Canterbury and York, what steps, if any, ought to be taken by the prelates and clergy of the Irish provinces with a view to preserve uniformity of discipline throughout the United Church?" The learned

gentlemen have replied as follows:—"1 and 2. Having regard to the provisions contained in the Book of Common Prayer annexed to the Act of Uniformity, 13 & 14 Car. 2, c. 4: and having regard as well to the state of the canon law at the time of the passing of that Act as to the ancient usage and law of the Church of England, we are of opinion that any alteration or repeal of the 29th Canon, such as is proposed by the Convocation of Canterbury, would not, even sanctioned by her Majesty, have the effect of relieving the members of the Church, lay or clerical, in the province of Canterbury, from the obligation, which we think now exists, that a child shall be presented for baptism by sponsors, being persons other than its parents. 3. Being of opinion that any repeal of the 29th Canon by Convocation would be inoperative, it does not appear to us that, in the event of such repeal by the Convocations of Canterbury and York, it would be necessary that any step should be taken with a view to preserve uniformity of discipline throughout the United Church." The whole subject will be again brought under the consideration of Convocation at its next sitting in February.

INSURANCE WINNING UP IN CHANCERY.—Forty-two insurance companies are being wound up in Chancery: they are the following:—Amazon, Athenæum Life, Birkbeck, British and Foreign Reliance, Marine, Caxton, Commercial and General, Cosmopolitan, Deposit and General, Era, General Commission, General Indemnity, General Live Stock, Herald, Home Counties, Hull and London Fire, Hull and London Life, Independent, Justice, Lancashire Guarantee, Liverpool Marine, Provident, London and County Cattle, London and County Life, London Mercantile Life, London and Westminster, Mercantile Guarantee, Merchant Traders, Mitre, National Alliance, Nelson Sea Voyagers, Newcastle-upon-Tyne Marine, Oak, Observer, Parental, Port of London, Phoenix Life, Protestant, Sea, Fire and Life, Security, Solvency Mutual, Tontine, Universal Provident, York and London.

LIFE ASSURANCE POLICIES.—The increased rate of mortality experienced by many of the older offices among their accepted lives, (from causes quite irrespective of the known additional rates consequent upon their increased ages), is considered to be of serious importance by many writers. It is judged by them, and rightly judged, to arise from the power which the assured possess of abandoning policies on robust lives, and of continuing those on lives which have become deteriorated. It has not, however, been sufficiently observed that there are two causes which prevent this power of the policy holder, in a large number of instances, from operating quite so adversely as is supposed against the interests of the assurance companies, which are these:—1. That the wise and prudent, who are, as a class, from their habits of careful thought and moderation in all things, the best lives, will cling even in adversity to their life policies. 2. The spendthrift and the profligate, who may be considered, as a class, to be bad lives, are those who, from their improvident habits, yield to the first temptation to dispose of their policies of assurance.

The number of bankruptcies gazetted last year was 1,266, of which 643 occurred in the metropolitan, and 623 in the provincial districts; Liverpool figuring for 71, Manchester for 64, Birmingham for 201, Leeds for 107, Bristol for 93, Exeter for 52, and Newcastle for 35. In 1859 the number of bankruptcies gazetted was 943; in 1858, 1,353; in 1857, 1,429; in 1856, 1,197; in 1855, 1,411; in 1854, 1,214; in 1853, 756; in 1852, 822; and in 1851, 935,—showing an average on the ten years of 1,123, or 143 below last year's total. Of the excess last year 95 bankruptcies occurred in the metropolitan district, which had 473 in 1851, 399 in 1852, 422 in 1853, 629 in 1854, 656 in 1855, 569 in 1856, 664 in 1857, 563 in 1858, and 462 in 1859. The remainder of the excess last year, 48, came from the provincial districts, which figured for 462 in 1851, 423 in 1852, 334 in 1853, 585 in 1854, 755 in 1855, 628 in 1856, 765 in 1857, 790 in 1858, and 481 in 1859. Last year the Liverpool district was 8, the Manchester 25, and the Newcastle 1 below the average of the decade; while, on the other hand, the Birmingham was 45, the Leeds 2, the Bristol 25, and the Exeter 10 above the average. Every district, except the Liverpool (which was 5 below), showed an excess as compared with 1859, the increase being 14 in the Manchester, 50 in the Birmingham, 9 in the Leeds, 40 in the Bristol, 17 in the Exeter, and 17 in the Newcastle jurisdictions.

THE POST OFFICE.—It appears that in the year ending March 31, 1860, the postage collected by country postmasters amounted to 136,525*l.*, as compared with 159,122*l.* in 1858-9.

174,407*l.* in 1857-8, 177,658*l.* in 1856-7, and 201,087*l.* in 1855-6. The postage collected in the metropolis was 118,801*l.*, as compared with 142,158*l.* in 1858-9, 166,584*l.* in 1857-8, 170,813*l.* in 1856-7, and 173,069*l.* in 1855-6. The postage charged against public departments was 148,862*l.*, as compared with 132,706*l.* in 1858-9, 143,377*l.* in 1857-8, 145,419*l.* in 1856-7, and 172,152*l.* in 1855-6. The collections by postmasters and agents abroad amounted to 138,047*l.*, as compared with 145,348*l.* in 1858-9, 142,689*l.* in 1857-8, 132,772*l.* in 1856-7, and 76,432*l.* in 1855-6. The stamps charged to postmasters reached a total of 2,053,487*l.*, as compared with 1,934,217*l.* in 1858-9, 1,803,210*l.* in 1857-8, and 1,566,188*l.* in 1855-6. The stamps charged to the Inland Revenue Office were valued at 605,915*l.*, as compared with 554,642*l.* in 1858-9, 518,187*l.* in 1857-8, 497,960*l.* in 1855-6. The commission on money-orders realized 117,829*l.*, as compared with 107,212*l.* in 1858-9, 212,720*l.* in 1857-8, 104,079*l.* in 1856-7, and 100,575*l.* in 1855-6. The miscellaneous receipts were 12,139*l.*, as compared with 8,892*l.* in 1858-9, 12,656*l.* in 1857-8, 13,249*l.* in 1856-7, and 7,554*l.* in 1855-6. The gross receipts were 3,331,609*l.* in 1858-9, 3,061,403*l.* in 1857-8, 2,930,950*l.* in 1856-7, and 2,793,870*l.* in 1855-6; but these amounts were reduced, from the loss on returned, refused, or missent letters, to 3,310,655*l.* in 1858-9, 3,175,560*l.* in 1857-8, 3,038,112*l.* in 1856-7, 2,909,190*l.* in 1855-6, and 2,767,201*l.* in 1855-56.

THE JANUARY DIVIDENDS.—There are 130,589 individuals who, on the 9th of January, were entitled to receive, in the shape of interest, for money lent to the Government, the sum of £6,012,447, which represents half a year's interest on £400,829,818 of Three per Cent. Consols. Of this number of persons by far the greater portion are small holders of stock. For instance, there are 45,109 whose dividends do not exceed £5; 19,441 whose dividends do not exceed £10; and 42,726 whose dividends do not exceed £50. A large portion of the above-mentioned total is received by bankers on behalf of their customers, and on the day the bankers receive it they advise the parties that they have placed the amount to their credit; so that on the same day every stockholder in Great Britain will be aware that he may draw on his banker whenever he thinks proper. In addition to the interest thus to be paid to the national creditor there is also payable for dividends arising from investments in foreign stocks upwards of half a million. Including the dividends and interest on the Indian government and railway securities, also on colonial securities, and on railway debentures and stock, together with those receivable by the shareholders, consisting of many thousand individuals, in the various joint stock banks and other companies, the total sum coming upon the market from these sources in the present month and early in February, cannot be put at less than eleven or twelve millions.

Births, Marriages, and Deaths.

BIRTHS.

BARNARD—On Jan. 7, the wife of George William Barnard, Esq., Lambeth-road, S., Solicitor, of a son.

HOLT—On Jan. 10, the wife of Robert Hallett Holt, Esq., of Lincoln's-inn, of a son.

KARR—On Dec. 3, at Calcutta, the wife of Walter S. Seton Karr, Esq., C.S., of a son.

LOPES—On Jan. 3, the wife of Henry Lopes, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

BAGSHAWE-STANFIELD—On Jan. 7, William Henry Gunning Bagshawe, Esq., Barrister-at-Law, son of Henry R. Bagshawe, Esq., Q.C., to Harriet Theresa, daughter of Clarkson Stanfield, Esq., R.A.

BOWEN-SEWELL—On Jan. 8, Dr. Francis Bowen, son of Chief Justice the Hon. Edward Bowen, of Quebec, to Constantia Caroline, daughter of the late Robert Shore Milnes Sewell, Esq., Barrister, and granddaughter of the late Chief Justice the Hon. Jonathan Sewell, both of Quebec.

CHILDS-PIDWELL—On Jan. 3, Robert Walker Childs, Esq., 25, Coleman-street, to Marianne, daughter of the late Samuel Pidwell, Esq., Penzance.

PAUL-PARKINS—On Jan. 2, G. W. Paul, Esq., Barrister-at-Law, Middle Temple, to Emily, daughter of the late Charles Parkins, Esq., of Leeds.

WOOD-PHILLIPS—On Dec. 3, 1860, at Madras, Herbert W. Wood, Esq., Lieutenant Madras Engineers, to Emma Louisa, daughter of H. D. Phillips, Esq., Judge of the Sudder Court, Madras.

DEATHS.

BROWNE—On Jan. 5, Ellen, daughter of the late Charles Browne, Esq., Solicitor, of 3, Laurence Pountney-hill, in her 16th year.

DODS—On Jan. 2, James Maitland Dods, Esq., 61, Lincoln's-inn-fields.

HELME—On Jan. 8, at No. 6, Gray's-inn-square, John Helme, Esq., Solicitor, aged 69.

PRICE—On Jan. 9, aged 26, Laura, daughter of the late J. D. Price, Esq., Solicitor, King's-road.

RUSSELL—On Jan. 6, James Russell, Queen's Counsel, aged 70, formerly of No. 6, Old-square, Lincoln's-inn.

STALLARD—On Jan. 4, aged 28, Emblym Eliza, wife of Frederick Stallard, Esq., Barrister-at-Law, 28, Mecklenburgh-square, London.

WESTMORLAND—On Jan. 3, J. W. Westmorland, Esq., of Wakefield, Solicitor, an alderman of that borough.

WINCH—On Nov. 18, at sea, on board the Suffolk, on his passage home, James, son of the late Richard Winch, Esq., Solicitor, of Maidstone, aged 35.

WOOD—On Jan. 7, aged 84, Hannah, relict of the late William Wood, Esq., of Soho, and Lambeth, Solicitor.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BROOKES, ELIZABETH, Widow, Strand, and **WILLIAM WINFIELD**, Gent., Buckingham-street, Strand, £65 Reduced 3 per Cents.—Claimed by **EDWARD LINCOLN BROOKES**, Administrator of Elizabeth Brooks, Widow, who was the survivor.

COLE, REV. SAMUEL, D.D., Greenwich, £1,500 Reduced 3 per Cents.—Claimed by **JOHN GRIFFITH COLE**, one of the Executors.

TURNER, JOHN BARNABAS, Plumber, Walthamstow, £10,000 £3 5s. per Cent.—Claimed by **CHARLES TILT**, **THOMAS DAVIDSON**, and **BENJAMIN BRECKNELL TURNER**, the Executors.

WHITE, MATTHEW, Esq., Bedford-square, **JOHN BENTHALL, Esq.**, Craven-street, Strand, **JAMES ALEXANDER, Gent.**, New-inn, and **JAMES ALEXANDER FRAMPTON, Gent.**, New-inn, £446 13s. 4d. Consols.—Claimed by **FRANCES BENTHALL, Widow**, **FRANCIS BENTHALL**, and **REV. JOHN BENTHALL**, Executors of the said John Benthall, who was the survivor.

WOODS, BASIL, Paddington-green, and **MARY MARSH MORTLOCK, Spinster**, Oxford-street (since wife of Solomon Cesar Malan, of St. Edmund's Hall, Oxford, Esq., £67 1s. 5d. New £1 10s. per Cents.—Claimed by **REV. SOLOMON CESAR MALAN**, the husband, and **THOMAS CAUSAC**, the administrators with the will annexed of Mary Marsh Malan (formerly Mortlock, Spinster), who was the survivor.

YOUNG, DANIEL, Gent., Burgh-heath, Banstead, Surrey, £1,345 5s., £3 5s. per Cent.—Claimed by **MARIA YOUNG, Widow**, the administratrix.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	237	Shra. Ditto A. Stock	108
3 per Cent. Red. Ann..	91	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann..	91	Stock Great Western	73
New 3 per Cent. Ann..	91	Stock Lancash. & Yorkshire	117
New 2½ per Cent. Ann..	92	Stock London and Blackwall	61
Consols for account ..	92	Stock Lon. Brighton & S. Coast	117
India Debentures, 1858.	95	Stock Lon. Chatham & Dover	81
Ditto 1859.	95	Stock London and N. Westm..	100
India Stock	219	Stock London & S. Westm..	95
India 3 per Cent. 1859.	100	Stock Man. Sheff. & Lincoln..	56
India Bonds (£1000) ..	..	Stock Midland	124
Do. (under £1000).....	..	Stock Ditto Birm. & Derby	110
Exch. Bills (£1000)....	1 dls.	Stock Norfolk	55
Ditto (£500).....	..	Stock North British	68
Ditto (Small) ..	..	Stock North-Eastn. (Brwek.)	105
		Stock Ditto Leeds	64
		Stock Ditto York	94
		Stock North London	103
		Stock Oxford, Worcester, &	
		Stock Birk. Lan. & Ch. June.	82
		Stock Bristol and Exeter....	100
		Stock Cornwall	64
		Stock East Anglian	17
		Stock Eastern Counties	82
		Stock Eastern Union A. Stock	39
		Stock Ditto B. Stock....	28
		Stock Great Northern	112
		Stock Wolverhampton ..	100
		Stock Shropshire Union	32
		Stock South Devon	42
		Stock South-Eastern	67
		Stock South Wales	84
		Stock S. Yorkshire & R. Dun	63
		Stock Stockton & Darlington	43
		Stock Vale of Neath	69

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, JAN. 8, 1861.

MEWBURN, FRANCIS, SEN., HENRY HUTCHINSON, and FRANCIS MAWBURN, Junr., Attorneys and Solicitors, Darlington (Mewburn, Hutchinson, and Mewburn), by mutual consent. Dec. 31.

FRIDAY, JAN. 11, 1861.

LAWRIE, CHARLES, & HARRY RUID LEMPRIER, Solicitors, 3, Dean's-court, Doctors'-commons, London (Lawrie & Lempriere), by mutual consent. Oct. 1.

SMITH, BROOKS, ROBERT LOWE GRANT VASALL, & EDWARD RUSSELL POPE,

Attorneys & Solicitors, Bristol (Smith, Vassall, & Pope), by mutual consent. Jan. 10.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

FRIDAY, JAN. 11, 1861.

GROUX'S IMPROVED SOAP COMPANY (LIMITED). Commissioner Fonblanque will sit on Feb. 6, at 1, at Basinghall-street, to make a dividend and for proof of debts.

LIVERPOOL TRADESMAN'S LOAN COMPANY (LIMITED). Order to wind up. Jan. 7, George Morgan, Official Assignee, appointed Official Liquidator. Commissioner Perry will sit on Jan. 30, at 11, at Liverpool, to settle the list of contributories and for the appointment of official liquidator.

LITTLE DOWN AND EBBER ROCKS MINERAL AND MINING COMPANY (LIMITED). Commissioner Holroyd will proceed on Feb. 8, at 11, at Basinghall-street, to make a call on contributories for 17s. 6d. per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, JAN. 8, 1861.

BAKER, GEORGE, Grocer, Arundel. Agent, Lear, Auctioneer, Arundel. Jan. 21.

CAMERON, ROBERT, Merchant, formerly of St. Helen's-place, Bishopsgate-street, London, and late of Lucknow, East Indies. Garrard and James, Solicitors, 13, Suffolk-street, Pall-mall East, London, S.W. June 1.

DAWE, JAMES, Gent., Devonport. Sole and Gill, Solicitors, 67, Duke-street, Devonport. March 4.

DESBERT, STEPHEN SMITH, Gent., Ladywood-road, Edgbaston, Warwick. Thurston, Solicitor, Wednesbury, Staffordshire. Feb. 10.

THORNEY, TIMOTHY, Timber Merchant, formerly of Kingston-upon-Hull, but latterly of Hensle (near Hull), Gent. Thorney, Solicitor, 10, Parliament-street, Kingston-upon-Hull. March 1.

WILKOT, WILLIAM, Gent., Coventry, and of the Elms, Coundon, Warwickshire. Woodcock, Twist, and Woodcock, Solicitors, Bailey-lane, Coventry. March 1.

FRIDAY, JAN. 11, 1861.

ABBOTT, THOMAS, Gent., formerly Sevenoaks, Kent, and afterwards Farmer, Roughway, Wrotham, Kent. Holcroft, Solicitor, Sevenoaks. March 11.

ADBY, GEORGE, Esq., 10, Manchester-terrace, Liverpool-road, Middlesex. Leman & Co., 51, Lincoln's-inn-fields. Feb. 11.

CATTLE, TIMOTHY, Farmer, Sheriff Hutton, Yorkshire. Wilkinson, Solicitor, 14, Coney-street, York. March 4.

CRISWELL, SARAH, Spinster, Tuer-street, Manchester. Atkinsons, Saunders, & Herford, Solicitors, 3, Norfolk-street, Manchester. Feb. 1.

DONEGALL, Most Honourable Harriet Anne MARCHIONESS of Leman & Co., 51, Lincoln's-inn-fields. Feb. 11.

EVERINGTON, WILLIAM, Esq., 1, Gloucester-terrace, Regent's-park, Middlesex. Palmer, Palmer, & Bull, Solicitors, 24, Bedford-row, Holborn, Middlesex. March 1.

GARFORTH, DAVID, Printer, Wakefield. Whitham, Solicitor, Wakefield. July 1.

HENDRY, WILLIAM, Builder, Girtford, Bedfordshire. Hooper, Solicitor, 8, Southampton-buildings, Holborn. Jan. 22.

HOPE, JARNAK, Gentleman, Dorking, Surrey. Down, Solicitor, Dorking, Surrey. Feb. 12.

HUGHES, PATRICK, Gentleman, 41, Flint-street, East street, Waiworth, Surrey, and formerly of 7, Shad Thames, St. John, Horselydown, Surrey. Coal Merchant. Sawyer & Brettell, Solicitors, 2, Staple Inn, Holborn. Feb. 26.

JOHNSON, SAMUEL JOSHUA, Merchant, 42, Lombard-street, London. Moore, Solicitor, 47, Mark-lane, London. June 10.

MAYOR, THOMAS, formerly a Fruit Merchant but afterwards out of business, Liverpool. J. and W. Clark, Solicitors, 5, Harrington-street, Liverpool. April 1.

MITCHELL, EDMUND, Architect, Leamington Priors, Warwickshire. Wright, Solicitor, Leamington Priors. Feb. 1.

OLDFIELD, CHARLES FREDERICK, Esq., Tavistock-square, Middlesex, and of Feidon, Essex. Budd, Solicitor, 33, Bedford-row, Holborn, Middlesex. Feb. 28.

OVENDER, GEORGE, Gent., formerly of Thanet House, Roseberry-place, Dulston, Middlesex, and of East India House, London, and late of East Cliff House and East Cliff Cottage, Margate. Harrison, Beal and Harrison, Solicitors, 19, Bedford-row, London. Feb. 12.

RODGIER, JOSEPH, Comb and Horn Shavings Manufacturer, York. J. P. Guy, Solicitor, 18, Parliament-street, York. March 12.

SNEED, JAMES, Cheesemonger, Sun-street, Bishopsgate, London. Samuel Richard Davies, Solicitor, Ross, Hereford. April 12.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, JAN. 11, 1861.

BARNES, AMOS, Telworth House, Axminster, Devon. Hall v. Barnes, V. C. Wood. Feb. 1.

DOWMAN, WILLIAM, Gent., Sudbury, Suffolk. Mann v. Dowman, M. R. Feb. 6.

HOCKEN, STEPHEN BROWN, Builder, Pownall-road, Dalston, Middlesex. Hocken v. Battley, V. C. Kindersley. Feb. 9.

WHITNEY, WILLIAM, Hatter, Huntingdon. Whitney v. Dixon, V. C. Stuart. Feb. 16.

Assignments for Benefit of Creditors.

TUESDAY, JAN. 8, 1861.

BANKS, WILLIAM, Iron Master and Iron Dealer, Walsall, Staffordshire. Dec. 17. Sols. Barnett, Marlow, and Barnett, 48, Bridge-street, Walsall.

BUVELOT, EDMOND, Leather Merchant, Billiter-street, London. Dec. 31. Sol. Abrahams, 17, Gresham-street, London.

HEALE, MONTAGUE CHARLES, Draper, Clevedon, Somersetshire. Dec. 12. Sols. Brittan and Sons, Albion-chambers, Bristol.

FRIDAY, JAN. 11, 1861.

ACKROYD, THOMAS, Druggist and Grocer, Luddenden Foot, Halifax. Dec. 24. Sols. Barstow and Son, 10, Cheapside, Halifax.

GADD, JOSEPH, Draper, Deansgate, Manchester. Dec. 17. Sol. John Cooper, 44, Pall Mall, Manchester.

MAREHAM, RICHARD WOOD, Smallware Merchant, Bradford, York. Dec. 13. Sol. Jelllicorne, Cooper-street, Manchester.

PARKES, EDWARD BLATER, Milliner and Draper, Wakefield. Jan. 1. Sols. Middleton and Son, Leeds.

SHUTT, CHRISTOPHER, HEAPS, DAVID, HARRISON, ADAM, and MERCER, HENRY, Ironfounders, Machine Makers, and Cotton Manufacturers, (Shutt, Heaps, and Co.,) Blackburn. Jan. 2. Sol. Pickup, Blackburn.

WIFFEN, JOSIAH, Farmer and Cattle Dealer, Wickhampton, Norfolk. Dec. 31. Sols. Jay and Pilgrim, Norwich.

Bankrupts.

TUESDAY, JAN. 8, 1861.

ANDREWS, JOHN RICHARD, Ironmonger & Brazier, late of 71, Tottenham-court-road, Middlesex, and now of 6, Hanover-place, Park-road, Regent's-park. Com. Fane: Jan. 18, at 12.30; and Feb. 2, at 1; Basinghall-street. Off. Ass. Whitmore. Sol. Rice, Carlton-chambers, 8, Regent-street. Pet. Jan. 5.

BARNES, THOMAS, Innkeeper, late of the Lion and Lamb Hotel, Farnham, Surrey, now of the Railway Hotel, Wokingham, Berks, Innkeeper. Com. Evans: Jan. 18, at 11.30; and Feb. 21, at 1; Basinghall-street. Off. Ass. Johnson. Sols. Rhodes, Sons, & Duffit, 63, Chancery-lane. Pet. Jan. 7.

BOARD, CHARLES THOMAS, Wholesale Bedding & Mattress Manufacturer, & Feather Purifier, late of 65, Worship-street, Finsbury, Middlesex, also late of 12, Devonshire-square, London, now of 26, Nelson-square, Blackfriars-road, Surrey. Com. Goulburn: Jan. 19, and Feb. 25, at 11; Basinghall-street. Off. Ass. Pennell. Sol. Sydney, 33, Jewry-street, Aldgate. Pet. Jan. 5.

FAWCHETT, BENJAMIN, Grocer, Bradford-road, Huddersfield. Com. Ayrton: Jan. 21, and Feb. 18, at 11; Leeds. Off. Ass. Hope. Sols. Leadbeater, Huddersfield, or Bond & Barwick, Leeds. Pet. Jan. 7.

GOSLIN, BENJAMIN TOMPKINS, Wine and Beer Merchant, 4, Beaumont-buildings, Strand, and 3, Hanover-cottages, Regent's-park. Com. Holroyd: Jan. 22, at 1; and Feb. 26, at 12; Basinghall-street. Off. Ass. Edwards. Sols. Langham & Co., 10, Bartlett's-buildings, Holborn, London. Pet. Jan. 7.

HOWSON, THOMAS BROUGHTON, Chemist & Druggist, 18, Queen-street, Oxford. Com. Fonblanque: Jan. 16, at 12.30; and Feb. 19, at 12; Basinghall-street. Off. Ass. Graham. Sols. Parker, Rooke, & Parker, 17, Bedford-row, London. Pet. Jan. 4.

KETTS, EUGENE, Builder, 16, Hamilton-terrace, Queen's-road, Baywater, Middlesex. Com. Fonblanque: Jan. 16, at 2; and Feb. 19, at 12.30; Basinghall-street. Off. Ass. Graham. Sols. Brown & Goulwin, 21, Finsbury-place, London. Pet. Jan. 4.

NICHOLSON, JOHN MULCASTER, & GEORGE PLUMMER, Cabinet Makers & Upholsterers, Manchester (John Nicholson & Co.) Com. Jemmett: Jan. 25, and Feb. 13, at 12; Manchester. Off. Ass. Fraser. Sol. Boote, Brown-street, Manchester. Pet. Oct. 24.

PALING, GEORGE KYNERTON, Draper, Wolverhampton. Com. Sanders: Jan. 18, and Feb. 8, at 11; Birmingham. Off. Ass. Kinnear. Sols. James & Knight, Birmingham; or Ashurst, Son, & Morris, Old Jewry, London. Pet. Dec. 27.

PALMER, HENRY ROBERT, Porkman & Poulterer, late of King's Cottages, Hornsey-road, Middlesex, now of Wellington-street, St. James's-road, Holloway, Middlesex. Com. Fane: Jan. 18, and Feb. 22, at 12; Basinghall-street. Off. Ass. Cannan. Sols. Grover & Eldred, 8 Gt. James-street, Bedford-row. Pet. Dec. 20.

ROBINSON, MARK, Shoe Maker & Leather Seller, Bloxwich, Walsall, Staffordshire. Com. Sanders: Jan. 18, and Feb. 8, at 11; Birmingham. Off. Ass. Whitmore. Sols. Potter & Crump, Walsall. Pet. Dec. 31.

ROWLAND, EDWARD, Builder, 16, Coleman-street, New North-road, Middlesex. Com. Goulburn: Jan. 19, at 11; and Feb. 18, at 12.30; Basinghall-street. Off. Ass. Pennell. Sols. Price, Bolton, & Filder, Lincoln's-inn, London. Pet. Jan. 7.

SEWELL, LEONARD, Merchant, 4, Savage-gardens, London. Com. Evans: Jan. 18, at 1.30; and Feb. 15, at 11; Basinghall-street. Off. Ass. Bell. Sols. Courtenay & Croome, 16, Crooked-lane. Pet. Jan. 7.

WISEMAN, JOHN, Printer, Bookeller, & Stationer, Luton, Bedfordshire. Com. Fonblanque: Jan. 16, and Feb. 20, at 12; Basinghall-street. Off. Ass. Stanfield. Sols. Linklaters & Hackwood, 7, Walbrook, London; or Fisher & Sons, 162, Aldersgate-street. Pet. Jan. 2.

FRIDAY, JAN. 11, 1861.

BUCK, THOMAS, Dealer in Electro Plated Goods, 67, Paternoster-row, London. Com. Fane: Jan. 24 & Feb. 22, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Brutton, 27, Basinghall-street, London. Pet. Jan. 10.

COOPER, JOHN, Piano Forte Maker, 68, Berners-street, Oxford-street, Middlesex. Com. Goulburn: Jan. 21, at 11, & Feb. 25, at 12; Basinghall-street. Off. Ass. Pennell. Sol. Stubbs, 46, Moorgate-street, London. Pet. Jan. 9.

COTTAM, JOHN HENRY, Machine Maker, Kirton-in-Lindsey, Lincolnshire. Com. Ayrton: Jan. 23 & Feb. 20, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sols. E. & B. Howlett, Kirton-in-Lindsey, or Wells & Smith, Hull. Pet. Jan. 2.

HILLIAR, WILLIAM, Hotel Keeper, Eastham, Cheshire. Com. Perry: Jan. 23, at 12, & Feb. 11, at 11; Liverpool. Off. Ass. Morgan. Sols. Fletcher & Hall, 6, Cook-street, Liverpool. Pet. Jan. 8.

HOLLINGDALE, HENRY, Hay, Straw, & General Dealer, Hadlow, Ton-

bridge, Kent. Com. Foulbancque: Jan. 22, at 12; and Feb. 19, at 1 Basinghall-street. Off. Ass. Stansfield. Sols. Church, Langdale, & Prior, 38, Southampton-buildings, London, and to Messrs. Carnell & Co., Tonbridge. *Per.* Jan. 10.

MORTON, GODFREY, & JOHN WILLIAMS, Builders, Portmadoc, Carnarvonshire. Com. Perry: Jan. 25, and Feb. 15, at 11. Off. Ass. Turner. Sols. Evans, Son, & Sandys, Liverpool, or R. D. Williams, Carnarvon. *Per.* Dec. 26.

NORRIS, JOHN, Rope Maker, Carlisle. Com. Ellison: Jan. 22, and Feb. 21, at 12.30; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Carr, 26, Rood-lane, London, or Hodge & Harle, Newcastle-upon-Tyne. *Per.* Dec. 31.

PINCHBECK, HENRY, Builder, Horncastle, Lincolnshire. Com. Ayrton: Jan. 23, and Feb. 20, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sols. Brown & Son, Lincoln. *Per.* Jan. 10.

ROWE, WILLIAM HENRY, Builder & Contractor, 7, Gloucester-place, Gloucester-crescent, Regent's Park, Middlesex. Com. Goulburn: Jan. 21, and Feb. 18, at 1.30; Basinghall-street. Off. Ass. Pennell. Sol. Quick, Ely-place, London. *Per.* Jan. 9.

SMITH, JAMES, Lace Manufacturer, New Lenton, Nottinghamshire. Com. Sanders: Jan. 24, and Feb. 19, at 11; Nottingham. Off. Ass. Harris. Sols. Hunt & Son, Nottingham. *Per.* Jan. 8.

WOOD, MARY, Innkeeper & Farmer, Burntwood, Staffordshire. Com. Sanders: Jan. 24, and Feb. 14, at 11; Birmingham. Off. Ass. Kinnear. Sols. Dugman & Ebsworth, Walsall. *Per.* Jan. 4.

BANKRUPTCY ANNULLED.

TUESDAY, JAN. 8, 1861.

GODFREY, THOMAS, Egg Merchant, 3, Forston-street, Shepherdess-fields, Middlesex. Jan. 5.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, JAN. 8, 1861.

AAL, BERNARD, Tailor and Clothier, 2, Lambeth-street, Goodman's Fields, Whitechapel, Middlesex. Jan. 18, at 1.30; Basinghall-street.—BOOTS, THOMAS, Grocer, Manchester. Jan. 31, at 12; Manchester.—CLARK, THOMAS, Tanner and Leather Seller, Midhurst, Sussex. Jan. 30, at 1.30; Basinghall-street.—CLARKE, JOSEPH, Tanner, Currier, Leather Factor, and Japanner, Kidderminster and Bewdley, Worcestershire (Richard and Joseph Clarke). Jan. 30, at 12.30; Basinghall-street.—CLEGG, ROBERT DAWSON, and FREDERICK ANGERSTEIN, Dealers in Atmospheric Clocks, 44, Friday-street, Cheap-side, and No. 73, Fleet-street, London. Jan. 29, at 1.30; Basinghall-street. Sep. est. of Frederick Angerstein.—GREEN, JOHN, Newspaper Proprietor and Letterpress Printer, Birkenhead. Jan. 31, at 11; Liverpool.—PAVITT, WILLIAM, and DANIEL PAVITT, 30, Alfred-street, Bow-road, Middlesex, and GEORGE PAVITT, Myddleton-road, Kingsland-road, Middlesex, carrying on business as Pavitt and Co., at No. 247, Wapping, Middlesex, and 24, Mark-lane, London, Millers. Jan. 31, at 12; Basinghall-street. Sep. est. of William Pavitt; sep. est. of Daniel Pavitt.

FRIDAY, JAN. 11, 1861.

BAKER, JOHN, Tanner & Farmer, Heathfield, Sussex. Jan. 23, at 12; Basinghall-street.—CLARKE, JOSEPH, Tanner, Currier, Leather Factor, & Japanner, Kidderminster and Bewdley, Worcestershire (Richard & Joseph Clarke). Jan. 23, at 1; Basinghall-street.—DEGTAU, HENRY, Merchant, Fennell-street, Manchester. Feb. 7, at 12; Manchester.—HERBERT, CHARLES, Printer, Bookseller, Stationer, and Bookbinder, 21, Churton-street, Belgrave-road, Piccadilly. Feb. 1, at 1.30; Basinghall-street.—MARSHALL, JOHN SLATER, Boot and Shoe Factor, Billiter-street, London. Feb. 4, at 2; Basinghall-street.—MURRELL, THOMAS ROBERT Farmer and Brick Maker, Hedenham, Norfolk. Jan. 22, at 12; Basinghall-street.—RAWLES, BENJAMIN CHESTER, Boot and Shoe Manufacturer, East-st., Walworth, Surrey. Feb. 5, at 12; Basinghall-street.—SEYMOUR, MORIS, Llangenneck, Carmarthenshire, and of Rodridge Colliery, Durham, and SEYMOUR, MARTYN, Rodridge Colliery, Durham, Brick Makers and Colliery Owners. Feb. 5, at 12; Newcastle-upon-Tyne.—WHITE, ROBERT DENNIS, and GREGORY, JOHN, East India Army Agents and Bankers, 11, Haymarket, Middlesex. Feb. 5, at 12; Basinghall-street.

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"The Opinion of the ATTORNEY-GENERAL and Mr. J. NAPIER HIGGINS is requested.

"Whether a Policy in the above form would be Disputable by the Company upon any ground whatever, and if so, upon what ground."

"WE ARE OF OPINION THAT (assuming the Assured to have an Insurable Interest in the Life within the Provisions of 14 Geo. III., c. 48) A POLICY IN THE FORM STATED ABOVE WOULD BE INDISPUTABLE BY THE COMPANY, BOTH AT LAW AND IN EQUITY.

"RICHARD BETHELL, Attorney-General.

"J. NAPIER HIGGINS."

"IT IS QUITE COMPETENT to stipulate that the money assured shall be paid, on the sole condition that the party whose life was assured was alive at the date of the Policy, and thus exclude the questions which have so frequently occurred as to the truth or falsehood of the representations which led to the contract. I AM OF OPINION THAT THE FORM OF POLICY SUBMITTED TO ME DOES ACCOMPLISH THIS OBJECT.

"J. MONCREIFF, Lord Advocate,
and Dean of the Faculty of Advocates of Scotland.

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THE SOLICITORS' JOURNAL.

LONDON, JANUARY 19, 1861.

CURRENT TOPICS.

In reference to our observations of last week upon Lord Brougham's letter to the Secretary of the approaching Boston Conference, a correspondent calls our attention to a passage in the opinion delivered by his lordship to the House of Lords, in *Fenton v. Livingstone* (3 Macqueen, 538; 7 W. R. 671). The passage is as follows:—

Great reliance was placed on the respondent's part, and by some of the learned judges below, upon the position that status acquired in one country follows a person everywhere; it is said, "sicut umbra personam sequitur." Now, nothing can be more a case of status than liberty and slavery. Yet when a man from a country where he was by law held in slavery, comes to England or Scotland, the light of liberty chases away the shadow. He is in all respects free as regards his person, and as regards his property, though in the place he came from he was a mere chattel, and whatever he earned or became possessed of in any way while there belonged to his master; that master could not recover it in our courts, since the principles which were laid down in *Somerset's case* in England, and in *Knight v. Wedderburn* (Morr. 14,545), somewhat earlier, in Scotland.

The case of *Knight v. Wedderburn* was decided by the Court of Session in Scotland in 1778, and is, therefore, subsequent to the case of *Somerset v. Stewart*, which was decided in England in 1772. In *Knight v. Wedderburn*, moreover, the judgment is contained in three or four lines, being simply to the effect that the defendant could not, as a master, exercise the rights of a slave-owner over the defendant. Neither in the arguments of counsel, nor in the judgments delivered by the bench, is there anything approaching, either in meaning or expression, the well-known saying about the English (or Scotch) air being too pure for slavery, or that the touch of British soil makes free the slave. So that, with all respect to our correspondent, as far as we are at present informed, the authorship of these popular metaphors is, as we pointed out last week, attributable neither to any of the Scottish judges nor to Lord Mansfield, who has hitherto had the credit of it, but to Mr. Hargrave, who was counsel for the negro in *Somerset v. Stewart*, if not to the advocate of the Russian slave in the mythical case before the Star Chamber, to which we referred last week.

Since writing the foregoing we have received the following communication on the same question:—

The Scotch case to which Lord Brougham alluded in his letter to the Americans was *Knight v. Wedderburn*, which will be found reported in the "Dictionary of Decisions," vol. xxxiii. p. 14,545. This case was decided in 1778, *Somerset's case* having been decided in 1772. Lord Mansfield's judgment only went to this extent, that the negro was entitled to be discharged upon *habeas corpus* when imprisoned by his master; but it did not determine the rights of the master in other respects. The Scotch judges held "that the dominion assumed over the negro under the law of Jamaica being unjust, could not be supported in this country to any extent; that, therefore, the defendant had no right to the negro's services for any space of time, nor to send him out of the country against his consent." In a note to the address delivered at Glasgow by Lord Brougham, before the Social Science Association, he says that the decree of a slave's fetters falling off the moment he touched British ground "was first decided by the courts of Scotland, in the case of *Knight*, a negro, in 1778. In *Somerset's case*, 1772, the courts of England had not laid down the rule generally, but only that

a negro could not be carried out of the country by his master." Lord Brougham is quite correct in what he has stated; but it may certainly be contended that although Lord Mansfield's judgment did not in terms go to the extent of the Scotch judgment, yet it implied as much.

We do not agree with our correspondent when he says that there was any difference in the nature of the issue raised, or of the judgment pronounced in these two cases. *Somerset v. Stewart* was as much "a decree of a slave's fetters falling off," as *Knight v. Wedderburn*. *Somerset's case* was more than a decision that "a negro could not be carried out of the country by his master." It decided that he could not be a slave in the country; and *Knight's case* decided nothing more. The passage in Mr. Macqueen's Reports, quoted above, is conclusive that Lord Brougham, when delivering his opinion in *Fenton v. Livingstone*, was under the erroneous impression that *Knight's case* was decided in Scotland before *Somerset's case* in England.

Although much has been done of late years to make our legal system sensible and harmonious, it must be acknowledged that we have not yet arrived at perfection, and that much even of our recent legislation can hardly be considered as more than experimental. As the object of all trials of fact is to arrive at the truth, and as it is of great importance to the public as well as to suitors that truth should be arrived at, it might naturally be supposed that in the year 1861 we should have some wisely matured system of inquiry applicable to all tribunals, and that the rules regulating the search after truth would be substantially the same in all courts. Yet we know that the fact is far otherwise. It would seem as if human ingenuity had been taxed to the utmost to make differences where none should exist. For example, you go into a Nisi Prius court, and hear the counsel for the plaintiff open his case, examine his witnesses, and, if the defendant does not intend to call witnesses, again address the jury, after which the counsel for the defendant has his speech. If, on the other hand, the defendant does call witnesses, the plaintiff's counsel does not address the jury immediately after the examination of his witnesses, but waits until the defendant's counsel has opened the case for the defendant, examined his witnesses, and again addressed the jury, after which the plaintiff's counsel replies. That is one way of conducting an inquiry. When you go over into the Crown Court you find another. There, after the counsel for the prosecution has opened his case, he calls his witnesses, after which the counsel for the defence opens his case. If the latter calls no witnesses, the counsel for the prosecution has no second speech; if on the other hand he does call witnesses, the prosecuting counsel has a speech in reply, but the prisoner's counsel has no second speech. In the County Courts the rules on this subject are the same as in the criminal courts. Plaintiff's counsel opens; plaintiff's witnesses are examined: defendant's counsel opens; defendant's witnesses are examined: plaintiff's counsel replies; or, if defendant calls no witnesses, the plaintiff's counsel has no reply, and the forensic battle concludes with the speech of the defendant's counsel. But when we come to the trial of an information before justices at petty sessions, we find still another rule. There, after the prosecutor's counsel has opened the case, and called his witnesses, the defendant's counsel opens his case, and calls his witnesses, but even where he calls witnesses the prosecutor's counsel has no right of reply. Whatever doubts may exist as to the other rules to which we have adverted, there can be no doubt as to the impolicy of this, for it gives no opportunity to the prosecutor of remarking on the defence set up, while the defendant has the fullest opportunity of criticising his adversary's case. In Chancery, the entire system of taking evidence, and the modes adopted for arriving at

the determination of facts, are widely different from those adopted in every common law court. It must be confessed, however, that it is much more easy to point out anomalies of this kind than to propose an adequate remedy for them. The County Court judges would by no means relish the proposal to give the advocates before them the same number of speeches as at *Nisi Prius*; but still it seems worthy of consideration whether in actions where above £20 is sought to be recovered, the County Courts ought not to adopt the practice of the superior courts. Probably it may be thought that where the sum in controversy is below that amount it would hardly be worth while to lengthen the enquiry, and that in such a case truth, like other valuable commodities, may be bought too dear. We are at a loss to understand why the same rule as to speeches of counsel should not be followed in the Crown courts and at Quarter Sessions, as is now adopted at *Nisi Prius*. Surely an inquiry which in its results may affect life or liberty is as important as one concerning the breach of a charter-party, and ought to be conducted with the utmost jealousy and vigilance. It is idle to talk of time being wasted which is devoted to such an enquiry; and as criminal trials have been much shortened, owing to the extensive powers of amendment given by modern statutes—which prevent time being wasted upon mere technicalities—the time so saved might well be given to a more searching inquiry into the facts and truth of the case. So far as summary convictions are concerned, we have no hesitation in saying that the prosecutor should be entitled to a reply where the defendant calls witnesses; and as inquiries of this nature frequently involve pecuniary penalties to a large amount, reputation, and personal liberty, it may well be doubted whether the same mode of procedure should not be adopted as at *Nisi Prius*. "The wisest justice on the banks of Trent" must sometimes arrive at unsatisfactory conclusions under the present system.

The *Manchester Guardian* of the 16th and 17th inst. contains several letters animadverting in the strongest terms upon the treatment of debtors in the gaol of that city. The governor has not yet been heard in his defence, but if one half of what is alleged in the letters be true, a state of things prevails in the Manchester gaol which is difficult to imagine as taking place in the nineteenth century. We trust that an inquiry of the most stringent character will be made into the matter; as if the statements of the *Guardian's* correspondents are untrue, they are scandalous libels upon a public functionary; but, if true, they ought at once to bring down upon the head of the governor condign disgrace and punishment.

On Friday, the 11th inst., Mr. Albert Turner, of the firm of Messrs. Sole Turner, & Turner, of Aldermanbury, attended as solicitor at Guildhall to prosecute one George Vernon Jackson, who was charged with fraud under the Bankruptcy Law Consolidation Act of 1849. By some absurd and unaccountable blunder, such as very rarely happens in the *Times*, in a leading article in that journal of Monday last, on the recent fraudulent bankruptcies, Mr. Turner was stated to be the fraudulent bankrupt. The error was acknowledged next day.

The Juridical Society will hold its next meeting on Monday, the 21st inst., at 8 o'clock, p.m., when a paper will be read by Mr. Lindley, "On some Errors in Legislation, illustrated by the Statutes relating to Joint Stock Companies."

TAXATION OF SUITORS.—No. III.

INCIDENCE OF TAXES IMPOSED ON SUITORS AS BETWEEN CONTENTIOUS AND ADMINISTRATIVE BUSINESS, AND AS BETWEEN SUITS ACCORDING TO THE PROPERTY AT STAKE.

Having in our last article considered the question how far the State, and how far the suitor, should provide for the maintenance of the judicial establishments, the subject proposed at the head of the present article will now be most conveniently taken. Our clients the suitors will have to pay largely; how ought the money to be raised? There is now levied on the man who calls to Chancery to administer an estate, say of £1,000, exactly the same contribution as if it was an estate of £100,000, or a million. This is a crying injustice. But more than this. The State has in its care, and guarantees and administers, some 200 or 300 millions of property. It has between 50 and 60 millions in the Bank of England, in the Accountant-General's name. That office costs for clerks and expenses £13,000 a-year, in addition to a salary of £4,200 to the Accountant-General, and £3,097, two-fifths of the brokerage retained by the broker. The suitors of the year paid, in 1859, a sum of £737 8s. 3d., only for fees at the Accountant-General's office. The rest of the cost of this establishment is, in fact, paid by the fees levied on the contentious business, i. e., just by that class of business which we showed last week, is the last which should be taxed. This is a still more grievous injustice. Does Parliament know all this? Yes. A House of Commons committee worked laboriously at this subject through the years 1847, 1848, and 1849, and reported in 1848 most accurately, as we conceive, the principle on which the tax on Chancery suitors should be assessed, viz., First, let the State pay as much as it will give for its quota. Secondly, use the banking profit as the next source. Thirdly, put a charge of half per cent. on the funds invested through the Accountant-General, and half per cent. on dividends paid through him. Fourthly, raise the rest by a tax on orders (the only operative, and to suitors, useful and useable articles the court manufactures, all else are raw material only). In 1849 the committee (in the face, we conceive, of threatened opposition) retracted its first views to this extent, that it recommended (why we cannot tell) the division of the fund to be provided by sources three and four into moieties; one moiety to be raised by per centage, the other by *per capita* taxation on suitors, (without reference to the sums at stake,) according to the theory then and still prevailing in the courts. Nothing was done upon these reports until 1852, when a Bill was brought in, prepared by the then Solicitor-General (Sir W. P. Wood) and Sir George Grey, and printed 6th Feb., 1852, No. 34; the 6th section of which contained a provision that the Lord Chancellor might by order,

"Substitute a per centage on all or any of the monies paid, or of the stock transferred, into the Bank of England to the credit of the Accountant-General of the Court of Chancery, or on the dividends paid out of the said Court in lieu of all or any of the fees now payable as aforesaid."

In the latter end of February, 1852, came a change of Government, when Mr. Walpole became Home Secretary, and took charge of the Bill: and, as he had formed one of two in a minority on a division in the committee on fees, the clause was altered at his instance; and in the print of the Bill, as amended in committee, the above-quoted words were struck out. We are not aware that any parliamentary debate, or even explanation, took place on the subject.

The committee, in their final report in 1849, (Par. P. 559, page v.) report as follows:—

"As regards the fees of those courts not under regulation, and the whole of the fees of courts of law generally, your

committee's inquiries have been hitherto but limited; they, however, esteem the importance of this branch of the subject referred to them to be such as to require more extensive and searching investigation."

This was eleven years ago—a good slice of a man's life, and three generations of Chancery suits have since died away. But no systematic attention is bestowed by our Government on subjects of this nature, great as they are; and so little by the authorities of the Court, that to this day nothing has been done to work out this most important recommendation. More than that, the fee-stamp method of collection has been introduced with perfect success for several courts; but (as we shall have hereafter to mention again) on the reconstruction of the common law offices by the Act of 15 & 16 Viet. c. 73, (cited in the Report of 1860, on Concentration of the Courts of Justice, p. 59), the old (and as a method of levying a State tax infamous) system of collecting fees through some ninety hands without check or audit was continued.

The commission now about to be issued, will, of course, complete the inquiry left unfinished in 1849; and as the fees of the solicitors are fixed and assessed by the Court merely because they are officers of Court, and under the same authority and (with about equal thought and wisdom) with those on suitors, we trust that the commission will not close its labours till that part of the subject has also been investigated. To errors committed in fixing fees for solicitors, the committee of the House of Lords on the Masters' Primary Jurisdiction Bill are known to have agreed with Lord Brougham, their chairman, that a very large part of the evils in the administration of the law are attributable.

In common law cases it is much more easy to assess a tax on the suitor according to the amount at stake than in equity. To some extent these amounts are returned in the judicial statistics, but insufficiently. In passing let us remark that these returns are capable of great improvement; and that the proper requirements for them have yet to be thoroughly considered *in the interest and on behalf of suitors*. Officers must have sketched out the forms, for they show fully what the officers, &c., have done; but scarcely at all what they have left undone, and how much time they have occupied in the doing. That great curse of the law, the delay, is not probed by those forms at present in use. With reference to very many minor courts the old fee-pay system is still continued—e.g., for the Chancery Court of the County Palatine of Lancaster. It seems to us that on no account should such a state of things be longer permitted. This, however, belongs to the next chapter of our present inquiry.

The true scientific principles on which the total to be raised by a state law tax should be assessed, as between suitor and suitor, of course, are the same as those on which ordinary state taxes should be assessed. As far as possible, it should be a property-tax; as little as possible, or never, a poll-tax. But the poll-tax principle prevails almost throughout the law, except in lunacy, where the whole tax is levied on the percentage principle: a system which has been fraught with the greatest benefit, and yet which, if right, then undeniably should be extended, at least, to all administration business.

In imposing a tax, too, as much as possible on money transactions, you place it where it is never felt or thought of: and to avoid as far as possible the "impatience of taxation" is no small point.

Again, the quantity of account-keeping the present system involves is absurd. All the State wants is a total of so many pounds sterling. Why collect it by shillings at a time?

"On the mere head of expense to the suitor (say the Commissioners of 1849) it will be seen that a solicitor's bill must be largely increased if he has to charge numerous attendances for the payment of fees, at different times and places."

The increase in the bill is here over-estimated; but the system of imposing heaps of little payments is utterly useless, and a great vexation and hindrance. The suitor repays them all in one payment, viz., in the bill of costs; and as a third to a half the bills of cost in Chancery essentially must come to a taxation for payment out of a trust fund, the continuance of the plan of numerous small taxes, instead of one large one, is wholly attributable, we conceive, to the *vis inertiae* of officials.

Altogether, we cannot doubt that a thorough inquiry into this subject must lead to many very wise, practical, and most beneficial changes; changes, too, which, unlike those in law or procedure, will save trouble to everybody and on all sides.

The answer to the question at the head of this article, is in our judgment sufficiently indicated by the report of the House of Commons of 1848 above referred to.

PROCEEDINGS IN CHANCERY "CHAMBERS."

By the Parliamentary returns of proceedings in the chambers of the judges of the Court of Chancery for the years ending respectively 1st November, 1859, and 1860, it appears that the number of summonses for administration of estates issued was nearly 100 more in the latter period than in the corresponding former one, which shows that the facilities offered by the Court for the speedy and economical administration of estates is not unappreciated. The indemnity which the Court gives is becoming better understood, and the comparatively inexpensive mode of proceeding, as contrasted with the former cumbrous machinery of the Court, must tend to induce many persons to avail themselves of the security thus afforded against outstanding claims and other liabilities. There are numberless cases in which executors or administrators will find it beneficial, and for their security, to avail themselves of the aid of the Court in the administration of the estate which devolves on them. The claims of creditors and their priority are decided for them, and after the usual advertisement for creditors, no further responsibility rests on the executor or administrator. His mind is relieved from all further anxiety as to any claim which may afterwards arise. But the security thus given does not seem to be taken advantage of to the extent which it might have been expected it would be, on the introduction of the present cheap and expeditious mode of procedure; for the entire number of summonses taken out in the two periods mentioned respectively is very small, being not greater than 332 and 420. It is presumed, however, that when it becomes more generally known that in the cases to which this proceeding is applicable (viz., administration of personal estate, and of real estate also where devised in trust for sale), a Chancery suit is a very short and simple affair, the administration summons will become generally resorted to.

The business of the Court might be still more simplified by giving further facilities for proceedings by summons, and there does not appear to be any reason why they should not be extended further as to cases under the Trustee Acts, and also it might be given in cases of investment and reinvestment and payment out of funds under the Lands Clauses Consolidation Act. There cannot be any reason why it should be necessary to go to the expense of a petition in all these cases any more than it is necessary to go through the formality of a bill and answer, for the administration of personal estate as in former times, a simple summons in lieu thereof being all that is required.

As regards the limited applications allowed under the Trustee Acts, the jurisdiction does not appear to be clearly defined. It is given by the 35th of the consolidated orders, article 4, when a decree or order has

been made for sale or conveyance of any land, &c. It would appear there would be no jurisdiction at chambers given by this order in the case of a chose in action, or any other subject dealt with by the Trustee Acts.

There appears from the return to have been a diminution in the latter of the two periods compared with the former in the number of ordinary summonses, in the number of advertisements issued, in the number of debts proved, in the number of accounts other than Receiver's accounts, in the sales and purchases under orders of Court, in the certificates filed, and in the amount of fees paid, but not of such an amount as to justify any conclusion as to the average business of the court. In the cases of stamps for fees the decrease is accounted for by the fact of per centage on receivers' accounts being now assessed on the net receipts, and not on the gross amount as formerly; and the decrease in the number of advertisements probably arises from the operation of Lord St. Leonards' Act giving executors power to advertise.

In numerous cases in the progress of a suit where petitions are now necessary, the jurisdiction by summons might also be extended, for instance where a fund is to be got out of court. The benefit of an extended jurisdiction at chambers in such cases would be great. In applications under the Act for payment of legacies into court, and under the Trustee Relief Act, a great hardship is imposed on the tenant for life in many cases by the necessity of a petition when the trust fund exceeds £300. The cost of the application in numerous cases swallows up the first year's income. The jurisdiction by summons ought to be considerably extended in these cases. The usefulness of the Court would thus be most materially increased, and the public would have more confidence in its working, and less fear on account of its cost.

THE LAW OF REAL PROPERTY IN SOUTH AUSTRALIA.

(Continued from page 179.)

In the present conflict of opinion upon the question of registration, whether of assurances or of title, the Act consolidating the laws relating to real property in South Australia, upon which we commented in our last number, possesses peculiar interest and importance. It is a gift of art to science, being an application of the experience in the registration of shipping acquired by Mr. Torrens, its author, to the principles propounded by the commissioners on Registration of Title, in accordance with which the real property Bills of Sir Hugh Cairns were framed.

The Australian Act professes to have provided "efficacious, simple, and economical machinery for carrying those principles into practical operation." This claim to our favour is supported by the successful working of similar enactments in Australia during the last two years. These enactments the recent Act consolidates, and we now resume our review of it. A careful study of it will help us to discriminate with precision between the unreal attractions of registration as at present lauded by an influential class of legal economists, and the really useful purposes which a system based upon conservative principles, and worked by simple machinery, may be made to subserve. Now whatever may be the opinions or wishes of the profession upon the subject, the Manchester economists appear determined to have some system of registration established by law. Registration of *evidence of title* will, probably, be the compromise that the Legislature will ultimately make between the bold suggestions of royal commissioners, the echoes of the popular cry, and the mistrust which a large portion of the professional public are expressing as to the expediency of such systems.

The 81st section of the Act which we are discussing enacts that the grant of fresh certificates of title, upon the devolution of estates by death, insolvency, &c., does not affect any trusts attaching to the land. The new proprietor, however, has unlimited power of disposition over the land for the purposes of sale or mortgage. Sales of land brought under the operation of this Act will be inoperative to pass any interest to the purchaser, unless the writ or process of execution shall have been previously registered. The donee of a power of attorney to sell may obtain a certificate of title in the name of his principal. The 88th section provides for this, which was a *casus omnisus*, and opens the way to a system of land brokerage, than which few institutions can be more useful to a colony having an abundant supply of good land, and desirous of facilitating trade in it. Upon surrender of different certificates, a proprietor can obtain one certificate for the aggregate of lands comprised in the former. A registered vendor, plaintiff in a suit for specific performance, is entitled, upon production of his certificate, to a decree against a party who may have contracted for a purchase. This section, of course, does not dispense with proof necessary to show that the contract itself is, in all other respects, unimpeachable. No vendor is to have an equitable lien upon the land for any balance of unpaid purchase-money. The Act, we think, would have been more judiciously framed, if it directed the total extinction of trusts, express, implied, constructive, or resulting, as to purchasers, mortgagees, &c., rather than have prohibited, by an isolated section, a single class of trusts such as those mentioned; inasmuch as the exception may possibly be urged in some future argument as indicating an intention on the part of the Legislature not to demolish the whole species of trusts specifically attaching to land. This, indeed, the Act implicitly does, and, therefore, further special provisions to the same effect are superfluous and embarrassing. No agreement for a dealing with land *in futuro* is to be registered except in the case of a right of purchase granted to a lessee in a lease, or a covenant to purchase entered into by the lessee. Damages may be recovered in an action at law against any person lodging a caveat without reasonable cause. The giving to the Registrar-General or the judge, when adjudicating upon the caveat, power to award a pecuniary mulct, together with costs, to the party sought to be injured, would, we think, be an improvement in the Act; inasmuch as the reasonable cause is likely to depend upon the construction of written documents, which, being a matter for judicial consideration, could be most conveniently determined upon the general adjudication on the merits of the caveat. This mode of procedure as to caveats would be also most in keeping with the policy of the Act; which studiously seeks to facilitate sales without regard to trusts or obscure rights. A malicious or speculating caveator would be more deterred by the proximity of the punishment, than by its final certainty. Powers of attorney, when registered, are conclusive evidence of the authority of the donee of the power, and of his right to deal with the land, as if he were a principal. A registration abstract is issued by the registrar to proprietors to enable them to sell, mortgage, &c., the land without the limits of the province. The issue of such an abstract is noted on the register as also on the certificate of title, and such a notification, until cancelled, suspends all registration of dealings with the land to which the abstract refers. A memorandum of transfer, mortgage, lease, &c., concluded without the limits of the province, is then notified by memorial upon the abstract, in presence of, and authenticated by, any of the persons authorized by the Act to superintend transactions outside the province. This is equivalent to plenary registration; the registration abstract being, as it were, a moveable part of the re-

gister. The consent of a third party, when necessary to a conveyance, may be given by the endorsement upon the memorandum of transfer of the words, "I consent hereto." A substitute for a person under disability may be appointed by any court or judge having jurisdiction over the property concerned. Attestation by one witness is sufficient for instruments executed pursuant to the provisions of the Act. If a certificate be lost, a provisional certificate will be issued in its stead, and an entry made on the register of the issue of the provisional certificate. All future public maps are directed to be made in duplicate, in order that one may be lodged in the register office. A map must also be deposited by any proprietor who subdivides his land so as to form a township. The map should delineate the squares, roads, &c. A general search can be made in the registry office, on payment of a fee of 5s.; a limited search, on payment of 2s. 6d. Certified copies of all instruments on record are issued at a small charge, and such certified copies, which are authenticated by the signature and seal of the Registrar-General, are as effectual in evidence as the originals. In cases where a fraudulent proprietor shall have been dead, or have absconded, the Registrar-General may be made a nominal defendant, for the purpose of recovering damages out of the Assurance Fund. If a fraudulent proprietor refuse to surrender his certificate, after order made to that effect, the Registrar-General may issue a fresh one to the lawful proprietor, after having noted on the register the circumstances under which the additional certificate was issued. Married women transfer their estates by a registration of the fact of marriage, and by a deed acknowledged in the manner prescribed by the Act. The executor or administrator of a mortgagor is registered as owner of the mortgage, upon production to the Registrar-General of the probate or letters of administration upon which the application is based. All instruments submitted for registration must be endorsed with a declaration that they are "correct for the purposes of the Act," a false averment of which is punishable by a fine of fifty pounds. This correctness merely means, we presume, a conformity to the conditions and forms prescribed by the Act, and not as to the inherent *bona fides* of the application. The falsification of the register or of certificates is constituted a felony, punishable by imprisonment for a period not exceeding four years.

The index to the register is compiled according to the alphabetical order of the names of the proprietors. As every instrument relating to the land, however, is marked with the number of the volume and folio of the register-book, which consists of the original grants or certificates bound together as we described *ante* p. 177, a search of the index is unnecessary, except for heirs or creditors who may desire to learn the aggregate of the lands owned by the proprietor of a certain lot. Such a search is unnecessary for transfers, incumbrances, &c. The instruments themselves are exhibited if the memorials be not considered by the searcher to convey adequate information. This purpose, however, does not seem to us important enough to recommend such cumbrous deposits. Information derived from any source outside the register is useless, except as to description of boundaries. But even original deeds cannot be considered as containing certain evidence of boundaries, inasmuch as this is a matter to be ascertained chiefly by local observation. These deposits, then, appear to be merely so much adipose matter, impeding the activity of the system.

The transactions under the Act for the twelvemonth ending 30th June, 1859, were less than those for the subsequent twelvemonth by 154½ per cent. Mr. Torrens remarks that the defects in titles are generally only technical. The applications for certificates of title were, for the first mentioned twelvemonth, 459; for the latter twelvemonth, 1092. Of the total of ap-

plications, only two were rejected, and thirteen withdrawn. The value of the land brought under the Act was, in the former twelvemonth, £326,977 13s.; in the latter twelvemonth, £635,184 7s. The amount secured by mortgage was, in the former period, £23,248 10s.; in the latter, £118,872 4s. 9d. The fees received in the former period were, £1,659 1s. 9½d.; in the latter, £4,028 4s. 4½d. The chief object of the Act, the subject of these observations, is to remove certain doubts that hung about the nature of the indefeasibility of title conferred by a certificate under the former Act. A similar doubt, which prevailed in Ireland respecting the extent to which a parliamentary title operated, was removed without legislative interference by the case of *Rorke v. Errington*, 7 H. of L. Cas. 617, in which it was decided that a parliamentary title left no lease or charge unextinguished. The chief impediments to the working of the Act are owing, as stated by Mr. Torrens, to the confusion of boundaries, and also to the hostility of the profession, which we believe is general, and not altogether without cause, as the Act has had the effect of calling into existence a class of pests who, although not professional men, do the work of solicitors, both badly and expensively.

Besides the system of registration that we have described three other methods, likewise appointed by statute, are also used, viz., by memorial, by enrolment, and by deposit of the original instruments. The average of registered instruments for the last three years was for these systems in the order mentioned, respectively, 6,550, 368, and 528. But a memorial, Mr. Torrens suggests, may not contain the material facts stated in the deed, and, consequently, although it is admissible in evidence, in substitution of a lost deed, this admissibility is valueless. Moreover, as Mr. Torrens adds, A may sell to B; B, without registering, may sell to C, who registers. A may again sell to D, who registers, and who could not have learnt from the deeds before him, nor from the index which is compiled, according to the alphabetical order of the names of the grantors, anything whatever of the conveyance to C. Now C was guilty of negligence in not having compelled B to register, and C, therefore, should lose the estate; and although D was equally culpable in not having compelled A, his own grantor, to register, yet he is prior in legal time, or in the order of the devolution of title, to C, and is, therefore, paramount in law. But this can but seldom occur in a register country; no prudent purchaser would take a conveyance from A without seeing the state on the register both of A's and his predecessor's title.

Registration by memorial is the only system that is likely to be ever established in England. Registration of title, as a means of transfer, is incompatible with the present security of family settlements. Enrolment of deeds is physically impossible—*Roma suo molimine ruit*. What area would suffice for such lumber? The chief defect of registration is, that it is a ceremony which comes after the contract, and is therefore likely to be very frequently omitted. This natural drawback would be greatly obviated by a system of local registries; but, then, local registries would not place land in the desired contact with the metropolitan loan market. Registration is, as it were, a legal currency, which the inconsiderate think can be made not only to circulate, but almost to create, title and landed capital. Nevertheless, registration has its uses. As the report of 1850 observes, the use of documentary evidence is imperfect unless complete, and this completeness registration can alone confer, by invalidating all instruments which are not registered. Thus the primary object and proper use of a register is to limit searches, and, as a consequence, to determine priorities; the register for this latter purpose operating as notice to all. It can, doubtless, be constituted a mode of conveyancing, or even the only one, as it is in South Australia. But that is to render it subversive

of the important class of equitable rights. As to the notoriety of registration, we consider it useful, as discouraging secret loans and speculations. The desire of secrecy, which originated trusts and long terms, sprang from an effort to evade the feudal burthens; but secrecy itself can only have the tendency of rendering title obscure and complicated. Sir Hugh Cairns' Bill intended to provide for mortgagors desiring secrecy by caveats, which were to reveal nothing in particular, but which were to serve as "notice to persons about to deal with the land that the caveator had an interest in it." A caveat of this nature would be the reverse of a secret mortgage. It would be a publication of it with a trumpet, and would, as it were, say to all subsequent lenders, *hic niger est; hunc tu Romane caveo*. The amount would probably be much exaggerated in the conjectures of those who saw the caveat—*omne ignotum pro mirifico*. As to the secrecy of registration, then, we can only say it is unknown to such systems. A register must be concise, in short—a mere index. The commissioners of 1850 recommended the depositing of the title deeds in the register. We do not. *Cui bono*, even if it were practicable in England, which it is yet for Australia. The commissioners of 1856 recommended a system of registration founded upon ownership. We consider such extended views of the purposes which a system of registration can fulfil, hardly warranted. Registration tends to prevent false, forged, and secret deeds, and to supply the place of lost ones, to abridge conveyancing, to limit searches, and to disclose with certainty the amount in money of incumbrances, however indefinite the parties or classes are who may be entitled to receive those amounts. Registration, therefore, clearly shows the value of the interest of the proprietor as a basis for further loans. But registration cannot alter the law; it is merely administrative; it may suggest amendments, but it can never fully realize the expectations of its enthusiastic advocates. Nor can any law enable a landowner to have his estate freely circulating in the market, and, at the same time, irretrievably charged with the maintenance of his wife and children. If land ceased to be capable of being thus charged, and to be followed as the security for the charges, it would fall considerably in value, contrary to the present impressions of the advocates of a free trade in land. The present law of trusts, however, does not in the least impede a sale, when such is necessary, as the decree for sale may be at present pronounced before the priorities of incumbrancers are determined, the purchase-money being paid into court to the credit of the cause. That incumbrances may also be readily created upon landed security at present is shown by the low rate of interest which such security offers. Surely the public do not desire frequent sales of unincumbered land, as if it could, like its produce, be retailed at a profit. Registration without a concomitant enactment, authorising the creation of parliamentary titles, would not to any considerable extent facilitate the deduction of title for at least the next twenty years. The remoteness of the advantage, however, is not a conclusive objection to the establishment of such a system, although it shows the extravagance of the views of its extreme advocates.

Mr. Torrens quotes the report of the commissioners on registration of title, stating the object of their inquiry to be "by what means, consistently with the preservation of existing rights, can we now obtain such a system of registration as will enable owners to deal with land in as simple and easy a manner, as far as title is concerned, and the difference in the nature of the subject matter may allow, as they can deal with moveable chattels or stock. This," says Mr. Torrens, "is no

longer a problem for solution; it is a realised fact." Land certainly presents no more specific impediments to a legal transfer, than stock, ships, railway, or mining shares do. If unlimited powers of sale, with proper provisos, were continued for a period of sixty years, land at the end of that time would have a title consisting only of the links of descent through the trustees, or their appointees under the powers, and be free for purposes of sale from all complication of trusts. Land is not in its own nature, though it is in law, more specific than personal property, and admits as readily of a reduction to the common denomination of value—money.

But the true obstacle to the transfer of land being rendered as easy as that of stock or shares, is that land is charged with trusts, and that other descriptions of property are not so chargeable, at least, with the same security to the *cestuique trusts*. Land has thus to bear well nigh the whole weight of trusts, which, if banking and other companies permitted voluminous records in their books, and the law affected the purchasers of stock with notice of such, would be partly distributed among stock and shares. If land, then, be assimilated to personalty in its exemption from trusts, nothing remains for family settlements to operate upon,—an alternative not of consequence in South Australia, but the very foundation of English homes. The fact of conveyancing by bookkeeping has, therefore, been very easy for Mr. Torrens to realize, since the 74th section of the Act we have been discussing prohibits the registration of trusts. When South Australia becomes the emporium of commerce and of stock, ships, and shares, the citizens of Melbourne will, doubtless, prefer, as we do at present, a certain degree of fixity of tenure for the youthful occupants of the fireside, leaving speculation to gambol, as it may, upon the Stock Exchange. Let us consider this view of the case attentively, and in the different aspects it presents in Australia and in England.

Land is always bought either with a view to its resale at a profit, like any other article of commerce, or to be retained by the proprietor for his own use, or for the benefit of his family. In Australia, and all other new colonies, if the system of conveyancing there suits the requirements of trade, the most necessary object is accomplished. The cultivation of large unappropriated tracts of land, and the improvement of the lands under cultivation, are some of the main objects which a wise colonial government should sedulously endeavour to promote. For these purposes, the deduction and transfer of title must be free from uncertainty and heavy expense; otherwise, capital will be diverted from agriculture, the very species of investment which constitutes the special advantage of a new country, and which is potent enough to attract immigrants in despite of the ties of home. To have colonial land well cultivated, the title, like the soil itself, must be freed from all entanglement, and for this purpose, trusts and family settlements must be regarded as of very subordinate consideration. The Australian law of real property is, therefore, suited on the whole to that country, which may be advanced materially, and even socially, better by means of a progressive agriculture than by any system, however perfect, of trusts, which, indeed, would have little to attach upon, if capital was repelled from the land by a vicious state of the law. In old countries, however, there cannot be a progressive agriculture. Land in England has been long brought almost to the acme of cultivation. If £100 were expended within the year upon any single acre in Middlesex, it would not produce a profit equal to a per centage from the funds. However, while land with us is not much used in commerce, it is the great basis upon which family settlements are constructed. The doctrine of notice, and the Statute of Limitations, are the most efficient means recognized

* Speech of Sir Hugh Cairns, in the House of Commons, Feb. 11, 1859. London, Amer, 1859.

by the law for protecting the trusts of settlements; and a system of parliamentary titles, which would necessarily destroy these the legal safeguards of trusts, would no doubt be attended with many difficulties and disadvantages of a serious character.

To conclude, the Australian system of registration exemplifies as we have stated, the combined operation of two principles that in Ireland are separately applied, viz., parliamentary title and registration. A parliamentary title confers upon an estate a freedom from all previous claims; just as a certificate of bankruptcy confers upon its holder a like immunity. It is equivalent to the repeal of all statutes of limitation according to the discretion of the judge in each case, and also involves the abolition of the doctrine of notice, a doctrine much more unduly depreciated than extolled. These effects may possibly be excuplated, but they cannot be denied. Registration has not, necessarily, any of these effects. Of its own nature it tends rather to perpetuate than destroy claims. Nor, where the necessities of trade do not require it, do we see any use in frequent extinguishments of just claims and charges, which do not encroach upon the rule against perpetuities in their creation, nor against the Statute of Limitations at the period at which they are sought to be enforced. A sound and concise system of registration would be still more useful to the capitalist who is desirous to lend, than to him who wishes to purchase. In the former case, the lender need only subtract the total amount of all incumbrances on record from the value of the estate, to ascertain the margin of investment. The purchaser has to do more—he has to ascertain the parties legally entitled to receive the respective charges; otherwise he may be compelled to pay the same sum twice over. This observation is borne out by the facility with which land was incumbered, as also by the difficulties which impeded its sale, in Ireland, prior to the establishment of the Incumbered Estates Court. These difficulties occasioned great delay in the Irish Court of Chancery, as the rules of the Court at that time required that the priorities of all incumbrancers should be adjusted before a sale could be ordered by the Court. Private transfers were of course effected, if not with greater delay, at all events with proportionate risk. A sound and well-digested system of registration, then, as distinguished from the principles involved in parliamentary titles, has strong claims to be considered a main requirement of the legal system of a country such as England, which desires a cheap mode of creating incumbrances, but does not seek a general change of proprietary, nor consider a brisk trade in land to be paramount to the claims of minors; and also to that social stability which family settlements of land give to the most influential class in the State.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

VI.

COMPULSORY DOMICIL.

Domicil, generally speaking, is entirely constituted by the will of the party, influenced, of course, by circumstances; but there are several kinds of domicil in which the will of the individual takes no part, and these are known in our law as necessary domicils, but I think would be much more properly expressed by the word "compulsory," or perhaps, in a more general sense, as "involuntary." Thus all persons, who have not, legally speaking, an independent existence, come within this category, and follow the domicil of those who are, for the time, the ruling power, to whom they are appendant, and whose legal rights regulate and control

those who are dependant upon them. This applies to individuals as well as to states, for a wife has as little legal power alone and without her husband as a prisoner has, independently of the Government by whom he is held in a state of captivity; and an infant can no more be legally responsible, or act in a manner that shall be binding upon himself, and upon those with whom he contracts, than an exile can return to the country from whence he is banished and regain the rights of a subject, whilst his sentence of banishment continues unrevoked. A minor is incapable during his minority of changing his domicil; but if his parents acquire a new domicil, that of the minor follows theirs; and therefore both these domicils are, so far as the minor is concerned, compulsory; if the parent dies, leaving an infant child who also dies under age, there can be no doubt upon this principle, that whatever actual changes of residence may have taken place in the case of the minor, the last domicil of the parent still continues his, and is his, in respect to whatever property he may leave behind him.

A married woman follows the domicil of her husband, and during coverture, is likewise, I apprehend, unable to acquire a new domicil, independent of him, however she may actually remove from place to place; and therefore supposing that both husband and wife should die at the same moment, the domicil of the husband at that instant would be the domicil of both; *Warrender v. Warrender*, 3 Bligh. 89, 103-4; but the residence of the wife will sometimes fix the domicil of the husband.

A natural child follows the domicil of its mother, *ejus qui justum patrem non habet prima origo a matre*. *Pothier Pand. lib. 50, tit. 1, n. 3*. It has been held by the American courts, not only that a minor having the domicil (there called settlement, but in this instance meaning the same thing) of its deceased father, does not lose it, but does not gain the settlement of the mother, even if she should acquire a new one by a second marriage; and this is another proof, if one were wanting, of the compulsory nature of an infant's domicil; *Winthrop v. The Inhabitants of Waltham*, Cush. 8, 327; but see *contra*, *Arnott v. Groom*, 9 Dec. of Court of Sess. 2 Ser. 142. In the American case it is supposed that there may arise such a state of circumstances, as that a person may have no settlement, as it is there called; but supposing that could be so with respect to a settlement according to the American law, it is very difficult to suppose that it could be so in regard to a domicil according to our law, for I consider it scarcely to be in the nature of things, according to the present state of the law, that a man should be without a domicil. The way in which the matter is treated is this: It is said that a legitimate child takes and follows the settlement of its father, if he has one; but, if he has none, then the settlement of the mother. It is the more difficult to suppose that a person may have no domicil; because it is also quite inconsistent with the general rule in this particular as to father and child, for a child always follows the domicil of the father, and the father, if he gain no other, must have a domicil *originis aut nativitatis*, which the child would follow, and therefore neither father nor child can be without a domicil.

The French law draws a distinction between birth and domicil, when it declares in the 76th article of the *Code*, that, "In the act of marriage shall be set forth the Christian names, profession, place of birth, and domicil of the married persons." But this is not inconsistent with the existence of a domicil of birth, which is a kind of *pis aller*, and may, through unnumbered changes of condition, be at last the only resort. In fact, this article of the *Code* refers probably to the presumption that when parties are of age to contract a marriage, one or both has gained a domicil for himself or herself quite independent of the *domicilium originis aut nativitatis*. The French law as to birth is very similar to

our modern law, requiring a register to be entered of the fact, with the names of the parents, &c., and if the birth take place on board of ship, the entry is made immediately it arrives in port, with the domicile of the parents, and this word occurs in almost every article relating to this subject; although I must admit it has a wider signification than with us. There is the same thing with respect to marriage; and the distinction is constantly preserved between domicile and birth. In the 79th article of the *Code Civile* it is provided that the act (or registry) of death shall contain, as far as can be ascertained, the Christian names, surnames, profession, and domicile of the father and mother of the deceased, and the place of birth. Now from these examples it appears evident that the word "domicil," although used, no doubt, in the French in the same sense as in the English language, has still in France also a much more general signification, and means literally a mere place of residence; but in the 81st article the word is used in the more limited meaning; for it is there declared that where a person shall die by a violent death, all possible information shall be obtained of the age, profession, place of birth, and domicile of the deceased; whereas, in the other articles of the *Code* the domicile of the parents is referred to, and not of the child.

A singular, and, as it was considered by the judges who decided it, a most difficult case was brought before the Scotch courts upon the subject of the domicile of a minor which I shall here consider. It is the case of *Arnott v. Groom*, 9 Dec. of Court of Session, 2nd series, p. 142, referred to above. The facts were these: Jane Stewart was born in India, her father (a Scotchman by birth) having died in India in the service of the East India Company. On her father's death her mother brought her (in her infancy) to Scotland, and they resided in that country for fourteen years. Being at this time fifteen years old she went with her mother to the continent, where she resided for two years. She then returned to Scotland, remained there for two months, then went to England, where she lived for three years, and then died there, having attained her majority, and being engaged to be married to a merchant of Bristol. After she left Scotland the first time, she never had any permanent residence, but resided in furnished lodgings and at hotels, and sometimes with friends; but when on the continent and in England her mother retained undisposed of the furniture which she had in her house in Scotland. Under these circumstances it was held that she had gained a Scotch domicile, before leaving that country for the first time (after residing there for fourteen years), and that this domicile remained her domicile to her death, and had never been lost by the acquisition of a new one, *animo et facto* in England, notwithstanding her residence there, and notwithstanding that she was under an engagement to be married to a gentleman resident in England a considerable time before she died. The *Lord Ordinary's* judgment has a note appended to it, in which he observes that, "Miss Stewart never had any residence separate from her mother, who was domiciled in Scotland, and left her furniture there when she went elsewhere. Had she died in pupillarity (under age), and before she was capable of exercising the right of choosing a place of residence, her mother's domicile must have been hers. She did not choose to live apart from her mother, and had she died in June or July, 1839, (having actually died in 1841), her domicile clearly would have been Scotch. A domicile once fixed cannot be lost until a new and different one be acquired *animo et facto*, and no such domicile was acquired by mere living in England. It was said that she was engaged to be married, and therefore it must be assumed that her intention was, when married, to reside permanently in England; but until actual marriage, when the domicile of the wife merges in that of the husband, there seemed no authority for holding that a mere promise

to marry could alter the domicile, whatever probable effect it might have on the future prospects of the party. Burge, on "Foreign and Colonial Law," 1—35. It is a settled rule that the intention to change a domicile is never to be presumed. "Pothier's *Introduc. aux Coutumes*," §§ 9 & 15; and Lord Fullerton observed that, "it was true India was her domicile of origin, but her only home was that of her mother, and as her mother's domicile was Scotch so was hers." In considering the question of the domicile of a minor, the case either of both parents being alive, or of an illegitimate child has been considered, in the one case, the minor following the father's domicile, in the other the mother's; but in the case just referred to, neither of those elements was to be found, and it was acknowledged that much difficulty was thereby created. The minor born in wedlock has that domicile which is that of its father at the time of its birth; it is therefore at once the *domicilium patris originis aut natiuitatis*, and there can be no doubt that, if both parents died *durante minoritate*, that domicile would remain the domicile of the minor until he or she attained his or her majority. If one parent survived, supposing that parent to be the father, no question would arise, because he has an independent domicile; and though he may constantly change it, yet it is within his own absolute control to do so; but suppose he pre-deceases his wife, her domicile, which was before compulsory, or not of choice, becomes at once independent, and she can acquire a new one, and in that respect, as a *feme sole*, stands in precisely the same position as a man. The only question then which could arise in a case like that of *Arnott v. Groom*, was, whether the minor once having acquired a domicile *originis et patris*, could lose that domicile, *durante minoritate*, by the change of the domicile of the surviving parent, it being certain that either parent who survives has the power of acquiring a new domicile. It was held, as we have seen, that such loss could occur, thereby laying down the rule that a minor can have two domiciles in succession, one of each parent, irrespective of the question of following the changes of domicile of each, which is a part of the ordinary law pertaining to the condition of minority. In the absence of authority it would certainly have been a bold thing for any text writer to lay down such a rule; but being laid down, I think it is very consonant with common sense and equity, having regard to the general principles governing this branch of British law.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

PRIVY COUNCIL.

Jan. 15.—A committee of the Privy Council sat to day in the Council Chamber to consider petitions against the ordinances issued on the 6th of August, 1859, and the 19th of March, 1860, by the Scottish Universities Commissioners, with reference to degrees in Medicine and Surgery in the University of Edinburgh from the Royal College of Physicians of Edinburgh, the Royal College of Surgeons of Edinburgh, the Faculty of Physicians and Surgeons of Glasgow, and the Royal College of Surgeons of England.

Also a petition from the *Senatus Academicus* of the University of Edinburgh in support of their rights and in opposition to the arguments of the Medical Corporations on the matter of the Ordinances of the Universities (Scotland) Commissioners of the 6th of August, 1859, and the 19th of March, 1860.

The Lords present were the Lord Chancellor, the Earl of St. German's, Secretary Sir George C. Lewis, Lord Cranworth, the Duke of Richmond, and the Right Hon. R. Lowe.

The Attorney-General and the Solicitor-General were in attendance as assessors.

Mr. R. Palmer was heard by their lordships, and was followed by Sir H. Cairns.

Jan. 17.—Mr. Rolt, Q.C., was heard for the Senatus Academicus of the University of Edinburgh.

COURT OF CHANCERY.

(Before the LORD CHANCELLOR and the LORDS JUSTICES OF APPEAL.)

Jan. 14.—*Cook v. Sturgis*.—This case came before the Court in the early part of last year on a motion for an attachment against Mr. Commissioner Law, of the Insolvent Court, for infringement of a writ of prohibition granted by Lord Chancellor Cranworth. The question turns upon the right of the Insolvent Court to direct the distribution of the surplus of an insolvent debtor's estate among his creditors under a second insolvency, notwithstanding that the Court of Chancery has held that Cook, the plaintiff in this suit, is entitled to such surplus as a purchaser for value. The fund is in the Insolvent Court. The prohibition inhibits Mr. Commissioner Law from distributing the money except upon the footing of Mr. Cook's deed; and the attachment asked for last year was in consequence of an order made by the Commissioner for dividing the fund among the insolvent's second set of creditors. This order was rescinded by the Commissioner and no attachment was issued.

Mr. Commissioner Law appeared this morning in person, and asked for a day to be named for the hearing of a motion to be made by him for having the writ of prohibition set aside, which writ, he stated, had obstructed him in the performance of his judicial duty for a period of four years.

(Before the LORDS JUSTICES OF APPEAL.)

Jan. 16.—*Draper v. the Manchester, Sheffield, and Lincoln Railway Company*.—This case came on by way of appeal from a decision of Vice-Chancellor Stuart, which involves an important question on the practice of the Court—namely, whether, when the common order is made for inspection of books by a party, his solicitor and agents, the party in whose favour the order is made is entitled to employ a professional accountant as one of the agents. Vice-Chancellor Stuart decided in the affirmative (*ante*, p. 87) and this was an appeal from that judgment.

Their LORDSHIPS, without disposing of the general question were of opinion that the accountant who had been appointed in this particular case was a gentleman who ought not to have been selected, and therefore that the order of the Vice-Chancellor must be discharged.

COMMON PLEAS.

(Sittings at Nisi Prius, at Westminster, before Mr. Justice BYLES and Common Juries.)

Jan. 14.—*Goodman v. Arden*.—The plaintiff, a house-agent, sought in this action to recover commission on the letting of a house and the sale of furniture in Lancaster-terrace, Regent's Park. The plaintiff was employed by the defendant to let several of his houses. The one in question was eventually let, and certain furniture in it sold to the tenant. The defendant was willing to pay the plaintiff's commission for the letting of the house, but not his claim in respect of the sale of the furniture, with which he said, the plaintiff had nothing to do. The whole question, therefore, was, whether the plaintiff was entitled to commission on the sale of the furniture.

Mr. Collier, in his address to the jury for the defendant, observed that if house-agents were entitled to charge after the rate claimed by the plaintiff, he (Mr. Collier) and many other gentlemen would do well to adopt that profession.

Mr. Serjeant Stee, in his reply, drew a ludicrous picture of the career of a barrister as contrasted with that of a house-agent. "Most of us," said he,—"at all events, I did—begin by taking a small room in the Temple, and half a clerk. As I got on I was advanced to the dignity of a whole boy—a very small one—whom his mother kindly permitted to attend on me for a very small salary. Eventually, it is true, I incurred greater expenses as I gained more fees; but a house-agent has to begin with an expensive establishment, and the difference between his business and that of a barrister is too manifest to admit of argument."

The learned JUDGE having summed up, the jury found a verdict for the plaintiff.

Jan. 17.—*Stewart v. Birch*.—The plaintiff in this case was a Miss Stewart, who sued the defendant, Dr. Birch, to recover

damages, and both parties appeared in person. Miss Stewart was about to address the jury, when Mr. Justice Byles interrupted her by saying that the record was a very singular one, and he could not understand it; the best way would probably be to have it read.

The extraordinary document began as follows:—"I, Ann Anna Marie Stewart Stewart (of Stewart), late of 9, Ann's-place, Sloane-street, Chelsea, S.W., plaintiff, sue Scholes Butler Birch, the defendant, of Kensington-gore Lodge, and 217, Piccadilly (in the parish of Chelsea); who has been summoned to answer me, and to enter an appearance within eight days at the office of the Court of Common Pleas, Chancery-lane, for that the defendant heretofore, to wit, on the 23rd day of Sept., 1860 (and may be previously) did publish of and concerning the plaintiff that she was 'bastardie maniacal,' being a false and scandalous libel, the defendant having addressed the plaintiff as 'illegitimate' re and issued judgment; the above organised and acted out against the plaintiff, who has suffered special damage as follows:—The special damage was alleged in this way. Administratrix of three wills of plaintiff's father's, mother's, and uncles, having suffered under leaving and leaving, and leaving, three lodging-houses ejected from by defendant's medical orders."

The defendant denied the charge. Miss Stewart addressed the court, but her statements were exceedingly unconnected.

Mr. Justice BYLES said as far as he could understand, Dr. Birch was charged with having published a libel, but there was no writing. The best thing was for the plaintiff to be consulted.

This course was ultimately adopted.

COURT OF EXCHEQUER.

(Sittings in Banco, before the LORD CHIEF BARON, Mr. Baron MARTIN, Mr. Baron CHANNELL, and Mr. Baron WILDE.)

Jan. 12.—*Read v. Storey*.—This case came before the Court last term in the shape of an appeal against the conviction of justices under the 3rd & 4th Vict. c. 61, relating to the sale of beer. The case is one of considerable public importance from the fact that for nearly 40 years beer has been sold in almost every village throughout the country at 1½d. a quart without a beer licence, with the sanction of the Excise, who were acting under an order of the Lords of the Treasury. The defendant relied upon the 12th section of the Act, under which he alleged he was at liberty to sell beer at 1½d. a quart without a licence. The Lord Chief Baron in delivering judgment said the case was clearly within the 13th section of the Act, namely, that the defendant had sold beer without a licence for so doing. That enactment was plain, and no exception ought to be implied to it without strong reasons, and the Court could see none. The conviction was right, and ought to be affirmed.

Conviction affirmed.

COURT OF PROBATE AND DIVORCE.

(Before Sir CRESSWELL CRESSWELL.)

Jan. 16.—*Gurney v. Gurney*.—In this case two petitions had been presented, one for a dissolution of the marriage, and another praying for a settlement of a portion of the respondent's property upon the children of the marriage.

Dr. Waddilove moved for his lordship's directions as to the manner in which the petition relating to the property should be heard.

His LORDSHIP said he could not order a case to be set down for trial which might never be in a condition to be tried. He could not assume that the petitioner would be able to establish his original petition. It was very inconvenient to have two separate causes pending, one relating to the dissolution of the marriage, and the other to the property. His lordship added that, in exercising the very extraordinary powers now vested in him with regard to property, it seemed to him that he should have to enter into inquiries without chart or compass for his guidance. By what rule, by what test was he to judge how much of a lady's property ought to be taken from her and given to her children? How was he to calculate the quantum?

Dr. Waddilove said it was left to the discretion of the Court.

His LORDSHIP said that that discretion must be exercised upon some principle. It was one of the most difficult and embarrassing kinds of authority that could be conferred upon a judge. One element in the inquiry would probably be what

the children had already, and how much their father was able to give them. He did not understand that the authority was conferred upon him for the purpose of punishing the delinquent wife. The object was to provide for the children. He should at present decline to order the petition for a settlement to be set down for trial.

CENTRAL CRIMINAL COURT.

(Before Mr. Justice BLACKBURN.)

Jan. 11.—During the trial of one Lewis Robert Poole for perjury committed by him in his examination before a commissioner in bankruptcy, a clerk in the telegraph office in London, who had been subpoenaed to produce the original of a telegraph message despatched from the company's office at Walsall, declined producing it without he was ordered to do so by his lordship.

Mr. Justice BLACKBURN said, it was a very proper regulation not to allow the messages that were given to them in confidence to be made public, but, although an attorney might claim his privilege, a telegraph company could not, and the witness must produce the message if he was subpoenaed to do so.

MANSSION HOUSE.

Jan. 12.—Application was made to the Lord Mayor by Mr. Martin, barrister, instructed by Messrs. Van Sandau & Cumming, for a summons against one William Henry Wells, of 172, Fenchurch-street, calling upon him to hand over to Messrs. Redfern & Alexander, of No. 6, Great Winchester-street, any letters he might have in his possession intended for them. It appeared that in September last, Mr. Wells took part of the house, No. 172, Fenchurch-street, and commenced trading under the style of Alexander Redfern & Co; that from some mistake the names of Messrs. Redfern & Alexander have been omitted from the Post-Office Directory; and that consequently, from the similarity of the names of the two firms, letters &c. intended for the latter firm were delivered at 172, Fenchurch street.

The LORD MAYOR thought that if the applicants were quite sure that letters intended for them had been sent to the house in Fenchurch-street, and they could identify them, he would be justified in summoning Mr. Wells before the Court to shew cause why he had not given them up, but under the circumstances disclosed, he did not consider it was in his power to assist the applicants.

Recent Decisions.

[*Equity*, by J. NAPIER HIGGINS, Esq., Barrister-at-Law; Common Law, by JAMES STEPHEN, Esq., LL.D., Barrister-at-Law.]

EQUITY.

MASTER AND APPRENTICE—JURISDICTION OF THE COURT OF CHANCERY—DEMURRER—OBLIGATION OF PRECEDENTS.

Webb v. England, M. R., 9 W. R. 184.

The principal question in *Webb v. England* was upon the jurisdiction of courts of equity in cases between master and apprentice; but other and incidental questions of importance also arose in the suit, and were considered at the hearing. Where a master improperly turns away an apprentice, has a court of equity power to compel the return of a proportion of the premium paid with the apprentice? There are several cases to be found in the reports in which questions similar in principle were involved; but it will be found that nearly all of them introduced some different element, as, for instance, the bankruptcy of the party against whom relief is sought. The only authority directly in point is *Therman v. Abell*, 2 Vern. 64 (decided A.D. 1688). There it was distinctly held that the Court has power to decree repayment of a proportion of the premium, where a master turns away his apprentice, although in that case "negligence and misdemeanours" were laid to the charge of the latter. But it ought to be mentioned that Lord Chancellor Jefferys, who in that case made the decree did so "the rather, because the indentures were not enrolled, so as the matter was not properly cognisable before the Chamberlain of London." Mr. Spence, in the first volume of his "*Equitable Jurisdiction of the Court of Chancery*," p. 698, upon the authority of a case decided in the reign of Philip and Mary (*Richards v. Whitney*, 3 & 4 Will. & Mary, 198)—before the

statute law much interfered with the relations of masters and apprentices—states that in those times the Court of Chancery was in the habit of making orders for the regulation of the conduct of apprentices according to *equity and conscience*. If any account were to be taken of that solitary case, it might be assumed that the Court would also enforce the equitable obligations attached to the position of master. But as from time to time the question of the relations of masters and apprentices assumed greater importance in this country, the subject was dealt with by Acts of Parliament—it being of a character very likely to attract the notice of the Legislature. At all events, there was an interval of a century between *Richards v. Whitney* and *Therman v. Abell*, during which no case involving the same question appears in the chancery reports; and for the next half century there is an entire absence of such cases. The precise question, however, was raised before Lord Hardwicke (A.D. 1739), in *Argles v. Heaseman* 1 Atk. 518, in which his lordship held that a court of equity has no jurisdiction to interfere in respect of the premium, where an apprentice has not from any cause served the whole of his time; and in that case the apprentice, alleging that he had quitted on being misused, Lord Hardwicke considered that this circumstance was not sufficient to give jurisdiction to a court of equity, as the question might be determined in an action at law. It does not appear whether the case of *Therman v. Abell* was in the knowledge of Lord Hardwicke when he arrived at this decision; but his lordship refers to the statute of 5 Eliz. c. 4, s. 35, relating to apprentices, as another reason why a court of equity should not assume a jurisdiction which the Legislature had committed to justices of the peace.

In *Webb v. England* the question was, whether the Court could compel a return of part of the premium to an apprentice who had, before the expiration of his time, been prevented from working by the master (as alleged) without reason? The premium, however, being £200, it appeared to be conceded that the case was not within the statutes which give jurisdiction to justices in cases between masters and apprentices. The relief sought by the bill was, first, cancellation of the articles, and secondly, a return of part of the premium; and there was an alternative prayer for specific performance of the contract of apprenticeship. Sir John Romilly, Master of the Rolls, would not decree that the articles should be delivered up to be cancelled; because the Court only made such decrees in cases of fraud, duress, or the like—where the instrument was void from the beginning. He also refused specific performance, upon the ground that adequate relief could be obtained at law, in an action for breach of covenant. The only question, then, that remained to be considered was, as to the jurisdiction of the Court in the case of master and apprentice; and his Honour feeling himself not to be bound by authority—which was so very meagre and conflicting—held that upon principle the Court had no jurisdiction to interfere, the case not being governed by those decisions which established the jurisdiction of courts of equity to decree a return of premium where, by reason of an accident (ex. gr., death or bankruptcy) the contract had been imperfectly performed. "This apportionment," said his Honour, "either in the case of damages, or as part of the premium, was to be obtained at law; and this Court could not interfere, unless it was found that the possession of the deed gave to either party an advantage."

There are several reported cases in which courts of equity have afforded relief by ordering the return of a portion of premium. It does so where, by reason of an accident, the contract in respect of which the premium was paid cannot be performed. The decisions of courts of law are not very uniform on this point; but those of courts of equity have been so. In *Ex parte Pranker*, 3 Ba. & Ald. 257; and *Ex parte Bayley*, 9 B. & C. 691, the former the case of an apprentice and the latter that of an articulated clerk, the right to a return of a portion of the premium was upheld. But in *Re Thompson*, 1 Exch. 864, the Court of Exchequer refused to order an attorney to repay any portion of a premium of 200 guineas, received by him with an articulated clerk, who died within a month after he was articulated. It was conceded that no action would lie, there having been no breach of contract, and the question was, whether the Court would interfere upon equitable grounds. The Court, however, refused, giving no reasons for its refusal, except that there were great difficulties in the matter. In some cases, courts of common law exercise such a jurisdiction—not merely upon the ground of the expediency of a summary jurisdiction for deciding differences between attorneys and their articulated clerks—but upon equitable and general grounds.

It has long been decided, that in a court of equity, upon the death of an attorney during the articles of a clerk, the estate of the attorney is liable to pay back a proportion of the premium. In *Newton v. Rouse* (1687), 1 Vern. 460, although the articles provided for the case of the death of the attorney within one year, nevertheless, having died under that period, the Court decreed his executor to pay back 100 out of 120 guineas premium. And so in *Hurst v. Tolson*, 16 Sim. 620, Sir L. Shadwell, V. C. E., decided that where an attorney to whom a clerk was articulated died before the expiration of the articles, the Court had jurisdiction to order part of the premium paid to the attorney to be repaid out of his assets. Upon that case coming upon appeal before Lord Cottenham, his lordship remarks upon the great dearth of modern authority upon the subject, and minutely discusses the principle involved in the case; bearing in mind, however, that the claim had been made in an administration suit, in which the Court sometimes decides upon claims upon which otherwise it might refuse to adjudicate. Independently of the right of the clerk under the covenant, there was a right arising from the transaction itself, the consideration for which the premium was paid having partly failed. "There is," said Lord Cottenham, "a premium paid for a risk not run, and money given in anticipation of a future benefit which is not enjoyed. In either case, the consideration failing, the money must be paid back again."

A similar question sometimes arises between members of a partnership, where one has paid to another a sum of money in consideration of the contract of partnership; and it is now well established that upon the bankruptcy of a partner, a premium paid by a co-partner in consideration of a partnership for a certain term, will, so far as the doctrines of a court of equity permit, be dealt with in a similar way. A court of equity will order that in taking the partnership account, the partner having paid a premium will be credited with a proportionate part, if not with the whole of such premium. *Akhurst v. Jackson* (1 Swans. 85), is, no doubt, an authority that where the partnership has actually begun, the contract has been performed, and the whole premium, or consideration money, is payable,—even where it is agreed that part of it is to be paid by instalments, some of which fall due after the bankruptcy of one of the partners had occurred. More modern decisions, however, have rejected this authority, and *Bury v. Allen*, 1 Coll. 589, and *Freeland v. Stansfeld*, 2 Sim. & Giff. 479, are express authorities to the effect that in such a case the Court will decree a return of a proportion of the premium; according to *Featherstonhaugh v. Turner*, 26 Beav. 382, even where there is no definite term of partnership, a person cannot, after receiving a premium from an incoming partner, immediately afterwards dissolve the business, retaining the premium; and in *Astle v. Wright*, 23 Beav. 77, where the partnership was for a term of years, before the expiration of which the partners disagreed, upon a dissolution of the partnership by the Court, it directed a due proportion of a premium to be returned to one of the partners who had paid it. "The rule," said Sir John Romilly, M.R., in his judgment in that case, "in which I have followed other judges, is this, that in the absence of any fraud or gross misconduct on either side, and where the continuation of the partnership has become impossible by reason of incompatibility of temper, or other causes springing from the parties themselves, and not accompanied by circumstances which are controlled by the contract, I have treated the premium as having been paid for the whole of the term of the partnership. I have apportioned so much of it as belonged to the period the partnership had lasted, and have ordered a return of the rest. Here, a premium of £1,000 (£500 paid down, and £500 by instalments), was to be given for a partnership of fourteen years, and, therefore, one fourteenth part of £1,000 is, in my opinion, attributable to each year."

In *Webb v. England* no great stress appears to have been laid upon the right of the plaintiff to a specific performance of the articles. Sir John Romilly, M.R., observes that "the Court could not compel an apprentice to work, or a master to teach," and in his judgment proceeds upon the sufficiency of the remedy at law. It may perhaps, however, be questioned whether damages would in all cases be a sufficient remedy to an apprentice who was wrongly deprived of the instruction of his master; or that courts of law have any measure for the injury which may be sustained in some such cases. It is obvious that an apprentice may have an interest not only in being instructed, but in the reputation of having been instructed, by a particular master, for the deprivation of which no adequate relief could be had at law. It can no more be said that one master may be as good as another, than that one piece of land may

answer the purposes of a purchaser as well as another piece which he has bought, and which, notwithstanding this argument, a court of equity will give him in specie. Of course, there is always very great difficulty in enforcing a contract which involves the continuance of personal relations between the parties, and the due performance of which requires that these relations should be maintained at least amicably; and it was mainly upon this ground, no doubt, that the Master of the Rolls considered that he could not decree specific performance of the articles of apprenticeship. The Court would not so enforce an agreement for a partnership, because it might be fairly considered impossible that any business could be properly conducted by a firm whose members were hostile to each other, and desired a disruption of the firm. Whether there is the same reason in the case of the apprentice of a manufacturer or engineer, is perhaps a question of degree rather than of principle.

A point of practice worth noting was also decided in *Webb v. England*. The defendant had answered, but submitted that the Court had no jurisdiction in the case, and claimed the same benefit from that defence as if he had demurred. That being so, the Master of the Rolls, although he decided in favour of the defendant and dismissed the bill, yet did so without costs, upon the ground that the defendant should have merely demurred.

This case, also, is a curious illustration of the difficulty in which the Court is sometimes placed in estimating the obligation of particular precedents. *Therman v. Abell* was, in the opinion of the Master of the Rolls, a "case exactly like the present;" while the more modern decision of *Argles v. Heaseman* was "a direct authority the other way." Now, according to the common understanding of the rule, Lord Hardwicke, in pronouncing his decision in the latter case, was bound by that of his predecessor in the former, the doctrine of which could not in point of theory be reversed, except by the House of Lords. Theoretically, therefore, the decision of Lord Jefferys would appear to furnish the rule of the Court in such cases: practically, however, when a long interval elapses between two conflicting decisions, the obligation of the earlier one is not considered as great as if the case had been comparatively recent; and judges deem themselves at liberty to weigh the reasons of both, unless indeed they feel either compelled by the superiority of the tribunal to submit to either decision.

COMMON LAW.

THE COMMON LAW PROCEDURE ACT, 1860—SECTION 34, HOW FAR RETROSPECTIVE—COSTS IN FRIVOLOUS ACTIONS.

Wright v. Hale, 9 W. R., Exch., 157.

It is believed that this is the first decision which has been reported upon the Common Law Procedure Act, 1860; and it turns upon the construction of one of its provisions with regard to which a variety of points may, and probably will, be hereafter raised. The present one affects in its principle other parts also of the Act, and is the same as has been usually raised with regard to important statutes which reform or change the previous law—viz., to what extent (if any) the Act is retrospective. Thus, shortly after the Procedure Act of 1852, that statute was held to regulate the manner of reviving a judgment which had been signed prior to its passing (*Boodle v. Davis*, 8 Exch. 351). On the other hand, in the question which arose as to whether an appeal from the judgment of the Court upon a point reserved before the Procedure Act of 1854, was rightly brought, it was held that the provisions of that Act, under which the proceedings by way of appeal were taken, could apply only to a point reserved after the passing of the Act (*Vansittart v. Taylor*, 24 L. J., Exch. C., 198), the decision in the latter case being grounded upon the general maxim of law, "Nova constitutio futuris formam debet imponere, non prateritis." In the present case, the question was upon the 23 & 24 Vict. c. 126, s. 34, which gives a new rule for costs in frivolous actions for wrongs—enacting that where a verdict under £5 is recovered, the plaintiff is to obtain no costs from the defendant if the presiding judge certifies, immediately afterwards, that the action was not really brought to try right besides the mere right to recover damages, and that the trespass or grievance in respect of which the action was brought was not wilful and malicious, and that the action was not fit to be brought. And a certificate to the above effect having been given at the trial, it was sought to be set aside by the plaintiff, on the ground that the action had been commenced previously to the passing of the Act, though tried afterwards. The plaintiff relied chiefly upon the legal prin-

ciple or maxim above given, and contended that the proceedings having once begun, the plaintiff had acquired a vested right to his costs, of which he could not be deprived, unless by the express words of an Act of Parliament. As to this argument, however, the Court remarked that the whole subject of costs was one of *practice*, not rights of parties *inter sese*, to which alone the constitutional principle which had been quoted applied; and, accordingly, refused to disturb the certificate which had been given.

DEVISE UPON A CONDITION, CONSTRUCTION OF.

Wright v. Wilkin, 9 W. R., Q. B., 161.

In "*Sugden on Powers*" (vol. i., p. 122, 7th ed.) it is in effect laid down that in most cases where an estate is devised in fee to A "upon condition" that he will do so and so, such a devise instead of conferring an estate upon condition (as by a deed at common law) which if broken will give the heir of the testator a right of entry, will be construed as a devise in fee upon trust, the performance of such trust being compellable by a suit in equity. This doctrine was considered and approved by the Court of Queen's Bench in the present case, in which the contrary construction of such a devise was relied upon by the plaintiff in an action of ejectment, as entitling him to oust a devisee, who (having taken possession of the estate devised to him) had neglected to perform the condition, namely, to pay certain legacies within a certain time after the death of the testator. The Court, in giving judgment for the defendant, commented on and approved of the above passage in Lord St. Leonards' work, and further observed, that though there were some legal terms which had an inflexible force, not to be gained, such, for example, as "heir-at-law," no such force had ever been ascribed to the word "condition," which was often used in contracts as equivalent to "term;" and that they were not disposed to extend the area of legal terms.

It is to be observed that the doctrine upon which the decision in this case proceeded, does not apply to where there are limitations over upon the conditions being broken.

CHURCH-RATE—QUAKERS—JURISDICTION OF JUSTICES.

Backhouse, Appellant, v. Bishopscarmouth, Churchwardens of, Respondents, 9 W. R., C. P., 162.

The general law as to enforcing a church-rate is well known. Any arrears to the amount of £10, and provided no question be raised as to the legal liability of the party assessed, may be recovered before two justices of the peace. If the arrears are larger, or the liability to pay be disputed, then the remedy is in the Ecclesiastical Court. In the particular case of *Quakers*, however, the sum that may be recovered before the magistrates is extended to £50; but the proviso with regard to a disputed liability is the same. This last proposition, indeed, has been denied in works of authority. Thus, in "*Prideaux's Churchwarden's Guide*" (7th ed., p. 176) it is said in effect, that the proceedings against Quakers are not under 53 Geo. 3, c. 127 (as in the case of other persons), but under 7 & 8 Will. 3, c. 34, which contains no provision excluding the jurisdiction of justices in cases of disputed liability; and that, consequently, in the case of Quakers the justices have always jurisdiction to the extent of £50. And this doctrine is adopted by Mr. Oke in the sixth edition of his "*Magisterial Synopsis*" (p. 816). The point, however, was directly raised in the present case, and decided against the jurisdiction of the justices. The validity of a rate was *bonâ fide* objected to by a Quaker who had been summoned for not paying them; and his objection was, that the vestry by whom the rate had been made was illegally constituted; but the magistrates declined to enter into the question, and made an order for payment, subject to a case stated under 20 & 21 Vict., c. 43. The Court of Common Pleas said that the words of the statutes themselves were doubtful upon the point, and that if their intention was to oust the magisterial jurisdiction, in case of a Quaker disputing the rate, such intention was but imperfectly expressed. But the Court held, nevertheless, that the jurisdiction impugned did not exist, on account of the general rule that the summary jurisdiction of justices ceases whenever a matter of title comes into question before them; and because nothing appeared in the Acts to exclude the application of this principle. In the case of *Rex v. Wakefield* (1 Burr. 487) the Court of Queen's Bench, under Lord Mansfield, gave a judgment which *inferentially* supports the view now taken of this matter by the Court of Common Pleas.

Correspondence.

MR. LOCKE KING'S ACT, 17 & 18 VICT. c. 113.—EXONERATION.

It appears to me that the heir is not entitled to have the mortgage debt paid off out of the personal estate.

The 17 & 18 Vict. c. 113, provides that when any person shall, after the 31st of December, 1854, die seized of any estate in any land, &c., charged with any sum by way of mortgage, and such person shall not by his will, &c., have signified any contrary or other intention, the heir or devisee shall not be entitled to have the mortgage debt discharged out of the personal estate; but the land shall, as between the different persons claiming under the deceased, be primarily liable—with a proviso saving the rights of the mortgagee, and a proviso that nothing in the Act contained shall affect the rights of any person claiming under any will, deed, or document, made before the 1st of January, 1855.

As the testator died after the 31st of December, 1854, the heir, by the express provisions of the Act, takes the land subject to the mortgage. The second proviso does not apply. The Act does not affect the rights of any person claiming under the will, and the rights of the heir are not saved, as he does not claim under any deed or document, but at common law.

In the recent case of *Woolstencroft v. Woolstencroft*, 9 W. R. 42 (decided on the 19th of November, 1860), the Lord Chancellor reversed a decision of V. C. Stuart, and held that a general direction by a testator in his will to pay debts, did not exonerate a devised estate from the mortgage debt. In giving judgment, the Lord Chancellor says that the Legislature had become desirous that mortgage debts should be paid by the heir or devisee who took the lands, unless the testator signified a contrary intention, and that such intention must be signified by express words, or by language intimating that he meant the heir or devisee to take the land free of the charge, and to throw the charge upon his personal estate.

In the case stated by your correspondent, I suppose the testator had not by his will used apt words to pass his estate in the land, as the mere fact of the purchase having been made subsequently to the making of the will, would not prevent the estate passing under it. C.

RENT CHARGE—WHEN IS IT "IN ARREAR AND UNPAID?"—MODE OF DEMANDING PAYMENT.

By the 29th section of the 23rd & 24th Vict., c. 93, if the rent charge in lieu of tithes is "in arrear and unpaid" for twenty-one days, and it shall be necessary for the person entitled, in order to enforce payment, to give notice of his intention to distrain, he may make a certain charge to cover the expenses of such notice.

The words "in arrear and unpaid," which govern the whole clause, are the same as are used in the 81st section of the 6th & 7th Will. 4, c. 71, authorizing the recovery by distress; but neither in that Act, nor in any of the Amendment Acts, can I find any clause prescribing any particular mode of *demanding* payment of the rent charge, or declaring in what manner or after what default it shall be deemed to be "in arrear and unpaid."

Such rent charge being, therefore, by the 67th section of the 6th & 7th Will. 4, c. 71, "in the nature of a rent charge issuing out of the lands charged therewith," it seems questionable whether it can be in arrear, except on *nonpayment* after a demand made of the tenant *on the land* by the person entitled, or by his agent regularly authorized by letter of attorney, which, according to the general law, appears to be the strict legal mode of demanding such a rent charge.

As the late Act has legalized a charge, it will, undoubtedly be resorted to more frequently than heretofore; and the point to which I have adverted has become more important—the ordinary application being only a letter to the tenant requesting his attendance at some place in the parish to pay the rent charge. But as the point materially affects the operation of the Tithe Acts and the practice of tithe owners, I beg to solicit the opinion of your correspondents on the construction to be put upon the words "in arrear and unpaid" in the section before referred to.

A SUBSCRIBER.

STAMPS ON NOTES PAYABLE ON DEMAND.

In the almanack published this year by the proprietors of the *Solicitors' Journal* I observe in the abstract of the seal of

stamps upon bills and notes, it is stated that the stamp for "any sum on demand" is *one penny*.

Some time ago, upon looking into the Act of Parliament I came to the same conclusion; but finding some difference of opinion on the point, I requested the stamp distributor of the town in which I live to apply to the proper authority in London to determine it.

The answer is, that on notes, &c., on demand, the duty is *an ad valorem*. The point is one of too much importance to be left in doubt; and, perhaps, the insertion of the above facts will tend, by the opinions it will elicit, to have the doubt solved.

N. M.

THE NEGRO EXTRADITION CASE

As to slavery being unable to exist in the free air of England and Scotland, see the ruling to that effect referred to in 3 Macq., House of Lords Reports 538. *Knight v. Wedderburn* is certainly prior to Somerset's case in England; it is reported in "Morrison's Dictionary of Scotch Decisions," p. 14,545.

Z.

LIMITED COMPANY—RIGHT OF A DIRECTOR, WHO HAS NOT PAID HIS CALLS, TO VOTE.

Limited Company.—In the company's deed, under "Votes of shareholders," "No shareholder shall be entitled to vote at any meeting, unless all calls due from him have been paid." Under "Proceedings of directors," "Questions arising at any meeting shall be decided by a majority of votes."

Is a director who has not paid his call, entitled to vote on a question arising at a directors' meeting?

G. H.

SOUTH AUSTRALIAN CONVEYANCING.

I think your readers should know that their professional brethren in South Australia are by no means enamoured of Mr. Torrens' scheme for the Registration and Transfer of Real Property. With, literally, two or three exceptions, every barrister and solicitor in the colony is opposed to it, not merely because it has for its object the entire destruction of conveyancing, as understood here, but because they are of opinion that it will not be found to work well in practice for the public. Whether this opinion be right or wrong, I, who have not examined the subject, cannot say; but it certainly should be known that it exists. At a public entertainment recently given to Mr. Torrens by some of his friends, in order to celebrate the passing of his Real Property Act, only one member of the legal profession was present, and the absence of his fellows was attributed by one of the speakers to the distrust and dislike which the lawyers, as a body, felt of the measure. Indeed, so averse are they to transacting business under its provisions that a new class of conveyancers, not professional men, has sprung up who do the conveyancing under the Torrens' Act, and are known as land brokers. Whether this kind of thing would suit Lincoln's-inn and the country solicitors is doubtful.

WILLIAM BRUCE.

Leeds.

The Provinces.

LEEDS.—At the Leeds Borough sessions on the 10th inst., the court was placed in a singular and awkward dilemma. Two courts had been sitting since the opening of the sessions, and as soon as an appeal had been decided, the recorder desired Mr. Maule, the assistant-recorder, to open the second court, but there were only two cases for trial, and the counsel in attendance were engaged in both, and their clients refused to allow them to give up their briefs. One of the cases (a misdemeanour) was sent over to Mr. Maule, but there were no counsel for the prisoners, and their solicitors applied that they should be heard by the counsel retained for them, namely Mr. Middleton and Mr. Foster, who were then engaged in the other court. The deputy-recorder called upon the counsel to appear, but they replied that they were retained in the only other case for trial, which, being a felony, must be taken first, and as the solicitors for the prosecution and the defence would not allow them to hand over their briefs, they could not go over. The question was then whether the prisoners in one or both cases should be tried without counsel. This course was objected to, and Mr. Blanshard, who was instructed to prosecute in the misdemeanour, said he could not

accede to a postponement or an adjournment, as he had been waiting the whole of the previous day for the trial. The prosecutors in the felony also objected to a postponement. The recorder said he could not waive the public convenience for the convenience of the bar, and the counsel instructed must hand over their briefs. It was replied that if they did so, no other gentlemen could undertake them without two or three hours examination and consultation. After some further discussion, and as the only means of getting out of the difficulty, it was arranged that the second court should be adjourned until one o'clock, and that Mr. Maule (the recorder being unwell) should sit in the first court. The practical result was that he had to take both cases.

LIVERPOOL.—At a meeting of the Council of the Liverpool Chamber of Commerce, held on the 7th inst., it was resolved, on the recommendation of the Commercial Law Committee, to solicit the Lord de Grey and Ripon to introduce a measure into the House of Lords for the compulsory registration of private partnerships, similar in principle to that brought forward by him in 1858. The same committee recommended that the council should memorialise the Chancellor of the Exchequer to bring forward a Bill for consolidating the Acts relating to stamp duties (the present Acts extending over a period of seventy years), all of which the committee stated it was necessary to consult in order to ascertain the validity or otherwise of documents subject to those laws.

Ireland.

THE GRANDBIRTH FRANCHISE QUESTION.

The Court of Registry Appeal, on the 15th inst., unanimously affirmed the judgment of the revising barristers for the city of Dublin, deciding in favour of the right by grandbirth to an inheritance of the freeman franchise.

Mr. Baron Greene has resigned his judgeship of the Court of Exchequer. It is believed that no arrangement has yet been made for filling up the vacancy.

Review.

The Conflict of Laws in Cases of Divorce. By PATRICK FRASER, Advocate. Edinburgh, 1860.

Many works have been written on the conflict of laws; but we are not aware of any writer who has chosen the harmony of laws for his title. Perhaps the terms law and harmony are too generally incompatible; at any rate, the writer of the present pamphlet, both in style and matter, manifestly prefers conflict to harmony. All writers, however, Mr. Fraser not excepted, treat the subject of international law with some degree of faith in a possible harmony, and aim at discovering the principles and maxims on which an universal intercommunion of law amongst civilized nations may be established. Amongst states which equally respect the rights of humanity, and adopt sound principles of social life, a perfectly harmonious communion of law not only may, but in a great measure does, exist; whilst with states where laws and institutions are barbarous and inhuman, no similar harmony can prevail, and conflicts of laws are inevitable. With a nation like the Chinese, it is difficult to treat even on terms of war; the only safe mode of dealing being to keep them at long range, and parley through the speaking trumpet. Amongst the United States of America, the institution of slavery in some States involves such conflicts with the laws of those States which respect the common freedom of humanity, as to endanger a federation compacted in all other respects by the strongest links of sympathy and interest; and the extradition case now pending affords a striking example of the difficulties which this unnatural institution produces, in the construction and fulfilment of treaties with foreign nations. The practice of polygamy amongst the Turks and other infidel nations, prevents all communion of law with the nations of Christendom on the subject of marriage, and probably renders it impossible for the latter to recognise any status amongst the former analogous to what is understood by marriage amongst themselves. So, likewise, whilst the English law regarded marriage as absolutely indissoluble, there could be no communion with other European nations on the

subject of divorce. The legalization of divorce has at once opened to our courts a new access to foreign jurisprudence, and an extensive province of international law from which they have hitherto been excluded. The large question as to the jurisdiction over persons of the English Courts to grant divorce, and as to the effect of the divorces of foreign courts in this country, are comparatively new to English lawyers. Little native authority is to be found on the subject, and this extensive chapter of international jurisprudence remains as yet to be written in the language of English law, and introduced to the practice of English tribunals.

Amongst the most important relations to be settled in this matter is, of course, that which is to subsist between the English jurisdiction, and that of the sister kingdom of Scotland. With this object, a Bill was introduced last session, first in the House of Commons, where it was dropped from pressure of business, and subsequently in the House of Lords, under the auspices of the Lord Chancellor. The chief clause in "the Conjugal Rights (Scotland) Bill," as it was entitled, proposed to enact that a decree of divorce pronounced by the Court of Session should dissolve the marriage throughout all her Majesty's dominions. A subsidiary clause was framed on the principle of establishing the general jurisdiction of the Scotch Court to divorce on the domicile of the parties, as regulated by the law of succession. Hitherto the Scotch Courts had exercised a far wider jurisdiction, the mere presence of the defender in the territory, amongst other grounds, being sufficient to render his married status amenable to the Scotch law. The Faculty of Advocates remonstrated against this sweeping inroad made upon the ancient law by the proposed Bill; and upon the motion of the Lord Advocate in the House of Commons, the above clauses were rejected, an amendment to which the House of Lords declined to accede.

The principle is universally admitted that the English law should henceforth recognize the validity of Scotch divorce; the inconvenience and anomaly of persons remaining husband and wife upon one side of the Tweed while they are separated on the other, being manifest to everybody. The controversy turns upon settling the limits of the jurisdiction of the Scotch Court, with a view to its decrees being effective throughout all British dominions. If the laws of the two countries are to be thoroughly amalgamated, which every well wisher of both countries would desire, the jurisdiction and causes of divorce should be made identical in both countries. If they are to be treated as the laws of independent States, whose decrees are to be interchangeably received on the usual terms of international comity, the jurisdiction in each must be founded on principles which can be accepted by both, in order to give their decrees a common validity in both countries. On this point of the jurisdiction there is at present an essential incompatibility between the national tribunals. The English law repudiates any foreign interference with a marriage celebrated in England, though it must be confessed that the new Divorce Court has commenced by asserting a very extensive authority over foreign marriages, and over persons domiciled abroad (see the cases of *Simorin v. Mallac*, 29 L. J. P. & M. 97, and *Deck v. Deck*, 29 L. J. P. & M. 129). The extreme limits of the English jurisdiction has on most points still to be settled. The Scotch Court is elder sister to the English, and has long ago come into full exercise of her powers, which are of the amplest possible extent. A stranger who sets foot over the border may be at once cited to defend a divorce suit. Forty days' residence justifies a citation left at his dwelling-house. A native born Scotchman can never exempt himself from the jurisdiction of the courts over his marriage statue, however far or fixelly he may have transferred his domicile and allegiance to another State; and he fact of adultery committed within the country alone gives jurisdiction to the courts to adjudicate upon the married status. Such claims are quite inadmissible by the traditional jealousy with which England watches over the marriages celebrated by her own law and between her own children. The science of private international law, as at present understood, is insufficient to reconcile the conflict, and, therefore, a legislative compromise seemed the last resource. The proposed Bill of last session was an attempt of this kind, and sought to establish definite domicile as the ground of jurisdiction over status. It seems certainly somewhat premature, with our present imperfect lights, to fix this principle with the stamp of legislative authority. It cannot as yet be said to be proved demonstratively as the scientific rule, though we may establish some plausible probabilities of being so. At any rate, English jurists can hardly expect their learned brethren in Scotland to

receive it, if the former are not willing to accept a similar restriction upon the jurisdiction of the English Court.

Mr. Fraser enters into this controversy between the English and Scotch laws, and the proposed legislative reconciliation, with much learning and with great ability. It would be well indeed if every important question of jurisprudence were discussed with the same accurate statement, profound knowledge, and clearness of argument. His work supplies comparative accounts of the English and Scottish laws of divorce, with extensive illustrations drawn from foreign sources, and a fund of varied and important information on the subject, which cannot fail to be highly serviceable when the matter is again brought forward, and should be read and studied by all who are desirous to form a judgment upon it. The style is forcible and pleasant, and the arguments used possess the great recommendation of being unmistakably clear. This quality has, perhaps, enabled us to see our way more readily to one or two points in which we differ from him.

We dispute altogether the analogy drawn by him, in common with others, between civil contracts and marriage. The latter, according to Mr. Fraser, may be appropriately included under the category of the Roman obligations *quasi ex contractu*, which we believe pointed to well known transactions of a totally different kind. Marriage is a status, and not a contract; and the jurisdiction of every State to determine the status of its own subjects is a matter of public law, and quite different in kind from the jurisdiction over civil rights, or the mere civil administration of justice. Again, we are not convinced of the soundness of the principle of Scottish jurisprudence, according to Mr. Fraser, of assimilating divorce to a punishment imposed by the criminal law. Scotland, it appears, cannot tolerate the scandal of the immorality of the sojourners within her borders, and, therefore, vindicates public decency by visiting them with divorce. The penalty for adultery in Scotland by the criminal law, is death. It is found either unnecessary or inexpedient to put the law in force against natives; but Mr. Fraser threatens that it will become necessary to do so against foreigners, English tourists included, if the present mode of punishment by way of divorce is taken away. He says:—"It is no doubt true that, in modern times, public opinion has not required the Lord Advocate to prosecute criminally the committers of adultery. But let a law be passed which shall render it impracticable or impossible to obtain relief by divorce, and then inevitably the reaction will come, and the Lord Advocate will be called upon to put in motion a machinery that will obtain divorce in a more unpleasant form. Our present system, which dissolves the marriage of an Englishman for his adultery in Scotland, may not be agreeable south of the Tweed; but the hard expressions which are used towards our law in this matter, would receive no small modification if, instead of being divorced, the adulterous Englishman were hanged. Suppose the Lord Chancellor carried his clause to-morrow, can there be the least doubt that this loophole of relief being stopped up, a new one would be found, under the existing law, the propriety of enforcing which, in such circumstances, would be less open to question than if it were tried at present?"

Mr. Fraser is a zealous advocate for Scotch law, and is not willing to abate one jot of its pretensions. He claims that a Scotch decree of divorce, pronounced according to the law at present in force, shall be universally respected. He deals hardly with English judges and lawyers for their non-compliance hitherto, and lectures them upon their better behaviour for the future. "The time has come for the English courts to robe themselves in the dignity of a graceful repentance, and in the presence of the profession in Europe and America to admit their error." We are inclined to honour the zeal of a Scotch advocate in favour of the venerable jurisprudence of his country, and to regard it with indulgence even where it verges beyond the limits of moderation. In the following passage, Mr. Fraser surely overrates the feelings entertained towards his country in this friendly kingdom:—

"Will English people never forgive Bannockburn? On the north side of the Tweed, their old enemies have long forgiven, though not forgotten. Flodden! No Scotchman, indeed, ever thinks of the one without elation, or of the other without tears. But there is in this sensibility none of the insolence of triumph, nor the rancour of undying revenge! The case appears to be otherwise in England. The judgments of the Supreme Courts of a friendly kingdom are treated with a discourtesy that would be inexcusable in reference to the decisions of a Turkish *cadi* or a Texan slave court."

We cordially subscribe to Mr. Fraser's practical conclusion.

which cannot fail to recommend itself to all who are capable of appreciating the difference, upon such delicate ground as private international law, between the pure scientific fabric of jurisprudence, and the clumsy workmanship of parliamentary tinkering:—"But even supposing that the judgments of the supreme courts of Scotland are in England held as of no more value than those of Turkey, must we immediately resort to legislation? Can it, with any sense of propriety be said, that the subject is ripe for codification when we find as many different expositions of it as there are states, and when the examples of codification are the great beacons of error? The matter must be first reasoned out in the courts, and the decisions must be tested by experience. Modifications, too, of old doctrines will result from the increased intercourse of these days; and much may be done when the narrow spirit of national rivalry and jealous antipathies shall still more recede before advancing civilisation. The time is not far distant, when the Christian precept of doing to others as we would that others should do to us, shall be held applicable to nations as to individuals, and that it is both a judicial error and a national misfortune to annul foreign judgments (untainted by immoral or irreligious elements), merely because they happen not to be in unison with local opinion."

ON THE BANKRUPTCY LAW OF ENGLAND AND SCOTLAND.

At the meeting of the Social Science Congress held at Glasgow, last Autumn, Mr. Sheriff Bell read the following paper:—

My object in this paper is to point out the leading differences between the bankruptcy law of England and Scotland, as regulated by statute, and to consider, as briefly as possible, in what particulars the one system is superior or inferior to the other.

A striking dissimilarity as regards the judicial machinery employed in the administration of bankruptcy meets us at the threshold. In Scotland, bankruptcy is administered in the ordinary courts as a portion of their ordinary jurisdiction; in England, separate courts with a separate and numerous staff, are appropriated to this particular jurisdiction. In Scotland, what is there termed sequestration, and in England, "adjudication of bankruptcy," may be awarded, since 1856, not only by the Court of Session, but by all the Sheriff Courts, which are empowered to exercise the same judicial functions in bankruptcy within their own jurisdictions as the Court of Session may do throughout all Scotland—under this safeguard, that the Sheriff's deliverances and judgments are, with certain statutory exceptions, subject to the review of the Supreme Court. Since 1856 not more than twenty per cent. of the Scotch sequestrations have been awarded in the Court of Session, and at least eighty per cent. have originated in the local courts, which are situated in the immediate localities where the bankrupt and the bulk of his creditors reside. Even the twenty per cent., though awarded, are not subsequently conducted in the Court of Session, but are, on the contrary, immediately remitted to the particular Sheriff Court considered most convenient for the creditors, and it is in that Court exclusively that the trustee is confirmed, and the bankrupt examined, and in general discharged. By these arrangements bankruptcy is included in the jurisdiction of the Courts without making any appreciable demands upon the public revenue, and without carrying off, for the support of a judicial establishment, any of the assets of bankrupt estates. Neither has it been found that this system has given rise to any delay or confusion in the despatch of judicial business. In Glasgow, for example, there are, upon an average, not fewer than one hundred and sixty sequestrations awarded in the course of a year; and these, with all the judicial procedure arising out of them, are disposed of in the Court of the resident Sheriffs, equally with all the extensive mass of business included in their ordinary civil, criminal, and miscellaneous jurisdiction.

After referring to the inconvenience and expense of English courts of bankruptcy, and the mode in which those expenses are provided, Mr. Bell proceeded as follows:—

Whatever settlement of these matters may be ultimately come to, one thing is evident, that a chief difficulty in the way of improvements in the law of bankruptcy in England is a financial difficulty, and that this has arisen from the law being administered by a too complicated and expensive machinery, involving the maintenance of a separate judicial establishment.

No such difficulty has ever existed in Scotland. As already stated, little or no demand is here made on the general expenditure of the country, and only an extremely moderate one on the estates of debtors, to secure for them the benefit of judicial custody and supervision. The Attorney-General paid a just compliment to the Scotch system. He said:—"I painfully contrast, as far as our administration is concerned, our system of bankruptcy with the County Court system in Scotland. The Scotch have adhered to the old original Saxon institution of Sheriff Courts, and they have a system of administration in bankruptcy which works extremely well, the expense of which is represented as not exceeding 12 or 13 per cent., and which is carried out in the counties, chiefly by the Sheriff Courts, that answer every purpose. I should be glad if I had it in my power to devise a plan for removing the whole of the District Courts of Bankruptcy, and vesting the administration entirely in the County Courts." The Attorney-General confessed that the main reason for his not proposing this change was, that he would need to give the Commissioners and other officials full retiring allowances, and that he had no available means for doing so. This seems something tantamount to saying that the very magnitude of the evil is the reason that makes its continuance imperative.

England not only labours under the burden of this complicated machinery for the administration of bankruptcy, but possesses what to us in Scotland seems, perhaps, still more anomalous—another and separate court and system for the administration of insolvency. Insolvent debtors, who are not traders, have no remedy but the Insolvent Court, and the remedy there provided for them is only attained through the medium of imprisonment, and is, after all, a partial one. The future property of the insolvent discharged by the Insolvent Debtors' Court, still remains liable to his creditors; and in this respect the process resembles that which in Scotland is called *cessio bonorum*. It is difficult, however, to see, as was well pointed out by the Attorney General, why, if the debtor be honest, he should not in all cases be entitled to an absolute discharge, or why, under the one system, he should be entirely emancipated, and sent out to begin the world again, and to have the full benefit of his future industry; and under the other, to have his subsequent earnings and acquisitions loaded with the burden of his past liabilities. It was accordingly proposed by the Attorney-General—1st, To amalgamate the Insolvent Debtors' Court with the Court of Bankruptcy; and, 2nd, That in future no discharged or certificated bankrupt should hold his subsequently-acquired property liable for debts contracted before his bankruptcy. In Scotland, as actions of *cessio* are conducted before precisely the same tribunals as bankruptcies, and occasion no additional expense, no harm is done in continuing them as competent forms of procedure, it being generally in the option of the debtor to have his affairs wound up under the law of bankruptcy, if he prefers it. In point of fact, the facilities under the Scotch Bankrupt Act are now so great, that the number of *cessios* is much diminished; and, indeed, the more limited benefit of *cessio* is rarely now sought for except by very small dealers, whose principal object is to protect their persons against the diligence or incarceration, and who do not expect their future means will ever be such as to attract the attention of old creditors.

The Insolvent Debtors' Court no doubt owes its origin to the fact that in England the Court of Bankruptcy has never been open to any but traders. No such restriction now exists in Scotland. Under the Bankruptcy (Scotland) Act of 1856 (19th & 20th Vict., cap. 79), the privilege of sequestration is limited to no class, but is extended to all who can incur debt; whereas, in England it is only persons deemed to be traders, according to an enumeration of traders given in the Bankrupt Law Consolidation Act of 1849 (12th & 13th Vict., cap. 106), who are liable to be made bankrupts and to obtain an adjudication. Not only are all professional men, all landed proprietors, and all persons living on their own means, excluded from the operations of the Act, but such persons as farmers, graziers, labourers, or workmen for hire, and all members of, or subscribers to, any incorporated, commercial, or trading company established by Charter or Act of Parliament. It has been generally felt in Scotland that there is no sufficient reason why judicial facilities for winding up a bankrupt's estate should be confined to the class called traders, and the extension of the right to all debtors has been considered a wise measure, of which use has been largely made since 1856. In the Attorney-General's Bill the distinction was likewise abolished in England. The 152nd section provided that "all debtors, whether traders or not, shall be liable to be declared and adjudged bankrupt, and be subject to the provisions of this Act, and in the proce-

dure to obtain adjudication, it shall no longer be necessary to show any trading on the part of the debtor." In the House of Commons this proposed enactment was strongly objected to; but the opposition arose not so much from a dislike to the principle on which it went as from its being thought that the Bill failed to make a sufficient distinction between acts of bankruptcy which might be committed by traders and non-traders.

Both in England and Scotland there are certain acts and circumstances, the doing or concurring of which make a man a bankrupt, or, in Scotch phrase, a notour bankrupt, and warrant a petition for sequestration at the instance of a creditor or creditors. In Scotland these acts and circumstances are strictly limited to such conduct on the part of the debtor as affords the strongest presumption of his being unable to extricate himself from legal diligence by payment of his debt. He must, for example, be shown to be insolvent, and to have been charged for payment, and to have been imprisoned or apprehended, or to have absconded, or taken refuge in the sanctuary, or to have had his moveable effects pointed, or heritable estates adjudged, or to have failed to loose or discharge an arrestment used against his goods. But in England various acts, which are in themselves harmless or indifferent, are held to be acts of bankruptcy, if done "with intent to defeat or delay creditors." It is often, however, difficult to ascertain with what intent an otherwise indifferent act has been done, and the same presumption will not always arise in the case of a trader and non-trader. Thus, departing the realm, or remaining abroad, departing from one's dwelling house, or absenting one's self from it, beginning to keep within house, conveying property, &c., are in England acts of bankruptcy, if done "with intent;" and, in as far as traders are concerned, this test is perhaps fair enough, for a trader cannot, in ordinary circumstances, remain forth of the realm for any long period, or absent himself from his ordinary dwelling-place, or keep exclusively within it, or gratuitously convey away property, without giving rise to the presumption that he is about *cedere foro*. But the same observation does not apply to many classes of non-traders, so that when the Attorney-General proposed simply to alter the word "trader" as contained in the Consolidation Act of 1849, into "any debtor," it became evidently necessary either to make a distinction in what were to be considered acts of bankruptcy, or to modify materially the existing Acts. This last course was adopted but, in the opinion of some, not to a sufficient extent. Country gentlemen and others took alarm, and maintained that some of the Acts still retained as tests of bankruptcy might be so in a trader, but did not admit of the same construction in the case of a non-trader. It will not be difficult, it is conceived, to obviate this objection; and, as the obtaining an adjudication of bankruptcy is really a privilege to an honest insolvent, it is to be hoped that the law of England will be assimilated in this respect to that of Scotland, by extending the provisions of a Consolidation Act to all and sundry.

(To be continued.)

CANADA EXTRADITION CASE.

We extract the following from a recent communication addressed to the *Times*:—

"The Canadian statute of extradition is awkwardly expressed. It speaks of "evidence sufficient to justify an apprehension," &c., and of "evidence sufficient to sustain a charge," &c., while the present case, though arising on that statute, has in truth nothing to do with the law of evidence, all the facts having been admitted, and no question having arisen as to the manner of proving them. If cleared from these expressions, so calculated to mislead, the statute in substance provides that a person charged in Canada with committing in the United States, or any of them, any of the offences mentioned in the treaty of extradition (and among others murder), is to be brought before a judge or justice of the peace in Canada, to the end that the evidence of his criminality be heard and considered, and that if on such hearing the case proved (not the evidence, as the statute has it) be deemed sufficient by law to sustain the charge, according to the laws of Canada, the judge or justice shall certify the same to the Governor, in order that a warrant may issue upon the requisition of the proper authorities in the United States, or any of them, for the surrender of the person charged. The question, therefore, now is, whether the case proved ought to have been deemed by the judges in Canada sufficient by law to sustain the charge according to the laws of

Canada; for if it ought not, then their judgment should be set aside, and no warrant upon it should issue. But it seems difficult to resist the argument that their opinion upon this point was erroneous; for, according to the laws of Canada (which are for this purpose the same as the laws of England), the person charged was no slave, but a freeman, and therefore could not be lawfully seized and detained; and any person attempting to do so, on the ground that he was a fugitive slave, might be lawfully resisted, even unto death. The adverse view seems to proceed upon the ground that it is impossible to distinguish this case from one in which a person in the legal custody of a gaoler escapes by inflicting upon him a mortal wound; but there is surely the distinction that in the present case the party charged was not (according to the laws of Canada) escaping from a person having the right to detain him, but a person vindicating his right of freedom against one by whom it was illegally obstructed."

Another correspondent, writing on the same subject says:—

"The treaty binds us to deliver up a man who, as shown by *prima facie* evidence, has committed murder. But the treaty does not define "murder," and does not say whether the word, as used in the treaty, is in any given case to mean "murder" as defined by American law, or "murder" as defined by British law. It seems to have been assumed by the Canadian Courts that it must mean "murder" according to the municipal law of the place where the act was committed. But has not this assumption been too hastily made? Consider to what it would lead. It would make the international law of the two countries dependent on the specialities of local institutions and of municipal legislation, and even on the freaks of municipal draughtsmanship. If an American Legislature chose, for purposes of municipal legislation, to give to the crimes mentioned in the treaty a non-natural sense, it would bind us, whatever may have been our intention in the treaty, to give to the words in the treaty that absurd sense, and to deliver up prisoners accordingly."

Another correspondent of the same journal writes to the following effect:—

"Any contract between two individuals which could be strained to compel one of them to perform an act of injustice to a third party, would be declared by any court of law null and void. If, therefore, the treaty with the United States is so framed as to bind our Government to do an act of injustice to Anderson, such treaty is, *pro hac vice*, null and void.

"By all means let the case be decided by law; but if the decision is adverse to Anderson, I hope our Government will have sufficient moral rectitude to say to that of the United States:—'Our treaty with you has been so erroneously drawn up, that it enforces upon us an act of injustice. Any penalty for such an error must fall upon us, and not upon Anderson. We will never extricate ourselves from a political dilemma by sacrificing an innocent man.'"

We have received the following from correspondents of our own on the same subject:—

"It is to be hoped that the important question of a revision of our colonial laws and practice, as well as the prerogative jurisdiction to send a *habeas* from England to a colony to be there executed, will now receive discussion and decision. We speak from experience of the necessity for an entire revision of our colonial machinery as well as law.

"Having been engaged in the St. Helena case we may state that the *habeas* was originally granted to us at chambers by Mr. Baron Watson. The officials of the "crown office," who "rule the judges," refused to issue the writ on that fiat. The Court of Queen's Bench was moved by Mr. Solly Flood to direct them, and then suggested a substantive motion for the *habeas*. Lord Campbell was the first to countenance a writ of error, as well as the *habeas*, in that case after an interregnum of four centuries; and the great research of Mr. Flood was crowned with success in rescuing an innocent captain from a conviction, as unjust as it was illegal, and which his perseverance alone, without fee or reward, accomplished.

"There is this striking difference between that case and the slave case,—that was a conviction and a writ of error; this is not merely a fugitive slave case but a charge of murder, with an extradition treaty. Mr Flood's researches are now available for the important discussion of the question, which was avoided in the St. Helena case by a pardon.

"Perhaps these remarks may be worth insertion.

"NASH & NASH.

"Adelphi-chambers."

Admission of Attorneys.

NOTICES OF ADMISSION.

HILARY TERM, 1861.

[Candidates' names appear in Small Capitals, and Solicitors' to whom articulated or assigned in Roman type.]

QUEEN'S BENCH.

BARNARD, JOSEPH GEORGE.—G. E. Williams, Cheltenham.
 GREEN, OLIVER.—W. R. Maynard, 57, Coleman-street, City.
 LINDO, GABRIEL.—W. B. Cooper, Gray's-inn; N. Lindo, King's Arms Yard.
 MELLOR, WILLIAM CHANDLEY JOHN.—W. J. Mellor, Huntingdon; J. S. Torr, 38, Bedford-row.
 PRIMROSE, JAMES.—W. H. Rees, 8, Copthall-court.
 WEBBER, EDWIN HUISSH.—John Huish Webber, Caroline-street, Bedford-square.
 ATKINSON, JOHN.—E. B. Steel, Cockermouth.
 BESWICK, GEORGE.—J. W. Blakeley, 26, Nicholas-lane.
 BOND, JOHN.—M. Myres, Preston.
 BROWN, CHARLES ABRAHAM.—J. H. Todd, Winchester.
 BROWN, GEORGE.—W. H. Brown, Chester.
 BURNAND, JOHN THOMAS NEWMAN.—E. Elias D. Grove, 8, Angel-terrace, Islington; J. G. Hick, 13, Copthall-court.
 COLLINS, HENRY.—P. Smith Cox, 19, Coleman-street.
 COLLINS, JOHN.—John Atkinson, Whitehaven.
 COOKE, WILLIAM.—M. R. Levenson, 12, St. Helen's-place, Bishopsgate; W. W. King, 35, King-street, Cheapside; G. Holmer, jun., 24, Bucklersbury.
 DAVIES, THOMAS.—T. J. Nelson, 2, Hatton-court, Threadneedle-street.
 DUMBLETON, HORATIO B. A.—J. T. Bolton, Solihull, Warwick.
 FOX, ALFRED.—J. E. Fox, 40, Finsbury-circus; J. E. Fox, jun., 40, Finsbury-circus.
 GOLD, CHARLES EDMUND.—N. C. Gold, 2, Whitefriars-street.
 GREETHAM, THOMAS.—F. J. Jessopp, Derby.
 HARMAN, JOHN.—C. Harman, High Wycombe; W. Pulley, Edmonton.
 HEWITT, JOHN FISHER.—G. Armstrong, Workington; W. Bell, Bow-church-yard.
 HOLT, THOMAS.—J. Rowe, Liverpool.
 JONES, GEO. AP EYTON PARRY.—F. Poits, Chester.
 LITTLE, DAVID.—J. Taylor, Bradford.
 MAYNARD, CROFTON.—T. C. Maynard, Holywell-hall.
 MINSTER, ARTHUR.—R. H. Minster, Coventry.
 PHILPOT, HENRY.—Sharpe, Jackson, and Palmer, 41, Bedford-row.
 PICKERING, GEORGE EDWARD.—G. Spink, Howden, York; J. Woods, Howden, York; R. M. Benson, Aylesbury.
 REID, AUG. HENRY.—H. Lloyd, 26, Milk-street, Cheapside.
 SMITH, CH. AUGUSTIN WOLSTON.—C. A. Smith, Greenwich.
 SMITH, LEIGH DELVES BROUGHTON.—H. Smith, Richmond, Surrey; C. J. H. Fletcher, 31, Abingdon-street.
 STANILAND, CHARLES HENSON.—E. Atkinson, 22, Bouverie-street.
 STORER, EDWIN.—W. K. Taylor, Manchester.
 THOMPSON, JOHN.—W. Hutchinson, Stanhope.
 VINCENT, JACOB, jun.—J. Layton, 8, Ely-place, Holborn.
 WYATT, GEORGE HARVEY.—J. H. Hearn, Newport; J. A. Mew, Newport.

APPLICATIONS FOR RE-ADMISSION.

Last Day of Hilary Term, 1861.

Heron, Joseph, Manchester.
 Kell, William Ghymes, 112, Westbourne-terrace, Hyde-Park.

APPLICATIONS TO TAKE OUT OR RENEW CERTIFICATES.

Cross, William Henry Wright (on the 21st January), 44, St. John-street-road.
 Lucas, Arthur (on the 18th January), Darlington.

Last Day of Hilary Term, 1861.

Beales, John Edward, 5, Queen's-place, Southsea; and Portsmouth.
 Crosse, Robert Frederick, Kensall-green; Otago; Melbourne; Argyle-square; and Bayswater.

February 1, 1861.

Bray, Philip, Bromyard, Hereford.
 Budd, Thomas Hayward, 33, Bedford-row; and 13, Norfolk-crescent, Paddington.
 Bullivant, George Haslehurst, Lewisham; and Greenwich Church, Francis, Hungerford, Berks.
 Cocks, Richard, 5, Bickerton-terrace, Hampstead; Melbourne; Belle Vue-terrace, Hampstead-road; and Bellsizes-lane, Hampstead.
 Derry, William Smith (Judge's Order), Launceston.
 Espinasse, Isaac, 11 and 23, Calthorpe-street, Gray's-inn-road; and Rugeley.
 Fogg, William, 73, Hall-street, Greenhays, Lancaster.
 Fortescue, William Crawford, Plymouth; and 17, Great Coram-street.
 Fowler, William, Devonshire-place, Northfield, Worcester.
 Gregg, Edwin, Ledbury, Hereford.
 Hawkins, Robert Samuel, Oxford.
 Jenkins, Rees Newton, Newton Nottage, Glamorgan.
 Lanwarne, Thomas, Hereford.
 Littlewood, John William, 132, York-road, Lambeth.
 Lobb, Joseph Stratton, Southampton; and 58, Brompton-crescent, Brompton.
 Mares, Charles, 5, Biliter-street, London.
 Phillips, Henry, Crowle, Lincolnshire.
 Read, David, 82, John-street, Tottenham-court-road; and 2, Bury-place, Bloomsbury.
 Scott, George William, 64, Blackman-street, Borough; Great Dean's Yard, Westminster; and Tufton-street, Westminster.
 Simmons, George Francis, 18, Dorset-place, Middlesex; and Portsmouth.
 Warrall, Frank, 1, Clarendon-villas, Clarendon-road; and 28, George-street, Portman-square.
 Webb, Doran, Langley, near Slough, Bucks; 2, Norland-square, Notting-hill; and 7, Maida Hill East.
 Williams, Hugh, Ferry-side, Kidwelly; and St. Clears.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Monday, January 21.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, January 25.

At an examination of the students of the inns of court, recently held at Lincoln's-inn Hall, the Council of Legal Education awarded to Mr. Henry Ludlow a studentship of fifty guineas per annum, to continue for a period of three years; to Messrs. Deane Parker Pennethorne, Joseph Greene, and Lewis Morris, certificates of honour of the first class; and to Messrs. Charles Henry Blake, Frederick Tomkins, James Henry Ramay, Bernard Cracroft, James Neilson Underwood, and Frederick James Quick, certificates that they have satisfactorily passed a public examination.

Court Papers.

Queen's Bench.

NEW CASES.—HILARY TERM, 1861.

SPECIAL PAPER.

Demurrer.	Shadforth v. Cory and Others.
Special case.	Prior and Another v. Laming.
Demurrer.	Gorton v. Hall.
County Court App.	Smith and Another, Executors, v. Badger.
Demurrer.	Langdon v. Heath.
Award.	Garton and Another v. The Bristol and Exeter Railway Co.
Demurrer.	Seaward and Others v. Rolt.
"	Harris and Wife v. Conner and Wife.
"	Lee and Another v. The Anglo-French Steam Ship Co. (Limited)
"	Wood and Another v. White.
"	Smeed v. Bunn.

Spring Circuits of the Judges, 1861.

BRANWELL, B., will remain in town.

Midland.

Sir A. E. COCKBURN, Bart., and CROMPTON, J.

Home.

Sir W. ERLE and WIGHTMAN, J.

Norfolk.

Sir F. POLLOCK and WILLIAMS, J.

Western.

MARTIN, B., and WILLES, J.

Northern.

HILL, J., and KEATING, J.

Oxford.

BLACKBURN, J., and WILDE, B.

North Wales.

CHANNELL, B.

South Wales.

BYLES, J.

Yesterday afternoon a fire occurred at No. 13, King's Bench Walk, Inner Temple, which occasioned very serious damage to the chambers in the occupation of Sir David Dundas, Mr. T. H. Patteson, and Mr. R. Ingham. Sir David Dundas, we are informed, is a very severe sufferer by the event. The whole of the fourth floor and the roof of the building are entirely destroyed, and the lower part much damaged by water. Considerable injury was also done to No. 12, King's Bench Walk; two rooms being greatly damaged by the fire, and other parts of the premises by water. The exertions of the fire brigade happily prevented any further extension of the flames.

RAILWAY DEPOSITS.—The deposit of 8 per cent. on the estimates of all the new railway Bills about to be brought before Parliament was lodged on the 14th inst. to the credit of the Accountant-General of the Court of Chancery with the Bank of England. The total amount is supposed to be between £1,000,000, and £1,400,000; of which about half was supplied in cash and the remainder in Stock and Exchequer-bills.

From a number of statistics relative to Assurance Companies published in the *Assurance News*, it appears that since the year 1844, no fewer than 580 companies have been projected, of which 262 have been formed—that during the same period 233 companies have ceased to exist, and that during the year just ended six companies were formed; while eight were merged in other companies, one got into the Bankruptcy Court, and two went into Chancery to be wound up.

"The great task of editing and printing the materials of English History—undertaken by Sir John Romilly" says the *Athenæum*, "goes on famously. At the end of the year we count no less than twenty separate works, twenty-five volumes, of more or less value, and all original—adding thousands of new details to our knowledge of the historical life of our ancestors. The new year promises to be not less rich than the past."

Lord Brougham has passed through Paris, *en route* for his seat at Cannes, where his lordship intends remaining until just before the meeting of Parliament.

Births, Marriages, and Deaths.**BIRTHS.**

DENMAN—On Jan. 15, the Hon. Mrs. George Denman, of a son.

DICK—On Jan. 15, at Edinburgh, the wife of Abercromby R. Dick, Esq., Advocate, of a daughter.

DUFFIELD—On Jan. 9, at Chelmsford, the wife of William Ward Duffield, Esq., Solicitor, of a son.

MARRIAGES.

BIRON—INDERWICK—On Jan. 10, Robert Biron, Esq., of Lincoln's Inn, Barrister-at-Law, to Jane Eleonor, daughter of the late Andrew Inderwick, Esq., R.N.

HILL—CLARK—On Jan. 10, Albert Hill, Esq., son of Edward Hill, Esq., of Bruce Castle, Tottenham, and nephew of M. D. Hill, Esq., Recorder of Birmingham, to Henrietta, daughter of Thomas Clark, Esq., of Netherwood, near Farncombe, Surrey.

JONES—MYERS—On Oct. 23 last, at Halifax, Nova Scotia, John Matthew Jones, Esq., of the Middle Temple, Barrister-at-Law, son of the late Rear-Admiral Sir Charles T. Jones, of Fronsfruth, in the county of

Montgomery, to Mary, daughter of Colonel W. J. Myers, late 71st Regiment, Highland Light Infantry.

SCOTT—HOWARD—On Jan. 7, James R. Hope Scott, Esq., Q.C., to Lady Victoria Elizabeth Howard.

WOOLSEY—BERTON—On Jan. 8, in Cork, the Rev. William M. Woolsey, to Fanny Somerville, daughter of the late George F. S. Berton, Esq., of Frederikton, New Brunswick, Barrister-at-Law.

DEATHS.

AINGER—On Jan. 5, Newlyn, near Penzance, Arthur Robert Ainger, Esq., Solicitor, of Congleton, Cheshire, aged 32.

BOYS—On Jan. 13, John Boys, Esq., aged 79, formerly a Solicitor, and for many years a Justice of the Peace for the county of Kent, and the liberties of the Cinque Ports.

CAMPBELL—On Jan. 15, at Edinburgh, Jane, wife of Arthur Campbell, Esq., writer to the Signet.

CHUBB—On Jan. 9, at Malmesbury, Wilts, Emily, the youngest child of T. H. Chubb, Esq., Solicitor, aged 11 months.

COLLIER—On Jan. 10, in the 77th year of her age, Elizabeth, widow of the late George Collier, Esq., Solicitor, Calcutta.

HANSE—On Jan. 13, Mr. William Hanse, for upwards of 27 years the faithful clerk of Messrs. Reales Solicitors, Doctors'-commons.

KEIGHLEY—On Jan. 4, Susannah Sapphira, wife of J. N. Keighley, Esq., Solicitor, Ironmonger-lane, City.

LOWE—On Jan. 9, aged 49, at Kincora, Killaloe, Ireland, Commander Frederick Lowe, R.N., son of the late William Lowe, Esq., of Tanfield-court, Temple.

ROBERTSON—On Jan. 13, Alexander Robertson, Esq., of the firm of Robertson and Simson, Solicitors, Great College-street, Westminster.

WINSTANLEY—On Jan. 12, Henry Winstanley, Esq., of 10, Paternoster-row, Solicitor, aged 49.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock .....	..	Shrs. Ditto A. Stock	107
3 per Cent. Red. Ann. ..	91½	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann. ..	91½	Stock Great Western	72½
New 3 per Cent. Ann. ..	91½	Stock Lancash. & Yorkshire ..	115½
New 2½ per Cent. Ann. ..	..	Stock London and Blackwall ..	62
Consols for account ...	91½	Stock Lond. Brighton & S. Coast ..	117
India Debentures, 1858. ..	..	25 Lm. Chatham & Dover ..	49½
Ditto 1859. ....	..	Stock London & S. Western ..	99½
India Stock .....	..	Stock London & S. Western ..	94½
India 5 per Cent. 1859. ..	100½	Stock Man. Sheff. & Lincoln ..	53½
India Bonds (£1000) ..	13dis.	Stock Midland	132½
Do. (under £1000) .....	..	Stock Ditto Birn. & Derby ..	104
Exch. Bills (£1000) ...	4	Stock Norfolk	53½
Ditto (£500) .....	..	Stock North British	65½
Ditto (Small) ..	4dis	Stock North-Eastern (Breck) ..	104
RAILWAY STOCK.		Stock Ditto Leeds	62½
Shrs. Stock Birk. Lan. & Ch. Jane. ..	43	Stock Ditto York	92½
Stock Bristol and Exeter ...	100½	Stock North London	103
Stock Cornwall	69	Stock Oxford, Worcester, & Wolverhampton ..	..
Stock East Anglian	17	Stock Shropshire Union ..	52
Stock Eastern Counties ..	51½	Stock South Devon	41½
Stock Eastern Union A. Stock ..	39	Stock South-Eastern	45½
Stock Ditto B. Stock	27½	Stock South Wales	62
Stock Great Northern	112½	Stock S. Yorkshire & R. Inn ..	42
		25 Stockton & Darlington ..	41½
		Stock Vale of Neath	68

London Gazettes.**Professional Partnerships Dissolved.**

FRIDAY, JAN. 18, 1861.

BAYLDON, JOHN, & JOSEPH BAYLDON RAYNER, Attorneys and Solicitors, Horbury, Yorkshire, by mutual consent. Dec. 31.

WARING, HENRY FRANKS, & WILLIAM SLADDEN, Attorneys, Solicitors, and Conveyancers, Lyme Regis, Dorset, and Colyton, Devonshire (Waring & Sladden) : by mutual consent. Jan. 12.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, JAN. 15, 1861.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY, REGISTERED.—A petition to wind up, presented on Jan. 14, will be heard before V. C. Wood, Jan. 26. Dixon, Solicitor, 10, Bedford-row.

FRIDAY, JAN. 18, 1861.

LIMITED IN BANKRUPTCY.

GENERAL STEAM PRINTING & PUBLISHING COMPANY (LIMITED).—Petition to wind up, presented Jan. 12, will be heard before Commissioner Holroyd, at Basinghall-street, on Feb. 16, at 11.30.

HARFIELD'S PATENT CASE & PACKING COMPANY (LIMITED).—Mr. Com. Perry has appointed Jan. 30, at 12, in the District Court of Bankruptcy, Liverpool, to settle the list of contributors of the said company.

Creditors under 22 & 23 Vict. cap. 35.*Last Day of Claim.*

TUESDAY, JAN. 15, 1861.

CARRINGTON, FREDERICK AUGUSTUS, Esq., Barrister-at-law, (Agbourne-St.-George, Wilts. and 24, Lincoln's-inn-fields, Middlesex. Visard & Austie, Solicitors, 55, Lincoln's-inn-fields, London. March 10.

COTTE, ROBERT, Printer, Bookbinder, & Stationer, Basingstoke, Southampton. Lamb, Brooks, & Challis, Solicitors, Basingstoke. Feb. 20.

ELWES, GEORGE CARY, Esq., formerly of Eaton-place, Belgrave-square, Middlesex., and late of 6, Cadogan-place, same county. Watkins, Hooper, Baylis, & Baker, Solicitors, 11, Sackville-street, Piccadilly. March 12.

FIELD, FREDERICK, Toy Vendor & Confectioner, Chapel-place, Tunbridge Wells, Kent. Spratt, Solicitor, Mayfield, Sussex. March 1.

FORBY, ELIZABETH, Widow & Farmer, Titteshall, Norfolk. Palmer, Solicitor, Great Dunham. Feb. 14.

FRASER, HON. MARY ELIZABETH, Spinster, 20, Clifton-road, Brighton. Watkins, Hooper, Baylis, & Baker, Solicitors, 11, Sackville-street, Piccadilly. March 12.

LOWE, JOHN, Farmer, Bidford, Warwickshire. Hobbes & Slatter, Solicitors, Stratford-upon-Avon. March 25.

NICHOLL, FREDERICK VINCENT, Gent., Adamsdown, Glamorganshire. Llewellyn, Newport, Monmouthshire. March 1.

SIPPING, WILLIAM, Farmer, Barton, Bidford, Warwickshire. Hobbes & Slatter, Solicitors, Stratford-upon-Avon. March 25.

THOMAS, THOMAS, Esq., Pencerrig, Radnorshire. Nelson, 4, Cloak-lane, Cannon-street West, London. March 11.

WILKES, THOMAS, Saw Manufacturer, Darlaston, Staffordshire. Adams, Solicitor, Darlaston, near Wednesbury. March 18.

WING, ABRAHAM, Land Agent, Aylesbury. Hatten, Solicitor, Aylesbury. March 1.

FRIDAY, JAN. 18, 1861.

BIGGS, ANN, Devises, Wiltshire. Meek, Solicitor, Devises. March 1.

BRODIE, JOHN EDWARD, Esq., Crowhill, Mansfield, Nottingham. Brodurst & Hodding, Solicitors, Worksop. Feb. 20.

COTTER, FRANCES MARIA, Widow, The Allegria, Saint-Leonard-on-Sea, Sussex. Sole, Turner, & Turner, Solicitors, 69, Aldermanbury, London. April 1.

ELLIS, AMOS, Innkeeper, New Inn, Vicar-lane, Leeds. Snowden & Emmett, Solicitors, 36, Bond-street, Leeds. Feb. 1.

LANGLEY, JAMES, Grove House, Greatham, Durham. W. W. & T. P. Branton, Solicitors, West Hartlepool. Feb. 20.

LEWIS, DAVID, Gent., Cardiff, Glamorganshire. Grover & Davis, Solicitors, 31, Crookherbtown, Cardiff. April 1.

LOWE, MARY, Widow, Howard-place, Bristol-road, Edgbaston, Warwickshire. Banks, Solicitor, 3, Waterloo-street, Birmingham. April 1.

MAYOR, JOHN SAMUEL, Steward to the Earl of Carlisle, Grosvenor-place, Hyde-park, Middlesex. Duncombe, Solicitor, 6, Lyon's-inn, Newcastle-street, Strand. April 15.

RIDER, JOSEPH, Gent., Sheffield. Allott, Accountant, Prior-court, High-street, Sheffield. Feb. 14.

SHEPPARD, THOMAS, Jun., Esq., formerly of Folfkington-place, Sussex, and of 48, Rue de la Ferme des Mathurins, Paris, but late of 12, Rue de Berlin, Paris. Robinson & Preston, Solicitors, 35, Lincoln's-inn-fields. Feb. 9.

TIPPING, WILLIAM (and not Sipping, as advertised in last Tuesday's Gazette), Farmer, Barton, Bidford. Hobbes & Slatter, Solicitors, Stratford-upon-Avon. March 25.

WATERS, WILLIAM, Gent., Westbourne-place, Queen's-road, Bayswater, Middlesex. Twiss, Solicitor, 12, Gray's-inn-square, Middlesex. March 1.

Creditors under Estates in Chancery.*Last Day of Proof.*

TUESDAY, JAN. 15, 1861.

BALLIE, GEORGE, Esq., Hanwell, Middlesex. Dacre v. Ballie, M.R. Feb. 16.

BARRY, ROBERT THOMAS, Gent., late of Eldon-square, Reading, Berkshire, and of Woolwich, Kent. Barry v. Finch, V. C. Stuart. Feb. 11.

BURNS, CATHERINE ELIZABETH, Widow, Colbridge-place, Westbourne-park, Paddington, Middlesex. Jarvis v. Moore, V. C. Wood. Feb. 2.

CRANE, JOHN, Gent., Birmingham. Crane v. Wynn, M.R. Feb. 12.

DENHAM, THOMAS, Printer & Stationer, Regent-street, Middlesex; and the creditors of FRANCES DENHAM, Spinster, Bushy Lodge, Watford, Herts. Cleave v. Cafe, V. C. Stuart. Feb. 1.

HIGGS, BENJAMIN, Ironmonger, Liverpool. Andrews v. Higgs, V. C. Kindersley. Feb. 11.

PHILLIPS, FREDERICK, Esq., late of Woodlands, Rythe, near Southampton, formerly a Lieutenant in Her Majesty's Regiment of Horse called the Royal Scots Greys. Phillips v. Meredith, M.R. Feb. 8.

ROBERTSON, GEORGE, Tailor, 5, Strand-er-place, Maida-vale, Paddington, and 47, Albemarle-street, Piccadilly, Middlesex. Robertson v. Robertson, V. C. Kindersley. Feb. 19.

STANLEY, JOSEPH, Licensed Victualler, Yorkshire Tavern, Philip-lane, London. Hopkinson v. Stinson, V. C. Wood. Feb. 1.

THOMAS, WILLIAM, Brush, Colour, & Cement Manufacturer, Kingston-upon-Hull. Hawxwell v. Wilkinson, V. C. Stuart. Feb. 25.

WILLIAMS, JAMES, Licensed Victualler, Swansea, Glamorganshire. W. Iker v. Williams, V. C. Kindersley. Feb. 20.

(County Palatine of Lancaster).

HOLMES, WILLIAM, Hair & Bacon Factor, Hulme-within-Manchester. Feb. 12, office of Registrar of the Court, 4, Norfolk-street, Manchester.

FRIDAY, JAN. 18, 1861.

ANDREW, EDMUND, Hatter, Liverpool. Andrew v. Andrew, V. C. Stuart. Feb. 11.

BARCLAY, ISABELLA, Cheltenham. Ekins v. Crabb, M. R. Feb. 18.

CARR, JOHN, Painter and Paper Hanger, Portland-street and Surrey Cottage, Downshire-hill, Hampstead. Potter v. Cross, V. C. Stuart. Feb. 6.

DAWSON, JONATHAN, otherwise JOHN, Builder, 27, Upper North-street, Poplar, Middlesex. Dawson v. Dawson, M. R. Feb. 18.

HOVIL, RICHARD, Merchant, formerly of Carlton-hill Villas, Holloway, Middlesex, but late of Hildrop-house, Hildrop-road, Camden Newtown, Middlesex. Hovil v. Humphreys, V. C. Stuart. Feb. 4.

JOYCE, CHARLES, Gentleman, formerly of Kew-green, and late of Lower Tooting, Surrey. Terry v. Clark, V. C. Stuart. Feb. 23.

NAZER, KELLY, Commander in the Royal Navy, 2, Vale Villas, Ramsgate, Kent. Nazer v. Drayson, V. C. Kindersley. Feb. 26.

NEWBURY, GEORGE BURNIS, 65, Queen's-road, Bayswater, Middlesex. Reece v. Allcroft, V. C. Stuart. Feb. 16.

SPENCER, JOHN WHINNEY, Finchley, Middlesex. Spencer v. Spencer, M. R. Feb. 14.

WALTERS, WILLIAM, Yeoman, Bulbrooke, Tetterhall, Staffordshire. Bidwell v. Walters, M. R. Feb. 13.

WRIGHT, ELIZABETH, Spinster, Masham, Yorkshire. Wrightson v. Calvert, V. C. Wood. Feb. 11.

Assignments for Benefit of Creditors.

TUESDAY, JAN. 15, 1861.]

BEAVIS, WILLIAM, Shipowner, Exmouth. Jan. 4. Sol. Clarke, Exeter.

DAVIES, THOMAS CHRESE, Coal Merchant, Swansea, Glamorganshire. Dec. 17. Sol. Goodere, Swansea.

DIX, CHARLES HENRY, 57, High-street, Notting-hill, Middlesex, and 33, East-street, Waltham, Surrey. Jan. 3. Sol. Smith, 90, Denbigh-road, Belgrave-road, Fimlico, Middlesex.

HOTES, EDWARD, Builder, Nottingham. Jan. 2. Sol. Parsons, Nottingham.

JOHNSON, GEORGE JAMES, Bookseller & Stationer, Reading, Berkshire (Rusher & Johnson). Jan. 9. Sol. Tatham & Sons, 11, Staple-inn, Middlesex.

QUAYLE, WILLIAM CHRISTIAN, Tailor & Draper, Liverpool. Jan. 11. Sol. Jones, 44, Castle-street, Liverpool.

ROBERTS, THOMAS, Grocer, Provision Dealer, & Auctioneer, Clwyd-street, Ruthin, Denbighshire. Dec. 10. Sol. Adams, Ruthin.

ROBERTSON, JOHN JOHNSON, Ship Chandler, Newcastle-upon-Tyne. Dec. 18. Sols. Hodge & Harle, Wellington-place, Newcastle-upon-Tyne.

SIMPSON, WILLIAM, Corn Miller, Great Haddon, Kirby Misperton, Yorkshire. Jan. 10. Sol. A. & W. Simpson, Malton.

WAYLAND, ROBERT BOOTH, Albion-villa, Dalston, Middlesex, and ALFRED Wayland, Homerton-house, Homerton, Middlesex, Rope & Twine Manufacturers (Wayland Brothers). Dec. 21. Sol. Elworthy, 14, Southampton-buildings, Chancery-lane.

YATES, MATTHIAS WILLIAM, & WILLIAM EDWARD NIGHTINGALE, Table Cover Manufacturers, 2, Wood-street, Cheapside, London, and Mitcham, Surrey. Jan. 3. Sols. Langford & Marsden, 59, Friday-street, Cheapside, London.

FRIDAY, JAN. 18, 1861.

BARNARD, THOMAS, Baker, Confectioner, & Dairyman, High-street, Weston-super-Mare. Dec. 22. Sols. King & Plummer, 5, Exchange-buildings East, Bristol.

BOWDER, ELIZABETH, Hatter, Kidderminster. Jan. 3. Sol. Corrie, Worcester.

CHAMFORD, JAMES, Paper Hanger, 4, Aberystwith-terrace, Islington, Middlesex. Jan. 14. Sol. Mills, 3A, Brunswick-place, City-road, Middlesex.

HIGHAM, JAMES, General Agent, Belle-vue-place, Plymouth. Jan. 14. Sols. Edmonds & Sons, 8, Parade, Plymouth.

HOWSON, JOHN ODEY, Farmer, Oxtou, Nottinghamshire. Jan. 16. Sol. Newton, Newark-upon-Trent.

OWENS, SAMUEL, Innkeeper, Three Boars' Heads, Denbigh. Jan. 5. Sol. Jones, Vale-street, Denbigh.

SMITH, CHARLES, Linen Draper, Gosport. Jan. 10. Sols. Davidson, Bradbury, & Hardwick, Weaver's Hall, 22, Basinghall-street.

SPILMAN, CHARLES RAE, Farmer, Duncoates, Howden, Yorkshire. Dec. 29. Sol. Liversidge, Winterton.

WINGRAVE, CHARLES, Grocer & Draper, Writtle, Essex. Jan. 14. Sol. Frances, Colchester.

WRIGHT, JOHN, Farmer, Saxthorpe, Norfolk. Jan. 5. Sol. Culley, Surrey-street, Norwich.

Bankrupts.

TUESDAY, JAN. 15, 1861.

ADAMS, WILLIAM, Painter, Glazier, Beer-house Keeper, & Builder, Nottingham. Com. Sanders: Jan. 31, and Feb. 26, at 11; Nottingham. Off. Asa. Harris. Sols. Cowley & Everall, Nottingham. Pet. Jan. 1.

ALLANSON, WALTER, Australian Merchant, 31, Castle-street, Holborn, London (W. Allanson & Co.). Com. Fane: Jan. 25, at 12.30, and March 1, at 1; Basinghall-street. Off. Asa. Whitmore. Sols. Hensman & Nicholson, 25, College-hill, Cannon-street, West. Pet. Dec. 29.

BLUNDELL, WALTER, Dentist, 16, New Broad-street, London. Com. Fane: Jan. 25, and Feb. 22, at 1; Basinghall-street. Off. Asa. Whitmore. Sol. Tucker, New City Chambers, Basinghall-street. Pet. Jan. 10.

BOWLES, ALFRED, Music Seller & Dealer in Musical Instruments, Ipswich, Suffolk. Com. Goulburn: Jan. 28, at 12, and Feb. 25, at 1.30; Basinghall-street. Off. Asa. Pennell. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London. Pet. Jan. 12.

BROWN, HENRY, & BROOK HOBSON, Velvet Manufacturers, Halifax, Yorkshire (Henry Brown & Co.). Com. West: Jan. 25, and Feb. 22, at 11; Leeds. Off. Asa. Young. Sols. Wavell, Philbrick, & Foster, Halifax; or Bond & Barwick, Leeds. Pet. Jan. 9.

CONNELL, ROWLAND WILLIAM, Dealer in Teas, Liverpool (Connell & Co.). Com. Perry: Jan. 25, and Feb. 18, at 11; Liverpool. Off. Asa. Cazenove. Sol. Rymer, Peel Buildings, 5, Harrington-street, Liverpool. Pet. Jan. 14.

COX, CHARLES HUMPHREY, Jeweller, Leamington Priors, Warwickshire, and Coventry. Com. Sanders: Jan. 28, and Feb. 20, at 11, Birmingham. Off. Asa. Whitmore. Sol. Pallett, Coventry; or Hodgson & Allen, Birmingham. Pet. Jan. 14.

CROOK, JAMES, India Rubber Web Manufacturer, 7, Winckworth-place, City-road, Middlesex. Com. Evans: Jan. 24, at 12, and Feb. 21, at 2; Basinghall-street. Off. Asa. Bell. Sol. Abrahams, 27, Bloomsbury-square. Pet. Jan. 14.

FALLIE, VICTOR, Ship Broker & Commission Agent, 23, Crutched Friars, London, and 2, Alle-place, Goodman's-fields, Middlesex. Com. Fane: Jan. 25, at 11, and Feb. 22, at 11.30; Basinghall-street. Off. Asa. Cannon. Sol. Rose, 19, Change-alley, Cornhill. Pet. Jan. 11.

HALL, JOHN, Manufacturer, late of Bolton, Lancaster, and now of Belmont, Lancaster, Manager of a Cotton Mill. Com. Jemmett: Jan. 30, and Feb. 19, at 12; Manchester. Off. Asa. Fraser. Sols. Richardson & Hinnell, Bolton, and 7, St. Ann's-place, Manchester. Pet. Jan. 11.

HOOD, CHRISTOPHER, & JOHN NIXON, Elastic Web Manufacturers, Nuncaton, Warwickshire. Com. Sanders: Jan. 29, and Feb. 20, at 11; Birmingham. Off. Asa. Whitmore. Sols. Minster & Son, Coventry; or Reece, Birmingham. Pet. Jan. 8.

LAWRENCE, WILLIAM FRANCIS, Draper, West Bromwich, Staffordshire. Com. Sanders: Jan. 25, and Feb. 15, at 11; Birmingham. *Off. Ass. Kinnear. Sol. Smith, Birmingham. Pet. Jan. 14.*

MARKHAM, RICHARD WOOD, Haberdasher, Bradford, Yorkshire. Com. Ayrton: Jan. 28, and Feb. 18, at 11; Leeds. *Off. Ass. Hope. Sols. Terry & Watson, Bradford, or Bond & Barwick, Leeds. Pet. Jan. 11.*

MARKS, JOSEPH MAURICE, Cabinet Maker, Birmingham. Com. Sanders: Feb. 1 & 23, at 11; Birmingham. *Off. Ass. Whitmore. Sol. Reece, Birmingham. Pet. Jan. 11.*

PRINGLE, THOMAS WHITAKER, Grocer, Hawley-place, Kentish-town, Middlesex. Com. Goulburn: Jan. 28, at 11, and Feb. 25, at 1; Basinghall-street. *Off. Ass. Pennell. Sol. Brutton, 27, Basinghall-street, London. Pet. Jan. 11.*

ROLLASON, GEORGE THOMAS, China Dealer, Birmingham. Com. Sanders: Jan. 28, and Feb. 18, at 11; Birmingham. *Off. Ass. Kinnear. Sol. Smith, Birmingham. Pet. Jan. 11.*

ROUTH, JOHN, Merchant & Commission Agent, 7, Broad-street-buildings, London. Com. Holroyd: Jan. 29, at 2, and Feb. 26, at 1; Basinghall-street. *Off. Ass. Edwards. Sol. Elmalle, 10, Lombard-street, London. Pet. Jan. 4.*

SKINNER, JOHN FREDERICK, Designer in Embroidery, 8, Thurlow-place, Hackney-road, Middlesex. Com. Holroyd: Jan. 29, at 2.30, and Feb. 26, at 2; Basinghall-street. *Off. Ass. Lee. Sols. Ashurst, Son & Morris, 6, Old Jewry, London. Pet. Jan. 11.*

TAYLOR, JAMES THOMAS, Grocer & Cheesemonger, now of 72, New Church-street, Marylebone, Middlesex, previously of 261, High-street, Poplar. Com. Fonblanque: Jan. 25, at 11.30, and Feb. 20, at 2; Basinghall-street. *Off. Ass. Stansfield. Sol. Prall, 19, Essex-street, Strand. Pet. Jan. 11.*

WAGSTAFF, JAMES, Draper & Outfitter, Alfreton, Derbyshire. Com. West: Jan. 26, and Feb. 23, at 10; Sheffield. *Off. Ass. Brewin. Sols. Campbell, Burton, & Browne, Nottingham. Pet. Jan. 12.*

FRIDAY, JAN. 19, 1861.

CHESMAN, CHARLES TAYLOR, Coal Merchant, Brighton, Sussex. Com. Goulburn: Jan. 28, at 2, and March 4, at 1.30; Basinghall-street. *Off. Ass. Pennell. Sols. Faithful & Son, Brighton, Sussex, or Laurence, Plews, & Boyer, 14, Old Jewry-chambers. Pet. Jan. 14.*

DRAY, HENRY, Miller, Priory-mills, Tonbridge. Com. Fane: Jan. 31, at 2; and March 1, at 12; Basinghall-street. *Off. Ass. Cannon. Sols. Smith, Stenning, & Croft, Basinghall-street; or Stenning, Tonbridge. Pet. Jan. 14.*

GOULDING, WILLIAM, Grocer & Draper, Upwell, Norfolk. Com. Fonblanque: Jan. 30, at 12.30; and Feb. 27, at 12; Basinghall-street. *Off. Ass. Graham. Sol. Jones, 15, Sise-lane. Pet. Jan. 15.*

JACQUETOT, JEAN MARC FRANÇOIS, Silk & General Merchant, 38, New Broad-street, London. Com. Holroyd: Jan. 29, at 3; and Feb. 28, at 12; Basinghall-street. *Off. Ass. Edwards. Sol. Sparrow, 38, New Broad-street, London. Pet. Jan. 15.*

JONES, THOMAS, Victualler, 3 Mare-fair, Northampton. Com. Holroyd: Jan. 31, at 2.30; and Feb. 28, at 2; Basinghall-street. *Off. Ass. Edwards. Sols. Clark & Morice, 39, Coleman-street, London, or Gates, Northampton. Pet. Jan. 16.*

LARNUT, THOMAS HENRY, Bookseller and Stationer, Tunbridge Wells, Kent. Com. Holroyd: Jan. 31, at 2; and Feb. 28, at 1; Basinghall-street. *Off. Ass. Lee. Sols. Harrison & Lewis, 6, Old Jewry, London. Pet. Jan. 4.*

ROOERS, HENRY SYLVESTER, Importer of Foreign Goods, 164, Strand, and Holywell House, Haverstock-hill, Middlesex. Com. Fane: Jan. 31, and March 1, at 1; Basinghall-street. *Off. Ass. Whitmore. Sols. Pocock & Poole, 58, Bartholomew-close. Pet. Jan. 15.*

TEKETHAN, JOSEPH, Cooper and Packing Case Manufacturer, late of 7, Oak-lane, Church-row, Limehouse, Middlesex, but now of 32, Lombard-street, London. Com. Evans: Jan. 29, and Feb. 28, at 1; Basinghall-street. *Off. Ass. Bell. Sol. Edmunds, 11, Saint Bride's-avenue, Fleet-street. Pet. Jan. 8.*

SEVINGTON, EDWARD, & JAMES JOHN CLUTTERBUCK, Leather Dressers, 15 and 16, Russell-street, Brompton, Surrey. Jan. 29, at 12; Basinghall-street.

TYLER, JOHN JAMES, Upholsterer, 76, High-street, Oxford. Com. Fonblanque: Jan. 30, at 2; and Feb. 26, at 11.30; Basinghall-street. *Off. Ass. Stansfield. Sols. Taylor & Jaquet, 15, South-street, Finsbury-square, London. Pet. Jan. 16.*

BANKRUPTCY ANNULLED.

TUESDAY, JAN. 15, 1861.

REDGATE, JOHN, & HERBERT REDGATE, Lace Manufacturers, Nottingham. Dec. 18.

FRIDAY, JAN. 18, 1861.

HOLDEN, JOHN TRIPPET, Jeweller, Birmingham. Dec. 7.

MEETINGS FOR PROOF OF DEBTS

TUESDAY, JAN. 15, 1861.

ARNOLD, ELISHA, Straw Plait Dealer, Flamstead, Hertfordshire. Feb. 6, at 11.30; Basinghall-street.—ASHEN, WILLIAM, Baker & Mealmaker, Hanley Castle, Upton-upon-Severn, Worcestershire. Feb. 15, at 11; Birmingham.—BOUCH, ROBERT MILLER, General Warehouseman, Clothing Manufacturer, & Dealer, & Hydraulic Packer, Liverpool (John Bouch & Son). Feb. 18, at 11; Liverpool.—BRIMLOW, JOHN, RICHARD DANIEL, & SAMUEL DANIELS, Silk Manufacturers, Bedford, Lancaster. Jan. 25, at 12; Manchester.—CRONKHAU, JOHN, & WILLIAM CRONKSHAW, Manufacturers, Edenfield, Lancaster. Feb. 8, at 12; Manchester.—DULLES, HUGO, General Merchant, 27, Fore-street, Cripplegate. Jan. 25, at 2; Basinghall-street.—HUGHES, JOHN, Wire Drawer, Birmingham. Feb. 14, at 11; Birmingham.—JENNINGS, ANGUS, & WILLIAM TAYLOR JENNINGS, Ship Stores & Commission Agents, 14, Little Tower-street, London. Feb. 6, at 1.30; Basinghall-street; same time, separate estate of Angus Jennings and William Taylor Jennings.—JONES, JOHN, Ironmonger, Tunstall, Staffordshire. Feb. 14, at 11; Birmingham.—KENT, JAMES OSBORN, Draper, Waterloo-place, Limehouse, Middlesex. Feb. 6, at 12; Basinghall-street.—LOTHOUSE, JOHN STEELE, Licensed Victualler, 34, Lime-street, Liverpool. Jan. 29, at 12; Liverpool.—WHITEHEAD, THOMAS, Tailor, 55, Duke-street, Smithfield, London. Jan. 29, at 1; Basinghall-street.

FRIDAY, JAN. 18, 1861.

BRANDON, WILLIAM BARNARD JOHN, Manufacturer, Trinity-square, St. Mary, Newington, Surrey, and Lock's Fields, in same parish. Feb. 8, at 1.30; Basinghall-street.—BARTLETT, JAMES BENONI, and WILLIAM ANGEL BARTLETT, Tailors & Drapers, Bristol (Bartlett Brothers). Feb. 14, at 11; Bristol.—BELL, THOMAS CHARLTON, Miller & Flour

Dealer. Feb. 12, at 11.30; Newcastle-on-Tyne.—DALES, JOHN, Merchant and Contractor, Gresham House, Old Broad-street, London, and of Dewsbury, Yorkshire. Jan. 30, at 12; Basinghall-street.—DAUNT EDWARD RUSSELL, & JOHN WILSON, Bill Brokers, 37, Old Broad-street, London (Daunt, Wilson, & Co.). Feb. 8, at 11.30; Basinghall-street.—HARGREAVES, WILLIAM & WILLIAM SLATER, Whitesmiths, Bradford, Yorkshire. February 8, at 11; Leeds.—RUE, THOMAS, Draper, 50, East Emma-place, East Stonehouse, Devonshire January 28, at 12.30; Plymouth.—SHEPPARD, JOHN, Brick and Draining Tile Manufacturer, King's Lynn, Norfolk. Feb. 8, at 1; Basinghall-street.—THOMAS, JAMES, Builder, Abingdon, Berks, and Brickmaker, Culham, Oxfordshire. Feb. 8, at 12; Basinghall-street.

BRITISH MUTUAL INVESTMENT, LOAN

and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £100,000, in 10,000 shares of £10 each.

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METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. COBBOLD & PATTESON, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal is 5 per cent. The investment being secured by a subscribed capital of £35,000, £70,000 of which is not yet called up.

LOANS.—Advances are made, in sums from £25 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to

JOSEPH K. JACKSON, Secretary.

REVERSIONS AND ANNUITIES.

LAW REVERSIONARY INTEREST SOCIETY

68, CHANCERY LANE, LONDON.

CHAIRMAN—Russell Gurney, Esq., Q.C., Recorder of London.

DEPUTY-CHAIRMAN—NASSAU W. Senior, Esq., late Master in Chancery.

Reversions and Life Interests purchased. Immediate and Deferred Annuities granted in exchange for Reversionary and Contingent Interests Annuities, Immediate, Deferred, and Contingent, and also Endowments granted on favourable terms.

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C. R. CLABON, Secretary.

UNITED KINGDOM LIFE ASSURANCE

COMPANY.

No. 8, WATERLOO PLACE, PALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on all policies effected prior to the 31st of December, 1861, should, in order to enjoy the same, make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without imparting to the recipients the risk of co-partnership, as is the case in mutual societies.

To show more clearly what these bonuses amount to, the three following cases are put forth as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,987 10	£6,987 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security for the payment of the policy when death arises; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1859, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

Immediate application should be made to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order,

P. MACINTYRE, Secretary.

PURSUANT to an Order of the High Court of

Chancery, made in the matter of the Estate of William Dowman, and in a cause Edgar Mann, and Louisa his wife, against William Dowman and Elizabeth Dowman, Spinster, the creditors of William Dowman, late of Sudbury, in the county of Suffolk, Gentleman, who died on or about the 27th day of September, 1855, are by their Solicitors, on or before the 8th day of February, 1861, to come in and prove their debts at the Chambers of the Master of the Rolls, in the Rolls-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Tuesday, the 12th day of February, 1861, at Twelve o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the claims.

Dated this 9th day of January, 1861.

HENSMAN & NICHOLSON, 25, College-hill, City.

Agents for

GREENE & PARTIDGE, Bury-Saint-Edmunds, Plaintiffs' Solicitors.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, JANUARY 26, 1861.

CURRENT TOPICS.

The Master of the Rolls has appointed Mr. Edward Savage Bailey, Mr. Ralph Barnes, Mr. Alfred Bell, Mr. John Henry Bolton, Mr. William Ford, Mr. Charles Kaye Freshfield, Mr. Henry Lake, Mr. Edward Lawrence, Mr. James Leman, Mr. Edward Leigh Pemberton, Mr. William Sharpe, and Mr. John Hope Shaw, Solicitors, to be the examiners of applicants for admission as solicitors of the Court of Chancery. The same gentlemen, together with Mr. William Stephens, Mr. John Welchman Whateley, Mr. Edward White, and Mr. William Williams, have been appointed the examiners of applicants for admission as attorneys of the courts of common law. It would have been impossible to have appointed gentlemen whose names would have met with more general acceptance in the profession.

It is announced that the Chancery judges have had a meeting to settle the orders of court on the introduction of oral evidence in Chancery causes, and that they will be shortly published. It is rumoured that they will come into force in the course of a few weeks.

After all the various rumours in reference to the appointment to the Chief Justiceship of Madras, vacant by the death of Sir Henry Davison, Mr. Colley Harman Scotland, of the Oxford Circuit, has at length been appointed to that office.

On Wednesday evening last, the benchers of Lincoln's-inn entertained at dinner Colonel Brewster, of the Inns of Court Volunteers. On the following evening, the benchers of the Middle Temple followed the example set them by Lincoln's-inn. On both occasions members of the Inns of Court Volunteer Corps appeared in uniform in honour of their colonel.

Elsewhere in our columns will be found an account of an application for a new trial made to the county court at Rochdale in the case of *Maden v. Catenach*. We notice it because it appears that on the trial a witness for the plaintiff was interrogated, previously to being sworn, by the advocate of the defendant, as to her belief; and upon her avowing that she believed neither in a God nor in a future state of rewards and punishments, the learned judge refused to allow her to be sworn. As she was the only witness for the plaintiff he was non-suited. It seems doubtful whether the defendant's advocate had a right to question this lady as to her religious belief. There is, indeed, a case at Nisi Prius of *R. v. Taylor*, Peake Ca. 11, in which the witness seems to have been questioned as to his religious opinions before he was allowed to be sworn; but Mr. Taylor, in his book on Evidence, p. 1121 (3d edit.), says, "A witness is *prima facie* presumed to hold the common faith of the country, and the ordinary mode of disproving that fact is by furnishing evidence of his

declarations previously made to others, the person himself not being interrogated." In support of this proposition he cites a passage from 1 Law Rep., pp. 347, 348 (American), commencing thus:—"The witness himself is never questioned, in modern practice, as to his religious belief; though formerly it was otherwise. . . . The old cases, in which the witness himself was questioned as to his belief, have on this point been overruled. See Christian's note to 3 Bl. Com. 369, n. 30. Is the law as administered at Rochdale, under the authority of Peake, or that laid down by Mr. Taylor, correct? The question is one of considerable importance, and we invite the attention of our readers to it.

At the next meeting of the Law Amendment Society, which will be held on Monday, January 28, at eight o'clock, Mr. Edgar will read a paper on "Some proposed Amendments in the Law relating to Procedure and Evidence on Criminal Trials, including Lord Chelmsford's Indictable Offences (metropolitan district) Bill, Lord Brougham's Plea on Indictments Bill, and Mr. Denman's Felony and Misdemeanour Bill," &c.

THE NEW REGISTRY OF WILLS.

Elsewhere in our columns will be found an account of the arrangements which have been made by Sir C. Cresswell for providing a depository and registry of the wills of living persons. The *Times* in a leading article upon the subject suggests that some "simple machinery might be established whereby a man might walk into Great Knight-riding-street, and make his will and have it witnessed, and deposited, and registered, just as easily as he might walk into a tavern and eat his dinner." It will be seen by a letter of a correspondent of the same Journal, that it has been suggested that the registrar should be empowered to institute, preliminary to the registration of a will, inquiries as to whether it is actually signed and witnessed in the form which the law requires in order to render the document of legal force. The *Times*, however, supposes that so simple and useful an arrangement would militate "too extravagantly against the ideas of lawyers." The article in question betrays the same recklessness of assertion and unacquaintance with the subject which of late have characterised the legal leaders of the *Times*. We are told, for instance, that "nearly half the business of the courts of law hangs upon the blunders made by testators;" and that "for heaps of sterling coin a good will cause is the cause to delight the soul of a respectable solicitor." From such premises, the natural conclusion might fairly be, that one of the first steps of law reform would be to abolish wills altogether, or at all events to prevent if possible their litigious operation. The *Times*, however, not satisfied with making such foolish and absurd statements arrives at the still more absurd conclusion that the great desideratum of the day is an increased facility for making and establishing wills. The truth is, that it is extremely rare, since the Wills Act, to find a case of any difficulty turning upon the question, whether a will was or was not properly witnessed. Nothing can be more simple than the requirements of the Act, which commend themselves so much to common sense that they are appreciated and acted upon by the great majority even of those who, without professional advice, undertake the task of making their own wills. Nor is it by any means unlikely that although a registrar had the power of deciding beforehand upon the due execution of wills, the same class of persons who now neglect the simple formalities required by the statute would fail to avail themselves of the official aid which it is proposed should be afforded to them. The *Times* need not be afraid that

its scheme will militate "too extravagantly against the ideas of lawyers," if its effect is merely to increase the number of wills, and therefore, of those causes which "delight the soul of a respectable solicitor." It is not pretended that the registrar ought to have power to interfere with the intentions of a testator, or with the language which he chooses to use, for the purpose of carrying them into effect. The only object which could be served by conferring upon the registrar the power of inquiring beforehand into the due execution of wills, would be the simple one of securing such execution. This, however, is of such trivial importance, as to be hardly worth discussing. We have already mentioned that the cases in which this question arises are comparatively rare, and it should be remembered that in the majority even of them, the difficulty obviously arises, not from the ignorance of testators, but from their indecision at the time of making their wills, and from a desire to postpone their complete execution. It is very obvious, moreover, that even if in the nature of things the making of a will were as easy as walking into a tavern, and eating one's dinner, to carry out the idea of our contemporary there ought to be throughout the country as many depositories and registries of wills as there are taverns and chop houses. If every member of the family of John Bull were obliged to have his chop at "Tom's," it would soon become a more difficult thing to dine than suits the stomach of an Englishman; and if every one who makes a will were obliged to attend before an official in Great Knight-riders-street it would probably become necessary as a rule to make one's will at a very early period of life, so as to have some chance of having a turn for an interview with the testamentary official.

The increasing passion for the extension of bureaucratic officialism which exists in this country is one of its most remarkable social phenomena, and Mr. Parkinson's proposal, which furnishes the basis for the platitudes of the *Times*, is but a new development of this now-a-days national folly. We have had occasion from time to time during the last few years to point out the absurdity of several similar proposals to substitute cumbrous and costly officialism for the private services of professional men. There is no reason why the State should provide for a preliminary inspection of testamentary instruments in the life time of testators. If, indeed, it is thought desirable to impose upon them an official superintendence in the execution of their wills, it would be simply for their own personal benefit, and not for reasons in which the State is much interested. Let testators, therefore, and not the State, make the necessary provision, or at least pay for it; and the only feasible way of making such provision would be by enacting that one of the witnesses to every will should be an attorney or solicitor. Such an enactment would at all events go far towards, and we think would be the best means of, insuring a due compliance with the statutory formalities required in the execution of wills, if that, indeed, be a matter in which the Legislature has any concern.

THE PREPARATION OF BILLS IN PARLIAMENT.

However unpleasant the reflection may be to many an ardent and ambitious legislator, it is nevertheless a necessity from which there is no escape, that all stable and constitutional legislation must depend for its effect upon the capacity of some scribe or other to put the will of the Legislature into such words as will unambiguously convey its meaning. The capacity of the writer of the law determines the power of the Legislature, which can do nothing whatever beyond what it can convey in a verbal expression. It is true that the first draft of a law is subjected to criticism within and without the walls of Parliament, and may be after

all, only an occasion for such amendments as may entirely change its tenor and effect; still these amendments have to be expressed, and however multitudinous their authors, their adoption amounts only in the end to this, that one draftsman's work has been substituted for another's. But as a fact of common experience, a Bill that will not in the main pass in the terms and form in which it is introduced, will not pass at all. We must for the most part be content with such expression of the will of Parliament as can be provided in Bills as they are introduced. If Bills are ill prepared, the only alternative at our choice under the ordinary pressure of business is either to pass them with very little critical amendment, or to reject them altogether; in other words, to legislate on the occasion imperfectly, or not to legislate at all. The choice of a draftsman, therefore, in most cases must determine the fate and eventual character of the proposed legislation. The Bills of the Government, even in a constitutional country, where the Government claims no exclusive initiative in legislation, must always bear a large proportion both in bulk and in importance to the whole of the business of legislation. It will, also, necessarily influence to a great extent the character of other contemporaneous legislation; and this more particularly in respect of the form and manner of expression, which, if distinctive any way whatever, will inevitably become the example and standard of expression to the greater number of private draftsmen, whether of Bills or of amendments.

It will be a just occasion for public rejoicing if it should eventually appear, that our Government was alive to the full importance of the step which they took in filling up the vacancy in the office of Parliamentary counsel to the Home Office, caused by Mr. Coulson's death. There is some reason to hope that this is so, more than a month having elapsed before his successor was appointed. The near approach of the meeting of Parliament probably obliged Ministers to have measures which did not admit of much more delay, in some state of preparation.

It was hoped from this delay in the use of their patronage, a delay rarely to be imputed to Ministers, that the Government entertained some plan of a broader and more systematic character than the mere filling up of the vacancy by a fitting successor to Mr. Coulson, at the Home Office. What was really required, and what this vacancy afforded an opportunity of realising, was such an arrangement as would not only provide an able draftsman of Bills for the Home Office and some other Government offices, but effect the far more important and much more neglected object of enabling every member of either House of Parliament to do his work as a legislator with the confidence that Parliament, as a whole, will provide that its decrees, by whomsoever proposed, shall be promulgated with the like securities for their clearness and their reciprocal consistency.

If such be the purpose of the Government, it is manifest that they will require the concurrence of both Houses, by whose resolutions alone any plan having any pretension to meet the exigencies of the case could be brought into operation. The interval before the meeting of Parliament may be well employed in considering what is really required to give to our Legislature all the simplicity, intelligibility, and congruity of which it is susceptible. If the opportunity continues, we propose to make use of it to examine some of the best matured or most favoured plans that have been proposed for the attainment of the desired ends, with a view to aid, so far as we are able, in the selection of the best that present circumstances would allow us to adopt.

VARIATIONS IN EVIDENCE ON CIVIL AND ON CRIMINAL TRIALS.

We noticed last week some important variations in the mode of conducting trials before civil and criminal tribunals, with respect to the addresses of counsel. There are, also, some differences in the methods adopted by these tribunals for arriving at the truth of the matters before them, which appear to call quite as strongly for animadversion. "It has been laid down," says Mr. Broom "that no material difference exists in regard to the rules of evidence, between criminal and civil procedure—that what may be received in the one case may be received in the other, and what is rejected in the one case ought to be rejected in the other—that, in short, a fact must be established by the same evidence, whether it is to be followed by a civil or criminal consequence." This theory is so sensible that it commends itself to common sense. The object in both civil and criminal cases is to arrive at the truth, by whatever consequences that truth may be followed, and the machinery of the process ought in both cases to be the same. The Legislature, however, seems lately to have ignored these principles in England, although strangely enough it has recognised them in Ireland. The Common Law Procedure Act, 1854, ss. 22—27, introduced several very important changes into the law of evidence in civil cases, and these changes have, by subsequent legislation, been applied to both civil and criminal trials in Ireland, while in England they do not extend to criminal trials. Thus it comes to pass, that a deed which may be proved at *Nisi Prius* without calling the attesting witness, must be proved in a Crown court by the attesting witness. We have, ourselves, seen a prosecution break down, because, a deed requiring to be proved, the witness called to prove it was not the attesting witness—the attorney having, not unnaturally, supposed that the change made by the 17 & 18 Vict. c. 125, s. 26, extended to criminal as well as civil cases, and the prosecuting counsel not having advised upon the evidence. If the brief, however, in this case had been carefully got up, this discrepancy in the law of evidence would not have caused a failure of justice, because the attesting witness might have been called. Still it is difficult to see why the Legislature should place pitfalls in the way of the professors of the law by making artificial distinctions and differences. The other clauses of the statute to which we refer, being framed principally with a view of testing the credit of witnesses, are still more important, and the law laid down in them ought certainly to be imported into our criminal procedure; unless, indeed, we are content to have a more imperfect inquiry on criminal than on civil trials. Diligence would avoid the evils arising from the necessity of calling an attesting witness, because, when once it is known that he ought to be called or his absence accounted for, the difficulty may be met in some way: but when we have admitted that it is important to apply certain tests to the credit of a witness in civil cases, and have acted upon that admission, it seems absurd not to apply the like tests in criminal cases. The absurdity is heightened when it is remembered that the changes to which we have referred have been introduced into the Irish system of Crown law.

Another noticeable discrepancy in the law of evidence was introduced by the 11 & 12 Vict. c. 43, s. 15 (Jervis' Act). Lord Denman's Act (6 & 7 Vict. c. 85, s. 1), enacted that no person offered as a witness shall be excluded by reason of incapacity *from interest*, from giving evidence. Few persons doubted when that Act was passed—perhaps, no one now doubts—that this change was beneficial. When we are inquiring into the truth of a matter we want all the evidence we can get; and to exclude any part of such evidence by artificial rules is a part of that wisdom of our ancestors which we are

doing well to unlearn. The 11 & 12 Vict. c. 43, s. 15, however, disqualifies an informer from giving evidence in support of an information before justices, if he has any pecuniary interest in the result of the information—thus repealing, so far, Lord Denman's Act. No doubt the object of the framer of the clause was to discourage common informers, a race of men for whom we have no love. But it is obvious that any common informer whose evidence might be necessary, would have no difficulty in getting the information laid by a third party and sharing the spoils with him. Thus the clause is ineffectual in attaining what can have been its only object, while it remains a blemish in our system of evidence.

The law reforms suggested by these remarks appear to us to be not merely advisable but necessary. Why should they be delayed beyond the approaching Parliamentary session? They are of course beneath the dignity of codifiers and consolidators, but are surely worthy the attention of men who do not despise work which is at once practicable and beneficial.

LIABILITIES BY SPECIALTY AND SIMPLE CONTRACT—ORIGIN OF SEALED DOCUMENTS.

No. I.

Most of the anomalous excrescences of our law have arisen, not from its inherent tendencies to decay or to become unsuited to new complications of civil rights, but partly from a perverse adherence to forms after they cease to fulfil the purpose of their original institution, and partly from an extension of the province of legislative government beyond its proper limits. Amendments and consolidation are the remedies applied from time to time by Parliament, in order to reconstruct the legal machine, and render its old-fashioned implements suited to the present requirements of civil society. But, as consolidation is greatly superior to amendment, so a complete extinction of the cause of intricacy, if consistent with an efficient state of the law, is superior to consolidation. The abolition of all distinction between contracts, except as to their priority in time in certain cases, is a feature of intended law reform that seems to proceed on sound principles, since it both lops off the prerogatives of a custom which prevailed in the early stages of our legal history, only because all men could then seal, but few could sign their names; and also permits men to make their own contracts without legislative or technical aid. Mr. Malins' Bill, some time since presented to the Legislature, goes far to effect this in its abolition of the distinction between debts or liabilities by specialty and by simple contract. In order to show that the distinction sought to be annulled cannot be a requirement of the present condition of our laws, the following account of the origin of sealed documents may be useful. Little need be said as to their legal effect, except to refresh the reader's memory, in order that he may more easily bear in mind the nature of the fictions which we are anxious to see deprived of their present prerogative.

Contracts and debts are, as the reader is probably well aware, divisible by the law of England into two classes, according as the liability is incurred by deed, or is not accompanied by such a formal instrument. A deed, in Latin *charta*, more usually *factum*, but in effect equivalent to the *stipulatio* of the civilians, may be defined to be an instrument of contract written on paper or parchment, which is also sealed and delivered. The absence of any one of these formal items prevents a document from having the legal operation of a deed, and constitutes the liability incurred under it of the order only of simple contract. Thus, though there be written words, sufficient in law to bind a party, and though the document be sealed, yet, until delivered, it is evidence only of a parol contract. *A fortiori*, written instruments of contract, unaccompanied by further ceremonies, are only evidences of a simple contract liability. They are in law of no more force than so many

words spoken would be; however superior in point of expediency a document, "*documentum*" proof, may be—as embodying with precision the terms of the contract, to a mere oral statement which may in all its terms be with difficulty remembered. A signed document is in some cases also indispensable, according to the Statute of Frauds, as it is also to remove the bar created by the Statute of Limitations; but, even in these cases, the action must be based upon a consideration, just as if no document were necessary. In addition to the characteristics mentioned, certain other legal consequences flow from the fact of a liability having been incurred by deed. These consequences, however, logically considered, are not to be comprised in the definition. They describe, but do not help to define, the essential characteristics of a deed. They are inseparable concomitants of such a contract; but are not as inherent in its nature as writing paper or parchment, sealing and delivery—characteristics which, from the earliest period noted in our legal records down to the present time, have been regarded by the law as the unchanged essentials of a deed. The legal advantages which debts by specialty have over those incurred without deed are as follows:—Specialty debts require no consideration to support an action founded upon them; they are entitled to priority in the administration of assets over simple contract debts; they can be enforced within twenty years, while simple contract liabilities must be enforced within six years; they are also conclusive, and operate by estoppel; and can be only waived or varied at law by deed, while parol contracts are not irrefragable evidence of the truth of their own averments, and may be waived by parol. Judgments and recognizances are sometimes classified by text writers as a third variety of indebtedment or liability. But judgments are not really contracts; they are matter of process, while recognizances are virtually removed from the sphere of civil transactions, being usually entered into only in cases in which the subject contracts with the Crown. But whatever principle of classification may be applied to judgments, recognizances, and all debts of record, it is universally admitted that written and oral contracts are perfectly homogeneous in their legal effect, (7 T. R. 350.)

The origin of a distinct class of debts recognized by the law as entitled to special prerogatives, may be examined either as to the origin of the adoption of the special evidence which such a class imports as containing within itself, or as to the origin and development of its legal privileges. We may inquire concerning the rise of the custom itself or of its legal concomitants. We may proceed either chronologically or logically. The former is the more appropriate ground for our present purpose; while, as the chronological is often coincident with the legal development, the latter will not be meantime wholly removed from our view.

The primary and natural use of the ordinary or external sealing of a document is to preserve the contents of the document secret. Thus the external sealing of wills preserves the secrecy of the dispositions contained in them, and prevents the rise of jealousies among expectant legatees. Now, it is not likely that the custom of primogeniture prevailed in the early or pastoral age, when property consisted only of moveables; and, at all events, children were not generally emancipated by the father and constituted their own masters, during the life of the head or patriarch of the family. Hence it is exceedingly probable, that the father had the power of directing the transmission of his property, even when that came to include real estate, in such proportions among his children as he might choose. It follows, that he would, as far as possible, adopt a secret mode of doing this, in order to prevent unpleasantness in his family. Witnesses, according to this hypothesis, would then be necessary not to evidence the contents of the instrument, but the fact of its execution. A proof that the custom of sealing originated in the desire of secrecy may be derived

from the many incidents of deeds recognised by our law, which admit of no other explanation that appears to us equally satisfactory. Thus the ceremony of delivery would seem to imply that originally a third party, either a public functionary or a private arbitrator, was present at all contracts of unusual importance, like the *libripens* who, under the Roman law, assisted at sales; and that to him, as a stakeholder and depositee of the evidences of title, the deeds were given. That the ceremonious delivery was not the actual transfer of the deed of sale to the purchaser, as one should naturally suppose is shown by the fact, that, while the law strictly enacted the delivery, yet this delivery was not inconsistent at least in our law with the retention of the deed by the grantor. *Semble*, also, that the delivery may precede the sealing, though it is an experiment by no means to be recommended. The fact also that several parties to a deed may use the same seal on the same wax, goes far to disprove the supposition that sealing was in its earliest origin a mode of signing, which should have been distinctive and definite to be of any use. Corporate and official persons could also use this mode of authenticating documents to distinguish the signature from that given by them to their own private contracts. The frequent use of sealing documents for purposes of secrecy would, however, soon suggest the transference of the seal to the interior of the document, as a solemn mode of giving it authority. Its greater stability and permanence of impression than a bare written signature would soon confirm this application. Such an expedient must have also suggested itself as an especial boon to the illiterate, to which class we owe the prevalence of the custom amongst ourselves. Although morality and honour inculcate equal attention to the fulfilment of all engagements once contracted, and to use deliberation only in making the promise, and not in its performance; yet jurisprudence desires proofs that no undue haste or influence has been used to create a duty of the class of perfect obligations. Hence, the seal would afford a proof of the solemn deliberation of the contracting parties, and would, in addition to all the previous functions, prove the enactment of the solemnity by its own profert without witnesses. This hypothetical origin and development of the custom in its first rise in the East is borne out by the actual development which the legal signification of the ceremony has undergone in our law.

The birth-place of the custom is the East. The practice of thus authenticating documents, which became prevalent on the Continent at the time of the Crusades, is considered to have been introduced—we should say, familiarised—by the pilgrims from Jerusalem. Its antiquity in the East is evidenced by several passages in Holy Writ: Jeremiah, c. 32; 1 Kings, c. 21; Dan, c. 6; Esth. c. 8. A solemn or official signature must have been eminently suited to the tastes of the ceremonious East. That this custom, with other usages of primitive civilization, spread over Europe at a very early period is exceedingly probable. It prevailed under the Roman Empire. The Gothic nations, however, do not appear to have adopted this custom. Thus, the Anglo-Saxons did not generally use seals. The illiterate marked with the sign of the cross. The custom of sealing documents, then, with the other Roman elements and ceremonies of our law, was introduced by the Normans, who were, says Blackstone, a "brave but illiterate nation." Now this custom is to be attributed not so much to their deficiency in learning as to their contact with Roman France. Had the Normans never tasted the remains of Roman civilization in Normandy, they would not have known so useful a custom. But, while its origin was noble, the perpetuation of the custom by the Normans in England was owing to their low state of intellectual culture. Customs long survive the causes from which they have sprung; and this remark is especially applicable to legal customs, which are so often interpreting the present by the light of the past. Records embody, and, therefore, perpetuate customs. Nor, if ceremonies

be not complex or abstruse, do we consider their antiquity, and consequently the distinctness of their legal definition, which is in the course of time naturally attained by a series of judicial decisions, an objection to their continuance within bounds discreetly determined. The Roman formula of selling King Porcenna's property by auction was not understood in Livy's time, although it was even then observed. It was an innocent fiction, however, from which no consequences of its own were perversely deduced by the Roman tribunals—a freedom from perversion from which the doctrines we are now discussing can by no means claim.

The most ancient sealed deeds or charters recorded in our law are that of Edwin, A.D. 956, which related to lands in Ely, and that of Offa, whereby he gave the Peter-pence. One of the most ancient sealed documents extant is the charter of Edward the Confessor to Westminster Abbey. Lands could be conveyed in Saxon times without writing, although deeds were sometimes used for that purpose. The Normans introduced *seisin*, in imitation of the feudal investiture, as an indispensable ceremony to pass an estate in land, and they also generally used deeds in imitation of the *breve testatum* of the feudal laws: writing, however, was not indispensable until the passing of the Statute of Frauds. The Normans also sealed their written documents and about the period of the reign of Edward the First every freeman had his particular seal. Arms, however, it is confidently stated, were not used until Richard the First introduced them. But this is by no means likely to have been the case among a military people accustomed to flags, banners, and military emblems. A seal itself is *ex vi termini* an official or distinctive mark. But the use of coats of arms generally only began to prevail from the reign of Cœur-de-Leon. When burghers began to acquire lands by purchase, they used seals as well as the nobility, and hence as the former had no emblazonment to display, sealing degenerated, it is said, into an empty form, all devices becoming obsolete and unnecessary. This may be a true account of the matter, although, if seals were ever used as distinctive signatures, it is hard to see why the law should consider the loss of their essence immaterial. We are strongly disposed to consider the unimportance of the device as indicating that a trace of the original use of sealing—namely, its secrecy—continued to pervade its character in law throughout ages that ceased to know or to interest themselves in its archæology. Moreover, witnesses although generally subscribing their signatures to deeds have never been held necessary for the due execution of these instruments—a circumstance which also goes far to show that the original use of sealing was secrecy, and that this incident of its origin influenced the legal character of the custom among those nations who adopted it. The same inference is also warranted from the fact that several parties might use the same seal. This could never have been the law if sealing in its origin was a signing, which, of course, should be distinctive and definite, but is readily accounted for on the hypothesis that sealing was first used in contracts and dispositions of property as it is now for such virtue as it may possess.

Our account, then, of this custom is that it appears to have first prevailed in its birth-place, the East, for the sake of secrecy; that it was soon transformed into a formality; that as a formality it was transferred by the East to the Romans, who transmitted it as such through their colony, Gaul, to the Normans; and they continued it as a substitute for signature—the ceremony being a convenient cloak for an ignorance of letters. It has been thus perpetuated to the present day as a ceremonious signature to which peculiar advantages are attributed by the law. Its prerogatives over oral or written contracts we have before enumerated, while the fact of its including signature was decided in *Cherry v. Heming*, 4 Exch. 631; 19 L. J., Exch., 63, which determines that sealing is a signing within the meaning of the Statute of Frauds, or at least, that deeds are not within the purview of that statute.

A deed, then, has always been regarded by our law as the most perfect and solemn form of contract between citizens. At first, it denoted a concluded and conclusive transaction. Afterwards, it was used for bonds and covenants, *conventus*, contracts of especial solemnity to be performed *in futuro*. Now, while it is desirable that ceremonies should be held indispensable to evidence the legal completion of a conveyance they can by no means be deemed necessary for contracts to be fulfilled *in futuro*, as such delays are inconsistent with the expedition necessary to be used in commercial transactions. Inexpedient, then, as any division of contracts into distinct classes, each having peculiar rights, must be considered upon grounds of commercial policy, such a classification, nevertheless, would have occasioned but little complication in our law, if its application was limited to the single point of determining whether the instrument or form of contract in each case were a deed or not. But when the law classified its own inferences by this technical standard, the effect of such a proceeding was, as a general rule, to defeat the intention of the contracting parties.

Thus, when the law, until recently, declared that breaches of trust, although the trusts were created by deed, were, nevertheless, only simple contract liabilities on the part of the trustee, and, therefore, that the *cestuique trusts* could be indemnified out of the assets of the trustee only in an order *puisne* to all his engagements under seal, the absurd consequences to which the original distinction of contracts into two classes led are obvious. "Confusion worse confounded" followed also from a threefold division which the law made of covenants themselves into express and implied, real and personal, transitive and intransitive. All this complication originated in the separate use of agreements under seal, unconnected with any actual conveyance. The qualities of a deed were thus imported, according to a legal sliding scale, into all instruments under seal, in proportion as these savoured of the reality, or approximated to the nature of an actual grant as distinguished from a promise. Thus the use of the word heirs in a covenant gave it priority in the administration of the covenantor's assets, over covenants in which the heirs were not mentioned; and this distinction exists to the present time; *Richardson v. Jenkins* (1 Drew. 477.)

Whether the courts were justified in developing to such an extent the germ of a technical mode of evidence is now too late to inquire. The only question is, whether the extravagant results to which the doctrine has been pushed, may not be better amended by an eradication of the doctrine itself—the *fons et origo mali*—than by positive legislation applied to exempt special cases from its pernicious operation.

[In a future article we shall endeavour to give some detailed account of the inconveniences which result from the present unscientific classification of debts, into debts by specialty and debts by single contract.]

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.

VI. (Continued).

COMPULSORY DOMICIL.

I am supported in my doubts as to the conclusiveness of the decision in *Arnott v. Groom* referred to, *ante* p. 199, by the fact that that able judge Lord Jeffery differed from his learned coadjutors, and made some most striking observations upon the reasons for such difference. He regarded the case as one of great nicety, inasmuch as it involved the fact of the matrimonial engagement, an intention *in futuro* coupled with actual residence. "We are all agreed," he said "that to constitute a domicil there must be the fact of residence at the time of the death and also a purpose on

the part of the defunct to have continued that residence."

Where both concur, nothing else is necessary; these are essential requisites, but they are the whole. Now, we have both requisites here. It is said to be quite clear that the lady must be held to have a Scotch domicile at least up to the date of her engagement with the future English husband, or at least up to the time when she went last to England in 1839. I am not entirely of that opinion, that domicile was not that of choice, nor was it that of birth; it was the derivative domicile chosen by her mother, and I am quite clear that such a domicile may be renounced with greater facility than that of birth or individual election; for it is that domicile impressed by the choice of a legal guardian. Consider how absurdly early the pupillarity of females expresses in this country, viz. at twelve years of age. It is hardly to be thought that this lady, as soon as she became a *minor pubes*, would assert an opinion upon the subject. Her domicile was no longer necessarily that of her mother, which I rather think continued to be Scotch, and the two can no longer be looked upon as the same or as the mother having the power to create the domicile for her daughter. They were only two friends living voluntarily together, independent of one another, and there might have been a radical diversity in the *animus* of each. Suppose the daughter should have indicated a wish to live out of Scotland, and the mother, seeing that, should break up her establishment, I have very little hesitation in saying that the short residence in Scotland after she came of age would not be held as indicative of her intention to make that country her domicile of choice. I cannot admit what Lord Fullerton assumes to be the rule, that in order to make a domicile it is necessary to have some particular spot within the territory of a law, that is, it is not enough that the party shall have an apparently continual residence there, but shall actually have a particular spot, or remain fixed in some permanent establishment. In considering the indicia of domicile these things are important, but they are not necessary as matters of general law to create a domicile. Many old bachelors never have a house they can call their own; there was the case of a nobleman who always lived at inns, and would have no servants but waiters, but he did not lose his domicile on that account. If the purpose of remaining in the territory be clearly proved *aliter*, a particular house is not necessary. Suppose a person like Dr. Munroe, (*Munroe v. Douglas*, 5 Mad. 379), but not having maladies making it hazardous for him to live in his native country, had proposed purchasing a property in the Highlands, and comes home from India without the least intention of returning, pays a visit to the north, and sends notice to have his house put in order, he dies before getting home, could it be doubted that he had acquired his Scotch domicile? * He comes back to Scotland, the country beneath the shade of whose law and within whose bosom he means to die. The purpose of marriage was a serious purpose, it is on the record, and I am not moved by the fact that the marriage might be broken off. The fact is, it was not broken off. Is this purpose not an inducement to change the domicile, though probably the engagement might have been disregarded, especially if there was delay between courtship and marriage. The case which illustrates best the ground on which I go is the case of a person having received an appointment of honour and emolument of a settled and permanent nature in another country, and requiring a residence in that country, but dying before being formally inducted into it or entering upon its duties. Take the case of a person in orders who, receiving presentation to a living in England, sells off his furniture and house here (Scotland), and moves to the south. A certain in-

terval must happen before he can be inducted into his living. He goes to England, spends several months, *animus remanendi* looking forward to his marriage with the church as the consummation of his felicity, and with the intention of dying at a mature old age in the land of his adoption. But, the ceremony is not performed, and he dies before it can be. I ask if that person shall not be held to have died domiciled in England. The statement of *Pothier* is express that if a party changes his domicile in consequence of permanent employment, the new domicile attaches to him the moment he comes into the new territory; I think the present case is just like such a spiritual betrothal."

It must be admitted that this case (*Arnott v. Groom*), was a most singular case, involving elements which rendered a decision upon it a matter of great difficulty, and never, I suppose, was the rule of the necessity of the *animus et factum* put to so severe a test. The party, by the law of Scotland, which releases females from what is called the state of pupillarity at twelve, and males at fourteen years of age, was, *sui juris*, to retain or change her domicile as she pleased, and she certainly, by her marriage engagement, made a great advance (though unconsciously) towards doing so; but upon the decisions upon this subject, it is, I think, clear that it was an advance only and not a selection, a contract without taking possession; and although Lord Fullerton's observations were just as to the total uncertainty of the fulfilling of the marriage engagement, yet they appear unnecessary to support the decision come to, for it rested entirely on the ground that anything short of actual permanent residence, coupled with the intention to make it so, could not have changed Miss Stewart's domicile from Scotch to English, assuming that her domicile of origin was lost, and that she acquired that of her only surviving parent. This was another difficulty, if not the chief one in the case, and is a somewhat new feature in the law in that respect. Such a case must, of course, often happen, where a woman becomes widowed with a young family, and is obliged, perhaps, on that very account, to leave her native country and seek under other skies the means of supporting and educating her children upon a scale of reduced expenditure. She would of course, as an independent person, as a *feme sole*, if she permanently resided in that other country, change her domicile and become domiciled there, and hence it seems quite in consonance with reason that such domicile should be imputed to the children as much as if their father were living and had pursued the same course, for at no time could they follow the domicile of more than one parent, and the act of God has only shifted the power to control the domicile of the *minores* from one natural guardian to another. With regard to the observations made and the cases put by Lord Jeffery, they are assuredly very powerful and ingenious, but upon examination they seem rather to go to what his notion of the law of domicile is, or should be, than to what it is. I take the rule laid down by all the cases upon this subject to be express, that there must be an actual taking possession, without which no intention, however strong, can prevail; no, not even the starting upon the journey to take possession, for that is the very dying *in itinere*, so often discussed, and which starting for the intended destination has been held not to operate as a total abandonment of the last domicile. If we look at it in this view, it is an answer to all the cases he puts. Suppose Dr. Munroe had purchased a house in Scotland, but died before he took possession, the very element to constitute the new domicile, namely, the taking possession, would be wanting; and so of the other cases. The question is, not the losing a domicile, but acquiring one; and if we do not acquire, we cannot lose; and as every one has at least a domicile of origin, that becomes his domicile at last, in the absence of all others. Two points then are established by this remarkable case, first that a *minor* on the

* But, see upon this point the case of *Attorney-General v. Dunn*, 6 M. & W. 511, where a contrary opinion is expressed.

death of one parent follows the domicile of the other, and next that an intention, expressed by some act to reside in another country, unless it be coupled with residence in some particular spot of a permanent nature does not, on that minor coming of age, operate as the acquirement of a new one; *vid. Robins v. Parton*, 6 W. R. 157. I have in a previous part of this chapter adverted to the general law as applicable to a married woman, to which I would now revert for the purpose of inserting some most valuable observations made by two learned Scotch judges upon this subject. The case which gave rise to these was that of *Ringer v. Churchill*, which occurred in June, 1840, and is reported in the "Decisions of the Court of Session," 2nd series, vol. ii., p. 307, *et seq.*, and they are the more valuable as they were corrected before being printed, by the judges themselves. The circumstances of the case appear in the following extract. Lord Justice Clerk said, "The facts of the case are shortly these:—Both the pursuer and defender are natives of England, where they were married and resided for some years afterwards. In 1822 as it is alleged, the defender Mrs. Ringer left her husband, went abroad, and has been guilty of adultery, especially at Antwerp, in Belgium. The pursuer came to Scotland in 1838, and after he had resided there above forty days, he instituted the present action for the purpose of dissolving the marriage on the ground of adultery, and the defender was fully certiorated (certified) of this proceeding, a copy of the summons having been communicated to her personally while residing abroad. Appearance has been made for her in the action, and defences have been lodged which in pointed terms deny the allegations of the summons and maintain that the defender not having been guilty of the crime of adultery, there is no ground for instituting a process of divorce. A proof having been allowed by which the pursuer alleges that the guilt of the defender is established to have taken place at Antwerp, Lord Fullerton as Lord Ordinary in the cause took the case to report in consequence of the objection having been raised in another case then depending in the court. His lordship reported the cause on the question of the competency of the action under such circumstances, and the point was ordered to be argued before the whole court. The pleas maintained by the defender are, first, that this court has no jurisdiction to give a decree in this action in respect that the defender was not duly domiciled here (Scotland), at the date of the action, and was not personally cited. Secondly, that even assuming her domicile in respect of her husband, still it being merely fictitious, decree of divorce cannot be given on account of acts committed in a foreign country.

(To be Continued).

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before the LORD CHANCELLOR and the LORDS JUSTICES OF APPEAL.)

Jan. 21.—*Cook v. Sturgis*.—The circumstances of this case are stated *ante*, p. 201. An application was now made on behalf of Mr. Commissioner Law to set aside the writ of prohibition granted by Lord Cranworth, when Lord Chancellor, restraining the Commissioner from dealing with certain funds in the Insolvency Court. The case is remarkable for the conflict of jurisdiction between the two Courts. The facts have so frequently been reported that it is unnecessary to recapitulate them.

The Court reserved its judgment.

COURT OF COMMON PLEAS, WESTMINSTER.

(Sittings in Banco, before Lord Chief Justice ERLE, and Justices WILLIAMS and KEATINGE.)

Jan. 18.—*Erle v. Hopwood*.—*Champerty*.—In this case the plaintiff by his declaration averred that he had, as the attorney

of the defendant, advanced large sums of money, and incurred great liabilities, in addition to his costs and charges as an attorney, in enabling the defendant to recover possession of certain estates and property of considerable value; and that he had agreed so to do upon condition that the defendant would pay to him, over and above all legal costs and charges incurred, a sum of money according to the interest and benefit accruing to him from possession of the estates and property, and sufficient to compensate the plaintiff for making the advances, incurring pecuniary liability, and devoting his utmost skill, care, and labour in instituting and carrying on proceedings. That the plaintiff succeeded in recovering for the defendant possession of the whole of the estates, of the yearly value of £8,000. And the plaintiff claimed to be entitled to the sum of £30,000 over and above all his legal charges.

The defendant pleaded payment and satisfaction of the plaintiff's legal costs and charges as his attorney and solicitor, and that the plaintiff had not delivered a signed bill of his demand one month before the action according to the statute. To these pleas the plaintiff demurred.

Shortly after the plaintiff's case was opened,

The CHIEF JUSTICE interposed and stopped the argument. He said the declaration was clearly bad, inasmuch as the money to be paid was to be paid out of what the property recovered realized. It therefore came within the statute of 28 Edward I., chap. 11, against champerty and maintenance of suits. Judgment must therefore be for the defendant.

COURT FOR DIVORCE & MATRIMONIAL CAUSES (Before the JUDGE ORDINARY.)

Jan. 22.—*Gurney v. Gurney*.—In this case a decree nisi having been made for the dissolution of the marriage,

The Solicitor-General applied that the decree might be suspended to give an opportunity for a future application as to the respondent's property. A petition on the subject had already been presented by Mr. Gurney. The petitioner's advisers had been rather perplexed as to the proper mode of proceeding.

The JUDGE-ORDINARY said there was no precedent as to the practice. No such jurisdiction as that conferred upon him with regard to property had ever been exercised before, and the clause conferring it was most embarrassing. He was called upon to deal with property without any indication of the principles by which he was to be guided. He was navigating a new sea, without either chart or compass. His lordship also complained that the petition set out a long settlement and a will without any abstract of their effect.

The Solicitor-General said that the petition had no reference to the settled property, but to the property which Mrs. Gurney possessed in her own right under a will.

The JUDGE-ORDINARY.—Then, I suppose the settlement was inserted because it was supposed that I might be a person of curious habits, and might like to read it over, although it had nothing to do with the case. His lordship also suggested that some evidence as to the husband's income should be laid before the court. There could not be much difficulty in the matter, as probably the facts were not controverted. The proper course would have been to have included a prayer as to the property, in the prayer of the original petition.

The Solicitor-General.—The petition shall be made more full and more short.

The decree was accordingly suspended.

Jan. 23.—*Richards v. Richards and Jones*.—An application was made in this suit that under the 40th section of the Divorce Act, 1857, the issues therein might be sent down for trial to the Shrewsbury assizes. The petition was by a husband for a dissolution of marriage. One ground of the application was that, if the case were tried in London in the usual course, it could not come on for hearing before the petitioner was obliged to leave the country. Another ground was that a number of important witnesses lived at Aberystwith, and could not be brought to London without great expense being incurred.

The JUDGE ORDINARY said that the Legislature intended the whole matter to be referred to this Court; but all the common law judges were now judges of this Court. It seemed to him that the meaning of the 40th section was that where questions of fact were in issue, which might be determined at a much more moderate expense in the country than in London, the Court should have power to delegate the trial of those questions in the same manner as the Court of Chancery. A fact so tried, and decided by a jury, would be treated as a fact in the cause. The judge who tried the cause would have power, as in issues

directed by the Court of Chancery, to endorse upon the record any special matter that was necessary to be brought to the notice of the Court. It would be much more expensive to try this cause in London than in Shrewsbury.

His Lordship then made the order for the trial of the issues in the cause at Shrewsbury before a special jury.

MIDDLESEX SESSIONS.

Jan. 21.—The January adjourned sessions commenced this morning at Clerkenwell, before Mr. Bodkin, Assistant-Judge, Mr. Payne, Deputy, Mr. Pownall, Chairman, and the following magistrates:—Dr. Bateman, Mr. H. Harwood Harwood, Mr. Parbury, Mr. E. E. Antrobus, Mr. Dixon, Mr. Henry White, Mr. Rigg, Mr. Marshall, Sir J. Tyler, Sir C. D. Crossley, Mr. Stacey, Mr. Rankine, Mr. Hogarth, Mr. Arthur Ballantine, Mr. Goodhart, Mr. W. P. Bodkin, Mr. Sambrook, and Mr. Wyatt.

Mr. Serjeant Tozer, of the Norfolk circuit, has been appointed to the vacant recordership of Bury St. Edmund's.

Mr. John Tattersall Auckland, of Eastbourne, Sussex, has been appointed a Perpetual Commissioner for taking the acknowledgments of deeds by married women, for the county of Sussex.

Mr. Thomas Avison, of Liverpool, has been appointed a Perpetual Commissioner for taking the acknowledgments of deeds by married women for the County of Lancaster.

Mr. George Augustus Bragg, of Moretonhamstead, Devon, has been appointed a Perpetual Commissioner for taking the acknowledgments of deeds by married women for the County of Devon.

Mr. Thomas Bradley Chambers, of Brighouse, York, has been appointed a Perpetual Commissioner for taking the acknowledgments of deeds by married women for the West Riding of the county of York.

Mr. Spencer Murch Cox, of Honiton, Devon, has been appointed Perpetual Commissioner for taking the acknowledgments of deeds by married women for the County of Devon.

Mr. Anthony Portington, of Alford, Lincoln, has been appointed a Commissioner for taking the acknowledgments of deeds by married women for the parts of Lindsey, in the county of Lincoln.

Mr. Robert Lowe Grant Vassall, of Bristol, has been appointed a Perpetual Commissioner for taking the acknowledgments of deeds by married women for the city of Bristol and the county of the same city, also for the counties of Somerset and Gloucester.

It is stated that in pursuance of the rule obtained in the Slave case on Tuesday, the 15th inst., a messenger of the Court of Queen's Bench proceeded on Saturday last from Liverpool by the Cunard steamer for Canada; and that Anderson will be brought over, unless it shall so happen that he has been liberated by the Court of Common Pleas in Canada before the messenger arrives out.

Recent Decisions.

EQUITY.

INSOLVENCY—RIGHT OF SINGLE CREDITOR AS PLAINTIFF.

Davies v. Snell, M. R., 9 W. R. 209.

In *Heath v. Chadwick*, 2 Phill. 649, Lord Cottenham decided that a creditor of an insolvent could not maintain a suit respecting property belonging to the insolvent and vested in the assignee in insolvency, even though the bill proceeded upon the ground that there had been collusion between the assignee and the party against whom relief was sought. In ordinary cases it would, no doubt, be highly inconvenient that any creditor, or any number of creditors less than the whole, or the insolvent himself, should be able to institute a suit in respect of any property or right belonging to the insolvent—all his rights and property being vested under the Act in his assignees.

In *Davies v. Snell* exactly the same question arose. The bill was filed by one creditor of an insolvent debtor, after the insolvency, against the assignee of certain property which belonged to the debtor, and which he had, as alleged, fraudulently assigned to this defendant, and also the assignee in insolvency, who had refused to institute a suit except upon being in-

demnified by the plaintiff, which was impossible on account of the plaintiff's circumstances: he now sued in *forma pauperis*. "The plaintiff," said Sir John Romilly, M.R., "had no *locus standi* in this Court; nor could the Court enter into the question whether the assignee had acted rightly in refusing to institute a suit."

Heath v. Chadwick; *Kaye v. Fosbrooke*, 8 Sim. 28; *Major v. Auckland*, 3 Hare 77; and other cases, are to the effect that it is as incompetent to the insolvent debtor as it is to one of his creditors to file a bill in respect of his estate. In two recent cases, however, the question as to the right of an insolvent debtor in respect of any surplus which may remain after payment of his debts has been very fully considered in both the Appellate Courts of Chancery. In *Dyson v. Hornby*, 7 D. M. & G. 1, (1854), 3 W. R. 439; a sum of money belonging to the insolvent's estate was in court, and was more than sufficient for the payment of the debts under the insolvency; and the question was whether it was competent to an insolvent debtor, or any person claiming under him, by proceedings in the Court of Chancery, to intercept the title of the assignee under the insolvency to receive the property of the insolvent; which was decided in the negative, Lord Justice Turner agreeing (Lord Justice K. Bruce, however *dubitante*) with the Vice Chancellor Stuart, from whose decision the appeal was brought. In *Wearing v. Ellis*, 6 D. M. & G. 596, Lord Cranworth decided that the devise of an insolvent debtor who had taken the benefit of the Act and obtained a release in full from all his creditors, could sustain a bill in respect of surplus real property, which had been conveyed by the official assignee, without going through the process of applying to the Insolvent Court for an order revesting the property in the assignee of the insolvent. In these cases it was insisted upon in the judgments of Lord Justice Turner and of Lord Cranworth, that the Court of Chancery has nothing to do with the administration of the estates of insolvents. In the last mentioned case Lord Cranworth relied upon the fact that the real estate in question had been got out of the official assignee by his own conveyance, which circumstance distinguishes the case from all the other cases to which we have referred. In *Wearing v. Ellis*, moreover, the insolvency in truth was at an end, the creditors having all released the insolvent's estate.

REAL PROPERTY AND CONVEYANCING.

SPECIAL OCCUPANCY.

Reynolds v. Wright, 9 W. R., 211.

A branch of law, in which decisions are neither very numerous nor very recent—that of special occupancy—has been illustrated and settled in a recent case decided by the Lord Chancellor. The proposition newly laid down is this, "that there may be a special occupant of an equitable estate *pur autre vie*; although the legal estate be in the trustee." This was deduced immediately from the 3rd section of the Wills Act, coupled with the rule that all the sections of the Act, both the new matter, the re-enactments and the consolidation, are to be read together. It seems, indeed, difficult to draw any other conclusion from the language of the 3rd section, but how far ingenious doubts may be thrown upon the meaning of the 6th clause, and of the 12th of the Statute of Frauds, which it repeals and re-enacts, may be found from the report of the case referred to of *Reynolds v. Wright*. The circumstances of the case were these: Lands were devised to E. S., her heirs and assigns, for three lives, and the life of the survivor. E. S. by will devised this freehold lease to and to the use of two trustees, their heirs, executors, administrators, and assigns, in trust for B., his heirs, executors, administrators, and assigns. B., who was illegitimate, survived E. S., and died intestate, and without having been married, in the lifetime of the *cestuis que vie*. The plaintiff claimed the estate as administrator of B., and filed a bill praying for an injunction against the defendants, the executors of E. S.'s will, who had commenced an action of ejectment. The defendants demurred to the bill. The plaintiff, as administrator, appears to have grounded his claim on his alleged character of special occupant. Two points were agreed upon—one, that the estate was an equitable one; the other, that had it been possible for B. to have had an heir, the heir of B. would have taken as special occupant. But, B.'s illegitimacy rendering him unable to transmit any heritable capacity except to his own children, of whom he had none, the administrator claimed to be special occupant, as being expressly mentioned in the original gift. It appears from the report (p. 212), that this was the view adopted by the Master of the Rolls. He held B.'s administrator entitled by special

occupancy, and refused the demurrer on that ground. But the Lord Chancellor on appeal distinctly says that in this case there could be and there was no special occupancy. It is observable that the Lord Chancellor, in delivering judgment, cites the limitation to B., as if it were to B., "his heirs and assigns;" whereas in the statement of the report it is found to be to B., "his heirs, sequels in right, executors, administrators, and assigns;" and then proceeds to say that (B. being without an heir) "here upon the death of the grantee of a subsisting estate *pur autre vie*, there is no special occupant and there can be no special occupant." The reasons why the plaintiff, the administrator of B., did not and could not take in the character of special occupant are not given. Whether, therefore, or not, the decision proceeded on the ground that the word "heirs," occurring in the grant, rendered the word "administrator" inoperative, and mere surplusage, and that, as there could be no heir, the limitation wholly failed—we are left to conjecture. That an executor or administrator as such, is not incapable of taking even a freehold lease as special occupant, is abundantly clear from the cases of *Ripley v. Waterworth*, 7 Ves. 425; and *Fitzroy v. Howard*, 3 Russ. 230, and may be inferred from the language of the Wills Act itself. In the present case the administrator though he failed on appeal, in his character of occupant, was held to have succeeded under the clause in the Act of Parliament, and thus the decision of the Master of the Rolls was upheld. The Wills Act provides that "in case there shall be no special occupant of any estate *pur autre vie*, it shall go to the executor or administrator of the party that held the estate thereof by virtue of the grant." In this case, the Lord Chancellor held that there was no special occupant, and that the plaintiff was entitled to the property by virtue of the statutory right.

To meet the case which the plaintiff thus, in the end, succeeded in establishing, the defendants were put to great difficulties. Their main contention was that they had the legal estate in themselves; that there could be no special occupancy of an equitable estate, consequently that the plaintiff had no *locus standi* in equity. Another argument was of this kind. They relied upon an opinion expressed by the Master of the Rolls, to the effect that under the Wills Act, they, the defendants, must fail, but that it was a question whether the plaintiff could have succeeded under the Statute of Frauds. If that were so, they said that the words upon which his Honour decided the case were the same in both statutes; viz., the following:—"And if no such devise thereof be made, the same shall be chargeable in the hands of the heir, &c., as assets by descent." Here no devise was made, and there was no heir; consequently the holders of the legal estate claimed to be entitled for their own benefit. The clause, "in case there be no special occupant thereof," they argued, must be held to mean, in case no special occupant were pointed out in the grant, that is to say, in case there were no words of limitation in the grant at all. To these arguments it was answered that the Wills Act proves special occupancy to apply to equitable estates. Secondly, the observation of the Master of the Rolls referred to the well known circumstance that there was a *casus omissus* in the Statute of Frauds which the Wills Act was intended to remedy; finally it was argued, though as it turned out erroneously, by the plaintiff, that he was a special occupant. It is somewhat remarkable that in a note to *Jones v. Goodchild*, 3 P. Wms. 33, the point involved in this case was anticipated and discussed by the learned reporter more than a century ago. He puts the case of a church lease for three lives given to a bastard and his heirs, and then the bastard dying intestate and without issue; what, he asks, becomes of the lease? Does it go to the administrator of the bastard? or to the Crown? or does the limitation to the heirs make any difference? or is it *casus omissus* out of the Statute of Frauds? or lastly, is the lessor entitled on the principle that the lease is determined? To these queries we are now enabled to answer, that the estate does go to the administrator of this bastard, not, however, by law but by modern statute; that the limitation to the heirs is material; and that the *casus omissus* in the Statute of Frauds, if it would have applied to this case at all, is now remedied by the statute of 1 Vict. c. 26. It seems highly probable that this is among the last cases upon this subject which can come before the Courts. The decision that equity follows the law in the case of special occupancy appears to bring within the purview of the Wills Act any possible description of an estate *pur autre vie*. Even the very artificially conceived cases, stated in Peere Williams, has now, in the natural course of events, actually occurred in practice, and been settled by judicial decision.

COMMON LAW.

JURISDICTION OF MAGISTRATES — SUMMARY CONVICTION FOR AN AGGRAVATED ASSAULT — 16 & 17 VICT. C. 30, s. 1.

In re Thompson, 9 W. R. Exch. 203.

In this case an important and interesting question was discussed, with regard to the proper administration of the law by which outrages on the person are punished. And it will be seen that the Court of Exchequer are not of one mind as to the consequences of evidence being given on a charge before justices of *assault and abuse*, establishing that the crime of *rape* had been in fact committed by the person charged on the woman assaulted.

The point did not come under the Court for the Consideration of Crown Cases Reserved (the usual tribunal for the clearing up of doubtful parts of the criminal law), but arose in the Court of Exchequer, on a motion for a *habeas corpus* to bring up the body of a prisoner who was confined in consequence of his conviction for an aggravated assault, by justices at petty sessions. The proceeding before the magistrates was taken on an information which charged the defendant with having unlawfully *assaulted and abused* one A. T.; and after the case for the prosecution had been opened by the attorney employed, the attorney for the person charged raised an objection that the facts charged would (if proved) establish the crime of *rape* to have been committed, which would oust the jurisdiction of the justices. This objection was overruled; evidence to the effect above suggested given by the prosecutrix; and the person charged was sentenced to six months' imprisonment, as for an "aggravated assault," under 16 & 17 Vict. c. 30, s. 1; which allows assault upon females of such an aggravated nature as not properly to be dealt with by the infliction of a fine of £5, under 9 Geo. 4, c. 31, s. 29, to be punished summarily by the magistrates with a larger fine or with imprisonment, (with or without hard labour) to the extent of six months. It was, in support of the conviction, now contended that the word "abuse," in the information above referred to, might be treated as surplusage, and being so treated, that the prisoner was lawfully convicted of an aggravated assault, under the above statute; while, on the other side, it was insisted that the word "abuse" was material, and showed that something had been done beyond an assault, and that consequently the magistrates had no jurisdiction. On this point the Court were equally divided, and the grounds of this discrepancy will appear from the following *breviate* of their judgments.

The Chief Baron and Mr. Baron Wilde were both of opinion that the conviction was bad. They remarked that the provision in 16 & 17 Vict. c. 30, was an extension only with regard to the *punishment*, of 9 Geo. 4, c. 31, s. 27, in which the expression used was a *common* assault, i.e., an assault not accompanied by any circumstances which gives to the assault the distinctive character of an intention to commit a crime such as *rape*, *murder*, and the like. The expression used in the later Act "aggravated assault" referred, they thought, only to a common assault of a violent and severe kind, not to one complicated with an intention to commit a specific crime. For over the latter species of assaults magistrates have no jurisdiction and ought to send the case for trial at the sessions or assizes. We are of opinion further that the charge itself (in the case now before the Court), that of *assaulting and abusing*, shows that the magistrates had no jurisdiction, and the accuracy of the charge was borne out by the evidence given. To allow the magistrates after this to proceed, would, on the one hand, be allowing them to send a man to prison for six months with hard labour under circumstances which he has a right should be inquired into by a jury; and on the other, permitting them to *pardon* the offence of *rape* (for no further proceedings can be taken against the offender), by treating the matter as a common assault. If it is to be allowed that magistrates should shut their eyes to one part of a charge in order to give themselves jurisdiction, there is no offence however serious, even up to the crime of *murder*, which may not in this manner be withdrawn from the consideration of the proper tribunal.

On the other hand, Barons Bramwell and Channell came to the opposite conclusion; and held the conviction to be good. Had the charge indeed been one of *rape*, the magistrates should simply have dismissed it or committed the person charged for trial, and could not have convicted him of an assault; and the case would have been the same had the charge been of having committed an assault *with intent* to kill, *ravish*, or the like; but the charge was that of *assaulting and abusing*, and the latter term has no technical meaning (for the

present purpose) confining it, when used in reference to a woman, to sexual intercourse with her. It is a proof of this, that in 9 Geo. 4, c. 31, where the word is used in connection with the crime of rape, the word "carnally" is added. This word therefore in the charge with which the magistrates dealt, may properly be rejected altogether, as having under the circumstances—the woman being of full age—no meaning whatever. Hence the charge brought before the magistrates was a charge of assault, with which, under the statute, they were competent to deal; and with which they did deal, though probably they came to a wrong conclusion on the evidence, and should have committed the prisoner for trial for the offence of rape. But, in point of law, it is possible to suppose them to have discredited the evidence so far as it tended to establish the crime of rape, and to have believed only such as showed that a common assault of an aggravated kind had been committed. On this ground the conviction should be supported.

It may be remarked that the Chief Baron in comparing the statutes of Geo. 4 and Vict., appears to have been inaccurate in one respect. The provision in the earlier statute only allows the justices to inflict a fine to the extent of £5, or, in default, imprisonment for two months (not three as stated in the judgment). The Act of Victoria differs not only in allowing a larger fine (£20) to be imposed, but also allows the punishment to be either by imprisonment or fine at the discretion of the justices. This distinction between the two Acts, perhaps, somewhat weakens the argument of the Chief Baron, so far as it depends upon the assaults intended by the later Act being aggravated assaults of the same character, as those referred to in 9 Geo. 4, c. 31, s. 27.

It may further be observed that one difficulty which seems to have been felt by those barons whose opinion was in favour of the conviction, was as to how they could consistently with the decision of the *Queen v. Bolton* (1 Q. B. 66), review upon affidavits the judgment of the magistrates upon the facts brought before them in evidence, so as to separate the evidence as to an assault from the evidence as to a rape. The decision came to in the case referred to, was that where there was a conviction regular in form and practice, and in a case over which the justices clearly had jurisdiction, the Court of Queen's Bench will not interfere or look at affidavits impeaching the correctness of their decision. But (as remarked by the Chief Baron) neither does that case nor any other authority prevent the Courts at Westminster from considering the question of jurisdiction on affidavits or otherwise.

Correspondence.

TITHE RENT-CHARGE.*

The construction to be put upon the words "in arrear and unpaid" must be a literal one; and if the rent-charge is in arrear and unpaid for twenty-one days, the owner may distrain after giving ten days' notice to the tenant in possession.

By the 6 & 7 W. 4, c. 71, s. 81, it is enacted that in case the rent-charge is in arrear and unpaid for twenty-one days next after any half-yearly day of payment, it shall be lawful for the person entitled to the same, after having given or left ten days' notice in writing at the usual or last known residence of the tenant in possession, to distrain upon the lands liable to the payment, &c., for the arrears of rent-charge, as for arrears of rent reserved on a common lease for years—with a proviso that not more than two years' arrears shall at any time be recoverable by distress.

By the 23 & 24 Vict. c. 93, s. 29, the owner of the rent-charge is entitled to 2s. 6d. in respect of each notice; and by s. 30, the notice may be given in the manner provided by the therein recited Acts (of which the above is one) or the notice may be sent by the post in a registered letter to the office or usual place of abode of the person to whom it is addressed.

Your correspondent, "A Subscriber," confounds the remedy by distress for rent with the remedy by re-entry for a forfeiture accrued by its non-payment, as it is in the latter case only that, in general cases, an actual demand of the rent must be made upon the land by the person entitled or his immediate agent.

C.

The 23rd & 24th Vict. c. 93, in no way affects the mode of recovering a tithe rent-charge. It merely facilitates the service of the notice required by the 81st section of the 6th & 7th

Will. 4, c. 71, and authorizes a charge of 2s. 6d. to be made for it.

Beyond this notice, I take it that no demand of any kind is legally necessary to entitle the owner of the rent-charge to distrain.

I think "A Subscriber" has not sufficiently considered that although the 67th section of the Tithe Commutation Act speaks of the sum payable in lieu of tithes as "in the nature of a rent-charge, &c.," it also goes on to provide a special mode for its recovery. This is contained in the 81st section:—"In case the said rent-charge shall be in arrear and unpaid for the space of 21 days next after any half-yearly day of payment," it shall be lawful to give the notice before referred to and distrain.

It appears clear to me therefore that the rent-charge is "in arrear and unpaid" the moment after it becomes due, without any demand of payment having been made, and consequently that at the expiration of 21 days, the tithe owner may proceed to give the required notice and distrain.

R. H.

APPOINTMENT OF NEW TRUSTEES OF CHAPELS, &c.

Can you or any of your readers inform me whether there has been any decision upon the construction of the 13th & 14th Vict. c. 28, which vests property held for religious or educational purposes in new trustees without any conveyance, the appointment being merely evidenced by a short deed according to the form given in the schedule to the Act. Mr. Lewin does not mention this Act in his Treatise on the Law of Trusts and Trustees.

A. G. P.

The Provinces.

ROCHDALE.—At the sitting of the Rochdale County Court, on the 23rd inst., Mr. E. J. H. Craufurd, barrister, (instructed by Mr. Z. Mellor, town clerk of Rochdale), applied for a new trial in the case of *Maden v. Catenach*, which was heard at a previous court. Mrs. Maden was the daughter of the defendant, and her husband sued for a piano, valued at £6. On Mrs. Maden getting into the box to give evidence, on the former hearing Mr. Standring, solicitor for the defendant, asked if she believed in a God, and in a future state of rewards and punishments. Mrs. Maden replied in the negative; and thereupon his Honour (C. Temple, Esq.) non-suited Mr. Maden, with costs. The learned counsel having now put in an affidavit, setting forth on the part of Mr. Whitehead (solicitor on the former hearing), what then took place, made a long statement, and cited a number of authorities maintaining that in British courts of law, where a plaintiff's own rights were concerned, the law did not permit an inquiry into his religious belief, and therefore on that ground did not permit an objection to his suit. What the law did was this; it stepped in in such cases when the rights of others were concerned.—His Honour remarked that in a case like that he had not the slightest wish to close the mouth of any one. A non-suit was accepted, and the opposite side asked for costs, and, as a matter of course, he gave them. It was not correct that the Court, on its own motion, had taken the interrogatories into its own hand, and then awarded costs.—Mr. Craufurd then briefly asked for a new trial.—Mr. Standring having opposed the application, his Honour gave judgment: The case, he said, came before him simply on the ground that he had committed a mistake in the law of the land, and that a witness to whom objection had been taken, had been improperly refused to be allowed to give her testimony. Now, his object on all occasions was to perform his duty, in the administration of the law, in a fair and impartial manner. In that case he could not be charged with any prejudice in the matter, for he knew nothing of the parties until they came before him; nor did he learn the position the case had assumed until weeks afterwards, when, as they might guess, some one was good natured enough to send him the public papers. The learned counsel had said that the question was one of common law, and that that law was elastic, and not to be judged with the strictness of olden times. He admitted that in a degree, but not to the extent of the learned counsel's argument. The common law was elastic as regarded the circumstances and changes of society, but not as applied to a principle. The common law in such a case as this, as he had gathered from Justice Buller, was, that a witness must believe in the existence of a God, in the obligation of an oath, and in a future state of rewards and punishments, so as to secure or

* See ante, p. 204.

imply a responsibility to God for the truth of the evidence given. The oath, as now given, concludes with the words, "So help me God." The old form concluded with the words, "So help me God on his holy doom or day of judgment." That was no doctrine of his; it was the law, and he had no power to alter it. He had simply administered it, and as the Legislature had acknowledged that to be the common law, he could not meddle with it. His Honour then cited the case of *Gmichund v. Barker*, and the opinions of Lord Coke, Chief Justice Hale, and others; and concluded by refusing to grant a new trial, and gave costs to the opposite party.

Ireland.

THE PROFESSION AND LANDED ESTATES COURT.

The Australian Land Registration plan does not appear to find favour with the lawyers, whatever may be its merits in the eyes of economists. Probably the profession in Australia consider it a rash attempt to put an end to conveyancing; and they know that land does not resemble government stock, and cannot be assimilated to it, or treated like it. It may be that in a newly civilized country, where society is young, sales and mortgages constitute the whole transactions in land: but it will be soon discovered in our flourishing colony, that the exigencies of property and of family will render settlements of all kinds necessary—the "paternal estate" will become valuable, beyond money value, even to the Australian. The essence of feudalism must eventually re-appear in British society, even at the Antipodes. Then it will be owned that estates do not resemble the Three per Cents in any degree whatever. We take it that the lawyers there are alive to these considerations, and therefore view Mr. Torrens and his complete-looking schemes with some suspicion.

But as a parallel has been drawn, and will continue to be drawn, between the new registration system in Australia, and the system of parliamentary title which has been in force in the Incumbered or Landed Estates Court (as it is now called) in Ireland, for some ten years past, it may be well to show how far the latter system interferes with the profession in Ireland, and in what light they regard it. In order that this may appear, we must look back into the history of the Incumbered Court, to its foundation under the Act of 1849.

Many old heads thought that Act somewhat revolutionary, and repeated the old question, "Suppose this Court should sell the estate of A., grant it with parliamentary title to B., and with the proceeds pay off the debts of C.?" It required some three or four years of steady working experience to show them that if the machinery is entrusted to cautious, learned workmen, and if a great publicity is given to all their proceedings through advertisement, and otherwise by the press, such accidents cannot occur, and such fears are groundless. If itinerant commissioners had indeed gone from one county to another, selling off all before them, in haste, mischief enough might have ensued. But the Act was worked by three grave and prudent lawyers, the senior of whom was a Baron of the Exchequer; and if the machine moved with some of the rapidity, it moved with all the exactness, of a steam-engine. Total security against fraud and mistake was found in a well devised paraphernalia of abstracts, deeds, certificates, affidavits, Ordnance surveys, maps, rent rolls, certificates, and postings in the newspapers.

The solicitors of Ireland immediately after the Act passed began to revive, in a new and unexpected manner, hundreds of old chancery suits which had been dead or languishing in their offices for years. Within a year from the opening of the new Court, five hundred petitions were lodged, relating to estates which had been the subject of chancery proceedings. In some cases, the suits had abated and had not been revived; in some decrees had been made, and tedious enquiries were being made, or were supposed to be made, in the masters' offices. In some, decrees for sale had been pronounced, but no purchasers could be found. In some, purchasers had found out incurable flaws in title, and were seeking to abandon their purchases. In many, one purchaser had been discharged, and no other had appeared. In all, there was no efficient ownership, no proper management, and the estates were virtually bankrupt. For a long time, then, the solicitors were engaged in winding-up these cases, under the new system. The properties were sold after full inquiries into title, the conveyances executed, and the funds distributed to the creditors; no inconsiderable sums being paid away in discharge of chancery costs long overdue, but for which there had been no available fund. On the hospital

being opened, the worst cases rushed in first. But the business soon began to alter in its character.

Solicitors then began to appreciate the benefit of a system which, in fact, made land a marketable commodity. Some of their clients had moneys to invest. Instead of buying shares or stock, they found it better to buy land, knowing that in case of need they could immediately re-sell. Land became a commodity easily bought, and readily sold. All the spare money in the country, in fact, came through the solicitors' hands in this way. If land had been unattainable, and the stocks the only eligible investment, it would have gone through the stockbrokers' hands. In an old country every one likes to buy land—if he can; every one looks forward to the time when he can saunter round his own fields, as one of the best hopes of this life. The solicitors found that every transaction, of the thousands that now took place, brought them some employment and some profit. The few heavy transactions in the year had been substituted by a hundred smaller ones; smaller, indeed, but on the whole more profitable, and accompanied by more prompt payment. In 1857, the entire profession concurred in the absolute necessity of rendering the court a permanent institution of the country, and of enlarging its jurisdiction, so as to enable short terms of years and life-estates (theretofore excluded) to be sold, and also estates free from incumbrance. With the full concurrence of the Law Society, and of the entire profession, was passed the Act constituting the "Landed Estates Court" permanent, and giving it largely increased jurisdiction.

Here we must refer to two important matters, in which the Law Society was obliged to interfere, but in both of which that interference was followed by the best results. In 1858 came out the new code of rules. They were complicated, and tended to keep business away from the Court, and to send foreclosure and partition suits *à la* into the Court of Chancery. The Law Society sent a deputation to the judges of the Court to represent the injustice and impolicy of frightening away vendors and other suitors, by a cumbrous mode of procedure. The then senior judge (the author of the code in question) and his colleagues declared the code an experiment only; and in July, 1859, it was wholly abolished, and a more simple and rational mode of procedure finally established. The other point is that of the schedule of costs of proceedings, which after much consideration by the Court, aided by the Law Society on the part of the solicitors, were revised, and so finally settled as to give to practitioners a fair and sufficient remuneration.

The present state of the land system of Ireland is shortly this, that solicitors generally advise their clients to transact their business as vendors, and as purchasers of land, through the Landed Estates Court; and also resort to it largely for partitions and other purposes. It is not too much to say, that when the Treasury consents to lower the duty on proceedings (in lieu of court fees), which is now on too high a scale, all the land business of the country will be transacted by solicitors through the medium of that Court. It has long been surmised, but it is now demonstrated, that, under a good system, the interests of the solicitors are identical with those of their clients.

TALK OF THE FOUR COURTS.

The vacancy on the bench of the Court of Exchequer, occasioned by the retirement, through ill health, of the Right Hon. R. W. Greene, is not yet filled up. The delay is attributed partly to the absence of the Lord Lieutenant in England, but a more important obstacle is probably as follows:—The Attorney-General (Deasy) enjoys a seat in Parliament for the county of Cork, but by no means a safe seat, as a troublesome and costly opposition is anticipated at the next election; and this being the case, Serjeant Deasy is not unwilling to claim his undoubted right to promotion; but the other law officer not being in Parliament, the Government are most anxious to retain the valuable services of their Irish Attorney-General during the coming session, and would also be not unwilling (for once) to consider legal rather than political merits, and elevate Mr. Brewster, for many years the leader at the Bar, to the Exchequer. So stands the dilemma.

The calls to the Bar this term have been six only. Calls to the Bar now average only fifteen a year, whereas, twenty years since, more than sixty new barristers were added to the list every twelve months. The law seems to have ceased to be a favourite profession; and the Indian Civil Service and Woolwich are found to draw off most of the promising young men in the University. Perhaps the rising importance

of the County or Quarter Sessions Courts, in which the business is chiefly transacted by attorneys, and consequent diminution of the number of records for trial at Nisi Prius, has something to do with this singular falling off in the number of admissions to the Bar.

The attorneys practising at Quarter Sessions form a very numerous body, and are beginning to feel that their interests are endangered, and require looking after. They have special causes of complaint of their own, more particularly as regards inadequate schedules of fees, and arbitrary rules and restrictions which some of the chairmen of counties have made to their prejudice. Hence the formation, last week, of a Society of Practitioners at Quarter Sessions, independent of the Incorporated Law Society. The latter Association is, however, very unwilling that a second Society of Attorneys should exist, and accordingly sent a deputation to the meeting, when the new one was organised, to recommend a "fusion." Deputations have been appointed by both, and matters will shortly be discussed between them; and perhaps, after all, there may be no separate Association of Sessions Attorneys, and the Law Society may be strengthened in numbers, and rendered more efficient in its exertions to protect the interests and promote the welfare of the profession.

ON THE BANKRUPTCY LAW OF ENGLAND AND SCOTLAND.

(Conclusion.)

Having settled who may become bankrupts, the proceeding for obtaining adjudication or sequestration does not greatly vary in the two countries. In both, the form is by petition to the Court, either at the instance of the debtor himself, or of a creditor or creditors whose debts amount to sums which are at present the same both in England and Scotland, although by the Attorney-General's Bill it was proposed to make the sums a little less than they now are in Scotland. It is to be observed, however, that in England, under the Act of 1849, a petition for adjudication at the instance of the trader himself, was not entertained unless the petitioner could make it appear to the satisfaction of the Court that his available estate was sufficient to pay his creditors, at least, 5s., in the pound. But by the subsequent Act of 1854 (17th & 18th Vict. c. 119), this is so far modified, and the petition is not subject to dismissal, if it be made to appear that the available estate is sufficient to produce the sum of £150. There is no such restriction in Scotland, and the Attorney-General's Bill did away with it for England. It is questionable, however, whether under the present system in Scotland too great facility is not afforded to obtain the benefit of sequestration. It not unfrequently happens that the estates sequestrated are not equal to bear the expenses, and still more frequently that no dividend, or one which is merely nominal, can be paid out of them. No doubt the statute renders it competent for the creditors in such cases to resolve that the bankrupt shall only be entitled to apply for and obtain a decree of cessio, and shall have no right to a discharge in the sequestration; but creditors are rarely disposed, when the matter is left to them, to enforce an unfavourable law against bankrupts; and since the passing in 1856 of the statute containing the above enactment, no case is known to have occurred in which the creditors have availed themselves of the power so given to them. It might be an improvement, as has been suggested by Mr. Eason, the Accountant in Bankruptcy, to empower the judge, when circumstances seemed to him to call for it, to declare that the bankrupt shall have no right to a discharge, but only to a decree of *cessio bonorum*, under which, though his person would be protected, his future acquisitions would not be liberated. It seems pretty certain that as the law now stands, the tendency is not so much to surround with unnecessary impediments the obtaining of sequestration and subsequent discharge, as to make it too easy for all sorts of bankrupts to become independent of their creditors. At the same time, it is always a delicate matter for a judge to take upon himself the initiative against a litigant. He ought to be put in motion by some person interested, so that he may never himself be in the position of a party. If the creditors, who are chiefly concerned, choose to remain supine, a judge can hardly be called upon to put himself into their shoes, and to do at his own hand what he is not asked to do.

An evil of another description has sprung up of late, which was particularly felt by the creditors of English bankrupts, and for which it has been deemed necessary to seek a remedy. Finding that subjection to the jurisdiction of the Scotch

Bankruptcy Courts followed from residence for a period of forty days, coupled with the requisite indebtedness, it occurred to many English insolvents that they might get their affairs disentangled at such a distance from their own proper creditors as would make it difficult for them to offer any opposition, or look narrowly into the character of the surrender. A good many experiments of this kind were accordingly made, and in most instances successfully; but an outcry soon followed, and the scandal became too notorious to be tolerated longer. By the Lord Advocate's Amendment Act of last session it is now provided that, whenever it shall appear to the Court of Session or Lord Ordinary, upon a summary petition by the accountant in bankruptcy, or other person interested, at any time within three months after the date of the sequestration, "that a majority of the creditors, in number and value, reside in England or Ireland, and that from the situation of the property of the bankrupt, or other causes, his estate and effects ought to be distributed among the creditors under the bankrupt or insolvent laws of England or Ireland," the sequestration may be recalled. It is believed that this enactment will go far towards putting an end to the above class of alien sequestrations; and although it has been asked why the evil should not have been met on the presentation of the petition, and before the granting of sequestration, and why English and Irish creditors should still be exposed to the inconvenience of following the debtor for a period of three months in the Scotch Courts, it will be seen upon reflection that it would be exceedingly difficult to make the proper distinctions *ab initio*, and to ascertain the true position of the applicant before certain judicial steps had been taken, and at least some of the creditors brought into the field. It may be true that in the general case prevention is better than cure, but prevention is not always possible, and the certainty that an evil will be got rid of when it occurs, frequently stops its occurrence. A somewhat different remedy was proposed by the Attorney-General's Bill, viz.:—"That the Scotch Courts should have power at any stage of the proceedings, 'on cause shown,' to transfer the insolvents and their estates to the English Court of Bankruptcy, there to be dealt with according to the law of England. The difficulty here, however, consisted in fixing what should be held to be a sufficient 'cause' for making the transference. One of the grounds enacted in the Bill, namely, that a majority in value of the creditors were resident, or carried on business in England, was evidently inadequate, as the bankrupt might be truly a Scotch trader, though at the time of his insolvency the largest proportion of his debts was due to persons in England. If this difficulty could be adjusted, the provision might be considered not inconsistent with, but only supplementary to, that of the Lord Advocate, although it would be rather anomalous to regulate in a purely English Act procedure in a Scotch court.

As soon as the adjudication of bankruptcy or a sequestration has passed, the first question which arises is, what is to be done with the bankrupt estate? how is it to be preserved? and who is to take possession of it? The theory of the law in both countries is, that it is to be held as vested in a neutral party or parties for behoof of the creditors; but there is a difference in the manner in which this is effected. In Scotland a trustee, chosen by the creditors themselves, takes the whole estate as soon as his election is confirmed by the court, and the act and warrant of confirmation is declared *ipso jure* to transfer to and vest in him, as at the date of the sequestration, the whole property of the debtor. But, in point of fact, whatever retrospective effect his appointment may have, the trustee cannot take the property till he becomes trustee, and even when there is no competition for the office, a period of from twelve to sixteen days necessarily elapses between the sequestration and confirmation; and if there be competition, the time may be much longer. To avoid the inconvenience arising from this interregnum, and the possible dilapidation of the estate, various expedients have been resorted to. For a considerable period, both under the Act of 1814 (54th Geo. 3, c. 137), and of 1839 (2 & 3 Vict. c. 41); an intermediate officer, called an interim factor, was elected by the creditors, who held the bankrupt property till relieved by the trustee. As the interim factor, however, could not be so elected any sooner than the trustee now is, his election was taken from the creditors by the Act of 1853 (16 & 17 Vict. c. 53), and the Lords Ordinary were empowered, in awarding sequestration, to appoint at the same time an interim factor, or to remit to the sheriff of the county to do so. The lords ordinary themselves exercised the power thus given to them; and if satisfactory appointments could have been always made, the

desired result of avoiding any interval during which the bankrupt estate is in no one's hands would have been attained. But it was impossible that their lordships could be personally acquainted with the most fitting persons to be appointed in the different localities; and as the best class of professional men did not choose to come forward as candidates, the plan was not found to work well, and was abandoned. Under the Act of 1856, now in operation, the office of interim factor has been abolished, but the court (whether supreme or local) to which a petition for sequestration is presented, is empowered, either with or without "special application by a creditor," to take immediate measures for the preservation of the estate, either by the appointment of a judicial factor, or "by such other proceedings as may be requisite." Power is also given to the sheriff, "upon cause shown by any creditor, or without any application, if he shall see fit, at any time after the sequestration, and before the election of a trustee, to cause to be sealed up and put under safe custody the books and papers of the bankrupt, and to lock up his shop, warehouse, or other repositories, and to keep the keys thereof till a trustee is elected and confirmed." These provisions would meet the difficulty if a creditor would always come forward to get them put in force; but it is found in practice that individual creditors are seldom inclined to take the responsibility of petitioning on their own shoulders; and the sheriff, unless applied to, cannot know when it may be expedient to exercise, *proprio motu*, the power given to him. In England the appointment of an official assignee always accompanies an adjudication of bankruptcy; and the estate being immediately looked after by that functionary, is never left in the anomalous position in which it commonly is for a shorter or longer time in Scotland.

Whilst one advantage is thus gained, the larger and more important question is at the same time raised, how far it is expedient to call in the aid of official assignees at all? In Scotland we act upon the principle that as sequestration sets aside the whole estate for behoof of the creditors, they are the parties who should have the choice of the individual to take possession, realize, and divide it. We have, therefore, no official list of persons specially appropriated for the office of trustee, the creditors being, on the contrary, left entirely free to elect the party, professional or non-professional, whom they consider best qualified to protect their interests. In England a permanent body of about thirty official assignees, appointed by the Lord Chancellor, have what may be termed a monopoly of the custody of bankrupt estates, for as soon as an adjudication takes place one of the number steps into possession with full powers; and it is worthy of remark that in London this is done through the operation of the ballot, a particular official assignee not being appointed to each estate by the court, or taken in rotation from the list, but fixed on simply by chance. Creditors' assignees are afterwards chosen to act with the official assignee; but the assets of the bankrupt estate remain with the latter alone, who substantially exercises throughout the chief control. This double vesting, as it were, of the bankrupt property, in parties differently appointed, but who exercise to a certain extent co-ordinate powers, is a system which has been in operation only since the passing of the 1st & 2nd Will. 4, c. 56. Before then, persons called "provisional assignees" were appointed in each particular case, and the estate was provisionally assigned to them by the commissioners; but they assigned it again to the creditors' assignees as soon as they were appointed. The Attorney-General's Bill brings back matters substantially to this state. "It has been justly complained," he said, "that the official assignee reduces the creditors' assignee to a mere cyphor; that he usurps all his functions; and that the creditors are, as it were, through their appointed organ, displaced and removed from their proper position." The Attorney-General's proposal, therefore, was, that if the creditors selected as their own assignee a different person from the official assignee (whom, however, they were to have a right to choose if they preferred him), the official assignee was to render to the creditors' assignee a full account of all his receipts and disbursements, and to hand over the whole of the property of which he had taken possession, and his functions were then to cease, except that he was to remain in the position of auditor of accounts of the creditors' assignee. Under the present system, the official assignees are paid by liberal fees and percentages out of the bankrupt estates; whereas the creditors' assignees act gratuitously. A considerable diversity of opinion exists in England as to the propriety of continuing or abolishing the office of official assignee. To us in Scotland it appears inexpedient—1st, That two persons, holding their appointment from different sources, should be responsible for the discharge of a duty which could be equally

well done by one; 2nd, That a person nominated by the court, who may or who may not have the confidence of the creditors, should virtually override the officer selected by them; and 3rd, That the one assignee should be largely remunerated, while the other receives no remuneration at all.

In Scotland, creditors have never any difficulty in securing the services of a duly qualified trustee, who is commonly chosen from among the respectable professional accountants now to be found in all commercial towns. If there be competition for the office, which not unfrequently happens, the sheriff hears parties summarily, and his decision declaring the successful candidate is final. A committee of two or three creditors, who, on appointment, are called "commissioners," is also assigned to him, with whom he is bound to advise, and whose concurrence is necessary for certain of his actings. The commissioners, who are chosen by the creditors in the same way as the trustee, have commonly a personal knowledge of the kind of business carried on by the bankrupt, and are thus often able to give the trustee material assistance in dealing with the estate. The trustee has of course no fixed salary. In bankruptcies which are wound up by composition settlements the commissioners fix the remuneration to be paid to the trustee, subject to review by the Lord Ordinary or the Sheriff. In bankruptcies which are wound up by recovery and distribution of the assets, the trustee is entitled to a commission on the sum realised, the amount of commission being also fixed by the commissioners, subject to the same review. In the first case, the remuneration commonly allowed the trustee amounts, on an average, to about 2½ per cent. on the gross value of the assets; and in the second case, the average commission is 5 per cent. These, it will be seen, are much lower scales of remuneration than are allowed in England to the official assignees.

It is further remarkable that, although in England every bankruptcy is complicated with a double set of trustees, viz., the official and the creditors' assignees, these officers are relieved entirely from one of the most important functions devolved on the Scotch trustee. With us, the proof of the debts proceed, in the first instance, before the trustee alone. He acts as a sort of judicial arbiter in ascertaining the validity and amount of the claim of each creditor, who can neither vote in the sequestration nor draw a dividend if a ranking is refused by the trustee, and his judgment acquiesced in or confirmed on appeal. The proof is by affidavit, with relative vouchers, and the trustee has power to call for further productions, if not satisfied with the first. He can also advise in cases of difficulty with the law agent in the sequestration. An appeal lies from the trustee's deliverance to the Sheriff or the Court of Session, and finally to the House of Lords; but out of the many thousand debts which are annually adjudicated upon by trustees, there are not on an average eight or ten in a thousand in which his views are not acquiesced in, or which give rise to judicial inquiry. In this easy, cheap, and speedy mode of proving debts there is this additional advantage, that the trustee becomes at once familiarly acquainted with the character of the whole demands against the estate. In England, proof of debts is made entirely a judicial matter, and takes place before the commissioner at special sittings of his court. But in ninety-nine cases out of a hundred the business is merely routine, and there is no *dignus vindice nodus* calling for the interposition of a judge and all the machinery of a court. The work itself may be as well done in England as in Scotland; but the mode of doing it in Scotland is simpler and less expensive, especially when we consider that in England an appeal lies from the Court of Bankruptcy to the Vice-Chancellor, from the Vice-Chancellor to the Lord Chancellor, and from the Lord Chancellor, in certain cases, to the House of Lords. Nevertheless, it is right to notice that it has sometimes been objected to the Scotch system that the trustee is in the position of an American judge deciding on the claims of those who helped him to his office or who voted against him, and who could by a majority dismiss him. If he reject a good claim, no great evil is done, because the claimant can at once appeal to the Sheriff and the stakes of the parties are equal, the loss or gain of the dividend. But when he admits a bad claim, the onus of appeal is thrown on "any of the creditors," few of whom ever think of examining the rankings, or looking after more than their own claim. Besides, the appellant in such a case runs the risk of contesting the trustee's deliverance at his own expense, and even if he succeeded will probably only gain a trifling augmentation of dividend. In point of fact, very few such appeals are taken, although it has been asserted that trustees who are put into office by the votes of banks and

other large creditors sometimes admit claims which should be rejected. My own belief, however, is that instances of such malpractices are rare, and that trustees in general adjudicate on claims with the most perfect conscientiousness.

In the important matter of declaration of dividends, a similar difference of system prevails, the declaration in Scotland being made by the commissioners, and in England by the court. In Scotland, the trustee is required to make up accounts of the estate, exhibiting the amount recovered and outstanding, on the expiry of four, eight, eleven, and fourteen months from the date of sequestration, and periodically every three months thereafter, until the estate is finally recovered and divided. The commissioners must meet within fourteen days after each of these periods to audit the accounts, and to declare whether any, and if so, what part of the net produce of the estate, after making a reasonable deduction for future contingencies, shall be divided among the creditors; and whatever dividend is declared is payable within two months. There may thus be a first dividend in six months, a second in ten, a third in thirteen, a fourth in sixteen, and so on at the end of every three months till the estate is distributed. The trustee, having previously admitted, rejected, or modified the creditors' claims, and his judgments having been either acquiesced in or appealed against, is in a position, before the period assigned for the payment of each dividend, to make up a scheme of division of the sum which the commissioners have ordered to be divided. He pays the dividends to the creditors entitled to draw them, and lodges in bank the dividends corresponding to claims under appeal, or claims of contingent creditors. In certain cases, where funds are ready for division before the statutory periods arrive, powers are given for having the dividends accelerated, and in other cases judicial authority may be obtained for postponing or altering the periods for payment of dividends. In England there is no fixed period for the declaration or payment of dividends in any bankruptcy. At any time the court thinks fit, after the final examination of the bankrupt, a public sitting may be appointed to audit the assignees' accounts; and after this has been done, the court may, also at a public sitting, "direct such part of the net produce of the bankrupt's estate as it may think fit to be forthwith divided among such creditors as have proved debts under the bankruptcy, in proportion to their respective debts, and shall make an order in writing under the hand of the commissioner for dividend accordingly." It is the duty of the official assignee to pay the dividends forthwith, in conformity with this order. If the first dividend does not exhaust the estate, the court orders a second at any period within eighteen months of the adjudication; and the second dividend is final, unless further assets come afterwards into the hands of the assignees. One advantage of the Scotch system for declaring dividends is that there is a statutory certainty of time; but in other respects the English method may answer equally well, always subject to the observation that there is no necessity for that being done by a court which can be done as satisfactorily by the trustee for the creditors.

Passing from the bankrupt estate to the bankrupt himself, it will be found that considerable differences exist in the manner in which he is dealt with. He may, in both countries, contest the adjudication or sequestration, if applied for without his consent; but in England, if adjudication be awarded, the bankrupt, under penalty of being deemed guilty of felony, and liable to transportation for life, must surrender himself, within sixty days, by appearing in court and signing a memorandum of surrender. No such penal consequences follow the non-surrender of a bankrupt in Scotland; but if he contumaciously abstain from attending the diet fixed for his examination, a warrant to apprehend him for examination is granted on the application of the trustee. The English plan is perhaps preferable, it being clearly the duty of an insolvent whose estates have been judicially handed over to his creditors, to be at all times ready to give every information that may be required; and delay in doing so may lead to serious loss and inconvenience. Yet it not unfrequently happens in Scotland that a sequestrated bankrupt thinks it prudent to go out of the way for a while, and after the lapse of months, or it may be years, he returns and goes through the necessary steps to enable him to obtain a discharge. No such latitude, it is conceived, should be allowed.

In England, if a bankrupt duly surrenders, he is free from arrest or imprisonment till after his examination; and, if the court see fit, till after he obtains his certificate. The court has also the power, if the bankrupt is in prison for debt at the time of the passing of the adjudication, to order his immediate release, either absolutely, or on such conditions as are thought

fit. In Scotland, the Lord Ordinary or the Sheriff may, and commonly does, grant personal protection to the debtor at the time of awarding sequestration till the meeting of creditors for the election of trustee; and at that meeting, or at any subsequent meeting, the creditors may resolve that personal protection should be granted or continued for such time as they may fix, and on the trustee reporting the resolution to the Sheriff, he gives a deliverance confirming it. If the debtor be in prison, power is given to the Lord Ordinary or the Sheriff to liberate him after hearing the incarcerating creditor. As regards the allowance granted to the bankrupt for maintenance, the rules are much the same in both countries, with this explanation, that in England it is the court, as usual, that grants the allowance; in Scotland it is the creditors. The public examination of the bankrupt, and of members of his family, and others who can give information about his affairs, is conducted nearly in the same way in England and Scotland. It is only since 1856 that the examinations in Scotland have been in open court, and that the representatives of the press have been in the habit of attending them and reporting the procedure. This publicity, whilst it frequently fills up newspaper columns with matter of little general interest, operates, at the same time, as a wholesome check, and is calculated, on the whole, to do good.

The foregoing brief and imperfect comparison (many details being omitted) between the English and Scotch systems of bankruptcy, seems to force upon us certain conclusions:—First, the Scotch system is simpler; our Consolidated Act has only 185 sections; the intended Consolidation Act of the Attorney-General has 544 sections. Second, our system is better understood, and more approved of by the people. Third, it is greatly cheaper, imposing nothing like the same amount of burden, either on the national revenue, or on the assets of bankrupt estates. Fourth, it gives, beneficially, greater control to the creditors, leaving to their judgment various matters which in England are brought unnecessarily into court. Fifth, it does not sanction the divided responsibility and consequent complications attendant on the appointment of a double set of officers—an official and a creditors' assignee—to do what is better done by one. Sixth, it imposes duties on the trustee nominated by the creditors, for the discharge of which he is perfectly fitted, and the performance of which abrogates the necessity for much judicial machinery; and, lastly (what cannot be predicated of the English system), it accomplishes what it undertakes, for it judicially manages and distributes a debtor's estate better than it could be managed and distributed extra judicially. In Scotland, therefore, the Bankrupt Law, though still capable of improvement, has attained to a great degree of perfection; in England it is in a state which loudly calls for a large and sweeping reform.

BANKRUPT LAW AMENDMENT.

A meeting of the Mercantile Legislation Committee of the Social Science Association, consisting of representatives of Chambers of Commerce and Trade Protection Societies, was recently held in the Council Room, Moor-street, Birmingham. The chief object of the meeting was to consider the present position of the question of Bankrupt Law Amendment, and to resolve on the course which the committee should follow to obtain a recognition of their principles by the Legislature in the ensuing session of Parliament. The chair was taken at twelve o'clock by George W. Hastings, Esq. (of the Worcester Chamber of Commerce), and the representatives present from our own Chamber were Arthur Ryland, Esq. (Mayor of Birmingham), Mr. Sampson S. Lloyd, and Mr. Browett. Letters and communications were read from the Chambers of Commerce of Liverpool, Leeds, Bristol, Sheffield, Wolverhampton, and Coventry. The Chairman stated that Mr. Scholefield, M.P., Mr. Ryland, as secretary to the committee, and himself, had been for some time past in communication with the Attorney-General, as to his promised bill on the law of bankruptcy, but they had not received from Sir Richard Bethell any answer that the measure would effectually carry out those principles which the committee had on several occasions affirmed, and which were embodied in the bill introduced by Lord John Russell and Mr. Headlam in 1859. Under these circumstances it had been thought necessary to convene the committee to consider for themselves what course they should adopt. After some considerable discussion, the following resolution was moved by Mr. Ryland, seconded by Mr. Bissington, of Leeds, and carried:—

"That it is desirable that the Bankruptcy Amendment Bill introduced by Lord John Russell and Mr. Headlam, at the in-

stance of the Chambers of Commerce and Trade Protection Societies, in 1859 (with such amendments in minor details as may be deemed necessary by a sub-committee to be appointed for the purpose), should be brought into the House of Commons early in next session; and that the members of Parliament who may have the conduct of the bill be requested to inform the Attorney-General that in taking this step the committee is actuated, not by any desire to embarrass the Government, but by the wish to place the views of the bodies whom it represents before Parliament, and thereby to aid in obtaining the best possible bill."

The Chairman was requested to communicate this resolution to all the Chambers of Commerce, and other similar bodies, in the kingdom; and a sub-committee was appointed to make any necessary verbal amendments in the bill before its introduction, and to place it in the hands of a competent member. Mr. Murray, M.P. for Newcastle-under-Lyme, Mr. Bazley, M.P. for Manchester, and our esteemed representative, Mr. Scholefield, were spoken of as likely to give their names to the measure.

The other subjects dilated were the Registration of Partnerships and Trade Marks. On the former it was resolved that inquiry into the whole question by a Parliamentary Committee was the first step that ought to be taken: and the following passage from a report of the committee to the Social Science Association at Glasgow was quoted with approval:—

"The establishment of a registration of partnerships on a wise principle, and without any cumbrous official machinery, would strengthen legitimate credit, while it would diminish false speculation; it would save many a bad debt, and reduce the number of failures; it would strike a blow at false pretence in trading, and therefore raise the standard of commercial morality. One of its incidental, but not least important effects would be to facilitate the recommendation of the Mercantile Law Commissioners, that a firm in England should be allowed to sue, and be sued, in its partnership name, instead of being compelled to recite in the pleadings the names of all the partners—thus adopting the rule of the Scotch law, which recognises a private partnership as a distinct person, separate from the copartners of which it is composed. It is obvious, and it was admitted by the Commissioners, that the suggested alteration should be accompanied by regulations enabling all who deal with a partnership to ascertain who the partners are, so that the adoption of this great improvement on our existing law must be dependent on the establishment of an efficient registration of partnerships."

On the subject of Trade Marks it was stated by Mr. Ryland that a bill had been prepared by the Chambers of Commerce of Birmingham, Wolverhampton, and Sheffield, and that the Board of Trade, at the request of Mr. Spooner, M.P., had fixed to see a deputation on the subject on the 7th of February. It was therefore resolved that the committee should request the Board of Trade to receive a deputation from their own body at the same day and hour, so that the necessity for legislation might be pressed upon Government with as much influence as possible. It was also resolved that the question of trade marks should be recommended to the Council of the Social Science Association as a fit subject for discussion (on international grounds) by the foreign delegates who are expected to attend the next annual meeting of the Association.

After the transaction of some other business of less importance, the meeting broke up.—*Birmingham Daily Post.*

DEPOSITORY FOR WILLS OF LIVING PERSONS.

By a recent regulation, sanctioned by the judge of the Court of Probate, the wills of living persons may be received by the district registrars of the 40 country district registries of the Court, for the purpose of being deposited for safe custody in the principal registry, 6, Great Knight-riding-street, Doctors'-commons, which is the sole depository yet appointed for the lodgment of such wills, under the 91st section of the Court of Probate Act. The following instructions have just been issued on the subject:—

"The will or codicil to be deposited must be enclosed in a sealed envelope and delivered to one of the registrars of the Court, at the principal registry, or to a district registrar, either by the testator himself, or by some person specially authorised by him to deposit the same on his behalf. The will or codicil so deposited will not be delivered up to any person, but must remain in the registry until after the testator's death. In case the testator himself deposits his will or codicil, he will be required to sign his name in the presence of the registrar to an endorsement on the envelope in which the will or codicil is en-

closed, to the following effect:—'This sealed packet contains the last will and testament, or codicil to the last will and testament, or last will and testament and codicil thereto, bearing date respectively (here the dates of all the papers enclosed are to be stated), of A. B., &c., whereof C. D., of &c., and E. F., of &c., are appointed executors, and the same are brought into the principal registry of her Majesty's Court of Probate, by me for safe custody, there to remain deposited until after my decease.' (The residences of the testator and of the executors are to be set forth in this endorsement, and also the date of signature.) In case the testator authorizes some other person to deposit his will or codicil for him, he will be required to subscribe his name, in the presence of an attesting witness, to an endorsement, on the envelope in which the will or codicil is enclosed to the following effect:—'This sealed packet contains the last will and testament, or codicil to the last will and testament, or last will and testament and codicil thereto, of me, A. B., of &c., whereof C. D., of &c., and E. F., of &c., are appointed executors; and I authorise G. H. to deposit the same for safe custody in the principal registry of her Majesty's Court of Probate, there to remain until after my decease. Signed A. B.; witness, K. L. (The residence of the testator and of the executors, and the date of signature, to be set forth in this endorsement.)'

The packet containing the will or codicil must be accompanied by an affidavit from the attesting witness, to the effect that the signature of the testator to the above endorsement, witnessed by the deponent, is in the proper handwriting of such testator, and was by him signed in the deponent's presence on the day mentioned in the endorsement, and that the signature "K. L." is in the proper handwriting of the deponent. An affidavit will also be required from the person authorised to deposit the packet, to the effect that the sealed packet produced for the purpose of being deposited for safe custody in the principal registry of her Majesty's Court of Probate, and on the back of which the deponent has signed his name, is at the time of making the affidavit precisely in the same state, plight, and condition as when received by the deponent from the hands of A. B., the testator, on a day to be mentioned as that on which he received it. The last-mentioned affidavit is to be sworn before the registrar, to whom the packet containing the will or codicil is delivered. The fees payable are—for depositing the will and receipt for same, £1 1s.; for drawing and entering minute of the registrar, 2s. 6d.; for filing each affidavit, 2s. 6d. Envelopes for wills, with the necessary forms, are to be had on application.

A correspondent of the *Times*, writing on this subject, says:—

"It is provided, *inter alia*, that one of the registrars of the court shall in all cases personally receive the document intended to be deposited either from the hands of the testator or from his accredited agent, in a sealed-up envelope.

"May I take the liberty of suggesting that the time of the registrar would be but little trespassed upon, and his duties in this respect very slightly increased, were he required on each occasion of a will being brought for deposit to examine in the presence of the party charged with its temporary custody the signature of the testator and the attestation clause of the instrument, and were he empowered to remit it for fresh execution when either of these appeared to be informal?"

"It is well known that a vast number of the questions arising upon the validity of wills owe their origin to the discovery of doubtful or imperfect execution of the instrument, that discovery, too, being made at a period when no fatal defect can be rectified; it therefore appears to me that an examination into the validity of the execution by an officer who from his legal status is perfectly qualified to make one during the life of the testator would be productive of great additional security to devised property, and would prevent a large amount of costly and usually very painful litigation."

GEO. H. PARKINSON.

CANADA EXTRADITION CASE.

We extract the following from a communication to the *Times*:—

"The extradition treaty and the statute of Canada both refer, as I understand, in their terms to 'persons' charged with murder or other crimes. Now, I conceive that the word 'persons' cannot be here construed as extending to slaves. It must be confined to the men, women, and children to whom

the general rights and liabilities of sentient beings attach, and has no reference to those whose social condition is so peculiar as to deprive them of the rights which all others enjoy, and to subject them to liabilities from which all others are exempt.

"One of the most marked and hideous features of slavery as established in America I apprehend to be that the negro is merely property—in other words, that he is a chattel and not a 'person;' and, though there may be laws in that country so far protecting him as to make it penal to deprive him of life or member, this cannot properly be considered as investing him with civil rights or raising him above the character of civil impersonality, any more than in England is the case with cattle because protected by a statute which makes it penal to treat them with cruelty. Accordingly we shall find, I believe, that this idea of the slave's impersonality is always pursued in the phraseology of those American statutes in which it becomes necessary to mention him."

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Monday, January 28.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Friday, February 1.

ADMISSION OF SOLICITORS.

HILARY TERM, 1861.

The Master of the Rolls has appointed Thursday, the 31st of January, 1861, at the Rolls Court, Chancery-lane, at four in the afternoon, for swearing solicitors.

Every person desirous of being sworn on the above day, must leave his Common Law Admission, or his Certificate of Practice for the current year, at the Secretary's Office, Rolls-yard, Chancery-lane, on or before Wednesday, the 30th of January, 1861.

ADMISSION OF ATTORNEYS.

The following days have been appointed for the admission of attorneys in the Court of Queen's Bench:—

Wednesday.....Jan. 30 | Thursday.....Jan. 31

Court Papers.

Queen's Bench.

HILARY TERM, Thursday, 24th January, 1861.

This Court will on Wednesday the 6th, Thursday the 7th, Friday, the 8th, Saturday the 9th, Monday the 11th, Tuesday the 12th, Wednesday the 13th, and Thursday the 14th days of February next, hold sittings, and will proceed in disposing of the remaining causes in the new trial, special, and crown papers, and any other matter then pending; the Court will also hold a sitting on Saturday, the 23rd day of February next, for the purpose of giving judgment in causes and matters previously argued.

Common Pleas.

NEW CASES.—HILARY TERM, 1861.

DEMURRER PAPER.

Special case.	Webb v. Bird and Others.
"	Dickinson and Others v. Stidolph.
Demurrer.	Baker v. Cartwright.
County Court App.	Midland Railway Co., Appellant; Pye, Respondent.
"	Harrop, Appellant; Fisher, Respondent.
Demurrer.	Nash, Administrator, &c., v. Armstrong.
Case Nisi Prius.	Kern v. Deslandes.
Demurrer.	The South Wales Railway Co. v. Resmond.

NEW TRIAL PAPER.

Middlesex.	Kempe v. Neville.
"	Ebbon v. Neville.
London.	Bell v. The Midland Railway Co.

London.

"

"

Liverpool.

Priestley v. McLean.

Barrow and Another v. Abbott.

Green and Another v. Mules.

Walker v. Clyde and Another.

Pickard v. Smith.

Exchequer of Pleas.

NEW CASES.—HILARY TERM, 1861.

Appeal.

Castle v. Sworder.

SPECIAL PAPER.

Demurrers.	The Swansea Harbour Trustees v. Loxton.
Demurrer.	Jauralde v. Parker.
Special case.	Hayward v. Raw.
"	Hayward v. Cruden.
Demurrer.	Santos v. Brice and Another.
"	Brown v. Maughan and Another.
"	De Cosse Brissac v. Rathbone and Another.
Special case.	Waller and Another v. The Mayor, &c., of Manchester.
Demurrer.	Tasker v. Shephard.
"	Bower and Others v. Hinchliffe and Others.
"	Miller and Others v. Titherington.
"	Bell and Another v. Green.
"	Thomas v. Everard.
"	The Welland Railway Company v. Gorvan.
"	Cumberland v. Battey.
"	Scotson and Others v. Pegg.

Exchequer Chamber.

SITTINGS IN ERROR.

The following days have been appointed for the argument of Errors and Appeals:—

COMMON PLEAS.

Friday Feb. 1 | Saturday Feb. 2

EXCHEQUER OF PLEAS.

Monday Feb. 4 | Tuesday ... Feb. 5

QUEEN'S BENCH.

Wednesday ... Feb. 6 | Thursday ... Feb. 7

If the above days are not required for Queen's Bench errors they will be devoted to errors from the Common Pleas and Exchequer not disposed of on the days already appointed.

OXFORD CIRCUIT, LENT ASSIZES, 1861.

Commission days:—Berks, Thursday, February 28th; Oxford, Monday, March 4th; Worcester, and City, Thursday, March 7th; Stafford, Monday, March 11th; Salop, Wednesday, March 20th; Hereford, Monday, March 25th; Monmouth, Thursday, March 28th; Gloucester, and City, Tuesday, April 2nd.

Births and Deaths.

BIRTHS.

DREYTON—On Jan. 21, at Dublin, the wife of William W. Dreyton, Esq., Q.C., of a son.
HARRIS—On Jan. 17, the wife of Stanley Harris, Esq., Solicitor, Barnet, of a daughter.
SULLIVAN—On Jan. 22, at Navan, the wife of Francis Sullivan, Esq., Solicitor, of a daughter.

DEATHS.

BEACHEY—On Jan. 23, John Beachey, Jun., Esq., of the firm of D'Arcy and Beachey, Solicitors, Newton Abbot, aged 33.
BLACKBURN—On Jan. 8, at Edinburgh, Robert Francis Abbott, son of Robert B. Blackburn, Esq., Advocate, aged 4 years.
CARNE—On Jan. 13, at Nash Manor, Glamorganshire, Sarah Jane, the wife of R. C. Nicholl-Carne, Esq.
CHENER—On Jan. 17, in his 58th year, Arthur Blosam Corner, Esq., Her Majesty's Coroner and Attorney in the Court of Queen's Bench.
GARbutt—On Jan. 17, aged 70, Christians, relict of William Garbutt, Esq., Solicitor, Yarm, Yorkshire.
HAYNES—On Jan. 18, in her 18th year, Emily Thomasine, daughter of Fireman Oliver Haynes, Esq., of Lincoln's-inn, Barrister-at-Law.
KERR—On Jan. 23, Edward Cecil, son of Robert Malcolm, Esq., Barrister-at-Law.
LEWIS—On Jan. 24, at Kensington, after a painful illness from disease of the heart, William David Lewis, Esq., Q.C., in his 26th year, eldest son of the late Rev. G. W. Lewis, M.A., formerly of Ramsgate. His end was peace!

O'CONNELL—On Jan. 16, in Cork, John O'Connell, Esq., Solicitor, son of Philip O'Connell, Esq., Crown Solicitor.

O'REILLY—On Dec. 22, at Kingston, Jamaica, the Hon. Richard O'Reilly, Judge of the Supreme Court.

STEVENS—On Jan. 16, in her 13th year, Caroline, daughter of Thomas Stevens, Esq., of Lincoln's-inn.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BRECKMAN, ISABELLA CHARLOTTE, Spinster, Frederick's-place, Borough-road, £800 Reduced Three per Cents., and also £200 New Three per Cents.—Claimed by **THEODORE PATERNON**, of Bruges, in the kingdom of Belgium, the person named in the same order.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	239	Shrs. Stock Ditto A. Stock	106½
3 per Cent. Red. Ann..	91½	Stock Ditto B. Stock	134
3 per Cent. Cons. Ann..	91½	Stock Great Western	72
New 3 per Cent. Ann..	91½	Stock Lancash. & Yorkshire ..	114½
New 2½ per Cent. Ann..	..	Stock London and Blackwall..	62
Consols for account ..	91	Stock Lon. Brighton & S. Coast	117½
India Debentures, 1859..	..	25 Stock Lon. Chatham & Dover ..	51
Ditto 1859 ..	..	Stock London and N.-Westrn..	99½
India Stock .....	..	Stock London & S.-Westrn..	94½
India 5 per Cent. 1859..	100	Stock Man. Sheff. & Lincoln..	83
India Bonds (£1000) ..	..	Stock Midland	132½
Do. (under £1000)	15 dis.	Stock Ditto Birm. & Derby ..	106
Exch. Bills (£1000) ..	..	Stock Norfolk	54
Ditto (£500) ..	7 dis.	Stock North British	65½
Ditto (Small) ..	6 dis.	Stock North-Eastn. (Brwck.) ..	104
RAILWAY STOCK.		Stock Ditto Leeds	61½
Shrs. Stock Birk. Lan. & Ch. Junc.	81	Stock Ditto York	93
Stock Bristol and Exeter....	101	Stock North London	103
Stock Cornwall	64	Stock Oxford, Worcester, & Wolverhampton ..	100
Stock East Anglian	17	Stock Shropshire Union	50
Stock Eastern Counties	51	Stock South Devon	41
Stock Eastern Union A. Stock	39	Stock South-Eastern	85½
Stock Ditto B. Stock	28	Stock South Wales	63
Stock Great Northern	111½	Stock S. Yorkshire & R. Dun	82
		25 Stock Stockton & Darlington	42
		Stock Vale of Neath	65

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, JAN. 25, 1861.

HANBURY, JOHN BASS, & RICHARD GARDNER, Attorneys and Solicitors, Leamington Priors, Warwickshire (Hanbury & Gardner); by mutual consent, Dec. 31.

Windings-up of Joint Stock Companies.

FRIDAY, JAN. 25, 1861.

UNLIMITED IN CHANCERY.

NANTILE VALE SLATE COMPANY.—The Master of the Rolls, on Jan. 15, ordered a call of one shilling per share on all contributories, to be paid on or before Feb. 14, to George Coryndon Megbie, John George Shipley, and George Harry Barlow, the Official Managers of the company, at the offices of Messrs. Harrison, 5, Walbrook, London.

LIMITED IN BANKRUPTCY.

CARDIFF AND CAERPHILLY IRON COMPANY (LIMITED).—Com. Fonblanque purposes on Feb. 15, at 12.30 to proceed to settle the list of the contributories.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, JAN. 22, 1861.

ALLEN, HENRY, Farmer, Great Washbourne, Gloucestershire. Walker, Farmer, Executor, Little Washbourne, Gloucestershire. March 25.

BALDOCK, ROBERT WALTERS, Colonel, sometime since of Jersey, afterwards of St. Servan, France, subsequently of Adelaide, Australia. Rutherford, Drury, & Co., Administrators to the estate, 30, Billiter-street, London.

COLLENS, SARAH, Spinster, formerly of Brenchley, Kent, late of 41, Russell-square, Brighton. Springett, Solicitor, Hawkhurst, Kent. March 12.

DAVIS, JAMES, Pensioner, Devonport. Sole & Gill, Solicitors, 67, Duke-street, Devonport. March 1.

HEWETSON, WILLIAM, Esq., Commissary General to her Majesty's Forces, 77, Cambridge-terrace, Hyde-park, Middlesex. Stafford & Gee, Solicitors, 13, Buckingham-street, Strand. March 1.

HUMBERSTON, JANE, Widow, formerly of Brookfield Fazakerley, Lancashire, afterwards of 26, Spellow-lane, Kirkdale, Lancashire. Cheahire, Solicitor, Northwich, Cheshire. March 25.

NETTLEFOLD, MARY ANN, Spinster, 190, Whitechapel-road, Middlesex. De Jersey & Micklem, Solicitors, 13a, Gresham-street, West, London. March 4.

OLDMAN, THOMAS, Attorney-at-Law & Solicitor, Gainsborough. Heaton & Oldman, Solicitors, Gainsborough. March 25.

PETO, JAMES, Gent., Ockham, Surrey. Nichols & Potter, Solicitors, Farnham. Feb. 28.

PETTITT, SAMUEL, Miller, Great Doddington, Northamptonshire. Murphy & Sharman, Solicitors, Wellingborough. March 9.

STEPHENSON, JAMES, Gent., Gainsborough, Lincolnshire. Heaton & Oldman, Solicitors, Gainsborough. March 25.

THOMPSON, CHARLES, formerly of Rochester, Kent, afterwards of Adelaide, Australia. Rutherford, Drury, & Co., 20, Billiter-street, London, Administrators to the estate.

WOODHEAD, FAITH, Spinster, Kirkstall-road, Headingley, Leeds. Snowdon & Emmet, Solicitors, 36, Bond-street, Leeds. March 1.

FRIDAY, JAN. 25, 1861.

BELCHER, JOHN, Druggist, 1, Walcot-place, Hackney, Middlesex. Thompson & Debenham, Solicitors, Salter's Hall, London. March 11.

BRADFORD, JOHN, Gent., formerly of Rossington, Yorkshire, but late of Doncaster. Cartwright & Son, Solicitors. May 1.

DIXON, EDWARD, sen., Esq., Dudley, Worcestershire. Smith, Executor. March 1.

DIXON, EDWARD, jun., Esq., Hornley House, Dudley, Worcestershire, and Cheltenham, Gloucestershire, and also of 37, Curzon-street, Mayfair, Middlesex. Smith, Executor, Dudley. March 1.

ETTES, HARRY, a Captain in Her Majesty's Royal Navy, C.B., Knockwood-park, near Tenterden, Kent. Burne, Solicitor, 1, Carey-street, Lincoln's-inn, London. Feb. 28.

FIELDING, JOHN, Merchant, Sheffield. Broomhead, Solicitor, Bank-chambers, George-street, Sheffield. March 1.

GILL, JANE, Spinster, formerly of Sandgate, afterwards of West Malling, Kent, since of Spring-cottage, Peckham, and late of 4, Gloucester-villa, De Crespigny-park, Camberwell, Surrey. Fielding, Solicitor, 3, Stroud-street, Dover. Feb. 28.

HAYNES, ANN, 29, Sharp's-alley, Cow-cross, Middlesex. Berkeley, Solicitor, 12, Gray's-inn-square, Middlesex. March 23.

HIERONS, JOHN, Carpenter, 10, Salisbury-street, Agar-town, Camden-town, Middlesex. Berkeley, Solicitor, 12, Gray's-inn-square, Middlesex. March 23.

MENCE, REV. SAMUEL, Rector of Ulcombe, Ulcombe, Kent. Domville, Lawrence, & Graham, Solicitors, 6, New-square, Lincoln's-inn. March 18.

ROGERS, CHARLES, Esq., late of Brunswick-square, Hove, Sussex, and formerly of Crouch-hill, Horsey, Middlesex. Frere, Goodford, & Co., Solicitors, 6, New-square, Lincoln's-inn, London. March 31.

ROGERS, JOHN, Esq., Watling-street, London, and Langham-place, Marylebone, Middlesex. Frere, Goodford, & Co., Solicitors, 6, New-square, Lincoln's-inn, London. March 31.

SANDYS, Right hon. ARTHUR MOYSES WILLIAM LORD, Curzon-street, Mayfair, Middlesex, and of Ombersley Court, Worcestershire. Stuart & Baly, Solicitors, 5, Gray's-inn-square, London. April 30.

SAVAGE, HENRY, Farmer, Hessele Common, Yorkshire. Shackles & Son, Solicitors, 7a, Land of Green Ginger, Kingston-upon-Hull. March 1.

STACEY, RICHARD, Yeoman, formerly of Eastbourne, and late of Selsey, Sussex. Sowton & Son, Solicitors, Chichester. Feb. 28.

WYNHAM, SIR HENRY, a General in her Majesty's Army, Cockermouth Castle, Cumberland, and 66, Mount-street, Grosvenor-square. Cathrop, Solicitor, 8, Whitehall-place, Westminster. Feb. 28.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, JAN. 22, 1861.

CLAPHAM, WILLIAM HENRY, Gent., 84, Great Portland-street, St. Mary-lebone, Middlesex, and of Watford, Hertfordshire. Clapham v. Stevens, V. C. Wood. Feb. 9.

GILLINGHAM, EDWARD, Stone Mason & Builder, 3, Harrison-street, St Pancras, Middlesex. Gillingham v. Bales, M.R. Feb. 16.

HALL, SAMUEL, Seed & Tillage Merchant, Doncaster. Moore v. Wright, V. C. Wood. Feb. 28.

HOOPER, JANE, Widow, Newland-house, Oakley-square, Chelsea, Middlesex. Strickland v. Hooper, V. C. Stuart. Feb. 5.

PRIDGEON, SAMUEL, Draper, King's Lynn, Norfolk. Gurney v. Turner, V. C. Stuart. Feb. 19.

ROWSELL, NICHOLAS HENRY, Solicitor, 2, Verulam-buildings, Gray's-inn, Middlesex, and 3, Eltham-place, Foxley-road, Brixton, Surrey. Rowell v. Rowell, M.R. Feb. 9.

SELBY, CALES, Bank's Town, Sheerness, Kent. Selby v. Selby, M.R. Feb. 18.

SMITH, WILLIAM, Gent., formerly of St. Saviour's-churchyard, Southwark, Surrey, but late of Aylesham, Norfolk. Brown v. Wilmot, V. C. Stuart. Feb. 6.

VALENTIN, JOHANN PHILIPP, Merchant, Bargo-yard Chambers, Bucklersbury, London, also of Frankfort-on-the-Maine, and of the Cape of Good Hope. Valentin v. Collison, V. C. Wood. Feb. 8.

FRIDAY, JAN. 25, 1861.

BARROW, ARTHUR CUMMING THOMAS, a Captain in the Royal London Militia, Ash Vial, Shirley, Southampton. Barrow v. Hyalop, V.C. Stuart. Feb. 28.

CLARK, JOSEPH, Fishing Tackle Manufacturer, 11, St. John's-lane, West Smithfield, Middlesex, and of Malton, Surrey. Clark v. Clark, V.C. Stuart. Feb. 28.

HOLMES, REV. FREDERICK, Clerk, Seaton, Devonshire. *Baker v. Holmes*, V.C. Kindersley. Feb. 16.
 HOLMES, JOHN, Gent., West Park, Cotham, Westbury-upon-Trym, Bristol. Woodward v. Humpage, V.C. Stuart. Feb. 26.
 MILLETT, JANE, Spinster, Peupal, near Hoyle, Cornwall. Edmonds v. Millett, M.R. Feb. 9.
 SUTTON, WILLIAM, Merchant & Agent, Calcutta. Massey v. Tobin, M.R. Feb. 25.
 WILKINSON, JANE, Widow, Hole House, Howgill, Sedburgh, Yorkshire. Nixon v. Wilkinson, V.C. Stuart. Feb. 25.

Assignments for Benefit of Creditors.

TUESDAY, JAN. 22, 1861.

BARRIE, ROBERT, Carpenter & Builder, 13, York-street, Covent-garden, Middlesex. *Sols.* Clarke & Earle, 29, Bedford-row. Dec. 21.
 BRETT, JOHN, Tobacconist, 12, Bridge-street, Westminster, Middlesex. *Sol.* Haicourt, 2, King's-arms-yard, London. Dec. 24.
 DAWSON, WILLIAM, Grocer, Masbrough, Rotherham, Yorkshire. *Sol.* Bamforth, Rotherham. Jan. 11.
 EVANS, EVAN, Farmer & Cattle Dealer, Llandro, Conwill-Galo, Carmarthen. *Sol.* Price, Talley and Llandilo, Carmarthen. Jan. 2.
 LEWIS, JAMES, Grocer, Ivor-street, Dowlais, Glamorganshire. *Sol.* Smith, Merthyr Tydfil. Dec. 31.
 LANSLEY, WILLIAM, Draper & Dealer in Provisions, Shinccliffe, Durham. *Sols.* Hoyle, 30, Grey-street, Newcastle-upon-Tyne, or Mathews, Carter, & Bell, 102, Leadenhall-street. Jan. 3.
 LLOYD, JOHN, Miller & Yeoman, Whitechurch, Southampton. *Sols.* Pain & Rawlins, Whitechurch, Southampton. Dec. 27.
 MILBURN, JOHN, Boot & Shoe Maker, 107, Side, Newcastle-upon-Tyne. *Sol.* Bush, 5, Dean-street, Newcastle-upon-Tyne. Jan. 16.
 PARRY, WALTER, Innkeeper, Victoria Inn, Brecon. *Sol.* Thomas, Brecon. Jan. 21.
 PINCHBECK, ABRAHAM, Builder, Horncastle, Lincolnshire. *Sols.* R. & R. Clitherow, Horncastle. Jan. 12.
 SPENCER, JOSEPH, Wine and Spirit Merchant, Whitehaven, Cumberland. *Sols.* Lamb & Howson, Whitehaven. Jan. 14.

FRIDAY, JAN. 25, 1861.

ALDERSON, GEORGE, Land Surveyor, York. Jan. 23. *Sol.* Clark, York.
 DAVIES, BENJAMIN, Timber and Butter Merchant, Llandowror, Carmarthen. Jan. 15. *Sol.* Jeffries, Carmarthen.
 DEMAN, EDWARD FREDERICK, Fringe Manufacturer, 105, Stanhope-street, Hampstead-road, Middlesex. Dec. 28. *Sol.* Ashurst, 6, Old Jewry.
 FREEMAN, JOHN, Butcher and Bearhouse Keeper, Otley, York. Jan. 23. *Sol.* Siddall, Otley, York.
 GALE, THOMAS, Jun., Builder, St. Thomas the Apostle, Devon. Jan. 12. *Sol.* Fryer, St. Thomas the Apostle, Devon.
 GLADWISH, HUGH, Miller, Playden, Sussex. Dec. 26. *Sols.* Ellman & Whitmarsh, Rye.
 HODGSON, THOMAS, Publisher, 44, Paternoster-row, London. Jan. 24. *Sols.* Lawrance, Smith, & Fawdon, 12, Broad-street, Cheapside.
 JOHNSON, ADOLPHUS PUGH, Underwriter and Insurance Broker, 38, Royal Exchange (trading under the several names, styles, or firms of Adolphus Pugh Johnson, Hodges and Johnson, and Gerrard Johnson). Jan. 22. *Sol.* Human, 9, Great James-street, Bedford-row, Middlesex.
 MARTIN, JAMES, Grocer, Pontypool and Abergavenny, Monmouth. Jan. 4. *Sols.* Stanley & Wasbrough, 11, Corn-street, Bristol.
 PLACE, CHARLES MURTON, Common Brewer, Lakenheath, Suffolk. Jan. 21.
 UMITT, JOHN, Dealer in Tobacco, Snuff, Wines, and Spirits, Bilston, Stafford. Jan. 4. *Sols.* Lawrance, Smith, & Fawdon, 12, Broad-street, Cheapside.
 WHEELER, THOMAS HENRY, Grocer and Provision Dealer, Walsall, Stafford. Dec. 27. *Sols.* Barnett, Marlow, & Barnett, Walsall.
 WILLIAMS, JOHN, & HENRY THOMAS WILLIAMS, Builders and Contractors, 2, Great Warner-street, Clerkenwell, and North Keppel Mews, Russell-square. Jan. 1st. *Sols.* Wild & Barber, 104, Ironmonger-lane, Cheapside, Middlesex.

Bankrupts.

TUESDAY, JAN. 22, 1861.

ELLIOTT, WALTER, Grocer & Cornfactor, Bedminster, Dorsetshire. *Com.* Andrews: Jan. 31, and March 7, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Fox, Bedminster, or Bishop & Pitts, Exeter. *Pet.* Jan. 21.
 FLOOD, THOMAS, Woollen Manufacturer, Gomersal, Birstal, Yorkshire. *Com.* Ayrton: Feb. 4, and March 4, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Cater, Bradford, or Carls & Cadworth, Leeds. *Pet.* Jan. 14.
 LAING, ROBERT, Farmer, Agricultural Implement Maker, Dealer in Manures, & Cattle Dealer, Forest Farm, near Scorton, Yorkshire. *Com.* Ayrton: Feb. 4, and March 4, at 11; Leeds. *Off. Ass.* Hope. *Sols.* G. & G. T. Allison, Darlington, or Carls & Cadworth, Leeds. *Pet.* Jan. 10.
 PONTON, THOMAS PHILLIP, Grocer, Wrexham, Denbighshire. *Com.* Perry: Feb. 4, & 25, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Liverpool, or Randles, Ellicott, Salop. *Pet.* Jan. 17.
 RADCLIFFE, JOSEPH, Butcher, Dobeross, Saddleworth, Yorkshire. *Com.* Jemmett: Feb. 7 & 28, at 12; Manchester. *Off. Ass.* Herniman. *Sol.* Garside, Manchester. *Pet.* Jan. 17.
 RICHARDS, DANIEL ROBERT, Boot and Shoe Manufacturer, Birkenhead, Cheshire. *Com.* Perry: Feb. 4 & 25, at 11; Liverpool. *Off. Ass.* Turner. *Sols.* Husband, 9, James-street, Liverpool. *Pet.* Jan. 17.
 RISLEY, JOHN, Dealer in Shares, 32, Lombard-street, London. *Com.* Fane: Jan. 31, and March 8, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* George & Downing, 5, Sine-lane. *Pet.* Jan. 21.
 ROBERTSON CHARLES, Baker and Flour Dealer, Liverpool. *Com.* Perry: Feb. 4 & 25, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Lowndes, Bateson, Lowndes, & Robinson, Liverpool. *Pet.* Jan. 12.

ROGERS, JOHN, Draper, Merthyr Tydfil, Glamorganshire. *Com.* Hill: Feb. 5, and March 5, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Small-street, Bristol. *Pet.* Jan. 9.
 TOMKINS, THOMAS GEORGE, Bookseller & Stationer, 163, Strand, Middlesex. *Com.* Goulburn: Feb. 4, at 1.30, and March 6, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* G. S. & H. Brandon, 15, Essex-street, Strand, London. *Pet.* Jan. 17.
 WATSON, CHARLES, Grocer, Great Yarmouth, Norfolk. *Com.* Evans: Jan. 31, at 11; and Feb. 28, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Sole and Turners, Aldermanbury, or Miller, Son, & Bugg, Norwich. *Pet.* Jan. 12.

FRIDAY, JAN. 25, 1861.

BUTCHART, DANIEL WILLIAM, Leather Seller & Shoe Mercer, 7, Wardour-street, Soho. *Com.* Evans: Feb. 7, and March 7; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Prall, jun., 19, Essex-street, Strand. *Pet.* Jan. 25.
 CHANNY, WILLIAM, Grocer & Baker, Portsmouth. *Com.* Fonblanque: Feb. 5, at 12.30, and March 9, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Watson, 12, Bonverie-street, London, and W. A. Way, Portsea. *Pet.* Jan. 23.
 DALLOW, THOMAS, and HENRY BIGGS, Tin Plate Workers & Japanners, Wolverhampton (Dallow & Biggs). *Com.* Sanders: Feb. 8, and March 1, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Pinchard & Shelton Turstons, Wolverhampton, or to Hodgson & Allen, Birmingham. *Pet.* Jan. 22.
 DODD, STEPHEN, & JOHN CHARLES PERLING, Booksellers, Stationers, Printers, & Music Sellers, Woburn, Bedfordshire. *Com.* Holroyd: Feb. 8, and March 12, at 1; Basinghall-street. *Off. Ass.* Lee. *Sols.* Blako & Snow, College-hill, London. *Pet.* Jan. 10.
 ELLIOTT, WALTER, Grocer & Corn Factor, Beaminster, Dorsetshire. *Com.* Andrews: Jan. 31, and March 7, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Fox, Beaminster, or Bishop & Pitts, Exeter. *Pet.* January 21.
 FOSTER, WILLIAM GEORGE, Corn and Coal Merchant, Penny-street, Portsmouth. *Com.* Holroyd: Feb. 8 at 2, and March 12, at 12; Basinghall-street. *Off. Ass.* Lee. *Sol.* Mills, 3A, Brunswick-place, City-road, London. *Pet.* Jan. 21.
 GRIFFITHS, JAMES, Licensed Victualler, Oldbury, Worcestershire, and THOMAS TIMMINS, Licensed Victualler, of same place, carrying on business in copartnership, at Oldbury aforesaid, as Coalmasters. *Com.* Sanders: Feb. 8 and March 1, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham. *Pet.* Jan. 22.
 HATLAND, JOSEPH, and RICHARD READ, Cloth Merchants, Leeds, Yorkshire. *Com.* West: Feb. 8 and March 1, at 11; Leeds. *Off. Ass.* Young. *Sols.* Upton & Yewdall, Leeds. *Pet.* Jan. 17.
 HARP, JAMES, Innkeeper & Butty Collier, Hanley, Staffordshire. *Com.* Sanders: Feb. 8, and March 1, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Ward, Longton. *Pet.* Jan. 22.
 MANN, HENRY, Miller, Chesterton, Cambridgeshire. *Com.* Fonblanque: Feb. 6, and March 6, at 1; Basinghall-street. *Off. Ass.* Stanfield. *Sols.* Tarrant, 2, Bond-court, Walbrook, London, and Whitehead & French, Cambridge. *Pet.* Jan. 25.
 MONDAY, WILLIAM, Coal Merchant, Kingston-upon-Hull. *Com.* Ayrton: Feb. 6, and March 6, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Preston, Kingston-upon-Hull. *Pet.* Dec. 17.
 PHILIPP, DAVID, & MORITZ VINKERBERG, Importers of Foreign Goods, 1, Guildhall chambers, Basinghall-street, London (D. Philipp & Co.) *Com.* Evans: Feb. 5, at 11; and March 7, at 1; Basinghall-street. *Off. Ass.* Bell. *Sols.* Laurence, Plews & Boyer, Old Jewry-chambers. *Pet.* Jan. 23.
 SCOTTHORN, THOMAS KENDALL, Currier & Leather Seller, Northampton. *Com.* Goulburn: Feb. 6, at 2; and March 6, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Hensman & Nicholson, 25, College-hill, London, or Dennis, Northampton. *Pet.* Jan. 23.
 WINDLE, LOUISA, & MARGARET CANNING, Milliners, Drapers, & Haberdashers, Alcester, Warwickshire. *Com.* Sanders: Feb. 11, and March 4, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* New, France, & Garrard, Evesham, or Reece, Birmingham. *Pet.* Jan. 24.

BANKRUPTCY ANNULLED.

FRIDAY, JAN. 25, 1861.

LEACH, JOHN, Manufacturer, Bingley, Yorkshire. Jan. 15.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, JAN. 22, 1861.

LE BATT, CHARLES, Messman, Exeter Barracks, Exeter. Feb. 6, at 12; Exeter.—COLEMAN, CHARLES, Seed and Flour Merchant, Halgavor Mills, near Bodmin, Cornwall. Feb. 6, at 12; Exeter.—DANIEL, GEORGE MARK PALMER, Ironmonger, Camelford, Cornwall. Feb. 6, at 12; Exeter.—LAWRENCE, WALTER, Cowkeeper & late Flour Merchant, Budock, Cornwall. Feb. 7, at 12; Exeter. PLATTEN, DANIEL, Draper, Dorchester. Feb. 7, at 12; Exeter.—TRANCHAUD, SARAH, Widow, Wellington, Somersetshire. Feb. 7, at 12; Exeter.

FRIDAY, JAN. 25, 1861.

BARBER, JOHN HEATH, & WILLIAM HENRY ELLIS, Iron Merchants, Liverpool (J. H. Barber & Co.) Feb. 4, at 11; Liverpool.—BARBER, JOHN VAUGHAN, Banker, Walsall, Staffordshire. Feb. 6, at 11; Birmingham.—COPELAND, JAMES LUND, Merchant, Liverpool. Feb. 15, at 11; Liverpool.—DAVIES, ROBERT CRADOCK, & JOHN NICHOL TROUGHTON, Bankers, 187, Shoreditch, Middlesex (R. Davies & Co.) Feb. 19, at 11; Basinghall-street; joint est. Same time, sep. est. of Robert Cradock Davies.—HARKER, BENJAMIN WILLIS, Linen Draper, 292 & 294, Pentonville-road, Middlesex. Feb. 16, at 1; Basinghall-street.—HARRIS, ISABELLA LILLAS MARY, Hosier, Liverpool. Feb. 18, at 11; Liverpool.—RICE, JOHN, Butcher, Lupus-street, Belgrave-road, Fimble, Middlesex. Feb. 28, at 11; Basinghall-street.—STEWART, RICHARD, Carpenter & Builder, Great Yarmouth, Norfolk. Feb. 15, at 11; Basinghall-street.—TOMSON, JAMES SAMUEL WILLIAM, & ALBERT THOMAS TULL, Fancy Box Manufacturers & Wholesale Stationers, 46 & 47, Beech-street, Barbican, London, and 6, Commercial-place, City-road, Middlesex. Feb. 15, at 1.30; Basinghall-street; sep. est. of Albert Thomas Tull. WELLS, JAMES, Toy Dealer, Bold-street, Liverpool. Jan. 16, at 11; Liverpool.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, FEBRUARY 2, 1861.

CURRENT TOPICS.

The Courts of Equity will sit again on Thursday next. Considerable progress was made during last term in disposing of the causes set down for hearing at the commencement of term. The Court of Appeal got through its entire list, the Lord Chancellor having generally sat by himself, and there being thus two courts of appeal nearly always sitting. It is not improbable that before the commencement of next sittings, the expected general Order relating to oral evidence in court will be published. We believe it has been for some time past undergoing the consideration and revision of the authorities.

The Middle Temple has restored the old custom of occasional public "Readings" by benchers, which had been discontinued since the year 1680. Last term Mr. R. J. Phillimore, the reader appointed by the benchers, read in the Middle Temple Hall a paper on "Minority and Majority in England and Abroad."

Mr. John Smale, of the Chancery bar, who has been long known to the profession by his valuable reports of the decisions in the courts of the Vice Chancellor Knight Bruce and the Vice Chancellor Stuart, has been appointed to the Attorney-Generalship of Hong Kong. The appointment will afford satisfaction to members of the Chancery bar, inasmuch as there has been amongst them of late a notion that, as a body, they have been improperly and unfairly excluded from colonial appointments. Unquestionably, the Common Law bar have been, during the last two or three years, appointed to a disproportionate number of colonial judgeships; and it has been whispered about that Sir Charles Wood, the present Secretary of State for India, has expressed his unwillingness to appoint any equity barrister to the Indian bench.

Mr. Turnbull has resigned his office at the Rolls. He was appointed about eighteen months ago by the Master of the Rolls as Calendarer of the Foreign State Papers in the Public Record Office. The appointment, however, gave rise to a very violent opposition on the part of the Protestant Alliance, and two or three similar bodies, upon the ground that Mr. Turnbull's religious opinions as a Roman Catholic unfitted him to discharge the duty of making a Calendar of State Papers, some of which affected questions of importance to the religious history of this country. The entire competency in other respects of Mr. Turnbull was admitted on all hands. But this objection was urged, although comparatively by a small number of persons, yet with so much vehemence, that Mr. Turnbull resolved upon resigning an office which required the confidence of the public, of which he had been deprived by the clamour that had been raised against him. In acknowledging a letter announcing his resignation, Sir John Romilly wrote a reply which has given great satisfaction, not only to the friends of Mr. Turnbull, who are very numerous, but to all friends of civil and religious liberty. It was as follows:—

Rolls, Jan. 29, 1861.

My dear Sir,—It is with much regret that I have read your letter, resigning your present employment. I feel, however,

that I cannot press you to retain a situation which subjects you to so much persecution as that to which I have inadvertently exposed you.

My regret at your resignation is, however, mainly founded on the public loss, which will, I believe, be sustained by the discontinuance of your services; nor will it be easy to find a gentleman both willing to carry on the arduous task in which you have been engaged and also possessed of the peculiar knowledge and capacity required for that purpose.

I cannot conclude without expressing the high esteem I entertain for yourself personally, and the pain I feel that any society of English gentlemen, professedly founded on religious principles, should have been found to exist in this country who have considered it consistent with the charity on which those principles are based, to endeavour, by *ex parte* statements, and confidential canvassing, to remove from an employment for which he is peculiarly fitted a gentleman so honourable and trustworthy as I consider you to be.—I am, yours very sincerely,

W. B. Turnbull, Esq.

JOHN ROMILLY.

Mr. Turnbull was for many years a member of the Scottish, and he is now of the English, Bar; but he is mainly known as an accomplished black-letter scholar and archæologist.

TAXATION OF SUITORS.—No. IV.

HOW FAR OFFICERS OF THE LAW SHOULD RECEIVE FEES TO THEIR OWN USE? HOW FAR THERE IS AN ANNUAL ESTIMATE AND ASSESSMENT OF FEES TO MEET ANNUAL WANTS? HOW FAR THE FEES ARE PROPERLY COLLECTED AND ACCOUNTED FOR? AND WHAT WOULD BE THE STATESMANLIKE METHOD OF DOING THE WORK?

Hitherto we have been occupied in investigating the abstract rules which should govern the Legislature in providing for the maintenance of courts of justice. We now touch upon questions of fact, on which, to a great extent, we are without the means of knowledge, and which cannot be thoroughly inquired into without the assistance of the body of solicitors (particularly of those in the country), and probably only by a Government commission. Thoroughly to deal with these topics we want, at the outset, a list of all the law courts and offices of the kingdom—an enumeration, that is, of all the channels, down to the minutest rill, through which the streams of justice flow from the one great fountain-head, the Crown. Where to find such a list we know not. The Law List does not contain it. In the annual judicial statistics we have a return of about thirty borough, hundred, and local courts; some of them transacting business to a considerable amount. But many important tribunals are not mentioned there. One such, for instance, is the Court of Passage at Liverpool. This court is regulated by at least five Acts of Parliament. But then, unfortunately (and we should also, speaking as legislators, say improperly), these statutes (except 25 Geo. 3, c. 43) are treated as local and personal acts, and therefore are not printed in the public statute-book. We have hunted up these Acts, and find that the court is maintained by the Corporation of Liverpool, the officers paid by salary, and the fees received for the borough fund. Most of these local courts are maintained by fees taken to the officers' own use. In all cases where a salary is guaranteed to the judge, we think it will always be found charged (either directly, or in default of sufficient fees), on some local, never on the consolidated fund.

The Court of the Stannaries is a good instance. This court is now regulated by the 6 & 7 Will. 4, c. 106. The salaries of the vice-warden, registrar, &c., are paid half out of the revenues of the duchy, and the other half out of the fees and out of a tax of a farthing in the pound on all minerals except tin raised in the district. The fees appear to be collected in money. The officers

account to the registrar; the registrar to the vice-warden; and the vice-warden to the auditor of the duchy. The Duchy Court of Lancaster should also be particularly mentioned. It is regulated by 13 & 14 Vict. c. 43. The fees are regulated by the Chancellor and Vice-Chancellor; and are collected in money. The registrar accounts once a-year to the Vice-Chancellor, and his fees are paid to a fee-fund. The district registrars we believe retain their fees to their own use. The salary of the Vice-Chancellor we assume is paid out of the duchy funds. The fees accounted for in 1839 appear to be about £4,000.

Of the smaller tribunals we know nothing. There are also many offices established for legal purposes not immediately connected with courts, such as the Middlesex and York register offices, the position of which we have not investigated.

A cursory investigation of the arrangements of the local courts would require a chapter to itself. Here a novelty for the financial management of courts has been introduced in the establishment of treasurers; a scheme we believe to be a bad one. Indeed, we think, throughout the local court system, the influence of place making and political party serving motives may be traced. The whole structure wants a careful and impartial survey. The treasurers should be abolished, and fees should be collected in these, as in all other courts, by special stamps. The banking department of these and all other courts we propose to deal with in a future article. We understand a committee or commission of county court judges has lately been considering this subject. With every respect for those learned judges, we think that they were not the right persons for the task; we should wish rather to see financiers than lawyers engaged on it. And we feel convinced that one system of taxation and banking under one central authority should be applied to all the courts of the kingdom. The fusion of legal jurisdiction is quite another question. But we cannot doubt that one Legal revenue board, and, what would follow as a matter of course, one system, should exist for the whole kingdom.

With reference to the superior courts of law and equity, and to the Admiralty and Probate Courts, full details of the mode of collecting the taxes will be found in Mr. Lake's evidence before the recent commission on Concentration of Courts (p. 59). All the taxes (or fees, if the false name is still to be used), except those of the common law courts are collected by fee stamps. What justification can be urged for the continuance in the Common Law Courts of the vicious and condemned system of collecting the tax through officers acting as bailiffs for the consolidated fund, it passes us to conceive. And yet the common law establishment was remodelled in 1852 (stat. 15 & 16 Vict. c. 73), whereas the sentence of denunciation was pronounced by the House of Commons Fees Committee, in their reports of 1848 and 1849. The fee stamp system first tried in Ireland (Stat. 1 & 2 Geo. 4, c. 112), and introduced by Lord St. Leonards for the English Chancery Court, in 1852 (stat. 15 & 16 Vict. c. 87) has been found so simple and perfect, that it is most difficult to refrain from attributing sinister motives to the re-enactment of the money system for the common law establishment. We believe that, taking all the common law courts together, there are above 100 persons who receive cash as tax collectors for the Treasury, and that there is no kind of audit on behalf of the public. As to many of the fees, from their nature, there could be no efficient audit; as every practitioner will know. In Chancery, in the old money taking times, an affidavit was made of the amount of fees received. In common law no such thing is required. The Treasury is to open its mouth and shut its eyes, and take what the century of officers will send it. All the obvious evils pointed out by the Fees Committees have been here perpetuated. The time of 100 officers is wasted in account keeping—their honesty

tampered with—a cloud of suspicion is inevitably thrown round them. Small as the check is, we have heard that more than one subordinate has absconded; that no security is given, and that their deficiencies have never been made good. The case of Swabey in another court we need not refer to; nor to the defaulters among official assignees.

The second report of the Fees Committee (8th May 1848) contains these resolutions:—

9. That in taking of fees the following things are to be provided for:—

1. That no more is levied than is absolutely required for the purpose for which fees are imposed.
2. That all fees imposed shall be actually levied.
3. That the whole amount levied is applied for the purposes for which the fees are levied.

10. To promote the first object it is important to consolidate offices as much as possible, and to discontinue useless offices and forms of proceeding.

11. To promote the 2nd object, it is essential to provide a test of payment, so that no person should be able to escape the payment of the fees imposed.

12. To promote the 3rd object, it is essential to provide a check, whereby the total amount levied may be paid into the fee fund.

13. To promote all three objects, it is essential that fees should be consolidated, so as to be made as few in number as possible.

14. That the fees should be levied with as little inconvenience to the suitor as possible.

These most wise resolutions are contemptuously set at naught in the present system of assessing and collecting the tax on common law suitors. Principles deliberately adopted by the Legislature, whatever they may be, should, as far as possible, be applied to every court of justice and law office, great or small. The remuneration of officers by fees has, since 1833, been emphatically condemned. It should no longer be allowed anywhere; and the authorities concerned in the preparation of all such Acts as, for instance, those governing the duchy court, in our opinion, are open to censure for contravening a rule so distinctly pronounced by the Legislature as that of 1833. Again, no more fees, say the committee, should be annually levied than are required. But see with what triumphant defiance the Court of Chancery treats this rule. Not only since 1833 have £83,557 more fees been assessed than expended, but this excess has been levied while the Court has had in hand an accumulation of surplus fees which it has invested in £201,000 stock. Not only this, but the Court has also had in hand accumulated banking profits, to the benefit of which, on all sides it is admitted, the suitors are entitled, and (being the fund now proposed to be used for building the new courts) to the extravagant amount of a million and a quarter. A tax on suitors is, so far as it goes, a denial of justice. A tax on suitors is also a tax paid for liberty to employ the legal profession to obtain the suitor's rights. Is it not discreditable in the highest degree that such over taxation as this should have occurred? We know, well, it could only have been perpetrated in ignorance or thoughtlessness, or for want of some functionary whose duty it was to prevent the imposition of burthens so gratuitous and grievous. But that our management of legal taxation is ignorant is all we are contending for. We object to the continuance of such a state of anarchy. The taxation of suitors is really the affair of State financiers, and not a judicial one. For our clients, the over-burthened suitors, we must insist on an annual estimate of needs, an annual assessment, and a House of Commons ministerial responsibility.

The mere fact that there exists in the Court of Chancery a fund of above a million and a quarter, (a sort of foundling and *filius nullius*—the fund B. of the concentration commission), glad as we are to have the money for new courts, is all sufficient to overwhelm the present judicial financial system (or no-system) with disgrace and confusion. This fund was also

gathered together, doubtless, in ignorance. If it had been got together on purpose, it would have been so much plunder; and the Court, in the eyes of a financial judge, would have been found red-handed.

The financial and banking mismanagement of the great funds in the hands of this Court, were considered by us at length some months since. As bearing on the question of the taxation of the suitor, we may remark that, had this fund B., which in 1842 (when the Six Clerks Office was abolished) amounted to £910,000 Stock, been then applied to the purchase of terminable annuities to defray the immense compensations then awarded, it would have been unnecessary to tax the suitors to defray those compensations, which in 1842 were £46,509 a-year. Even if it could have been thought wrong to sink any of the capital of this fund in the purchase of terminable annuities, we have next to point out that had the surplus interest of this fund (which, from 1842 to 1852 averaged £30,000 a-year), been at once applied in aid of the fee fund, instead of deferring that very proper step till 1852—the sum of £30,000 a-year would have been annually saved to the three generations of over taxed suitors, who formed the population of the Court of Chancery during those ten years. By the monstrous system of excessive taxation of which we are complaining, this fund was kept under accumulation till 1852, when it reached its present amount of £1,291,629 Stock, and its income of £40,000 a-year was then all in one swoop applied to the reduction of future fees.

A glance across the Channel to Ireland is often useful. While the suitors in the English chancery have been taxed to an amount greatly exceeding the needs of the court, in Ireland, as we might guess, the consolidated fund has been unduly paying them. By the 4 Geo. 4, c. 61. ss. 1 & 2, the Irish Lord Chancellor might have rightly adjusted the tax there to the needs. But from the Government finance accounts we see that the consolidated fund had in 1859 to provide £32,000 to meet the deficiency arising from the insufficient taxation of the chancery suitors. We suppose these calls in aid led the Treasury to appoint, as we see they did, the late Mr. Wilmot Seton and two officers of the Irish Court, commissioners to investigate the matter. This report was printed in 1859, and laid before Parliament. The commissioners recommended (p. 5) as follows:—

“We are of opinion that payment of fees in money should be discontinued in this, as well as in every other department of the court, and that a moderate stamp duty should be substituted.”

These commissioners were evidently altogether unaware of the House of Commons' reports upon fees, and in particular, they do not seem to have perceived the importance of the questions we have discussed, as to the proper incidence of taxation. Neither do they seem to have thought of looking to the finance arrangement of the court as the most legitimate mode of raising a revenue towards its support. These shortcomings have arisen from the piecemeal system hitherto pursued in dealing with legal taxation and finance, under which every court has been considered and regulated separately, or rather, has been expected to consider and regulate and purge itself. Had there been any office of law revenue and finance connected with the Treasury, such shortcomings could not have happened; and this Irish episode of our story shows that these matters can only be dealt with rightly in the wholesale, and must fail when dealt with separately, and in the retail. In the Irish common law courts, all fees are now collected by stamps, under the 13 & 14 Vict. c. 114.

The conclusions we have arrived at on the subjects mentioned at the head of this article, are already denoted. They are that the collection of all fees for every court and office, should be by a specially issued stamp only. That money should on no pretence ever pass from

suitor or solicitor to the officers of court; that the gross income should be received intact; and that the officer's salaries should always be paid to him, as to all the courts belonging to the State, by a Law tax department of the Treasury. That there should be an annual review, and budget, and re-imposition, and re-assessment of law taxes, so that such injustice as that in Chancery of the ten years 1842 to 1852 should be prevented; and so that at no time too much tax should be imposed on any suitor. That the tax should as much as possible be an ad valorem tax, and not a poll tax, and that all this should be so arranged as to involve some annual vote by Parliament, and thus insure full parliamentary responsibility for a most important public duty, which now so far as we can see is left to do itself as it best may. The whole results should appear in the annual issue of judicial statistics.

PROCEEDINGS IN CHANCERY “CHAMBERS.”

We insert this week a copy of the return referred to under this head in a former article (*ante*, p. 195). Some further suggestions as to the jurisdiction by summons at chambers may still be offered. Should any extension of such jurisdiction be determined on, there would be no difficulty whatever in carrying it out; it not being necessary since the passing of the Act of 18 & 19 Vict. c. 134, to apply to the Legislature for the purpose of carrying into effect any alterations under the statutory jurisdiction by which the Court of Chancery is empowered to make orders in a summary way. The Lord Chancellor, under sect. 16 of that Act, has power by general order to declare what applications shall be made at chambers.

When the jurisdiction at chambers was introduced in cases under the statute 36 Geo. 3, c. 52, s. 32 (for payment into court of legacies), and the Trustee Relief Act (where the fund was not more than £300) it was thought that, under the Lands Clauses Consolidation Act also in cases where the amount of the fund was not more than £300, applications by summons might be entertained at chambers, although that mode of proceeding under the last mentioned Act is not expressly authorised by the consolidated orders of the Court defining the jurisdiction at chambers; see order 35, rule 1; but in the case of *Clarke's devisees*, 6 W. R., p. 812, Vice-Chancellor Kindersley decided that the application must be made by petition. Now, the expense of a petition is not inconsiderable, and ought to be saved when possible; and is there any reason why these applications should not be made at chambers? Indeed, we think that the limit as to amount should be much extended if any limit at all should be retained. The smallest amount of costs of a petition of the very simplest character is £10; and half the expense or even more might be saved by an application at chambers.

The “Trustee Act, 1850,” (13 & 14 Vict. c. 60, s. 38), gave liberty to carry into the master's office a statement of facts, and to verify it, and the master was to certify as to the right to a vesting order; and by 15 & 16 Vict. c. 80, s. 36, all powers given to the masters were transferred to the judge in chambers; but as the Court now makes orders under this Act without a reference to chambers, on proper evidence of the facts being given, this provision is useless. We think that, as suggested in our former article, in small cases at any rate, an original summons should be allowed for a vesting order of real estate, and also of choses in action, and the other matters embraced by this Act.

As regards proceedings under the Trustee Relief Act, if a summons be allowed, it would be an original summons, there being no matter created by the affidavit on which the money is paid in to support any other procedure. In the case of a party becoming absolutely entitled to a fund, the expense of a petition, and making out his title thereto, would in most cases,

We think that a mistake must have been made in 23 & 24 Vict. c. 38, s. 14, in giving liberty to apply by original summons for an order to advertise for creditors under Sir George Turner's Act. A motion or petition of course, which the Act also authorises, is the cheaper mode by more than half, as will be seen by the following particulars of the costs (taken on the higher scale) as to each method of proceeding, viz. :—

The subsequent costs are the same in each case. The expense of a petition of course is still less than that of a motion of course. The costs are as follows:—

The subsequent provisions in the 14th section are, however, most valuable, viz. the power given to executors or administrators to apply by summons to stay proceedings at law against them, which in many cases will be a great saving of expense, particularly as the summons would only be the common summons in a pending matter; and also the power given to the judge on application of the executor or administrator, to direct that particulars only of any claims shall be certified by the chief clerk without adjudication, thus getting rid of the costs of proof which, in the majority of cases of this sort, is unnecessary, as all the executor requires to establish by the proceeding is, that he has paid all the creditors, and that there can be no future claim upon him. There must be a special form of advertisement to give effect to the last-mentioned provision of the Act; and a general order will be required to authorize this. The 37th rule under the 35th of the Consolidated Orders of the Court, directs that the advertisement for creditors or other claimants, shall be in a form similar to the form in schedule L., with such variations as the circumstances of the case may require; and that the creditor or claimant must come in and prove his claim. The *proof* cannot be dispensed with except by a form of advertisement issued under a general order of the Court. It is suggested that such form should be in the alternative, so as to allow the executor or administrator the option of advertising for particulars only of all claims, or of those of limited amount (say under £5), or for creditors to come in and prove in the usual way. In the two former cases, the executor or admini-

The judges have the same power and jurisdiction conferred on them by 15 & 16 Vict. c. 80, with respect to chamber business, as when sitting in open court (see s. 13), and they have also full power to direct by general order what business shall be disposed of by them in chambers (see s. 26). We hope, therefore, to see many of the improvements we have suggested carried into effect, and increased facilities thus given for the dispatch of the business of the Court at much less expense to the suitor.

COURT OF QUEEN'S BENCH, WESTMINSTER.

Cause was now shown against the rule. It appeared that Mr. Hayward had been appointed on the 5th of August, 1851, but in 1860 a charge had been made against him that, being a trustee, he had sold out some money in the funds, and applied a considerable portion to his own private use. The fraud was committed before the passing of the Fraudulent Trustee Act, and was disclosed in some Chancery proceedings, and upon the proof of the fraud the Master of the Rolls dissolved the partnership which Mr. Hayward was then carrying on with another gentleman as an attorney. The council of Rochester also took the matter up and appointed a committee, and required Mr. Hayward to attend before them, but he refused to attend, as he considered the council had no power in the matter. The council then removed him from his office of clerk of the peace of the city; but it was now contended that the right of removal was not in the council, but in the recorder. The recorder also had taken the same view of the case, for he had refused to allow the gentleman whom the council had appointed to act in Mr. Hayward's place. The question, therefore, was whether the power of removal was in the council

cil or in the recorder. It appeared that by the statute of the 1st of William and Mary, sec. 1, cap. 21, the clerk of the peace for the county was appointed by the *custos rotulorum*, and he held his office so long as he well demeaned himself, but the power of removing him in case he should misdeemean himself was, by the 6th section of the Municipal Corporation Act (5th & 6th William 4., cap. 76) given to the justices in quarter sessions. The justices in quarter sessions were to hold a judicial inquiry, and had power either to suspend or discharge the clerk of the peace, in which case the *custos rotulorum* had power to appoint another. By the 101st section of the Municipal Corporations Act, on the petition of the town-council, the Crown could grant a right of holding a separate quarter sessions to a borough, and appoint a recorder; and the town-council had power to appoint a clerk of the peace for the borough, who was to hold his office during good behaviour. The 105th section then defined the jurisdiction of the recorder, who was to hold courts of quarter sessions for the borough, to be a court of record, and to have cognizance of all crimes and offences, "and all matters whatsoever cognizable by any court of quarter sessions." The last clause, it was contended, was large enough to convey to the recorder the same jurisdiction, as to the removal of the clerk of the peace for the borough, as was exercised by the county sessions in the case of the clerk of the peace of the county.

Mr. Justice CROMPTON said there was some doubt about the matter, but the authorities in this court were all in favour of the defendant. The court could not say the question ought not to be argued.

The counsel who appeared in support of the rule, were not called upon, and the rule was made absolute in order that the argument might take place on the return to the writ.

Rule absolute.

Jan. 29.—*Martin v. Hiron*.—A rule was moved for in this case calling upon the Sheriff of Middlesex to show cause why he should not pay the defendant the sum of 10s., and also calling upon two of his assistants, named Mott and Mayhew, to show cause why an attachment should not issue against them for extortion.

It appeared that the defendant had been taken on a *ca. sa.* by two assistants of the Sheriff of Middlesex, and one of them, named Mott, demanded of him the sum of 5s., which he said was his regular fee. The defendant said he never heard of such a thing as to make a man pay for being taken into custody. Mott said the money went to the office for searching, and that if he didn't pay it, it would cost him a guinea, or more, when he got to prison. The defendant not having any money, was taken to Southampton-street, where he borrowed it, and paid the 5s. The other man, Mayhew, then demanded 5s. as his caption fee, in addition to the cab fare, and said that he could take the coat from the defendant's back or the watch from his pocket if he did not pay it. Under these threats the defendant was induced to part with his money. The statement of the defendant was corroborated by the affidavits of other persons. There was authority for the present application in the case of *Blake v. Newborn*, (17 L. J. Q. B. 216), where it was held that if a sheriff's officer is guilty of extortion the party complaining may call upon the sheriff to show cause why he should not refund the excess, and upon the officer to show cause why an attachment should not issue against him under the same rule.

The Court granted a rule to show cause.

COURT FOR DIVORCE & MATRIMONIAL CAUSES.

(Before the JUDGE ORDINARY.)

Jan. 28.—*Boynton v. Boynton*.—The petitioner in this case, Mrs. Boynton, had obtained a verdict that her husband, the respondent, had been guilty of adultery and cruelty, and the Court had thereupon decreed a dissolution of the marriage. A petition had since been presented for an order respecting the settlement of the property, and another for the custody of the child. Counsel for Mr. Boynton suggested that it would be expedient to postpone the hearing of the petition as to the settlement, until the other petition as to the custody of the child was ready for hearing. The petitioner's counsel said that if the hearing were postponed the Court might make an interim order as to the property. Before the marriage the wife had property which produced an income of £576 a-year. By a post-nuptial settlement two-thirds of the sum was settled to the separate use of the respondent, and one-third was settled upon Captain Boynton for life. Upon the death of either the

survivor was to have the whole for life. If, therefore, the lady died before an order was made, Captain Boynton would take the whole for life. The trustees of the fund had, since the suit was instituted, transferred it to the Accountant-General of the Court of Chancery.

The JUDGE ORDINARY.—The Court of Chancery has much greater facilities than I have for dealing with questions of this kind. However, as the jurisdiction is given to me I must exercise it. If the Legislature find out that it is badly executed they must transfer it. His lordship asked what the petitioner had called herself since the decree, and upon being informed that it was not known what name she ought to take, said there was a difficulty about her resuming her maiden name; for if a lady called "Miss" were to be seen walking about with a son it would be rather awkward.

The case was ultimately ordered to stand over until the petition as to the custody of the child was ready for hearing.

COURT OF PROBATE.

(Before Sir C. CRESSWELL.)

Jan. 30.—*In the goods of Elizabeth Freeman, deceased*.—In this case a motion was made for probate of the will of Elizabeth Freeman. It appeared that after her death the will was handed to the attorney who had prepared it. When he read it over he discovered an interlineation, and knowing that it was not there at the time when the will was executed, and that it would be inoperative, he incautiously erased it. He had made an affidavit of these facts.

Sir C. CRESSWELL.—Does he state how long he has been a member of the profession? I should presume either that he was a perfect novice or that he was superannuated, otherwise he would never have taken such a liberty with a will. You may take the grant.

The undermentioned gentlemen were called to the Bar on Saturday, the 26th instant:—

Lincoln's inn.—Deane Parker Pennethorne, Esq., B.A., Cambridge (Certificate of Honour, first class); Percy Simpson, Esq., M.A., Cambridge; Arthur Giles Puller, Esq., M.A., Cambridge; Joseph Wm. Dunning, Esq., M.A., Cambridge; George Worthington, Esq.; Charles Robert Fletcher Lutwidge, Esq., B.A., Cambridge; Paul Panton, Esq., B.A., Cambridge; Edmond Robert Wodehouse, Esq.; Charles Collett, Esq.; Horace Davey, Esq., M.A., Oxford; John Liddon, Esq., M.A., Oxford; Arthur Dixon, Esq.; Charles Syngé Christopher Bowen, Esq., B.A., Oxford; George Randall Johnson, Esq., B.A., Cambridge; Bernard Cracroft, Esq., M.A., Cambridge; Wm. Halfhide Allen, Esq., M.A., and B.C.L., Oxford; Frederick James Quick, Esq., B.A., Cambridge; Robert Smith, Esq.; Angelo John Lewis, Esq., B.A., Oxford; Charles Stewart, Esq.; Mark William Hunter, Esq., B.A., Cambridge; Henry Augustus Clavering, Esq.; and William John Belt, Esq., M.A., Cambridge.

Inner Temple.—John Walter Tyas, Esq.; Thomas Neilson Underwood, Esq.; Charles William Mackillop, Esq.; Henry William Franklyn, Esq., B.A.; William Henry Mellor, Esq.; Thomas Green, Esq.; Felix Hargrave Hamel, Esq.; Henry Brooks, Esq., B.A.; John Barker Thorner, Esq.; Henry Addwiler, Esq.; and John Martineau, Esq., B.A.

Middle Temple.—Thomas Henchman Buckerfield, Esq.; Henry Michael Dunphy, Esq.; Martin Harcourt Griffin, Esq.; George William Paul, Esq.; Alfred Richards, Esq.; and Thomas Henry Goodwin Newton, Esq., B.A.

Gray's inn.—Richard C. Rogers, Esq.; Timothy O'Brien O'Feely, Esq., LL.D.; and Julian Emanuel Salomons, Esq.

The office of Queen's Coroner has become vacant by the death of Mr. Arthur Bloxam Corner.

Mr. F. Lloyd has been appointed to act as judge and session judge at Dharwar, in the East Indies, in the room of Mr. M. A. Coxon, deceased.

Mr. Frederick Baker, of Derby, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Derby.

Mr. Alfred Laird Estlin, of Somerton, Somersetshire, has been appointed a commissioner to administer oaths in the High Court of Chancery.

Mr. James Greenhalgh, jun., of Bolton-le-Moors, Lancashire,

has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Lancaster.

Mr. Thomas Harrison, jun., 5, Walbrook, London, has been appointed a London commissioner for administering oaths in common law.

Mr. John Waddington Mann, York, has been appointed perpetual commissioner for taking the acknowledgments of deeds by married women, for the city of York and Ainsty, of the same city.

Mr. George Moore, Warwick, has been appointed perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Warwick.

Mr. Benjamin Hadley Sanders, of Bromsgrove, Worcestershire, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Worcester.

Mr. Robert Slaney, of Newcastle-under-Lyme, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Stafford.

Mr. William Smith, of Staines, and No. 11, Staple-inn, Middlesex, has been appointed a perpetual commissioner for taking the acknowledgment of deeds by married women, for the county of Surrey.

Recent Decisions.

EQUITY.

PRACTICE—ANSWER OF A COMPANY—EVIDENCE.

Wadeer v. The East India Company, M. R. 9 W. R. 251.

One result of the numerous changes which have been made of late years in the practice of the Court of Chancery has been to alter very much the object and use, and, therefore, the general character of Answers. Under the old practice, wherever a defendant could not plead, demur, or disclaim, he was compelled to answer, and in such cases, the issues involved were almost necessarily of pure fact; the answer was intended, however, not only to oblige the defendant to disclose the general nature of his defence, but also to obtain from him a discovery, so as to enable the plaintiff to obtain as far as possible complete justice. The plaintiff was entitled, not merely to rely upon the defence set up in the answer, as being that against which he was to direct his evidence in the suit, but he was also entitled to treat statements of facts in the answer as evidence against the defendant; whilst a defendant or co-defendant was not entitled to use an answer as evidence for the defence. The Chancery Amendment Act of 1852 (15 & 16 Vict. c. 86), introduced a great change into the practice of the Court in respect of answers; and the Orders about to be issued relating to oral evidence no doubt will alter still more the character of answers, so as to reduce them very much to mere instruments of pleading. The rule of law which at present enables the examination and cross-examination of parties to suits has gone very far to curtail the utility of discovery by the process of the Court of Chancery, so that it is becoming every day less used for that purpose. The use to plaintiffs, therefore, of answers, as supplying evidence is also becoming less; and the tendency of modern practice is, certainly, very much to reduce them to the mere use of a pleading. The contrary may, no doubt, appear to be the case, from the fact that the Act of 1852, while it abolishes the old rule, which always required an answer upon oath from every defendant (except those labouring under disability), and, on the other hand, allowed the defendant voluntarily to put in an answer, even when not required, makes the answer evidence not only for the plaintiff, but also, upon notice being given, for the defendant, and even as between co-defendants, [on this point the present practice of the court is laid down in detail in *Wright v. Edwards*, 7 W. R. 193]. The Act enables a defendant to add to his answer to the plaintiff's interrogatories any statement in support of his own case that he thinks fit. It may, therefore, appear that the modern practice is very much to increase the use of answers for the purpose of evidence; and in many cases, no doubt, it is. But generally, even in them, this circumstance is accidental, and arises rather from a convenient and collateral use of answers than from their intrinsic character. Even in the case of a voluntary answer the object of the defendant is not prematurely to disclose his evidence, but to place a statement

of facts in the nature of a pleading upon the record. The same remark applies to the case of a compulsory answer, so far as the defendant has added thereto a voluntary statement. The first and sole object generally of answers so far as they are voluntary regards the pleading in a suit. The Chancery Amendment Act of 1852, for the sake of saving expence, allows that all answers on oath, when they have served their purpose of pleading, may, so far as they contain statements of fact, be used as evidence in the cause. As soon, however, as the new general Order on evidence comes into force defendants will probably reserve much of the information which they are in the habit of volunteering in their answers until they are orally examined before the Court; except so far as it may be desirable to have it appear upon the record that the plaintiff had the information at the earliest possible stage of the cause.

Wadeer v. The East India Company affords an illustration of the distinction between an answer when regarded as a pleading and when regarded as evidence. On the hearing of this cause upon motion for a decree, Sir John Romilly, M.R., refused to allow the answer under seal of a company, to be read as evidence on its behalf, upon the ground that it was not sworn: his Honour, however, allowed it to be read by the company as a matter of pleading, and he would probably even as evidence against the company.

REAL PROPERTY AND CONVEYANCING.

EQUITABLE MORTGAGE—PRIORITY OF CHARGES.

Cooke v. Wilton, 9 M. R. 220.

In this case it appeared that a lady prior to the 29th June, 1858, had mortgaged property by deposit of title deeds. On the 29th of June, 1858, a judgment was registered against her. Two days afterwards the plaintiffs, without notice, as they alleged, of the judgment, paid off the equitable mortgagees and took the securities. Subsequently, a legal mortgage was executed to the plaintiffs. It was held that the legal estate of the plaintiffs, thus acquired, had reference back in point of date to the equitable mortgages; and that the plaintiffs were entitled to use the legal estate so as to cover all advances to the mortgagor subsequent to the date of the deposits, on the same securities, made by them *bonâ fide*, and without notice of other charges. As the evidence of the plaintiffs having had notice of the judgment appeared to the Court to be defective, it followed that the judgment creditor was postponed.

SOLICITORS' ACT—COSTS IN LUNACY.

Re Cumming. Ex parte Turner, L.J., 9 W. R. 213.

A case of the highest importance to solicitors of the Court, involving a question of the operation of the Attorneys and Solicitors Act of last session, was decided by the Lords Justices on the 17th of November last. The working of this measure is necessarily attended with some anomalies. Amongst others, the provision with respect to costs in lunacy is a very singular one. It entirely changes the rights of the parties at the time of the passing of the Act, and gives a preference to the solicitor over the other creditors of the testator. It is impossible, nevertheless, that the relief which was intended to be afforded by the Legislature could have been otherwise bestowed; and the urgency of the remedies required is proved by the increasing number of applications to the courts under the 28th & 29th clauses.

In the case before us, the applicant, a solicitor petitioning under the 29th section of the Act, was held to be excluded from the benefit of its provisions by the operation of the limitation clause (sec. 29), in matters relating to lunacy. The former clause (sec. 28), which gives to the courts the power of making solicitors' costs a charge upon recovered property, enacts that no order shall be made in any case where the right to recover is barred by any statute of limitations; but the 29th section expressly fixes a period. The proviso is, "That it shall not be lawful for the court or judge to make any such order, but within six years next after the right to recover such costs, charges, and expenses shall have accrued." The question here was, when did the right to recover accrue? It was argued, with great force, that the period from which the right accrued could only be the completion of the taxation; but Lord Justice Knight Bruce considered that the six years must be computed from the date of the death of the lunatic. Lord Justice Turner said he should not express any opinion on that subject; but of this he was clear—that it should have accrued at the period when the court declared the costs,

charges, and expenses to have been properly incurred. He would not say the right did not accrue upon the death of the lunatic; but he was satisfied that, at latest, it accrued at the date of the order. There was an undoubted right to recover the costs the moment it was ascertained that they were properly incurred on behalf of the lunatic's estate. The strongest argument for supposing time to run from the death of the lunatic is to be found in the language of the 29th section. In the present case, it turned out that, according to either mode of computation, the solicitor's claim was barred; but it happened that the solicitor was also a mortgagee of a fund in court as a security for his costs. The mortgage-deed recited that the two married daughters of the lunatic were entitled, as tenants in common in remainder expectant on their mother's death in the fund; and their husbands, by the same deed, purported to convey to the solicitor the freehold property to which they were or should be thereafter entitled in right of their wives; and also assigned to him the fund. A receiver having been appointed, and considerable sums having been paid into court, it was held that the effect of the deed was to give Mr. Turner a security upon the interest of one of the husbands, in right of his wife, in property of which the lunatic was tenant in fee or tenant in tail—she never having barred the estate tail—and that he was entitled to deduct the costs from the rents accrued since the lunatic's death. It was argued that this was, in fact, a claim by a mortgagee for past rents; but the L. J. Turner said he considered them rather to be outstanding rents which had never got home to the mortgagor, and that the mortgagee was entitled to recover in respect of them.

COMMON LAW.

COUNTY COURTS—CONCURRENT JURISDICTION OF SUPERIOR COURTS—9 & 10 VICT. c. 95, s. 128.

Adams v. The Great Western Railway Co., 9 W. R., Exch., 254.

By 9 & 10 Vict., c. 95, s. 128, the right of a plaintiff to sue in the superior court, without danger to his costs in case of success, on the ground that the County Court had jurisdiction in the matter, and that the proceedings should have been taken therein, is preserved in certain cases, one of which is, "where the plaintiff dwells more than twenty miles from the defendant." This section, and the particular branch of it now referred to has been discussed under every conceivable aspect. Thus, with regard to the mode of calculating the prescribed distance, it has been held that it is to be as the crow flies; that is to say, in a straight line from house to house, without reference to the actual route by which a journey from one to the other may be performed (*Lake v. Butler*, 3 Ell. & Bl. 92); and in a subsequent case, this rule of measurement was held (it may be incidentally remarked) to be applicable to all cases where the distance between two places is, in an Act of Parliament made the basis for some enactment (see *Jewel v. Stead*, 6 Ell. & Bl. 350). Again, it has been held that the meaning of the proviso is that the plaintiff has his election if the defendant's dwelling place be more than twenty miles from the place where the plaintiff dwells, although the defendant's place of business may be within that distance (*Peterson v. Davis*, 7 D. & L., 109). And it has been decided that where a person has a permanent "dwelling" in one place, he cannot be said also to dwell at another place where he has only temporary lodgings (*Macdougall v. Paterson*, 11 C. B., 755); although, on the other hand, where the plaintiff has more than one permanent dwelling—one within the twenty miles of the defendant's dwelling, and the other beyond that distance—it has been decided by the Common Pleas, (in opposition to an earlier case in the Queen's Bench), that the plaintiff is entitled to select the more distant of his residences as that in which he dwells (see *Butler v. Ablewhite*, 6 C. B. N. S., 1254; *contra Bailey v. Bryant*, 28 L. J., Q. B., 86). To these judicial interpretations we must add one that brings us to the case now under discussion, viz., that a corporation is liable to be sued in a county court (a proposition which may be thought hardly to require an express authority), and that a corporation "dwells" within the meaning of the 128th section at the place where its business is carried on (*Taylor v. Crowland Gas Co.*, 11 Exch., 1). This last rule of construction seems to leave nothing for discussion with regard to the case of corporations generally; but the defendants in the case now under discussion happening to be a railway company, it was contended that their dwelling must be held to be in every place where their business was carried on; that is to say, at every station. This, if held correct, would have deprived the plaintiff of his costs, as he dwelt less than twenty miles from a

station on the defendant's line of railway; but the Court held that the head office is the dwelling of a railway company, and that office only. This decision seems to follow the principle of *Macdougall v. Paterson*, 11 C. B., 755, above cited, viz., that for the purposes of this section the plaintiff cannot have more than a single "dwelling place,"—a doctrine which agrees with that persisted in by the Common Pleas in *Butler v. Ablewhite*, but inconsistent with that of the Queen's Bench in *Bailey v. Bryant*. Consequently the present case may be considered as a declaration by the Court of Exchequer, that they will adhere to the view of the former court should the question be directly raised before them for decision.

We may further remark that in a case since *Butler v. Ablewhite* the Court of Queen's Bench avoided either overruling or confirming their previous view in *Bailey v. Bryant* by deciding the case then before them on the narrower ground that the plaintiff had only one permanent dwelling, because his other residence was subservient to the purposes of his business (*Kerr v. Haynes*, 29 L. J., Q. B., 70). It does not appear how they would have held had the plaintiff been possessed of two residences, each of them used indifferently for the purpose of dwelling in.

FUGITIVE SLAVE CASE—HABEAS CORPUS, DIFFERENT KINDS OF—AT COMMON LAW AND UNDER STATUTE.

Ex parte Anderson, 9 W. R., Q. B., 255.

With reference to this case—now watched with such universal interest—it may not be uninteresting briefly to review the legal bearings of the writ, by virtue of which the authorities at Canada are directed to bring up *Anderson* before the Queen's Bench at Westminster.

The writ of *habeas corpus*, though usually applied to vindicate the liberty of the subject, is also used for other purposes; for there are several writs all called generally writs of *habeas corpus*, which have distinctive additions corresponding to their several objects; and it has been recently held that the writ cannot issue in a general form, but must be for a specified object recognized by the law (see *Benns v. Morley*, 2 C. B. N. S. 116). Thus the *habeas corpus ad respondendum* is sued out in order to remove a prisoner confined by the process of any inferior court, to charge him with a new action in one of the superior courts: though, since the abolition of arrest on meane process, and the almost complete desuetude of borough and other inferior courts, this species of the writ could scarcely occur in practice. Then there is the *habeas corpus ad satisfaciendum*, which is for the purpose of charging in execution a prisoner confined elsewhere than in the prison of the court out of which the process of execution issued (see 15 & 16 Vict. c. 76, s. 127). And again, there is the *habeas corpus ad testificandum*, to remove an execution debtor confined in prison, in order to give evidence in some court of justice (see 16 & 17 Vict. c. 30, s. 9; and 19 & 20 Vict. c. 108, s. 31). Another species of the writ is the *habeas ad faciendum et respondendum* (otherwise called an *habeas cum causâ*), which issues to remove civil proceedings from an inferior to one of the superior courts—together with the defendant therein, if in custody.

The most common and by far the most important species of the writ, however, is the famous *habeas ad subjiciendum*, used for the deliverance from illegal confinement. This writ may be directed to any person who detains another in custody, and commands him to produce to the Court whence the writ issues, the body of the prisoner, with the date and cause of his caption and detention. It may issue from any of the superior courts of law or from the Court of Chancery, and either in term time or vacation; and it runs into all parts of the dominions of the Crown; for, (says Blackstone), "the king is at all times entitled to have an account why the liberty of any of his subjects is restrained wherever that restraint may be inflicted."

The writ is so far a writ of right, and not to be denied to any applicant, that it is necessary only to make application for it supported by affidavits establishing to the satisfaction of the Court some probable cause which the party has to be delivered (see *per Vaughan, C. J.*, *Bushell's Case*, 2 Jon. 13), and when awarded, the only return which can be made is to bring up the body of the prisoner alive.

The proceedings on this writ are partly regulated by the common law and partly by two statutes—the 31 Car. 2, c. 2, (usually called the *Habeas Corpus Act*), and the 56 Geo. 3, c. 100.

In neither of these Acts, however, is any mention made of the Colonies, though privileged places and the Channel Islands are expressly brought within their provisions; and it is

therefore apprehended that the authority for issuing the writ to the Canadian tribunals must be exclusively sought in the doctrines of the common law, and that the *statutable* practice under the writ has no application.

For an issue of the writ to a colony such as Canada, there seems to be no sufficient *precedent*; but the course which has been taken by the Queen's Bench (while it must command the approval of the feelings of all) seems amply justified by the principles of the English law, if not supported by express authority. And, particularly, it is in strict accordance with the proposition of Blackstone above referred to, the value of whom, as an authority, is great (as remarked by Lord Denman in the *Canadian Prisoners Case*, 9 A. & E. p. 780), because it shows the general opinion that prevailed at the time when he wrote his commentaries.

It cannot, however, be denied, that none of the instances cited at the bar in support of the application for the writ are much in point. The case in *Burrows* (*Re. v. Cowle*, 2 Burs. 836), was an application in reference to a "*certiorari*," directed to the Mayor and Corporation of *Berwick*. *Carus Wilson's case* (7 Q. B., 984) decided, it is true, that the writ runs to Jersey and, probably at common law; or, in other words, that the statutes *quoad hoc* are declaratory merely; but then Jersey and Canada cannot be considered as both of them colonies in the same sense of the word. The same remark may be made with regard to *Crawford's case* (13 Q. B., 613), which shows only that the Isle-of-Man is in the same position with regard to this writ as Jersey. As for the Canadian prisoner's case (case of *Watson and others*, 9 Q. B., 731) that was an *habeas corpus*, directed to an *English* gaoler, who detained the prisoners at Liverpool under a warrant from the Canadian government; a very different matter from the one in hand. And, lastly, as to the recent case of *Ex parte Lees* (1 E. & E., 878), in which a writ of *habeas corpus* was applied for to be directed to the authorities at St. Helena, to bring up the body of a prisoner then undergoing three years' imprisonment, for an assault with intent to do grievous bodily harm;—in the first place, the application was *refused*; and, in the next place, the Court (under the presidency of Lord Campbell), made an observation very pertinent to the case now proceeding. After remarking that some old precedents of writs issued out of this court to the French dominions of our early English sovereigns (probably alluding to the case of *Duke of Gloucester*, imprisoned at Calais, 1389) had been cited to show that such writs might now lawfully issue, his lordship has continued: "No precedent of any such proceeding with respect to a dependency like St. Helena for several centuries was brought before us; and it was not at all explained in what manner our writs of error, *certiorari*, or *habeas corpus*, could be enforced in such dependencies." It may be hoped, however, that this difficulty will not present itself to the Canadian mind, or that it will willingly waive the solution in *favorem vite*.

Review.

Commentaries on the Common Law; designed as introductory to its study. By HERBERT BROOM, M.A., Barrister-at-Law. Second edition. London. 1861.

The appearance of a second edition of Mr. Broom's *Commentaries on the Common Law* is a phenomenon which deserves some examination and remark. Mr. Broom holds the office of reader in common law to the inns of court, and the *Commentaries* being used as a text-book in the course of study established by the Council of Legal Education, give us some insight into the character of the preparation for the bar designed by that body. The institution of the readerships by the inns of court about ten years ago, resulted from the conviction that the inns of court were not adequately fulfilling their duties towards the public and their students in preparing the latter for the bar; and, in respect to the mode of preparation then in vogue, that it was too purely practical and technical, being deficient in the higher and more philosophical branches of law. A third motive may have influenced many in supposing that the expensive mode of preparation by a private course of practice in the actual business of law in a pleader's, or in a conveyancer's, or solicitor's chambers, might be wholly or in a great measure superseded by a system of public lectures and examinations. The design of supplying a philosophical and theoretical knowledge of law is partly carried out by the lectures on the science and history of

jurisprudence and on the civil law, which certainly offer what could not previously be obtained; while the more practical knowledge which it was supposed the Council of Legal Education could adequately supply, may be fairly represented in this matter of common law, by the work of the reader on that subject, now before us. We proceed, therefore, to examine it rather with the view of judging how far it combines scientific exposition with practical information, and is generally calculated to effect the object for which we presume it was intended, of conveying a sound and enlightened knowledge of law to a class of students from whom the profession in the highest branches of its practice and in its highest offices is supplied.

The title "*Commentaries on the Common Law*," though certainly not too large for the purpose thus designed, must, we find in the performance, be accepted with great reservation, or rather with an exception of nearly everything which would be generally expected under that title. The book, in fact, treats only of the constitution, jurisdiction, and procedure of the common law courts, and of the actions and remedies enforceable therein; comprising besides, if not within, this description of the contents, chapters on contracts, on torts, and on the criminal law. The method of the work seems to be to avoid any approach to scientific or theoretical exposition, and to expound didactically the precise rules of the law throughout the scope of its province, with merely so much of coherence as is sufficient to link them together in some sort of association or sequence. "*Municipal law*," we are told at the outset, "comprises the rules which have been laid down for the guidance of the community, to which its members must, if they would avoid penal consequences, necessarily conform." We proceed to read the rules which we are to obey. The reconciliation on moral or constitutional grounds of our obedience with our conceptions of liberty and reason we suppose is left to the jurisprudential department of legal education. The only account of common law we find is that "it is composed of two elements or materials, the *lex scripta*, and the *lex non scripta*. The *lex scripta* comprises the statute law of the land." Having studied English law with the assistance of Blackstone and Lord Coke, we have hitherto held, and shall still continue to hold, the old fashioned notion that common law and statute law represent essentially different conceptions; but those who study law under Mr. Broom seem likely to hold new views on this and on many other points.

However, we are not detained beyond the perusal of the above two passages in the regions of definition and principles, but plunge at once into the more safe and congenial wilderness of specific statute, and case law. The bulk of the work, which runs to about one thousand pages, is made up of citations of cases and verbatim excerpts from judgments and statutes, in the well-known patchwork style so familiar to English law writers, and in which the compiler of the "*selection of legal maxims*," and the "*Practice of the County Courts*," has had some experience. It alternates from the broadest generalities to the most hair-splitting differences, according to the mere haphazard course of decisions, without any regard for a complete and even treatment. We do not wish to disparage this style of writing when applied to its proper object; still less would we underrate the reading and research which it betokens. In a work intended strictly for professional purposes, it is justifiable and indispensable; the most condensed and accurate notes of the law being there required, editorial remark or comment is a work of supererogation, and the substantial interest which impels the reader in his search for the latest decisions, overcomes any repugnance to the literary style. But in a work intended for students, who are beginners only in law, and who are possibly conversant with the highest ranges and literature of physical and moral science, some more philosophical and methodical, or at least logical, method of treatment might be expected, and would surely be acceptable. It may be thought expedient by the Council of Legal Education to attempt instruction in the most minute and technical subtleties of the law, and to send forth their students ready armed for the actual warfare of their profession; but would it not be better, in such case, at once to familiarize them with the well-established and trustworthy text-books? Why should new and special works be presented to them, unless some new and appropriate system is to be adopted for their education? Mr. Broom excuses the omission of the law of landlord and tenant from his work on account of the existence of an excellent work on the subject by Mr. Smith. A like reason would dispense with his treating at all of an action at law, of the law of contracts, or of mercantile law; for on all these subjects Mr. Smith has left equally excellent and accurate treatises.

The commentaries, after the preliminary statements of the

elements of the common law to which we have already alluded, enters upon an historical sketch of the courts of common law, and explains briefly their procedure and jurisdiction. Rights of action and their remedies are then treated of. Mr. Broom here discourses at great length on the old verbal quibbles of *damnum absque injuria*, and *injuria sine damno*, as the test of determining a valid right of action. *Damnum* he defines as "damage capable in legal contemplation of being estimated by the jury." But this definition begs the whole question; for all instances cited of *damnum* not actionable consist of damage not legally capable of being estimated by the jury. Again, he lays down the position that *injuria sine damno* may be actionable; which is an unusual way of putting it, if not a wrong one. He maintains this position by excluding "nominal damages" from *damnum*, at a sacrifice of his definition of that word above given; since nominal damages are capable in legal contemplation of being estimated by the jury, and, what is more, must in law be assessed by them. Here again we prefer adhering to the usual phraseology to following Mr. Broom. "Nominal damages," according to the late Mr. Justice Maule, "mean a sum of money that may be spoken of, but that has no existence in point of quantity." And as "a peg to hang costs upon," their distinctive character is of material importance. The truth is, such a scholastic analysis of a right of action into *injuria* and *damnum* is quite unsubstantial, and never assisted anyone in advising upon a case. All injuries or infringements of a right are actionable; some injuries infringe the right directly, and are proved by the injurious act itself; others are proved by the injury or infringement consequent upon the act, which would not otherwise be injurious. This is the only distinction in substance; and the real difficulty represented by the pedantry respecting *damnum sine injuria* is in tracing the connection between the act and its consequences. Is there a link of cause and effect which the law will recognise?

Mr. Broom finds no difficulty in the concise division of causes of action into those *ex contractu* and those *ex delicto*, translating the latter term by the phrase "independent of contract." Two lines are sufficient for him to set forth this extensive and primary classification. Philosophically speaking, however, it may be much doubted whether any such precise distinction can be drawn, and practically speaking, whether there is any value in it. At any rate the line of demarcation is very dubious and uncertain. An unsophisticated student might be inclined to ask whether a breach of contract is not a *delictum* or tort, and what is the essential difference between the obligation to compensation for damages arising from a tort of this nature and any other tort; also whether an action for money received to the use of the plaintiff, where paid in mistake, or obtained tortiously or by fraud, is not independent of contract, and how it comes to be classed among transactions which distinctively depend upon consent. To questions of this nature Mr. Broom's work affords no satisfaction; yet they are of a kind which the student must necessarily encounter, and, if a faithful student, cannot conscientiously pass over. Mr. Broom's philosophy does not extend beyond the limits of statutes and judicial decisions, and so far is legally safe; but questions of this nature are wholly beyond the province of the tribunals, however philosophically their judgments may be framed. The dictum of a judge may be the *ne plus ultra* of wisdom; but there are some topics which he cannot discourse upon. Courts of justice lay down principles in the form of maxims and positive rules, in order thereon to found their judgment in the case before them; they cannot proceed to discuss the connection of principles and their coherence in scientific form. This is beyond their province, because it can have no application to the matter in judgment. Mr. Broom is content to record the practical principles established by the courts. To construct the pure science of principles from these materials is the province of the student of science—a province which he ignores.

Passing on to the chapter on Torts, will any person, except the most thoughtless student, be satisfied with the following parliamentary definition:—"A tort is described in statutory language as 'a wrong independent of contract.' It involves the idea, if not of some infraction of law, at all events of some infringement or withholding of a legal right, or some violation of a legal duty." Yet this is all the general foundation he will find here laid for deducing and comprehending the detailed doctrines on the subject. Mr. Broom proceeds to classify torts as—1. The invasion of some legal right. 2. The violation of a public duty productive of damage to the plaintiff. 3. The infraction of some private duty, likewise productive of damage to the plaintiff. Such classification is founded

on merely empirical grounds, which are quite valueless; for if the violation of a right is established, it is quite immaterial what is the character of the wrongful act which has occasioned it. Moreover, the classification is unsound, for the latter class consists chiefly, if not exclusively, of obligations arising out of contract, and perhaps is wide enough to include all contracts; and a breach of contract is actionable without actual damage, or, according to Mr. Broom, is an actionable *injuria sine damno*. Under the head of torts we find bailment and all its varieties treated of. We had always supposed with Blackstone, and other great lawyers who have treated of bailments, that transactions of this kind were matters of contract; and, indeed, here we have the authority of the recent case of *Legge v. Tucker* (1 H. & N. 500), to show that an action on a bailment is substantially founded on contract, even though the declaration is framed in tort upon the duty imposed by the contract. As a recent decision holds that an action for breach of the common law duty of a carrier is not an action of contract (*Tattan v. Great Western Railway Company*, 29 L. J., Q. B., 184), we may find some ground for Mr. Broom treating the law of carriers under this head; but as carriers are at liberty to make any reasonable contracts, and generally avail themselves of this mode of avoiding their common law duties, and as most questions relating to carriers now arise upon the contracts thus made, it seems to us that this subject also would more appropriately follow the common usage, and be treated as a contract. Mr. Broom is certainly the first writer who has treated ejectment as a mere action of tort, amongst which he classes it, notwithstanding the effect of it is only upon the land, and imposes no obligation on the defendant, and notwithstanding it is exceptional to most of the general rules relating to actions and procedure which he has previously expounded. The old fiction of entry and ouster, which would have given him some colour for so doing, was abolished by the Common Law Procedure Act, and as he has omitted all mention of real property in his commentaries on common law, we think he might more appropriately have omitted ejectment also, instead of assigning to it this unusual position.

It is impossible in our present limits to criticise this work in detail, and in the few observations above made, we have chosen rather to judge it according to its pretensions than on the footing of an ordinary text book, to which, however, it more nearly resembles in style. The statements of the rules of law and of the decisions seem on the whole to be accurate and clear, notwithstanding an unfortunate tendency, not unfrequent in lawyers, to disguise common sense by an artificial and technical mode of exposition. The authorities cited in the foot-notes are extremely copious, and we have no reason to doubt they are very complete.

The account given in the preface of the nature and object of this work is so peculiar, that the writer must be allowed to state it in his own language:—

"This work has been written with a view to filling what has long appeared to me a void in legal literature, its aim being to present explanatory comments on the law, illustrated by cases, selected in sufficient number and with sufficient care, to enable the reader to pursue for himself in detail the matters debated or touched upon in the text. In the choice of topics for discussion, I have been guided in part by an examination of standard treatises, but yet more materially by an experience of three years, devoted almost exclusively to the delivery of lectures upon the leading branches and departments of our common law. Whilst thus engaged in tracing out its principles, and indicating its practice, my attention has been perpetually directed to points of difficulty or interest, imperatively needing elucidation, which had previously escaped my notice; on all such points which, as they presented themselves, were from time to time scrupulously noted down, I have in the ensuing pages attempted more or less fully to throw light."

It seems superfluous to remark that a person capable of taking a large and scientific review of law, would not unexpectedly run his head against points of difficulty and interest in the blindfold manner described; but would be familiar with their exact whereabouts and position, and with all their limiting conditions and circumstances. The account of the choice of topics here given we can well believe, for it seems to have been guided chiefly by the mere arbitrary and unfettered discretion, which a lecturer, in dealing with students, is at liberty to exercise. As to the want of explanatory comments on the law illustrated by sufficiently numerous or carefully selected cases, whether the alleged want be positive or comparative, we beg totally to differ from him. Are there no works on procedure, practice, contracts, torts, and criminal law, more

full and trustworthy than Mr. Broom's scanty chapters? What we do indeed want are works which shall present the law to students with accuracy, and, at the same time, upon broad scientific principles which shall recommend themselves to their reason and common sense, leaving the details of law to be elaborated in practice. Commentaries on English law worthy of the nineteenth century have not yet been written. Mr. Broom attempts no more than an indoctrination of his disciples with the plain letter of the law. It is true that he arrogates a scientific character to his work; but, in common with a large class of law writers, wholly misconceives the true nature of science. "If it be true," he writes, "that law is really worthy to be called a science; if it be true that *lex est ratio mensque sapientis ad iudicandum et ad deterrendum idonea*; if further, we are justified in affirming that *potius ignorantia juris litigiosa quam scientia*; is it, indeed, vain or inexpedient to hope that a sound knowledge of legal principles may gradually be desiderated by, and spread amongst, the educated classes of this country? Is it futile or unwise to predicate that much and enduring good would thence result? As regards myself, whose main incentive to the preparation of these commentaries has been a desire to facilitate the attainment of such end, the consciousness of having done so—in any the slightest degree—would amply compensate for past labours." In the preface to the present edition, he adds his "earnest hope that these commentaries may aid in the progress of legal education, and the advancement of legal science." From these passages we infer that the writer's conception of legal science is as the mere voice of despotic authority commanding and terrifying its subjects, or as the familiar acquaintance with the rules of law, which serves a man to guide his affairs with safety and without litigation.

Juridical Society.

ON SOME ERRORS IN LEGISLATION ILLUSTRATED BY THE STATUTES RELATING TO JOINT STOCK COMPANIES.

A paper on this subject was lately read at a meeting of the Juridical Society, by Mr. NATHANIEL LINDLEY, one of the secretaries of the Society. It was as follows:—

A long study of the law relating to companies has convinced me that its unsatisfactory state, both past and present, is to a great extent attributable to a disregard by the Legislature of a few important principles established by writers on jurisprudence and legislation; and it will be my endeavour in the present paper to point out the errors which I conceive have been committed. I am induced to enter upon a criticism of the enactments relating to companies by the reflection that those enactments have on the whole failed to establish the law upon a satisfactory basis and to bring it into a satisfactory state, and by the further reflection that nothing is more calculated to lead to future improvement than a careful and dispassionate examination of causes of past failures.

Parliament has dealt with companies in two ways: it has done its best to suppress them altogether, and finding that impossible it has endeavoured to regulate them. In both cases the Legislature has acted with a view to the public weal, and in both cases it has committed grievous errors.

Let us consider the attempt to suppress companies, and the various modes in which this attempt has been made.

In the early part of the last century, as is well known, a statute was passed for the purpose of preventing the voluntary subscription of capital by numerous individuals with a view to its employment for their common profit. I do not stay to consider whether the schemes afloat in 1719 were laudable or not; even if they were not, even if they were all bubbles and swindles, the proper remedy was very different from that to which the Legislature had recourse.

The reasons for condemning the principle of the Bubble Act are, as I conceive, as follows:—

1. Because it is no part of the business of a Government to protect persons, capable of taking care of themselves, from the ruinous consequences of their own deliberate acts.
2. Because it ought not to be assumed by a Government that it is a better judge of what is for the benefit of its adult and sane subjects than they are themselves.
3. Because any attempt to prevent the commission of fraud on some persons, by prohibiting them and all others from engaging in what, apart from fraud, is unobjectionable, is invariably productive of more harm than good.
4. Because the only means of effectually preventing fraud

in the getting up and management of companies is to require publicity and to make an example of those who are proved to have been guilty of fraud in any particular case.

Now, what is the principle on which the Bubble Act proceeded? Simply this: that because many people had been and might again be swindled and ruined by the promoters and directors of companies, therefore, there should be no companies at all. As well might the Legislature have said that because many people have been and may again be cheated, at cards, there shall be no card playing, at least, for money; or because many people have been and may again be unhappily married, all marriages shall be unlawful. Surely that is not the way to legislate for grown up intelligent men. The Bubble Act added one more to the list of offences, the existence of which is solely attributable to a ridiculous and cruel law. Socially and morally, wherein is it wrong for a number of people to combine their capital for the attainment of profit to themselves? and, admitting that such combinations are powerful for evil as well as for good, it is a clumsy expedient to treat them all alike in order to make sure of suppressing those which are disapproved. What should we say of a farmer, who, because his crops had suffered from some particular insect, were resolutely to set to work to destroy every insect on his farm? He would himself be the first to confess his folly, after it had been pointed out to him that many insects do him no harm and much good.

The Bubble Act, however, has been long since repealed. But it must not be supposed that when the Legislature repealed that Act, the principle on which it was founded was acknowledged to be erroneous, and was for ever abandoned. So far from this being the case we find the old leaven still at work; to it must be attributed the efforts made to compel every company to submit its proposed plan of operations either to the officers of the Crown, or to a Parliamentary committee; and to it also must be attributed the long and bitter, though ultimately unsuccessful, struggle against limited liability. It is not my purpose on the present occasion to discuss the comparative merits of limited and unlimited liability; all that I am desirous of doing is to protest against the notion that it is the duty of a Government to interfere to prevent persons from making contracts which affect those only who enter into them. For nearly a century and a half, from 1719 to 1858, this principle has been deliberately violated; and it has been assumed to be for the benefit of the public at large that speculation should be restrained by force. I say by force because it is by force only that the Legislature can secure obedience. Punishment in some form or other is the means whereby alone laws can be enforced; and the ultimate test of the goodness of the principle of every law has long since been shown to be this: is the evil against which the law is directed, one which it is expedient to endeavour to suppress by compulsion by public authority? If the answer be in the negative, then, however great the evil, the cure for it must be sought elsewhere than at the hands of the lawgiving power. Tried by this test every law having for its object the suppression of companies must be condemned. As long, however, as this test is neglected, as long as fancy and feeling are appealed to on the question whether this or that ought to be prohibited by law; as long as it is taken for granted that a law is the cure for every ill arising from objectionable conduct, as long as a Government is deluded by the notion that it stands in the same relation to the governed as a parent to his child; so long will the laws of human nature be violated, and legitimate freedom of action be more or less hurtfully fettered.

Instead of attempting to suppress companies, and of waging war with those who desired to better their position in life by the employment of their capital, an enlightened Legislature would have done nothing save to so modify the law as to render justice attainable by and against the associated members. A sensible, but non-paternal, Government would have devised some means by which companies might sue and be sued in ordinary courts, and would have passed a severe law to punish those guilty of fraud and malpractices, and would then have trusted the people to take care of their own interests as best they might.

It must not, however, be forgotten that companies might always be formed with the sanction of the Crown or of the Legislature. This, it is true, prevented the Bubble Act from being so intolerably oppressive as it otherwise would have been; but the necessity of obtaining from the Crown or Legislature special permission to do that which it ought to have been lawful to do without such permission, was in itself a great evil. Special permission to do a thing ought never to be required unless what is sought to be done is something which is in gene-

ral prejudicial. Within the limits set by the test before alluded to, people should be left free to act; and it is only when they seek, for some exceptional reason, to pass beyond those limits that special leave to do as they wish should by law be necessary.

No doubt the notion was that by requiring the projectors of companies to apply to the Crown or Legislature, a check would be put on rash speculation; and it may be admitted that much fraud was thereby prevented. But, on the other hand, it must be remembered, that by requiring the sanction of the Crown or the Legislature to every scheme demanding more capital than a few individuals could furnish, a very serious check was put on the employment of capital by the unwealthy; and it not only seems to be, but is, unjust to say that two or three rich men may engage in any transactions they like, but that 100 comparatively poor men shall not do the same. Moreover I hesitate not to assert that upon the whole it is detrimental and not beneficial to the public to be compelled to obtain leave, before trying to increase their wealth in their own way. Time was, even in this country, when it was thought advisable that no book should be published without being first approved by some official; and it is even now thought proper in some countries to prevent people from moving from one place to another without previously obtaining the leave of the Government. All such restrictions on free action are, on the whole, extremely prejudicial, although it cannot probably be truly said of any of them that they never do good by averting harm. No company of course ought to have power to coerce other people until such power has been specially conferred upon it; but it is obvious that a law prohibiting the formation of companies without the special license of the Crown or the Legislature cannot be justified by any such principle as this.

The objections here made to the necessity of applying for charters or Acts of Parliament, for authority to do that which it ought to be lawful to do without special permission, are not in any way based on considerations of expense; at the same time it is obvious that the expense and delay of obtaining a charter or Act of Parliament seriously aggravate the evil of having to procure it.

I trust that I have said enough to show that the law prohibiting the formation of companies, otherwise than by charter or by special Act of Parliament, was founded upon principles which cannot be supported; and I pass now from the errors committed in legislating against companies, to the errors committed in legislating for them.

Here two great mistakes have been made. First, there has been no unity of plan; and secondly, there has been a great deal too much enacted. In addition to these, there are other minor faults discoverable in the statutes relating to companies, and in particular there is in most of them a deplorable want of clear and precise expression; but this fault, although practically of the greatest consequence, is one on which I do not propose to enlarge.

With respect to absence of unity in plan. In legislating for companies, Parliament never seems to have considered what was required to make the law suitable to the wants of the public; and yet a little attention paid to this point would have done more than anything else to render legislation successful and easy.

Before proceeding further it is necessary shortly to notice the evils against which it was necessary to provide, when it was determined to alter the law relating to companies.

First and foremost were the rules as to parties to actions and suits, which rendered it impossible either for companies to obtain redress themselves, or for individuals to obtain redress from them.

Secondly, there was the rule which enabled the separate creditors of a firm to levy execution on the partnership goods.

Thirdly, there was the rule that the creditors of a firm could have recourse for payment to any member exclusively.

Fourthly, there was the rule which prevented partners suing each other at law.

And fifthly, there was the rule that a partnership was dissolved as to all the members by whatever dissolved it as to one of them.

The first thing to be done was to prevent the application of these rules to companies; one simple enactment would have been sufficient for this purpose; all that was required was to provide some method whereby companies could be incorporated as a matter of right and not of favour, and by some cheap and simple process, and not by means of a special application to the Crown or the Legislature.

A little additional consideration would, however, have shown that, although incorporation would have removed all the evils

above enumerated, it would have introduced others resulting from the rules relating to corporations. The rules here alluded to are:

First, the rule which rendered corporations not liable on contracts not under seal; and

Secondly, the rule which rendered the members of a corporation wholly irresponsible for its debts.

This gives us the problem which the Legislature would have had to solve if it had set to work to legislate for companies on rational principles. What was wanted was a corporation capable of contracting by its agents, without the formality of any sealed writing; and a corporation, the members of which could, in case of need, be made to fulfil their engagements by a just contribution amongst themselves.

If this problem had been steadily kept in view we should have had a few simple provisions applicable to all companies of whatever kind instead of what we have had and even have still, viz., a number of different schemes applicable to as many different classes of companies, besides a host of other schemes contained in charters and special Acts of Parliament applicable to individual societies, and not appearing amongst the public general statutes. It is in vain to hope for good legislation on any subject if it is to be dealt with in the way in which Joint Stock Companies have been dealt with, that is to say, with a total disregard of all method and all plan. Where is the necessity for one statute for the regulation of railway companies, another for the regulation of banking companies, and another for the regulation of insurance companies? Where is the necessity or advantage of having some companies incorporated, and some not incorporated but empowered to sue and be sued by public officers? Where is the necessity or advantage of having several modes of executing judgments against shareholders, varying not with the wants of the creditor, but with the nature of the company? Why wind up some companies in one court and some in another, and some in several concurrently?

The want of plan and method which pervades the various statutes relating to companies is not only observable in their several general schemes, but also, and to a still greater degree, in their most important details. If any one is disposed to doubt this let him try and answer the question how is a judgment against a company to be enforced? He will find it impossible to give any answer which will be true of more than one particular kind of company. He will have to distinguish one company from another, and to give as many different answers as there are sorts of companies; and yet it is obvious that there is no necessity for all this. There ought to be some one method applicable to all companies without distinction, and by which their members might be compelled to fulfil their engagements.

But it may be said the laws have been already consolidated, and the want of unity and simplicity complained of has recently been supplied. It is greatly to be wished that this were true; but in fact no attempt has yet been made to do more than consolidate first the laws relating to those companies which, like railway companies, cannot be carried on without interfering with private property; and secondly, the laws relating to registered Joint Stock Companies. But there are numbers of companies to which the laws thus consolidated have no application. There are coal and iron mining companies; there are banking companies still governed by the 7 Geo. 4, c. 46; there are chartered companies; there are companies governed by the Letters Patent Act, (7 Will. 4. & 1 Vict. c. 73), and there are numerous insurance and other companies governed by special Acts of their own. No attempt has been made to deal with these, and even the Bill brought into Parliament last session for the purpose of consolidating the laws relating to companies only dealt with registered companies. What has been wanted from the first, and what is wanted now, is some enactment which shall apply to all companies without exception; nor, if the enactment were confined within proper limits, would there, I conceive, be any serious difficulty in preparing it. So long, however, as Parliament proceeds as it has done, to legislate first for one kind of company, and then for another, consolidating some laws and leaving others untouched, so long will the law relating to companies retain its unenviable notoriety of being, as it is, so intricate, confused, and perplexing, as to defy all attempts thoroughly to understand it.

Again, in legislating for companies, the very serious error has been committed of descending too much into detail. Every company should be allowed to make its own regulations for the transaction of its own business, and should not be fettered by minute legislative provisions upon matters of detail and of form. The Joint Stock Companies Act of 1844 is full of

mistakes of this kind. Besides requiring all sorts of things to be inserted in a company's deed of settlement, and stating with minuteness what a company, when formed, may do, it goes on to specify in detail the rights of the shareholders and the powers and qualifications of directors, and to make minute provisions for the taking of accounts, the appointment of auditors, the keeping of registers, and other matters of that kind. Legislative enactments of this description cannot be enforced without a supervision which would be utterly intolerable; nor can the non-observance of them be punished without arousing a general feeling of disgust. They are wholly out of place, and their only practical effect is to throw doubts on the validity of *bonâ fide* transactions and to encourage dishonest people to repudiate their own acts on the ground of some want of conformity with statutory regulations. A vast amount of litigation has been created and injustice done by reason of the enactments prescribing the form in which contracts shall be made and shares be accepted; and it would be, probably, not very erroneous to say that the whole of this litigation and injustice might have been prevented if no such enactments had been made.

Moreover, enactments of the nature now alluded to are bad, because they cannot be practically carried out. Let us take as an example the 9th section of the Companies Clauses Consolidation Act, and see how courts of justice have been compelled to deal with it. The section says,—

1. That every company to which the Act relates shall keep a book called the register of shareholders;

2. That in such book shall be fairly and distinctly entered the names and additions of the persons entitled to shares in the company, together with other matters which I pass over.

3. That the surnames of the shareholders shall be entered in such book in alphabetical order.

4. That such book shall be authenticated by the seal of the company.

5. That such authentication shall take place at the first ordinary or next subsequent meeting of the company, and so from time to time at each ordinary meeting.

This section has, as might be expected, given rise to much litigation, the result of which seems to be that so long as a register of shareholders is kept substantially complying with the Act, it is a matter of perfect indifference whether the particular directions contained in the Act are complied with or not. It does not matter whether the book is called register of proprietors instead of register of shareholders, nor whether the names and additions of the shareholders are accurate, nor whether an alphabetical arrangement of their surnames is rigidly adhered to, nor whether the seal of the company has been affixed at the meeting specified by the Act or at some other meeting. As to all these matters the Act is said to be directory only; but that phrase, as applied to the enactment in question, will be found to mean that it is wholly immaterial whether the minute directions referred to are complied with or not.

I am far from questioning the propriety of the decisions which have led to the above result. They are clearly founded on a common sense view of the intention of the Legislature, but that very circumstance shows that the Legislature did not care whether its commands were obeyed or not. This appears to me to be a great error. If it is immaterial whether certain forms should be adhered to or not, the Legislature should not tie the public down to one form rather than to another; and, above all, the supreme power should not stultify itself by saying that certain things shall be done in a particular manner, and leave it optional with its subjects to do them in that or some other manner as they may find most convenient.

I quite admit that it should be incumbent on companies to keep accounts and registers, and that the shareholders should have some clearly defined rights, whether they have expressly stipulated for them or not; and I am not prepared to deny the expediency of compelling companies to publish periodical statements of their affairs. But what I am desirous of pointing out is, that the Legislature ought to issue no commands which it is impossible to enforce, and the non-observance of which it is inexpedient to punish, and that this principle has not been kept in view in legislating for companies. The more minutely the sovereign power prescribes how things are to be done, the more it trammels its subjects; and when it attempts to lay down rules for carrying on ordinary business, it inevitably does much more harm than good. Such matters are wholly unfit for legislation; and with a very few exceptions I think it may be truly said that every form required by law to be observed in transacting the ordinary affairs of life is neither more nor less than a public nuisance.

The mistake of descending too much into detail has been to some extent avoided in the Joint Stock Companies Act of 1856, and the device there had recourse to of appending to the Act a set of regulations which may be either adopted or not is ingenious and useful. The regulations not being enacted by the Legislature, may be modified by every company as occasion may require, and as they have not the force, so neither have they the rigidity of rules set by the law giving power. This is a considerable step in the right direction; but much yet remains to be done; for the foregoing observations on the evil of descending too much into detail apply nearly as forcibly to companies' deeds of settlement and regulations as to Acts of Parliament.

The remarks I have made upon the errors committed by the Legislature in dealing with companies, apply, it will be observed, to companies as going concerns. But when we turn to what has been done to facilitate the dissolution and winding up of companies unable to carry on their business, we shall find that even still greater mistakes have been made. Most persons who know anything of the practical working of the celebrated Winding-up Acts of 1848 and 1849 will agree in saying that they were productive of almost unmixed evil.

It was hoped that by the Acts in question, a company of many shareholders might be dissolved and wound up as easily as a partnership of few members, allowance being of course made for increased difficulties consequent on increased numbers of persons concerned. How these hopes have been disappointed, how shareholders, instead of being benefited by the Acts, have been ruined by the frightful expense consequent on their application, are matters which are unfortunately only too well-known. To what is all this attributable? Mainly I believe, to the commission of the three following errors, viz.—

1. The error of allowing creditors to sue individual shareholders during the pendency of the winding-up proceedings; 2. The error of allowing the same company to be wound-up in bankruptcy, and also, and at the same time, in chancery; and 3. The error of entrusting the winding up of companies to the masters in chancery. These errors have, however, been corrected, and since creditors have been restrained from levying execution against the members of their debtor companies which are being wound up, and since official managers have been brought more under the direct control of the equity judges, the evils before complained of have been greatly diminished. In the practical working of the Winding-up Acts, there is, however, still great room for improvement.

It is not, however, my intention to attempt to lay before the society any scheme for amending the law relating to companies; my object has been simply to draw attention to a few important principles which the statutes relating to companies have violated; and if I have succeeded in tracing the past and present unsatisfactory state of the law to the causes which have produced it, I shall at least have done something to further the objects of the society, and to discharge the duties of the office which I have the honour to hold.

THE LATE WILLIAM DAVID LEWIS, ESQ., Q.C.

There is something so inexpressibly sorrowful in the death of a young man who has sacrificed his life to the acquirement of a brilliant fame, which he never lived to enjoy, that whoever reads these lines cannot fail to lament the fate of the subject of the present notice. Perhaps in every other profession than that of the law, the early struggles of those who seek distinction may be attended with poverty and, no doubt, always imply a self-denial and resolution that are well nigh heroic; but no profession requires the same terrible sacrifice of all that human nature loves best, as the profession of the law; and never was there a more remarkable illustration of this than in the case of him whose early and unexpected death is now the subject of such deep and universal regret throughout the profession. Not yet having completed his 38th year, but having just touched the object of his high and praiseworthy ambition—attained thus early in life by an amount of labour almost incredible—disease and death forbade him to taste but for a moment the fruit of so many years' unceasing toil and self-denial.

Mr. William David Lewis was the eldest son of the Rev. George William Lewis, a clergyman of the established Church, residing at Ramsgate, who, although greatly admired as a preacher and respected as a man, at the time when his eldest son left home to commence the study of the law and for some years afterwards, had gained no greater preferment in the Church than a simple curacy, with its moderate stipend. Under these circumstances it may easily

be conceived what difficulties attended the start in life and introduction into the profession of his son. At a very early age, however, he had set his heart upon becoming a great lawyer. The brilliant career of Lord St. Leonards, then Sir Edward Sugden, Lord Lyndhurst, and Lord Brougham, whose names were as familiar to him as household words, captivated his imagination and from his boyhood gave him a resolution and an enthusiasm in his reading, the result of which very soon became one of the wonders in the profession. At the early age of fourteen, while still engaged under the tuition of his father in the study of the classics, he diligently devoted his leisure to reading and transcribing the 2nd vol. of Blackstone's Commentaries. Before he was 15 he had not only copied nearly the whole of this book, but had made for his own use a summary of its contents. In 1838, while yet under the age of 15, he came to London and was placed under the tuition of Mr. John Rudall, who had even then a high reputation as a conveyancer, and whose chambers were much frequented by students. Mr. Lewis was not immediately entered a member of any Law of Court, probably as much because of the *res angusta domi* as on account of his extreme youth. So great, however, was his diligence, and so earnest his resolution, that in the course of three months from the time of his entering Mr. Rudall's chambers, he had completed a volume of precedents which he copied out with his own hand; and his custom was, having thus spent the early part of the day in acquiring familiarity with the practical part of conveyancing, to devote his evenings to the perusal of elementary treatises on the principles of law, which he purchased out of the savings of the necessarily limited allowance that he received from home. In after life he was sometimes wont, amongst his friends, to allude to the straits and contrivances to which he was driven to procure his first library, which he always regarded with peculiar affection. So far, indeed, did he carry his self-denial, that he frequently, for a whole week, allowed himself no better dinner than a crust of bread, in order that he might become the possessor of some prized volume. In Hilary Term, 1839, being then in his sixteenth year, he was entered a member of Lincoln's-inn; but he still, and for some years continued his attendance at Mr. Rudall's chambers, which was generally co-extensive with that of the clerk, and, frequently longer—his regular time for leaving being eight o'clock. Mr. Rudall has remarked of him that his pupil never on any occasion asked him a single question upon a point of law, or applied to him for a solution of any difficulty in practice. Mr. Lewis, when a student, invariably applied for his information directly to the text books and authorities; and afterwards, when his own chambers were much resorted to by pupils, he sometimes urged upon them the advantage of adopting this method. There is no doubt that, if intelligently pursued by an apt student, it is calculated to confer decided benefit upon him; for whatever is thus learned is more vividly impressed upon the mind, and principles thus acquired take deeper root in the understanding. We are so constituted that pain or anxiety is frequently the most effective aid to memory, especially when either is succeeded not only by the pleasure that comes from relief, but also by that which arises from having gained something at the expense of ease and indolence. To acquire a masterly knowledge of the practice of conveyancing, and of the principles of real property law, with such help only as one may obtain for himself by handling papers and reading books, was, certainly, a marvellous achievement for a mere boy. Perhaps there never was another instance in which a youth who had not yet attained his nineteenth year commenced the practice of a conveyancer under the Bar; at all events, the profession has no tradition of any learned and accomplished conveyancer in actual practice at the age of 19. Such, however, was the fact in Mr. Lewis's case. Keenly sensible of the sacrifices which his father had made on his behalf, he was anxious at the earliest possible moment to cease to be a burden upon those to whom he was lovingly attached; and while he was yet scarcely 19, he took chambers in Serle-street, and commenced practice as a conveyancer under the Bar. Two years afterwards (in Hilary Term 1844), having then attained the age of 21, he was called to the Bar. A year before he had completed and published his great work on the Law of Perpetuity, which of itself would be sufficient to hand his name down to posterity as one of the most remarkable of English jurists. As the achievement of a youth under 20 years of age it is unparalleled in the history of legal authorship. Lord St. Leonards was only 22 years of age when he completed his famous book on Vendors and Purchasers, which may be said to have reconstructed that entire branch of law. Mr. Jarman

was also, no doubt, a very young man, and of only three years standing as a barrister, when he edited Powell on Devises. These are no doubt remarkable instances of very young men mastering most difficult and complicated branches of law; but Mr. Lewis's achievement was still more extraordinary. The subject which he selected for his first effort, and while he was not more than 18 years old, was unquestionably the most abstruse in the entire domain of law. Without anything like an accurate chart or compass, he had, almost unaided, to traverse and reduce into order a region at once vast and obscure—as he himself in his preface expressed it—to cut for himself “a path through a confused and extensive mass of statutes and of cases.” The task was hopeless to any except one who could grasp great principles, and by a philosophic elimination construct a system out of apparent chaos. The subject was not to be dealt with after the fashion of law book-makers, by a mere collection and classification of reported cases. It was manifestly one requiring the handling of not only an accomplished but a severe jurist; and such it had in the author who ultimately took it in hand. Mr. Lewis's book on the Law of Perpetuity would have been a very remarkable production for a mature lawyer, after many years' familiarity with legal subjects; as the work of a mere boy it is, and will always remain, a marvel not only for lawyers, but for psychologists.

While, however, the name of Mr. Lewis will be best known to future generations of lawyers as the author of an enduring book, his contemporaries have associated his name not less with the cause of legal education, and the reformation of our inns of court as seminaries of law. Towards the close of 1847, the benchers of the various inns of court resolved to resume their ancient and proper functions of legal instructors; and, to the honour of Gray's-inn, the benchers of that society, in the handsomest manner, offered to Mr. Lewis, who was then only twenty-four years of age, the lectureship on the law of real property and conveyancing. He willingly accepted this office; and with singular zeal entered upon the discharge of its duties. The success which attended his efforts was most signal, and no doubt very much contributed to the permanent establishment of the system of lectureships. The lectures and “moots” at Gray's-inn attracted great numbers of students for the Bar and junior barristers, including some who have since made a considerable figure, not only in the profession but in public life. Amongst others, Mr. Frederick Peel, then a student for the Bar, was one of the most assiduous students attending Mr. Lewis's lectures. Mr. Lewis also established annual honour examinations, and every year while he was lecturer bestowed a prize upon the most successful candidate.

With characteristic forethought and devotion to his subject, he commenced his labours as lecturer by an inaugural address in which he mapped out the entire domain of the laws of real property; and during the five years in which he held the office, he delivered every year sixty original and elaborate lectures without a single instance of repetition, or in any lecture going over ground upon which he had touched before; and he accomplished all this while he had otherwise abundant and increasing employment as counsel, both in chambers and in court. It is no wonder then, that at this time his naturally strong constitution suffered from so great a strain. With boundless faith not only in his intellectual but his physical strength, he taxed both to the utmost. Very frequently during his lectureship at Gray's-inn, he abstained from food from breakfast until he had returned home, between 9 and 10 o'clock at night, after delivering his lecture; and having dined at that hour, it was his habit to resume his own professional work until a late hour, although his invariable habit all the year round was to rise early for the purpose of getting through some of his work before he went to chambers. With any other habits, his increasing business would have made it impossible for him to discharge his professional duties; and in 1852 it compelled him to resign his lectureship, which he did with reluctance and regret, but not before he had raised the fame of Gray's-inn lectures far above that enjoyed by the lectures of any other Inn of Court. To the Benchers of Gray's-inn, and especially to Mr. Samuel Turner and one or two others to whom Mr. Lewis was mainly indebted for his appointment, and who cordially seconded all his efforts to advance the cause of legal education, he always expressed his deep obligation.

In 1854, the Government appointed a commission to consider the subject of the registration of title with reference to the sale and transfer of land. Among the commissioners were Mr. Walpole, Mr. Napier (late Lord Chancellor of Ireland), Sir Alexander

Cockburn, Sir Richard Bethell, Mr. Lewis, and Mr. Cookson. Without desiring to detract in the least from the labours of any of the other commissioners, we may fairly state that the services bestowed by Mr. Lewis in the preparation of the Blue Book which resulted from that commission, were extremely laborious and valuable. Not less than sixty pages are taken up with his sketches of a Bill to simplify the title to real property, and of another Bill to facilitate its transfer. These able productions were something more than the precursors—indeed, they may be said to have afforded the models—of the measures relating to the same subject which have since been proposed to the Parliament of this country, and have—as our readers are aware—been adopted by the legislature of South Australia. Several of the clauses in the Bill to simplify title have also since been substantially incorporated by Lord St. Leonards in his two recent Law of Property Acts.

Although we have already exceeded our allowable space, we ought not to omit to name Mr. Lewis as the founder, and, for some time, the most efficient supporter of the Juridical Society. It is only five years ago since he first suggested its formation and induced a few members of the Bar to join with him in its promotion. His object, and that of the society, was to encourage scientific investigation and study of law; and, judging by its published transactions, it has already achieved useful, and, in some instances, highly creditable results. Mr. Lewis contributed papers on the "Origin and Use of Legal Fictions," "Life Peerages," "Some Popular Errors Concerning Law," "The Law of Blasphemous Libels," and other subjects. He also gave to the press other occasional papers on legal subjects, among which his article* on the Bridgewater Peerage case, in support of the decision of the House of Lords,—the most elaborate and forcible argument published on that side—is worthy of special mention.

In Trinity Term, 1859, before Mr. Lewis attained the age of 36 years, he received a silk gown from Lord Chelmsford, who was then Lord Chancellor; and although his vigorous constitution had suffered to some extent from the unrest of twenty years, and the exhaustion of so much work, it was hoped that the comparative leisure which generally intervenes upon an introduction to the Inner Bar would have been sufficient to restore him to health; and for some time this expectation appeared to be well grounded. In 1859, for the first time since he entered Mr. Rudall's chambers, he took a long vacation. Immediately upon attaining the rank of Queen's Counsel he attached himself to the Court of Vice-Chancellor Sir J. Stuart, for whom he entertained the highest respect. He was also accustomed to express his special admiration of Lord Justice Knight Bruce. On one well known occasion this distinguished judge did Mr. Lewis the honour of desiring his presence before the Court of Appeal, as *Amicus Curie*, upon a case involving an abstruse question on the Law of Perpetuity. One of his last expressions was of grateful thanks to both these learned judges for their kindness to him during the short illness which terminated his career. The disease of which he died was aneurism of the heart, of the first approach of which he had an intimation in July last, when an eminent physician warned him of the risk of continuing to practise as an advocate. He continued, however, to appear in court until the last day of the sittings before Christmas, after which the disease became so much worse as to confine him wholly to his room. But even there, although occasionally suffering great pain, he insisted upon reading the briefs and cases which continued to be sent to his chambers, even after his illness became generally known, and he continued to do so almost up to his last day. Notwithstanding his previous illness his death was sudden and was wholly unexpected in the profession. The deep and general sympathy with which the news was received, speaks for itself both as regards its subject and also as regards the Bar, of very many members of which, at one time or another, Mr. Lewis had been an opponent, and must always have been a formidable competitor.

His career may be regarded as at once an encouragement and a warning to ambitious students of the law. He himself attributed his broken constitution to want of occasional rest; and on his death bed said that his premature break-down was owing to the fact that until he was made a Queen's Counsel he had never allowed himself a long vacation, or indeed a short one. It is characteristic of the man that he never was present at any theatrical or musical performance, and never once went to any place of public amusement, excepting the Crystal Palace, which he visited on two or three

occasions. The only diversion from the labours of his profession which he ever allowed himself, was in the region of politics, of the philosophy of which he was an ardent student. He was very conversant with the constitutional history of England, and with such writers on ethics and economy as Lord Bacon, Sir James Mackintosh, and Mr. Stuart Mill. Mr. Lewis contested Pontefract, Sandwich, and Norwich, on Conservative principles, but never succeeded in his attempts to obtain a seat in Parliament. As a real property lawyer, very few of his contemporaries were equal to him. Perhaps none were much if at all superior in a general knowledge of English jurisprudence. While he had no pretensions to the first rank of forensic speakers, he was nevertheless extremely effective, not merely in argument upon points of law, but in statement of facts. There was a pervading enthusiasm in his nature which imparted force to all that he said; although he certainly wanted the quiet graces of oratory:—*quod est oratoris proprium, apte, distincte, ornate, dicere*. He spoke with distinctness and also with energy, but not with much grace—owing no doubt very much to the perpetual pressure of business to which he was always subject. Had his life and health been spared, he would most probably have acquired that quiet and polished manner of address which seems to be *et jus et norma loquendi* in courts of equity.

Mr. Lewis married at an early age, and leaves behind him his widow and one son. Although his father was a clergyman, his family have been long connected with the profession of the law—his grandfather and his uncle having been for many years town clerks of Rochester, and his brother, Mr. C. E. Lewis, being well known as an eloquent and rising advocate in the Court of Bankruptcy. Another brother was called to the Bar, and commenced practice in the common law courts. Those who recollect his learning and ability can even now appreciate the keen regret caused to the subject of our notice, by the decease, at the age of 34 years, of his accomplished brother. He died in 1848 of heart disease of an organic character.

MARRIAGE WITH A DECEASED WIFE'S SISTER.

Fenton v. Livingstone.—This case is fully reported in 3 Macq. 497; 7 W. R. 671. The facts of the case are as follows:—Thurstanus Livingstone married two sisters one after the other. He was domiciled in England; his two wives were both Englishwomen, and in England Alexander Livingstone, the defender, was born. He claimed, as lawful son of Thurstanus Livingstone, estates in Scotland, to which he asserted his right of succession as heir of entail upon the decease of his uncle Sir Thomas Livingstone, the person last in possession. Anne Fenton, the pursuer, claimed the same estates as heir of entail upon the decease of Sir Thomas Livingstone on the ground that all the preceding substitutes and heirs had failed, and impeached the title of the other claimant on the ground of his father's marriage with his mother having been illegal by the law of Scotland, and the issue excluded from inheritance to a Scotch estate. The case was originally heard before the Lord Ordinary (Lord Ardmillan) in Scotland, on an action of declarator of bastardy raised by Anne Fenton against Alexander Livingstone, the defender, and the Lord Ordinary decided that the defender was born in England, was the offspring of a marriage celebrated in England, between parties domiciled in England at the date and during the subsistence of the marriage; and that he was legitimate according to the law of England; and that his legitimacy ought to be recognised by the Scottish Court. The first division of the Court of Session having confirmed the decision of the Lord Ordinary, the pursuer, Anne Fenton, appealed to the House of Lords, and the appeal was argued before their lordships in the session of 1859, when their lordships held that a person born of an English marriage with the deceased wife's sister was not legitimate in Scotland as to the succession to real estate; and, reversing the decision of the Court of Session, remitted the cause back to that court.

The First Division of the Court of Session of Scotland has recently decided (Lord Deas dissenting), first, that as the defender was the issue of an unlawful marriage by the law of England, his place of domicile, he could not be recognised as a legitimate child in Scotland, and entitled to succeed to a landed estate there. In the second place, the judges were unanimous that by the old statute law of Scotland the marriage of a man with his deceased wife's sister was civilly null, and that the defender was therefore illegitimate, and not entitled to succeed.

SUMMARY of PROCEEDINGS in the CHAMBERS of the MASTER of the ROLLS and the VICE-CHANCELLORS for the years ending 1st November, 1859 and 1860. [Compiled from Returns made to her Majesty's Government for insertion in the "Judicial Statistics" of the above years.]

NATURE OF PROCEEDINGS.	TOTAL OF ALL THE CHAMBERS.				MASTER OF THE ROLLS.				VICE-CHANCELLOR KIMBERLEY.				VICE-CHANCELLOR STUART.				VICE-CHANCELLOR WOOD.			
	Number.		Amount.		Number.		Amount.		Number.		Amount.		Number.		Amount.		Number.		Amount.	
	1859.	1860.	£.	£.	1859.	1860.	£.	£.	1859.	1860.	£.	£.	1859.	1860.	£.	£.	1859.	1860.	£.	£.
Number issued of summonses to originate proceedings, viz.																				
For the administration of estates.	332	420			148	240			55	73			105	109			31	38		
Under the Charitable Trusts Acts.	81	50			51	26			6	6			7	13			18	13		
For the appointment of guardians and maintenance of infants.	146	143			54	43			21	28			39	46			25	26		
For other purposes.	91	142			45	57			3	13			21	25			6	17		
Number issued of summonses not being summonses to originate proceedings.	2,681	16,184			5,245	3,704			2,112	2,106			4,236	3,836			1,157	3,456		
Number of orders made, viz.																				
On the class taken up by the returns.	6,772	6,750			2,238	2,175			1,483	1,031			1,660	1,711			1,554	1,476		
Of the class of non ests in chambers.	770	3,113			2,208	1,386			886	1,280			1,198	868			1,058	1,109		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up, orders for order to defendants for winding up.	1,010	933			673	704			120	208			559	631			338	506		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	11	9			2	2			1	2			1	1			6	4		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	964	974			516	461			212	129			276	207			162	164		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	1,020	3,106			1,516	1,633			50	194			888	630			518	677		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	1,571	1,139			472	429			116	170			315	306			318	257		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	470	476			133	151			57	97			130	146			95	97		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	420	457			172	172			61	54			140	169			117	82		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	64	74			19	17			19	21			13	16			31	20		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	370	346			120	106			74	36			103	182			62	66		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	2,011	2,342			877	781			483	155			679	676			453	373		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	1,937	1,640			144	162			1,408	1,280			—	42			343	179		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	119	184			30	3			66	130			—	1			20	11		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	39,278	39,100			13,777	13,422			7,645	7,893			10,032	9,816			8,424	8,620		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	2,471	2,348			876	1,091			132	363			384	389			679	486		
Number of orders for order to plaintiffs for production of documents, orders for winding up, orders for order to defendants for winding up, orders for order to plaintiffs for winding up.	76	64			27	29			20	16			2	5			27	30		
Amount of fees collected in chambers by status.			11,401	9,531			4,616	3,345			1,706	1,987			2,793	2,521			2,285	1,775

Note.—The fractions of a pound are omitted.

Law Students' Journal.

QUESTIONS FOR THE EXAMINATION.

Hilary Term, 1861.

I. PRELIMINARY.

1. Where, and with whom, did you serve your clerkship?
2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.
3. Mention some of the principal law books which you have read and studied.
4. Have you attended any, and what, law lectures?

II. COMMON AND STATUTE LAW AND PRACTICE OF THE COURTS.

5. Give a brief account of concurrent and peculiar jurisdictions of the Courts of Queen's Bench, Common Pleas, and Exchequer.
6. How are the costs of the cause to be apportioned when the plaintiff has accepted money paid into court in respect of a particular sum or cause of action, but goes on for more, and is defeated as to the residue of his claim?
7. When any number of days, not expressed to be clear days, is prescribed by the rules or practice of the courts, how are they to be reckoned?
8. What is an *issue*? and how are issues in fact, and issues in law, respectively raised and decided?
9. A., B., and C. are sued together on a joint promissory note; they are also sued for breaking and entering a close. Judgment is recovered against A. alone in each action. Has A. a right to contribution from his co-defendants in either action?
10. What is the general Common Law rule as to interest on a debt, in the absence of any express stipulation to pay it?
11. What communication should an attorney have with the opposite party previous to trial, upon his documentary evidence; and what is the consequence of neglecting to take the proper steps?
12. In what instances can entries in the writing of a deceased person be given in evidence to prove the facts stated in them?
13. How is the debt affected in law when the payee of a promissory note dies, leaving the maker of the note his executor?
14. What are writs of *Fil. fa* and *Ca. sa*, and whence are these names derived? Can they be used together, and can the latter be always resorted to?
15. What penalty is incurred upon signing judgment for want of a plea, where the writ of summons has not been specially indorsed, when the defendant is within the jurisdiction, and the claim is for a liquidated demand?
16. Define *general average* and *particular average*.
17. When a factor sells goods for an undisclosed principal, in whose name may an action be brought for the price of the goods? and what is the rule of *set-off* applicable in these cases?
18. What modern alteration has been made in the law relating to the consideration for a guarantee appearing in writing?
19. In what cases has the consignor of goods the right of *stoppage in transitu*, and how is such right liable to be defeated?

III. CONVEYANCING.

20. By the Act of the last session, called the Trustees' and Mortgagees' Act, passed 28 August, 1860, in all cases where by deed, will, or other instrument of settlement, executed after the passing of the Act, a power of sale is given,—there being given by the Act authority to exercise such power of sale, in the way, under the restrictions, and with the powers therein mentioned,—describe in a general way the powers and authorities so given by the Act.
21. By the same Act, what power of sale is given to mortgagees under an instrument executed after the passing of the Act, in what events does it arise, by whom exercisable, and under what restrictions? what are the powers by the Act conferred on mortgagees of appointing a receiver,—and observing that these statutable powers may be negated by a declaration contained in the instrument creating the estate, would you, as the ordinary rule in practice, adopt them or not?
22. By the Act of the last session to amend the law of property, what is necessary, after entering up a judgment, to be done, in order that the same may affect land as to a purchaser or mortgagee, and does it make any difference whether such purchaser or mortgagee have notice or not of the judgment?
23. Where lands are devised charged with the payment of debts alone, or charged with debts and legacies together, or

charged with legacies only, can the devisee in either, and, if in either, which of those cases, make a good title to a purchaser or mortgagee, without his being obliged to look to the discharge of such debts and legacies?

24. What lease is a person entitled in possession to a settled estate for his life under any settlement made after the 1st of November, 1856, empowered to make, as to the duration of the lease, the rent to be reserved, and other conditions?

25. What is the effect of such lease, as to the interests of parties entitled to any charge or incumbrance affecting the estate out of which the lease takes effect?

26. Where a will contains a power to raise money out of an estate, not confined to raising it out of the rents, or a power to charge an estate generally,—would such power authorise a sale of the estate, and also a mortgage of it, both, or either, and which?

27. State in general terms the rule for determining how far a power is suspended or extinguished by any act of the donee of the power having also an interest in the estate, affecting that interest, could such a donee, after creating a charge on his estate, exercise a power in any way defeating such charge?

28. If a tenant for life with power of leasing were to alienate his whole life estate, would the power be extinguished? Would a power in gross, that is, a power given to a person who has an interest, but not to take effect out of that interest, be extinguished by alienation of that interest?

29. Can an equitable mortgage on real property be created by a deposit of deeds, merely, without writing? If so, may or not the object of the deposit be explained by parol evidence?

30. Would such a deposit have preference over a subsequent purchaser or mortgagee of the legal estate, with or without notice of such equitable mortgage? Is a written memorandum of the deposit essential or advantageous?

31. If a tenant in tail, in possession, or a tenant for life, pays off an incumbrance, in either and which case, deemed to be extinguished? and in what way would you proceed, to keep alive the charge, in favour of the tenant, in whose case it would be otherwise extinguished?

32. Having reference to the Act of George the Second, subjecting to certain conditions, the conveyance of lands for charitable purposes,—state in general terms, what description of property are by that Act barred from being settled or charged for a charitable use, except in the way therein mentioned, and what is the mode of conveyance in which such object may be effected?

33. May an advowson be aliened for any estate, and may the next presentation or any number of presentations be granted away and if the grantee of a next presentation does not dispose of it in his lifetime, or by will, in whom at his death will it vest? Can the right of presentation to a church that is void be by any means aliened?

34. If you had to advise on the sale of building land, in fee, in lots, and were required to make the best provisions for the common use of streets, roads, drains, &c., or for the prevention of building, or securing easements, how would you proceed to carry out the object, either by vesting land for common use in trust, or by granting a rent charge in favour of one lot over another, or by mutual covenants between the purchasers framed in the best way the law would admit, so as to run with the land, or by what means?

IV. EQUITY AND PRACTICE OF THE COURTS.

35. Mention some of the ordinary cases in which the Court of Chancery exercises jurisdiction as distinguished from courts of law.

36. What is an *ademption* of a legacy? Give some instances of ademption.

37. A. by his will gives to charitable uses the residue of his property, consisting of consols, railway shares—a share in the new river company—shares in various insurance and dock companies—long leaseholds for years and leaseholds for lives—a common money bond—and arrears of unreceived rents. Are any, and which, of these gifts void, and why? and who is entitled to the benefit of such portions of the said property as do not pass to the charitable uses?

38. If A. assigns to B. a policy on his own life for a valuable consideration, and subsequently assigns the same policy to C. also for a valuable consideration, and B. and C. both give notice of their respective assignments to the insurance office, but C's notice is served on the office before B's notice,—what will be the relative legal position of B. and C.?

39. What is a *distringas*, and how may it be obtained?

40. A settlement dated in 1861 authorizes the trustees to invest the trust funds in Government or real securities in

England; may the trustees invest such trust funds in any other, or what countries, and by virtue of what authority? Is there any difference if the settlement is dated in 1840?

41. Suppose a plaintiff appeals to the Lords Justices from a judgment of one of the Vice-Chancellors, and their lordships differ in the opinion, what is the effect on the judgment of the court below?

42. If the plaintiff's bill is dismissed with costs, and he appeals to the Lords Justices, and the appeal is dismissed with costs, and the costs are not paid,—can he appeal to the House of Lords before he has paid the costs incurred in the courts below?

43. What is the nature and extent of the security required by the House of Lords before their lordships give leave to appeal?

44. A. dies without issue intestate, leaving a mother, widow, two younger brothers, three sisters, and a nephew and niece, children of his eldest brother deceased,—upon whom, and in what proportions, will his real and personal estate devolve?

45. How soon after filing of a bill ought interrogatories to be delivered?

46. Within what time must a plaintiff except to an answer for insufficiency?

47. May the plaintiff except to an answer for any other cause than insufficiency, and for what?

48. State in detail the steps to be taken to get money out of court by petition when the money has been paid in by a railway company as the price of land taken by the company.

49. How may an affidavit be sworn by a person resident in Scotland?

V. BANKRUPTCY AND PRACTICE OF THE COURTS.

50. State generally the benefit intended by the bankrupt law to the debtor and the creditor respectively.

51. What are the conditions necessary to render a debtor amenable to the bankrupt laws, and what to entitle a creditor to obtain an adjudication?

52. Assuming a trader to be insolvent, what various modes are open to him in order to obtain relief through the bankrupt law?

53. Assuming a trader to be insolvent, what various modes are open to his creditors to obtain the application of the bankrupt law?

54. State the difference between the bankrupt law and the insolvent law as to the persons liable to each, respectively, and the relief afforded to the debtor.

55. Enumerate the acts of bankruptcy on which an adjudication may take place.

56. How many meetings are ordinarily held under a petition for adjudication, and state the nature of the proceedings at each?

57. What is the effect of the appointment of assignees on the bankrupt's property?

58. What is the effect of the adjudication on the rights of the creditor?

59. How are the joint and separate assets of partners applied in bankruptcy?

60. Explain the nature of a fraudulent preference made by a bankrupt in favour of a creditor.

61. Explain the nature of the right of stoppage in transitu of goods, and the circumstances which may give rise to it.

62. State generally, from what claims and demands the certificate of conformity discharges a bankrupt.

63. If a creditor holds property of a bankrupt as security for his debt, can he prove on the estate, and if so, on what conditions?

64. A creditor holds bills drawn by a partnership, consisting of A. and B. accepted by a partnership consisting of A., B., and C., can he prove on both estates, or what course must he pursue?

VI.—CRIMINAL LAW, AND PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

65. What is the object of criminal law?

66. How are offences usually classified, having regard to the procedure peculiar to each mode, and what is the distinction between the latter?

67. What in feudal times did the word felony import according to Mr. Justice Blackstone, and whence is it derived?

68. To what description of felonies does forfeiture of lands now attach—also of goods and chattels, and what is the lowest felony, and how is it punishable?

69. How are misdemeanours generally punishable in the absence of express statutory enactment, and what is the chief distinction between them and felonies as to forfeiture?

70. Explain the process by which a person charged with

felony is to be proceeded against; how is his arrest and committal to prison to be secured?

71. Who may prefer the indictment, what must it state, in whose name must it issue, and before what tribunal in the first instance brought?

72. Before whom, and by whom, must the witnesses in support of the indictment be sworn, and who cross-examine them?

73. What offences are to be tried before the justices of the peace at sessions, and what are reserved for the higher courts? Mention some of the more important of the last named, and where are the reserved cases enumerated?

74. What is meant by challenging a jury? How many peremptory challenges can a prisoner make, and how many the Crown? State the reason for the distinction.

75. Distinguish murder from manslaughter, and burglary from larceny. Define the two last, and whence are the words derived?

76. When are burglary, piracy, robbery, and arson, capital felonies, and when not?

77. How can an attorney who embezzles property deposited with him for a specified purpose be punished criminally? State the statute and the punishment.

78. What is meant by the extradition of criminals? and how do the provisions of a treaty with a foreign state become the law? Give an instance.

79. Is there any appeal from the decision of the Justices on a summary conviction, if yes, what is it?

HILARY TERM EXAMINATION.

This Examination took place at the Law Society's Hall on the 22nd and 23rd January. W. F. POLLOCK, Esq., one of the Masters of the Court of Exchequer, presided; and the other Examiners were Mr. Ralph Barnes of Exeter, Mr. J. H. Bolton of Lincoln's Inn, Mr. W. Ford of Gray's Inn, and Mr. Freshfield.

The Master addressed the candidates to the following effect:—

Gentlemen, it is customary to address some words of welcome and encouragement to you, from this end of the room, upon the occasion of your presenting yourselves for examination; and although your time in this Hall is very precious, I will, with your permission, encroach upon it for a few moments before you enter on the business of the day.

You are now standing, as it were, at the threshold of that honourable profession to which you have dedicated your future years. You have probably not chosen this career without some consideration of the weighty responsibilities which attach to it. When admitted to practice as solicitors of the High Court of Chancery, and as attorneys in the Superior Courts at Westminster, you will become actual officers of the highest tribunals in the country. In the conduct of suits at law or in equity, you will take a recognized and privileged part in the administration of justice; and you will be no less accountable to the public for your performance of it, than to your clients and to your own consciences. In the wide range of general business, you will be brought into contact with almost every variety of human affairs. Your functions will be as multifarious as they are important. You may be called upon to advise and to act in all the matters belonging to the management of landed property. The most considerable commercial interests may occasionally be entrusted to your superintendence. The welfare and peace of families will frequently be confided to your care and discretion. There is no kind of intercourse between man and man,—there is no difficult complication of circumstances—in which you may not be called upon to render counsel and assistance.

I need not remind you, that for the upright and efficient discharge of duties, often so arduous and so delicate, two things are mainly requisite—I mean *Integrity* and *Knowledge*. A high sense of honour ought to be the life and soul of your vocation. Without it, knowledge can have no healthy existence; and is even in danger of becoming an instrument rather for evil than for good. On the other hand, mere honesty of purpose, unsupported by adequate professional skill, is of little avail; and can sustain only a feeble contention in the battle of the world. Rectitude and ability must be combined—the moral sense and the intellect must both be disciplined—if you desire to make your exertions useful to others and to yourselves.

Of your general fitness to be admitted as members of such a profession, we have already satisfied ourselves, so far as an opinion can be formed upon the experience of past conduct, afforded by your testimonials. It remains for us to test your proficiency in the various branches of legal knowledge in

which you are about to be questioned. In this final ordeal we wish success for all. To some we shall have the gratification of awarding the honorary distinctions placed at our disposal, which now give an interest to this Examination, not always possessed by it, and which as we trust have not been without their influence in animating your studies, and improving their character. Allow me to add that we shall be obliged if you will confine your answers to meeting the questions laid before you. Let the answers be simple and concise; let them be free from prolixity, and from the display of more knowledge than is required for the fair elucidation of the immediate subject of inquiry. In conclusion, let me beg you not to think it unworthy of your attention to bestow some pains upon the mechanical process of making your writing distinct. No one now holds it "a baseness to write fair". It will do yourselves service, and will materially lighten the labours of the Examiners, if you will be so good as to write legibly. Once more, we wish you all a good deliverance.

CANDIDATES WHO PASSED THE EXAMINATION. HILARY TERM, 1861.

Candidates' names.	To whom articulated, assigned, &c
Allcard, William Henry . . .	George Frederick Smith.
Allen, William Henry Thomas . . .	Thos. Chaundler; Alfd Rutter.
Allison, Matthew	Joseph John Wright; Henry B. Wright.
Atkinson, John	Edward Bowe Steel.
Barnes, Albert	John William Mecey.
Bartlett, Thomas Henry	John Matthews.
Benson, William	Humphrey Archer Gregg.
Bewley, Edward White	John Hunt Thursfield.
Blyth, Robert	Andrew Meggy.
Brookes, Robert John	Rich. Gilbert Keates Brookes.
Bros, Thomas Kemmis, B.A. . . .	Downville, Lawrence and Graham.
Brown, John Thomas	Edmund Percy.
Bubb, William Henry, B.A. . . .	John Bubb.
Bull, Henry	Henry William Bull.
Cole, James Samuel	Henry Webb.
Cook, Thomas Francis	Edwd. R. Ingram (decd.); Jno. Walcot.
Crook, George William	William Gibson.
Dennis, George William, M.A. . . .	David King (decd.); Wm. B. Young.
Dibb, Christopher Jenkins	William Stewart.
Eve, Richard	Algernon S. Field; P. Johnston.
Fearnley, Chas. Abraham	Randall Glynes.
Fox, Alfred	Jno. E. Fox (decd.); John E. Fox.
Franklin, John Veasey	John Eliot Wilson.
Fraser, Douglas St. Clare	Chas. St. Clare Bedford; Rt. G. Raper.
Gadaden, George Alfred	Roger Gadaden.
Gamlen, Robert Heale	Robt. Gamlen.
Gedge, Peter	James Sparke.
Gibson, Thomas	Robert Bartlett.
Haddock, Charles Milner	Thomas Parker.
Hewitt, John Fisher	Geo. Armstrong; Wm. Bell.
Hill, Walter Guy	Jno. Ralph Norton Norton.
Hilliard, James Arthur	Wm. Edward Hilliard.
Hincks, John Steer	Wm. Roscoe (decd.); Fredk. Schultz.
Hoare, Edward	James Wells Taylor.
Jackson, Hugh Fredk. M.A. . . .	John Jackson.
Kent, Arthur	William Boycott.
Knott, James Pullen	William Sandys.
Lay, James	Francis Gibbs Abell.
Letts, Henry	John Letts.
Lowthian, Isaac, B.A.	Daniel McAlpin.
Mathews, James Llewellyn	William Walton.
Oxley, Frederick	Allan Kaye; E. S. Mounsey.
Pearse, James, B.A.	Theod William Pearse.
Phillips, Arthur Bentley	Chas. Hy. Phillips; Jno. Shepherd.
Pitman, Frederick	William Pitman.
Potts, Edward Bagnall	George Potts.
Palbrook, Anthony, jun.	Christopher Robson.
Pullan, Benjamin Collett	John Shackleton.
Raby, Wm. Parker Poole	Jas. Russell; Chas. Lever.
Randall, John Williams	E. W. Faithfull; G. Nelson; J. Randall.
Rastrick, George, B.A.	C. E. Jemmett (decd.); H. P. Sharp.

Candidates' Names.	To whom articulated, assigned, &c.
Reid, Augustus Henry	Herbert Lloyd.
Rowe, Octavius	Hy. Jno. Whitehead.
Seale, Martin	William John.
Sheffield, Thos. Needham	Isaac Sheffield.
Shepherd, Jas. Parkinson	Frederick Weyms.
Smith, Edwd Thurlow Leeds . . .	William Smith.
Sparkes, Weston Joseph	William Cornish Cleave.
Spencer, Thos. Wilson	Geo. Spencer; Thos. Z. Goldring.
Stanley, Frederick	Samuel Abrahams.
Storer, Edwin	W. Keating Taylor.
Tate, Thomas	F. Pearson (deceased); F. F. Pearson.
Thompson, Benj. Blaydes	Benj. B. Thompson.
Thompson, John	W. Hutchinson.
Trythall, William	Henry Lloyd Jones.
Tucker, John	W. Lockey Harle.
Turner, Thomas	W. Henry Gaunt.
Urry, Thomas Hamilton	J. Goulbourn Etches.
Venning, W. C., jun., B.A.	W. Chas. Venning.
Washington, Joseph W. C.	Wilson & Moorhouse.
Watson, James	J. D. Francis; J. Drummond.
Webster, Thos., M.A.	M. Tatham; A. T. Upton.
White, Thos. Matthew	T. G. Dale; Chas. Bean.
Whittington, Thomas	Benj. Whittington.
Wingate, Bernard	W. Grant Allison.
Woollacott, Thos. Griffiths . . .	T. Edgecombe Parson.
Wright, Edwd. Grootham	Gray & Mounsey; N. Charles Wright.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

HILARY TERM, 1861.

At the examination of candidates for admission on the roll of attorneys and solicitors of the superior courts, the examiners recommended the following gentlemen, under the age of 26, as being entitled to honorary distinction:—

Thomas Henry Bartlett, aged 21, who served his clerkship to Messrs. Matthews, Son, & Stoton, of Arthur-street West, London-bridge.

Alfred Fox, aged 23, who served his clerkship to Messrs. J. E. Fox & Son, of Finsbury circus, London.

Thomas Wilson Spencer, aged 21, who served his clerkship to Mr. George Spencer, of Keighley; and Messrs. Mackeson & Goldring, of Lincoln's-inn-fields, London.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Bartlett, the prize of the Honourable Society of Clifford's-inn.

To Mr. Fox, one of the prizes of the Incorporated Law Society.

To Mr. Spencer, one of the prizes of the Incorporated Law Society.

The examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

Robert Blyth, aged 22, who served his clerkship to Mr. Andrew Meggy, of Chelmsford, and Mr. John White, of Bargeyard Chambers, London.

Peter Gedge, aged 22, who served his clerkship to Messrs. Jackson & Sparke, of Bury St. Edmunds, and Mr. Thomas Henry Dixon, of New Boswell-court, London.

Augustus Henry Reid, aged 23, who served his clerkship to Messrs. Lloyd & Rule, of Milk-street, London.

Thomas Needham Sheffield, aged 23, who served his clerkship to Messrs. Sheffield, of Old Broad-street, London.

The Council have accordingly awarded them certificates of merit.

The examiners have further announced to the following candidates that their answers to the questions at the examination were highly satisfactory, and would have entitled them to prizes or certificates of merit, if they had been under the age of 26:—

Edward White Bewley, aged 29, who served his clerkship to Mr. John Hunt Thursfield, of Wednesbury.

James Pullen Knott, aged 39, who served his clerkship to Messrs. Sandys and Hill, of Gray's Inn, London.

James Pearse, B.A. aged 34, who served his clerkship to Mr. Theod William Pearse, of Bedford.

Martin Seale, aged 27, who served his clerkship to Mr. William John, of Haverfordwest; and Mr. Richard Boswell Beddome, of Nicholas-lane, London.

Weston Joseph Sparkes, aged 33, who served his clerkship to Mr. William Cornish Cleave, of Crediton.

Frederick Stanley, aged 32, who served his clerkship to Mr. Samuel Abrahams, of Lincoln's-inn-fields, London.

William Trythall, aged 41, who served his clerkship to Mr. Henry Lloyd Jones, of Bangor.

Thomas Hamilton Urry, aged 44, who served his clerkship to Mr. James Goulbourn Etches, of Whitechurch, Shropshire.

Thomas Whittington, aged 30, who served his clerkship to Mr. Benjamin Whittington, of Dean-street, Finsbury-square.

The number of candidates examined in this term was 105, of these 77 were passed, and 28 postponed.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law. Monday, February 4.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Friday February 8.

Births, Marriages, and Deaths.

BIRTHS.

BARNARD—On Jan. 25, the wife of William Tyndall Barnard, Esq., Barrister-at-Law, of a daughter.

BERE—On Jan. 26, the wife of Montague Bere, Esq., Barrister-at-Law, of a son.

MARRIAGES.

HAYLLAR—BLACK. WALTER—HAYLLAR—On Jan. 25, Thomas Child Hayllar, Esq., of the Inner Temple, to Frances Annette, daughter of Charles C. Black, Esq., of Harrow-on-the-Hill; also, at the same time, James Walter, Esq., of 2, Clifford's-inn, and Long Ditton, Surrey, Solicitor, to Mary, daughter of the late Thomas Hayllar, Esq., of Chichester.

HAWKINS—HETHERINGTON—On Jan. 21, Frederick J. Hawkins, Esq., Solicitor, to Jane Tolson, eldest daughter of William Etherington, Esq.

M'NAMARA—MULDOON—On Jan. 26, at Kingstown, Michael M'Namara, Esq., Solicitor, to Elizabeth, daughter of the late John Muldoon, Esq., of Oldcastle, county of Meath, Dublin.

DEATHS.

BOMPAS—On Jan. 24, aged 67, Mary Steele, widow of Charles Carpenter Bompas, Esq., Serjeant-at-Law.

CLARKE—On Jan. 24, in the 78th year of her age, Jane, widow of the late James Clarke, Esq., Recorder of Liverpool, and Attorney-General of the Isle of Man.

DALY—On Jan. 22, aged 26, Thomas Daly, Esq., Solicitor, Liverpool.

EGERTON—On Jan. 24, Henry Egerton, Esq., of Lincoln's-inn, Barrister-at-Law.

EILOART—On Jan. 27, Frank, son of C. J. G. Eliot, Esq., of Great James-street, Bedford-row, Solicitor, aged 2 years and 2 months.

MAC OUBREY—On Jan. 26, Clara, wife of John Mac Oubrey, Esq., Barrister-at-Law, of the Northern Circuit, aged 36.

London Gazette.

Professional Partnership Dissolved.

FRIDAY, Feb. 1, 1861.

STAUNTON, THOMAS, THOMAS FREDERIC INMAN, & HENRY BATCHELLOR INMAN, Attorneys & Solicitors, 1, Vineyard, Bath (Staunton, Inman, & Inman); by mutual consent. Jan. 28.

Windings-up of Joint Stock Companies.

TUESDAY, Jan. 29, 1861.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY.—A petition to wind up, presented 25th January, will be heard before Vice-Chancellor Kindersley, on 8th February. H. E. Voules, Solicitor, 16, Gresham-street, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, Feb. 1, 1861.

ADDEY, JAMES, Shoe Maker, Doncaster. Smith & Atkinson, Solicitors, Doncaster. April 1.

COLLINGWOOD, JOHN, Esq., Grosvenor Villa, Brighton. Wells, Solicitor, Founders'-hall, St. Swin's-lane, London. Mar. 12.

DAWE, JAMES, Gent., Devonport. Sole & Gill, Solicitors, 67, Duke-street, Devonport. Mar. 4.

DUFFY, PATRICK, Wine & Spirit Merchant, North Shields. J. Borini or E. Flinn, Jun., Gents, Executors, North Shields. Mar. 18.

HARLEY, JAMES (formerly known as James Harlan), Dentist, 23a, Davies'-street, Berkeley-square, Middlesex, and also of Finchley, Middlesex. Crafter, Solicitor, 10, Doughty-street, London, W.C. Mar. 1.

OLDMAN, THOMAS, Attorney-at-Law & Solicitor, Gainsborough, Lincoln. Heaton & Oldman, Solicitors, Gainsborough. Mar. 25.

WEBB, JOHN, Yeoman, Fetcham, Surrey. 10, Billiter-square (Solicitor not named). April 1.

WILSON, RALPH, Woollen Draper, Newcastle-upon-Tyne. Chater & Chater, Solicitors, Newcastle-upon-Tyne. July 17.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Jan. 29, 1861.

CROSS, ANNE, Spinster, Chester. Harrison v. Wright, V. C. Stuart. Feb. 26.

DUNN, JOHN, Jun., Merchant, Threadneedle-street, London. Salmon v. Dunn, V. C. Kindersley. March 8.

FOADICE, Rev. ARTHUR THOMAS DINWALL, Clerk, St. John's College, Oxford, and of Baldock, Hertfordshire. M. R. March 1.

GOLDSMITH EDWARD, Esq., Bienenheim-lodge, Northfleet, Kent. Holton v. Goldsmith, M. R. Feb. 18.

HORTON, FREDERICK WILMOT, a Commander in Her Majesty's Royal Navy, John-street, Mayfair, Middlesex. V. C. Wood. Feb. 26.

LAHLEY, WILLIAM, Esq., Scarborough. Hall v. Simpson, V. C. Wood. Feb. 23.

POYSER, WILLIAM, Farmer, The Knowbury, Cainham, Salop. Poyser v. Salwey, V. C. Kindersley. March 7.

PUGH, WILLIAM, Gent., Hay, Brecon. Pugh v. Pugh, V. C. Stuart. March 12.

FRIDAY, Feb. 1, 1861.

BLACKOW, FRANCIS, Farmer, Greenhow-hill, Yorkshire. Blackow v. Smithson, M. R. Feb. 28.

CADBURY, THOMAS, 24, New Bond-street, Middlesex. Cadbury v. Cadbury, V. C. Stuart. Feb. 27.

DODDS, JAMES, Draper, Berwick-upon-Tweed. Henderson v. Dodds, V. C. Kindersley. Feb. 26.

KILLIK, STEPHEN, Gent., Grove-villas, the Grove, Hammermith, the Royal Oak, Spencer-street, Clerkenwell, and of Eagle-terrace, Starch-green, Shepherd's Bush, Middlesex. Killik v. Killik, V. C. Kindersley. Feb. 26.

ROOT, SAMUEL, Farmer, St. Lawrence, Essex. Groen v. Root, M. R. Feb. 25.

SHARP, JOHN, Farmer, Great Dalby, Leicestershire. Sharp v. Fisher, M. R. Feb. 25.

(County Palatine of Lancaster.)

FRIDAY, Feb. 1, 1861.

BENTLEY, ROBERT, Beer-house & Provision-shop Keeper, Turf Tavern, 100, Whit-lane, Charlestown, Pendleton, Lancashire. Bentley v. Bentley, Registrar of the Court of Chancery, 4, Norfolk-street, Manchester. March 2.

Assignments for Benefit of Creditors.

TUESDAY, Jan. 29, 1861.

BURTON, WILLIAM, Horse Dealer and Farmer, Murton, Yorkshire. Jan. 21. Sols. J. J. P., & H. Wood, Pavement, York.

FERRANT, JOHN, Ironmonger, 60, High-street, Merthyr Tydfil, Glamorgan-shire. Jan. 25. Sol. Smith, Victoria-street, Merthyr Tydfil.

FUNNELL, JOHN BARNES, Grocer and Cheesemonger, Hastings. Jan. 21. Sol. Heathfield, 19, Lincoln's-inn-fields, Middlesex.

GRAHAM, JOHN FISHER, Wine and Spirit Merchant, Chester. Jan. 8. Sol. Ford, 2, Grosvenor-street, Chester.

HOLDSWORTH, ARTHUR JONES, Dealer in India Rubber and Gutta Percha Wares and Fancy Merchandise, 113, Dale-street, Liverpool. Jan. 10. Sol. Hore, Liverpool.

FRIDAY, Feb. 1, 1861.

ARGENT, JOHN, Licensed Victualler, Rainbow Tavern, Fleet-street, London. Jan. 22. Sols. Pawle, Belfrage, & Asprey, 7, New-inn, Strand.

BLAND, WILLIAM, Grocer & Glass & China Dealer, Wellingborough, Northamptonshire. Jan. 25. Sols. Murphy & Sharman, Wellingborough.

DANIEL, ARTHUR, Innkeeper, Hop Planter, & Soda Water Manufacturer, Farnham, Surrey. Jan. 7. Sols. Hollett & Mason, Farnham.

FARAN, SAMUEL, Builder, Lawton, Cheshire. Jan. 17. Sol. Latham, Sandbach.

GRAHAM, JOHN, Grocer & Draper, Sealing, Hinderwell, Yorkshire. Jan. 18. Sol. Dutchon, Whitby.

HOLYOAKE, BENJAMIN, Grocer & General Dealer, Kidwelly, Carmarthenshire. Jan. 7. Sol. Jones, Llanelli, Carmarthenshire.

KIRBY, DANIEL, Tailor, 17, Hanover-street, Hanover-square, and 8, Verulam-terrace, the Grove, Hammersmith, Middlesex. Sol. Dalton, 3, Bucklersbury, London.

ROBERTS, DAVID, General Shopkeeper, Abercraze, Ystradgunlais, Brecon-shire. Sol. Esery, Swansea. Jan. 29.

SMITH, FRANCIS, Innkeeper & Brewer, Bradwell, near Braintree, Essex. Sols. Stevens & Beaumont, Great Coggeshall, Essex. Jan. 26.

SPELLMAN, WALES, Farmer, Ashfield-with-Thorpe, Suffolk. Sol. Rodwell, Ipswich. Jan. 25.

THACKRAY, WILLIAM, Stationer, Manchester. Sols. Sale, Worthington, Shipman & Seddon, Manchester. Jan. 12.

WHITE, RICHARD, & WILLIAM BENNETTS, Cabinet Makers & Upholsterers, Penzance, Cornwall (White & Bennetts). Sol. Cornish, Penzance. Jan. 26.

Bankrupts.

TUESDAY, Jan. 29, 1861.

ABBOTT, GEORGE, Machinist, Constitution-hill, Birmingham. Com. Sanders. Feb. 18, and March 8, at 11; Birmingham. Off. Ass. Whitmore. Sol. East, Birmingham. Pet. Jan. 26.

COOK, JAMES, Tanner, Currier, and Leather Dealer, Walsall, Staffordshire. Com. Sanders. Feb. 15 and March 8, at 11; Birmingham. Off. Ass. Kinnear. Sols. Tyrer, Liverpool; or Smith, Birmingham. Pet. Jan. 24.

FABIAN, WILLIAM, Coal Merchant, Wall's End Wharf, Rosemary Branch Bridge, Hoxton, Middlesex. Com. Fonblanque. Feb. 8, at 12.30; and March 12, at 12; Basinghall-street. Off. Ass. Graham. Sol. Hodgkinson, 17, Little Tower-street, London. Pet. Jan. 24.

FARNALL, RICHARD, Grocer and Draper, Kildgrove, Staffordshire. Com. Sanders. Feb. 15, and March 8, at 11; Birmingham. Off. Ass. Whitmore. Sols. Smith, Birmingham; or Challinor, Hanley. Pet. Jan. 26.

FENN, PATRICK, Umbrella and Parasol Manufacturer, 13 and 11, Milk-street, London. Com. Fane. Feb. 14, at 11; and March 15, at 11; Basinghall-street. Off. Ass. Whitmore. Sols. Lloyd, 1, Wood-street, Cheapside; or Langford and Marsden, 59, Friday-street, Cheapside. Pet. Jan. 26.

FOULKES, WILLIAM CHARLES, Draper and Tailor, Birmingham. Com. Sanders. Feb. 13 and March 4, at 11; Birmingham. Off. Ass. Whitmore. Sols. Southall and Nelson, Birmingham. Pet. Jan. 26.

GRIMES, ROBERT GREEN, Licensed Victualler, Queen's Arms Public House, High-street, Poplar, Middlesex, and Goat Public House, Golden-lane, Old-street, Middlesex. Com. Fonblanque. Feb. 8, and March 12, at 11; Basinghall-street. Off. Ass. Graham. Sol. Flavell, 21, Bedford-row, London. Pet. Jan. 25.

GROOM, JOSEPH, Leather Dealer and Tanner, Wisbeach St. Peters, Cambridgeshire. Com. Holroyd. Feb. 8, and March 12, at 12; Basinghall-street. Off. Ass. Edwards. Sols. Hensman and Nicholson, 25, College-hill, London; or Ollard, Uxwell, Cambridgeshire. Pet. Jan. 26.

HOPKINS, JOHN DYER, Builder and Contractor, Landport, Hants. Com. Evans. Feb. 7, and March 8, at 11; Basinghall-street. Off. Ass. Johnson. Sols. Flux and Argles, Cheapside. Pet. Jan. 16.

JACOBS, EMANUEL, Stationer and General Dealer, 65, Long-lane, West Smithfield, London (Emanuel Jacobs & Co.). *Com.* Goulburn: Feb. 11, at 2.30; and March 11, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Frost, 138, Leadenhall-street, London. *Per.* Jan. 25.

KITT, EDWIN, Publican, Bent Arms, Lindfield, Sussex. *Com.* Fane: Feb. 8, at 11; and March 8, at 12; Basinghall-street. *Off. Ass.* Cannon. *Sols.* Linklater and Hackwood, 7, Walbrook; or Attree, Clarke, and Howlett, Brighton. *Per.* Jan. 21.

LUNHAM, THOMAS, Butter and Provision Merchant, Wellington-chambers, Southwark, and 231, High-street, Southwark (T. & R. Lunham). *Com.* Evans: Feb. 8, at 11.30; and March 8, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Laurance, Plewa, and Boyer. *Per.* Jan. 9.

MARRIAGE, THOMAS, and WALTER MARRIAGE, Millers, Barnes Mill, Springfield, near Chelmsford, Essex. *Com.* Evans: Feb. 7, and March 8, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Treherne and White, 13, Barge-yard-chambers, London; and Meggy, of Chelmsford. *Per.* Jan. 23.

MISTER, JOHN BECK, Dyer and Calenderer, 9, Norman's-buildings, St. Luke's, Middlesex, and also late of Malden-lane, Queen-street, London, Packer. *Com.* Fane: Feb. 8, at 1.30; and March 8, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Snee and Robinson, Parish-street, St. John's, Southwark. *Per.* Jan. 25.

RICHARDSON, JOSEPH, Upholsterer, 9, Victoria-road, Pimlico, Middlesex. *Com.* Holroyd: Feb. 8, at 2.30, and March 12, at 2; Basinghall-street. *Off. Ass.* Lee. *Sols.* Ashurst, Son, & Morris, 6, Old Jewry, London. *Per.* Jan. 25.

VINCOB, JOHN, Builder, 9A, Westbourne-park, Bayswater, Middlesex. *Com.* Fane: Feb. 8, and March 8, at 11; Basinghall-street. *Off. Ass.* Cannon. *Sols.* Lawrance, Plewa, & Boyer, 14, Old Jewry-chambers, Old Jewry. *Per.* Jan. 25.

WATTS, THOMAS, Sail & Ships' Colour Maker, Bristol. *Com.* Hill: Feb. 11, and March 11, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* H. Brittan & Son, Bristol. *Per.* Jan. 26.

WILSON, ROBERT, Commission Agent & General Merchant, 25, Poultry, London. *Com.* Goulburn: Feb. 11 and March 11, at 1.30; Basinghall-st. *Off. Ass.* Pennell. *Sols.* Blake & Snow, 22, College-hill, London. *Per.* Jan. 10.

YOUNG, SAMUEL, Licensed Victualler, Racket Court Inn, Birmingham. *Com.* Sanders: Feb. 15 and March 8, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Marshall, Birmingham. *Per.* Jan. 25.

BANKRUPTCIES ANNULLED.

TUESDAY, Jan. 29, 1861.

FELL, JAMES, Currier, 50, New Compton-street, Soho, Middlesex. Oct. 15.

SAGE, FREDERICK, & PETER PANTER, Builders & Shop Fitters, 11, Hatton-garden, and 33A, Liquepond-street, Middlesex. Nov. 16.

FRIDAY, Feb. 1, 1861.

BARKER, ALEXANDER, Iron and Tin Plate Worker and Japanner, Bilston, Staffordshire. *Com.* Sanders: Feb. 13, and March 11, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Underhill, Wolverhampton, or E. & H. Wright, Birmingham. *Per.* Jan. 30.

BROOKSBANK, JOHN, Brush Board Cutter, 33, King-street, Clerkenwell, Middlesex. *Com.* Evans: Feb. 14, at 11.30; and March 19, at 11; Basinghall-street. *Off. Ass.* Bell. *Per.* Feb. 1.

BULFORD, JOHN, Grocer, Hamworthy, Poole. *Com.* Holroyd: Feb. 16, at 1; and March 23, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* J. E. Fox & Son, Finsbury-circus, London, or Welch, Poole. *Per.* Jan. 10.

COOK, EDWIN FREDERICK, & RICHARD FREDERICK WOODWARD, Iron and Steel Stampers, Bridge-street West, Hockley, Birmingham (Cook and Woodward). *Com.* Sanders: Feb. 14, and March 14, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Hodgson & Allen, Birmingham. *Per.* Jan. 29.

DAVIDSON, JOHN RANKEN, Builder and Railway Contractor, Eden Cottage, near Carlisle, and **WILLIAM OUGHTERSON**, Builder and Railway Contractor, Bush-on-Lyne, near Longtown. *Com.* Ellison: Feb. 8, and March 13, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* McAlpin, Carlisle; Reed, London; or Hoyle, Newcastle-upon-Tyne. *Per.* Jan. 18.

DODD, STEPHEN, & JOHN CHARLES PERLING, Booksellers, Stationers, Printers, and Music Sellers, Woburn, Bedfordshire. *Com.* Holroyd: Feb. 8, and March 12, at 1; Basinghall-street. *Off. Ass.* Lee. *Sols.* Blake & Snow, College-hill, London, or F. W. Massey, Chester. *Per.* Jan. 11.

ISAACS, ISAAC, Jeweller and Silversmith, Bristol. *Com.* Hill: Feb. 11, and March 11, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Bevan, Girdling, & Press, Bristol. *Per.* Jan. 29.

IVSON, ATHELSTAN, Timber Merchant and Government Contractor, Three King Court, Lombard-street, London. *Com.* Goulburn: Feb. 13, at 1; and March 19, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Greville & Tucker, 28, Saint Swithin's-lane, London. *Per.* Jan. 24.

JAUNCEY, ALFRED, Plumber & Glazier, Forest-hill, Kent. *Com.* Holroyd: Feb. 16, at 1; and March 19, at 12; Basinghall-street. *Off. Ass.* Lee. *Sols.* Lawrence, Smith, & Fawdon, 12, Bread-street, Cheapside, London. *Per.* Jan. 29.

KELLAND, GEORGE, JUN., Grocer & Tea Dealer, Lancaster. *Com.* Jemmett: Feb. 13, and March 6, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Evans, Son, & Sandys, Liverpool; or Sale, Worthington, Shipman, & Seddon, Manchester. *Per.* Jan. 23.

SCOTT, JOHN, Draper, Stonehouse, Plymouth, Devonshire. *Com.* Andrews: Feb. 11, and March 26, at 12.30; Plymouth. *Off. Ass.* Hirtzel. *Sols.* Wood, Bristol; or Bishop & Pitts, Exeter. *Per.* Jan. 25.

STANTON, JOHN, China Dealer, Liverpool. *Com.* Perry: Feb. 15, and March 4, at 11; Liverpool. *Off. Ass.* Bird. *Sol.* Tyrer, North John-street, Liverpool. *Per.* Jan. 29.

WAGSTAFF, WILLIAM RACSTEN, Wharfinger, Granary Keeper, & Steam Tug Owner, 155, Fenchurch-street, London (Wagstaff & Co.). *Com.* Holroyd: Feb. 16, at 12; and Mar. 16, at 11; Basinghall-street. *Off. Ass.* Lee. *Sol.* Sherwood, 10, Walbrook, London. *Per.* Dec. 21.

WARD, GEORGE WILSON, Publican, Worcester. *Com.* Sanders: Feb. 13, and March 11, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* E. & H. Wright, Birmingham, or T. P. Watkins, Worcester. *Per.* Jan. 24.

WILSON, WILLIAM, Paint Manufacturer, Moor-street, Birmingham, and of Sparkbrook, Aston-juxta-Birmingham. *Com.* Sanders: Feb. 13, and March 11, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Blake & Snow, College-hill, London, or Hodgson & Allen, Birmingham. *Per.* Jan. 26.

MEETINGS FOR PROOF OF DEBTS.

FRIDAY, Feb. 1, 1861.

CROFTS, WILLIAM FRANCIS, Printer, 49A & 63, Castle-street, Oxford-street, Middlesex. Feb. 23, at 12.30; Basinghall-street.—**CROSS, JAMES LAIDLAW**, Insurance Broker, Liverpool. March 19, at 11; Liverpool.—**DEANE, GEORGE, & FREDERICK YOUNG**, Merchants, Liverpool (Deane, Young, & Co.) Feb. 22, at 11; Liverpool.—**EVES, JOSHUA**, Silk Manufacturer, Chobent, Leigh, Lancashire. Feb. 22, at 12, Manchester.—**FOOT, HENRY**, Silk Manufacturer, Fort-street, Spitalfields, Middlesex, and Sudbury, Suffolk. Feb. 23, at 12.30; Basinghall-street.—**LEE, ROBERT, Currier &c.**, Cromford, Derbyshire. Feb. 28, at 11; Nottingham.—**LYONS, JOHN**, Steel Manufacturer, Sheffield. Feb. 23, at 10; Sheffield.—**MACKAY, JOHN**, Timber Merchant, Liverpool. Feb. 22, at 11; Liverpool.—**SEAGOOD, OLIVER ALFRED, & HENRY WILLIS SMITH**, Builders & Contractors, Wellington-road, Holloway, Middlesex. Feb. 26, at 11; Basinghall-street.—**SIMS, WILLIAM HENRY**, Apothecary, Winstler, Derbyshire. Feb. 23, at 10; Sheffield.—**STATON, HENRY**, Common Brewer, Holbeach, Lincolnshire. Feb. 28, at 11; Nottingham.—**STARK, CHARLES, & WILLIAM STARK**, Corn and Cheese Factors, Mark, Somersetshire. March 7, at 11; Bristol.—**STEAD, CHARLES**, Flock & Cotton Waste Dealer, Huddersfield. February 22, at 11; Leeds.—**TRIPP, JOHN**, Tallow Chandler, Cross-street, Walworth, Surrey. Feb. 23, at 12; Basinghall-street.—**TUNE, JOHN**, Draper, Basingstoke. Feb. 23, at 12; Basinghall-street.—**WATSON, HENRY, Miller & Baker**, Longford, Derbyshire. Feb. 26, at 11; Nottingham.—**WILLIAMS, JAMES**, Shipping & Commission Agent, Beer-lane, London. Feb. 25, at 2; Basinghall-street.

LIFE ASSOCIATION OF SCOTLAND, FOUNDED 1830.

LONDON, 30, KING WILLIAM STREET, E.C.

The Association is one of the most extensive life assurance institutions in the kingdom, and confers unusual and important privileges on its policy-holders. During the past year 1,177 new policies were issued, assuring £531,830. The annual income is now upwards of £163,000, and the accumulated fund £495,800. In consequence of allocations of profit, participating policy-holders of the first series are now enjoying a return in cash of 37½ per cent.—that is, 7s. 6d. per £1 of their premiums.

A medical officer in attendance daily, at half-past 12 o'clock.

THOS. FRASER, Res. Secy.

PURSUANT to an Order of the High Court of

Chancery, made in the matter of the Estate of William Dowman, and in a cause Edgar Mann, and Louisa his wife, against William Dowman and Elizabeth Dowman, Spinster, the creditors of William Dowman late of Sedbury, in the county of Suffolk, Gentleman, who died on or about the 27th day of September, 1855, are by their Solicitors, on or before the 8th day of February, 1861, to come in and prove their debts at the Chambers of the Master of the Rolls, in the Rolls-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Tuesday, the 12th day of February, 1861, at Twelve o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the claims.

Dated this 9th day of January, 1861.

HENSMAN & NICHOLSON, 23, College-hill, City.
Agents for
GREENE & PARTRIDGE, Bury-Saint-Edm
Plaintiffs' Solicitors.

CHEAP FRAMES.—NEAT GOLD FRAMES,

GLASS and BACKS, complete, 9in. by 13, 16s. per dozen. The Art Union of London, "Life at the Sea Side," beautifully framed, 12s. complete. The trade and country dealers supplied with gilt and fancy wood mouldings of every description. Ten thousand yards of room moulding kept in stock. Any sets of the coloured pictures given with the "Illustrated London News," framed in neat gold moulding, complete, 6s. 6d., at **GEORGE REES'S**, 57, Drury-lane, four doors from the theatre. Established 1800. Advertising frames 20 per cent. cheaper than any other house.

ESTATE AT GREAT CORBY FOR SALE.

TO BE SOLD BY AUCTION, at the house of Mr.

William Robinson, Innkeeper, GREAT CORBY, known by the sign of THE QUEEN, on MONDAY, the 11th day of FEBRUARY, 1861, at THREE o'clock in the afternoon, either together or in lots, and subject to conditions to be then and there produced, Mr. WILLIAM ROBINSON, Auctioneer.

All that valuable FREEHOLD and CUSTOMARY ESTATE, situate at Great Corby, in the parish of Wetheral, in the County of Cumberland, late the property of Mr. Thomas Bowman, deceased, consisting of a dwelling house, farm buildings, and 44a. 3r. 12p., more or less, of arable, meadow, pasture, and woodland.

There is a valuable Freestone Quarry on the estate, the right to work which belongs jointly to this estate and an adjoining property.

A small portion only of the estate is customary parcel of the Manor of Wetheral, subject to the payment of the yearly customary rent of 4s., and a fine of four times the amount on death or alienation.

The land is for the most part of very excellent quality, and very conveniently situated, being about five miles from Carlisle, and contiguous to the village of Great Corby, which is within a mile of the Wetheral Station of the Newcastle and Carlisle Railway.

There are several good sites for building on the estate, commanding extensive prospects of the surrounding country.

The property having been in the occupation of the late owner at the time of his death, possession of the land can be given immediately after the sale.

Further particulars may be known on application to Mr. JOHN NANSON, Solicitor, 9, Castle-street, Carlisle, where a plan of the estate can be seen, or to Mr. JOHN BOWMAN, of Great Corby, the Trustee for Sale, who will send a person to show the property. Printed particulars will shortly be ready, and may be had on application to Mr. JOHN NANSON Solicitor, Carlisle.

Carlisle, 24th JANUARY, 1861.

We cannot notice any communication unless accompanied by the name and address of the writer

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, FEBRUARY 9, 1861.

CURRENT TOPICS.

From the intimations contained in the Queen's Speech, and still more if one is to credit common rumour, it would appear that Sir Richard Bethell will be the principal figure in the House of Commons during the present session. Parliamentary Reform being indefinitely postponed, the amendment of the law is considered to be a subject of sufficient importance to engross the attention of Parliament almost exclusively for months to come. A new Copyright Bill, and a new Bill to Amend the Law of Bankruptcy and Insolvency, will open the campaign. A Bill to Facilitate the Transfer of Land is also in the Ministerial programme, as it was last session; but whether there is any serious intention of proceeding with this measure, we have yet no means of judging. We see that already our old friends, the Criminal Law Consolidation Bills, which have done such good suit and service to so many governments, law officers, statute law commissioners, and Parliamentary draftsmen, are again on the tapis. It is to be hoped that now, at length, they are fairly presentable, and that after so many years of probation, Parliament may venture to give them its sanction. We shall not fail throughout the session to keep our readers informed of the various measures before either House, particularly affecting the interests of lawyers; and we hope to have the advantage of their suggestions and assistance, in forming our opinions on such Bills as they from time to time are introduced to Parliament.

In pursuance of the power given to the Lord Chancellor by the Law of Property Act of last session, his lordship has just issued a General Order, by which cash under the control of the Court may be invested in Bank Stock, East India Stock, Exchequer Bills, and £2 10s. per Cent. Annuities, and upon mortgage of freehold and copyhold estates respectively in England and Wales; as well as in Consolidated £3 per Cent. Annuities, Reduced £3 per Cent. Annuities, and New £3 per Cent. Annuities.

It must be gratifying to all those who feel any interest in the well-being of the legal profession to observe in the recent list of articulated clerks who have passed their examination an increasing number of University graduates. The question has been very much discussed, no doubt, whether the training obtained at a University is a sufficient compensation to a young man intending to practise as a solicitor, for the compulsory postponement of professional education which is involved in the attainment of a University degree. This consideration, however, has been almost removed by the Attorneys' and Solicitors' Act of last session; but even if it were not, we should consider, in the case of a youth postponing his articles until he had graduated at a University, that he had thereby contributed as much to his own advantage and future prospects as he had to the general credit and dignity of the profession.

At a meeting of the Juridical Society on Monday evening, Mr. Denman read a very able and interesting paper on the case of Anderson, the fugitive slave. In the animated discussion which followed, the majority of

speakers were decidedly against the ruling of the Court of Queen's Bench in *Canada*, Mr. Denman's argument being strongly to the same effect. The discussion will be resumed on the next night of meeting, after which we hope to lay before our readers some account of it, together with a summary of the paper which gave rise to it.

The *Globe* of last evening states that it was rumoured in Westminster Hall yesterday morning, that the following gentlemen will be called to the rank of Queen's Counsel previous to the Spring Circuits:—Mr. Coleridge, Mr. Karlake, Mr. Digby Seymour, M.P., Mr. Phipson, Mr. Mellish, and the Hon. George Denman, M.P.

ORAL EVIDENCE IN CHANCERY.

The substitution of a natural method (instead of a highly artificial and inconvenient one) of determining issues of fact in the Court of Chancery, has been a process of a very tedious character, which, moreover, has required no little pressure from without. Even now that a new general order of the Court has (we must admit in perfect good faith), embodied the main recommendations of the Chancery Evidence Commissioners, yet it can hardly be said that a complete victory has been gained over a cumbrous and obstinate procedure. This new general order, however, is a great instalment to the requirements of suitors and practitioners in the Court of Chancery, in a most important matter connected with the conduct of suits. Every suit involves either one or more issues of law or of fact or of both law and fact. But mere questions of law may be generally determined with a comparatively inconsiderable outlay. Where the facts are easily proved or admitted, the costs of suit are little more than the taxes imposed for the support of the court, together with the fees of counsel and the solicitor's own costs, which cannot be otherwise than trifling. But where the facts are disputed and both sides are prepared to enter upon a conflict of testimony, there is hardly any ground to form the remotest conjecture under the system now happily expiring when the affidavits, examinations, and cross-examinations of the parties would stop, or how many hundred folios of utterly irrelevant and useless matter might not be imported into the cause, under the name and pretence of evidence. Most fortunately for the suitors of the Court, and much to its own credit, this scandal will cease to exist after the 1st day of Easter Term, when the new system will come into operation. As that period is so near at hand it is desirable that solicitors should lose no time in making themselves acquainted with the important alterations which the new order will introduce into the practice of the Court of Chancery.

On and after the 1st day of next Easter Term the plaintiff or any defendant may, at any time within fourteen days after issue joined, apply by summons to the Judge in chambers for an order that the evidence in chief as to any facts or issues may be taken *vivâ voce* at the hearing of the cause. The judge, however, may refuse the application if he thinks it "unreasonable or made for the purpose of delay, oppression, or vexation." Where the order is made no affidavit is to be admissible at the hearing, in respect of any fact or issue included in the order; but the facts not included may be proved according to the present practice.

These are the main provisions of the new order, and while admitting their very great value we feel free to offer some observations upon them—having regard to the numerous articles which appeared last year in this Journal upon the Report of the Commissioners. Indeed, we need hardly do more than repeat the suggestions which we then offered. In the first place it is doubtful whether it will be found convenient in practice to require in every case where any party wishes to

have the evidence taken *visâ voce*, to give to his opponent the opportunity of raising a preliminary contest at chambers upon this point; and it is difficult to understand upon what grounds such an application could be refused where there was a real contest of facts. We next doubt the policy of compelling the party applying to shape any particular issues, not coincident with his entire case, as the condition of obtaining an order for the taking of the evidence orally in open court. There is the further objection, that as to any issues prescribed by such order, no other than oral evidence will be admissible. It may thus happen that a plaintiff, having obtained an order for the determination of certain issues at the hearing, may be precluded from reading against a defendant the admissions contained in his answer, if the facts admitted happen to be comprised in the issues. Some inconvenience will also probably result from the co-existence, in the same suit, of issues which are to be determined at the same hearing, but in a very different manner. Where the judge directs certain issues of fact incommensurate with the subject of litigation, to be determined upon oral evidence, it is no doubt implied that the supplemental evidence shall be by affidavit. But if the issues of fact to be determined in one way are fixed beforehand, what reason is there why those to be determined in the other should remain vague and indefinite? and if these last-mentioned issues are not defined, it can hardly be the subject of wonder if the evidence adduced on both sides in respect of them should be frequently either imperfect or diffuse, if not both. The problem to be really solved is simple enough. No evidence, except what is of a formal character, is required where there is no dispute between the parties as to facts. It is believed on all hands, and expressly insisted upon by the Report of the Commissioners, that where material facts are contested between parties the evidence should be *visâ voce*, and given before the tribunal which is to decide the case; the new general order impliedly proceeds upon the same presumption. What is required, therefore, is to ascertain the existence and the extent of the contest between the parties as to facts.

How is this to be done in a manner most consistent with the rights both of plaintiff and defendant? First, as to the plaintiff: he is required to state in his bill such facts as he may conceive to be necessary or advisable to obtain the relief which he seeks. Is it fair, then, or consistent with the theory of equity pleading, to ask him to tender issues of fact otherwise than he has done in his bill? It will be clearly against the doctrine and practice of the court to oblige him to do so; at all events, before he has seen the defendant's answer. But it will probably partly admit and partly deny, or confess and avoid, the case made by the bill. If the defendant were obliged to do this in a strict and technical manner—according to the course pursued in courts of common law—the plaintiff could hardly complain, and after a due course of pleading the suit would necessarily result in some definite issue. But the system of pleading in Chancery, although apparently less scientific than that of common law, is certainly more in accordance with reason and natural equity; and hitherto neither the plaintiff nor the defendant has been prevented from stating his case in comparatively untechnical and reasonable language, without being formally tied down to such strict issues (often inoperatively strict) as prevail at law. The difficulty connected with the rule contained in the new general order is that, while the same latitude of statement is allowed to both sides, whoever is interested in having the contest of fact determined orally has thrown upon him the serious responsibility of picking out distinct issues from these comparatively indefinite statements; while the other side may be equally embarrassed by the fact that such issues need not exhaust the case or insure its decision in favour of the party who succeeds upon them.

It appears to us that the simplest mode of solving the difficulty would be to allow the plaintiff in every case to prove orally such allegations of his bill as were in fact contested by the answer of the defendant or as the defendant refused otherwise to admit, and equally to allow the defendant to use oral evidence; leaving it open to both parties in all cases to resort wholly or in part to affidavits.

We entertain great doubt as to the utility of the arrangement which has been made in reference to the examiners of the Court, and find it difficult to form any conjecture as to the utility of *ex parte* examinations before them, such examinations being deemed affidavits, and filed as such in the Office of Records and Writs.

The 23rd rule of the new General Order is also open to remark. It requires that an affidavit shall show the means of knowledge of every person making any statement contained in it, but this affords ground for a larger comment than our present space permits. On a future occasion we shall have some observations to offer upon this point.

It may be added that the main rule of the new General Order, which relates to oral evidence, appears to us to be inapplicable to petitions and motions.

We have freely observed upon some features in the new Order, which appear to us to be defects; but taken as a whole, it must be regarded as one of the most important and useful reforms ever introduced into the Court of Chancery, and we fully expect to see it followed by speedy and great results. It only requires a good system of evidence, joined to the present admirable system of pleading in courts of equity, and governed by their wise and equitable doctrines, to gain for these courts as great popularity and respect as the public odium and dislike which it was not long ago their misfortune to attract.

THE LAW OF STRIKES.

There are few social questions that have given rise to more discussion in the present age than those which affect the rights of masters and workmen. Political economists tell us that it is vain to legislate upon the subject. They say that the price of labour, like the price of everything else, ought to be regulated solely by the laws of supply and demand; and after centuries of fruitless legislation we have arrived at this conclusion at last. We leave both masters and workmen at perfect liberty to make between themselves whatever agreements they choose. We interfere only to protect those who are supposed to be unable to protect themselves, namely, women and children in factories and mines. In every other instance masters and workmen are free to enter into any engagement for the carrying on of any lawful trade or manufacture. But the liberality of modern legislation does not stop here. It is now lawful for workmen to combine for the purpose of raising wages as it is for masters to combine for the purpose of lowering them. The former, in short, are allowed to dispose of their skill and labour, and the latter of their capital to the best advantage. Such for five and thirty years has been the law of the United Kingdom.

But the freedom of action thus allowed alike to capital and labour has not had the effect of reconciling these rival interests. We need only refer to the history of the last eighteen months in confirmation of this fact. In no similar period, we believe, have so many trade strikes taken place, and upon no occasion have these strikes been organized upon a more extensive scale. It is true that the law no longer prohibits combinations of this kind. By the Act of 6 Geo. 4. c. 129, upwards of thirty statutes, some of them dating from the reign of Edward the First, were swept away. These statutes composed what were called "the combination laws,"

and they were repealed in accordance with the theories of modern legislation which have since prevailed. But the Act of Geo. 4. although it rendered trade combinations lawful for the purpose of either raising the rate of wages or of shortening the hours of work, contained very stringent provisions against intimidation in every shape. It leaves the workman at perfect liberty to combine with his fellows for a common object, provided he does so peaceably and without attempting to intimidate others. Any threat applied either to his fellow workman or to his employers is punishable by imprisonment.

There have been two instances lately in which the latter provision has been enforced. It is expressed as follows:—"If any person shall by violence to the person or property of another, or by threats or intimidation, or by molesting or in any way obstructing another, force, or endeavour to force, any journeyman or other person to depart from his hiring, &c., he shall be imprisoned, &c., for three months." Another section provides a similar penalty in case "any person shall by violence to the person or property of another, or by threats or intimidation, &c., force or endeavour to force any manufacturer or person carrying on any trade or business to make any alteration in his mode of managing such business, or to limit the number of his workmen, &c." Under the first of these provisions a workman was recently convicted and sentenced to imprisonment by one of the metropolitan magistrates for using threats for the purpose of inducing others to leave work; *Perham's case*, *Law Journal*, vol. 29, M. C. 31.* Under the second provision there was an appeal the week before last from a decision of the same magistrate to the Court of Queen's Bench; and as the circumstances of the case are peculiar, we shall, shortly, lay them before our readers.

On the 9th of June last, the appellant, William Walsby, was convicted, under the last quoted provision of the Act of George 4, for unlawfully on the 16th of May previous, by threats, endeavouring to force one Philip Anley, a builder, to limit the description of his workmen. Philip Anley, the respondent, was a builder in the city, employing about 100 workmen, and after the great metropolitan strike, which took place in 1859, Mr. Anley refused to employ for some time any workmen who declined to work under the so called "declaration," which was drawn up for their own protection by the master builders, and which was to the following effect:—"I declare that I am not now, nor will I, during my engagement with you, become a member of, or support any society, which directly or indirectly interferes with the arrangements of this or of any other establishment, or the hours or terms of labour; and that I recognise the right of employers and employed individually to make any trade engagements on which they may choose to agree." This "declaration," as our readers will recollect, proved highly objectionable to the working men, as it was obviously directed against the existence of those trade societies to which nearly all belonged. A good number of the men, nevertheless, returned to their work under the "document," as it was called, and at the time in question, there happened to be several of this description at Mr. Anley's establishment. On the 16th of May, the appellant handed to Mr. Anley a paper signed by himself and by about thirty other workmen, of which the following is a copy:—"At a meeting of the joiners in the employ of Mr. Anley, Tuesday evening, May 16, 1860, it was resolved that Mr. Anley be given to understand that, unless the men who are working under the 'declaration' in his shop be discharged, and we have a definite answer by dinner time to that effect, we leave work immediately." Mr. Anley refused to comply with this requisition on the part of

the appellant, and those who signed it along with him and they all accordingly left his employment the same day. The only question was, whether the conduct of the appellant under these circumstances amounted to a "threat" within the penal provisions of the Act of George the 4th. It was contended by his counsel that no such threat as that contemplated by the Act had been committed. Every man had a perfect right to leave his employment if he chose; and the fact of the appellant having done so because his master refused to discharge an obnoxious workman, could not be regarded as a threat either against the person or the property of anyone. The Court, however, was of a different opinion. The Chief Justice in delivering judgment admitted that every man had a perfect right, in the absence of any contract to the contrary, to leave the service of his employer when he chose. He had further the right individually of giving the employer the alternative of discharging an obnoxious workman or losing his services. But in the present case it was not one but a number of workmen who made the demand in question upon the master; "and they all adopted the same course," said the Chief Justice, "with the object of preventing the master from exercising his discretion, and to coerce him." Taking the whole of their conduct into account, he was of opinion that it amounted to a threat within the meaning of the Act. Mr. Justice Crompton and Mr. Justice Hill were of the same opinion. The latter added that irrespective of the Act of Parliament, he thought the men were guilty of a conspiracy at common law.

The case of *R. v. Bykerdike*, 1 M. & Rob. 179, appears to be in favour of Mr. Justice Hill's view. In that case the workmen in a certain colliery objected to work with seven men employed in the same colliery. They addressed a letter to the manager to the effect that all the other workmen would strike in fourteen days, unless those men were discharged. They were indicted for a conspiracy, and Mr. Justice Patteson said, "the statute never meant to empower workmen to meet and combine for the purpose of dictating to the master whom he should employ."

But the law cannot be considered as yet settled as to what amounts to a threat under the Act of George 4th. *Walsby's case*, decided in the Court of Queen's Bench the other day, is consistent with the decision in *R. v. Bykerdike*, and the grounds upon which both cases were decided appear to have been the same. But there are conflicting decisions. In *R. v. Selsby*, 5 Cox, C. C., 495, Lord Cranworth, when Baron Rolfe, laid down the following rule as to what amounted to a "threat" under the Act in question: "A great deal may be said as to the precise words used. What I think you must consider is not so much the very words, as whether the fair result of it was to intimate to the person to whom it was addressed, that some bodily harm would happen to him." This is a different interpretation of the statute from that which has recently been applied to it by the Court of Queen's Bench; it is inconsistent, moreover, with that applied to it by Mr. Justice Patteson. It is clear that the latter authorities did not consider that any threat of personal injury was necessary to justify a conviction under the Act. In fact, neither in *R. v. Bykerdike*, nor in *Perham's case*, nor in *Walsby's*, was there such threat used.

It was said in the recent case of *Walsby*, that the workmen attempted to coerce their master, and that such coercion was illegal. But may it not be said, that every strike on the part of the workmen is an attempt to coerce their employers to come to certain terms? And yet strikes are now recognised as perfectly lawful. Where, then, are we to draw the line as to what workmen may or may not do? Lord Cranworth's definition of a "threat" is clear and intelligible; but the later decisions are not only inconsistent with it, but they unquestionably render the law both anomalous and uncertain.

* In this case the words of the threat used were, "If you dare work, we shall consider you as 'blacks,' and when we go in we shall strike against you all over London."

VOLUNTARY ANSWERS TO BILLS IN CHANCERY.

Customary practice is sometimes very useful, and, by long usage, may obtain considerable authority. But such practice may more generally be traced to an official than to a judicial construction of the rules of court, and as having been originated to meet the exigencies of a particular case, in which, probably, the parties were willing to waive all hostile considerations. Consequently, in some instances, such usage will not bear the test of a general application, nor harmonize with the express provisions of the written practice.

The customary practice with respect to the time for filing a voluntary answer to a bill is a case in point.

Rule 5 of the 37th of the Consolidated Orders (p. 120), provides that "a defendant not required to answer a bill may, without any leave of the Court, put in a plea, answer or demurrer, not demurring alone, *within fourteen days after the expiration of the time within which he might have been served with interrogatories for his examination in answer to such bill.*" And rule 7 of the same Order (p. 121), provides that "where the plaintiff amends his bill without requiring an answer to the amendments, a defendant who has answered, or has not been required to answer, the original bill, but desires to answer the amended bill, must put in his answer thereto *within fourteen days after the expiration of the time within which, if an answer had been required, he might have been served with interrogatories for his examination in answer to such amended bill, or within such further time as the judge may allow.*" The customary practice which has arisen upon a construction of the foregoing rules may accommodate "friendly" parties, but will not, we think, be acquiesced in by hostile litigants.

The construction alluded to assumes that "if an answer had been required," the defendant would have entered an appearance within the time limited for his appearing, and that the plaintiff would have served interrogatories within eight days after such limited time; thus allowing for the filing of a voluntary answer twenty-two days from the *last* day of the time limited for the defendant's appearance; that is, eight days to the plaintiff, and fourteen days to the defendant—in other words, thirty days from the date of the service of the bill.

Now it appears to us that such construction, generally applied, is inconsistent with rule 4 of Order 11, and altogether ignores rule 5 of the same order—upon *both* of which rules, the 5th and 7th rules of Order 37 are dependent.

The twenty-two days can be computed from the *last* day of the time limited for appearing only in cases where the appearance has been actually entered on that day. In all cases where the appearance is entered *after* the time limited, the plaintiff is entitled to *more* than eight days from the last day of the time limited for appearing within which to serve interrogatories.

We think that the proper construction of the rules in question is that where the appearance is entered *before* the last day of the time limited, the plaintiff is nevertheless entitled, under rule 4 of Order 11, to 8 days from the *last* day of the time limited for appearing within which to serve interrogatories; and where the appearance is entered *on*, or *after* the last day of the time limited for appearing he is entitled, under rule 5 of Order 11, to eight days from the day on which the appearance is actually entered within which to serve interrogatories; and that the "fourteen days" mentioned in rules 5 and 7 of Order 37 are not to be reckoned until the time within which, "if an answer had been required," the plaintiff might have served interrogatories has expired.

Or the argument may be stated thus:—An appearance must be entered. If entered *before* the last day of the time for appearing, the plaintiff has eight days *after* the time limited for appearing within which to serve inter-

rogatories (see rule 4 of Order 11, p. 47); and the "fourteen days"—mentioned in rules 5 and 7 of Order 37, pp. 120 and 121—allowed to a defendant to file a voluntary answer, are to be computed from the expiration of such eight days. If the appearance has been entered *on* or *after* the last day of the time limited for appearing, the plaintiff has eight days from the day on which the appearance was actually entered, within which to serve interrogatories (see rules 4 and 5 of Order 11), and the "fourteen days" mentioned in rules 5 and 7 of Order 37 are to be computed from the expiration of such eight days. There need not, however, be much difficulty experienced in properly determining the time for filing a voluntary answer in an original bill, because an appearance is generally required, and is enforceable to an original bill. The case is, however, very different with respect to the time for filing a voluntary answer to an amended bill.

It has been shown that rules 5 and 7 of Order 37 are, in their construction, dependent upon rules 4 and 5 of Order 11, and that rules 4 and 5 of Order 11 involve, in their construction, the necessity of an appearance being entered. The provisions of the rules in question are, therefore, inapplicable to the case of a voluntary answer to an amended bill. For where the plaintiff amends the bill without requiring an answer to the amendments, the entry of an appearance is not required. And an appearance not being required, and therefore not entered, the time for serving interrogatories is not fixed, and cannot therefore determine—consequently the "fourteen days" after that time for filing a voluntary answer to an amended bill have no commencement, and therefore no termination; and here is a difficulty of which either plaintiff or defendant may claim to take advantage, according as any adverse proceeding may be attempted by the one party against the other.

The difficulty would be removed by the defendant's *volunteering* an appearance. But in a strict examination of a rule of court—as applicable to hostile parties—a *voluntary* proceeding is not to be assumed; and it appears to us that, in the absence of such an appearance, a suit in which the bill has been amended without an answer being required to the amendment is, as between hostile parties, completely shut up. To repeat the argument, the case stands thus:—If the plaintiff's time within which, an answer being required, he might serve interrogatories, has not been fixed, it cannot be determined, and therefore the "fourteen days" after that time allowed to the defendant to file a voluntary answer have not commenced, and cannot therefore have expired—consequently the plaintiff cannot shut out a voluntary answer by proceeding with his cause—and the time within which the defendant "might have put in an answer" not having expired, the "*one week*" after such time (see art. 1 of rule 12 of Order 33 of the Consolidated Orders, p. 101), within which the plaintiff is bound to proceed with the cause has not commenced, and cannot, therefore, have expired—consequently the defendant cannot move to dismiss for want of prosecution.

It only remains to suggest a remedy. The difficulties stated in the foregoing remarks, arising out of the rules of court as at present framed, may be removed by simply abrogating rules 5 and 7 of Order 37, and providing, in lieu thereof, that a voluntary answer, either to an original or to an amended bill, shall be filed within a limited time after service of the bill.

We take this opportunity of adding that it would be useful also to provide that in cases where a defendant is required to appear to a bill, and he is served with a copy of the bill and of the interrogatories, at the same time (which in some cases is very convenient and saves expense) the computation of such defendant's time for answering shall commence on the day following next after the last day of the time limited for his appearance, and not from the date of the delivery of the interrogatories, thus securing, by general

order, and not merely allowing by customary practice, that the defendant shall have his full time for appearing and for answering.

PAR NOBILE FRATRUM.

Two cases which have recently come before the courts at Westminster suggest some grave reflections to both of the great branches of the legal profession, in respect of the admission of law students and articled clerks. In one of these cases it appeared that both the plaintiff and defendant professed to be students for the bar, and were, in fact, members of the Society of Gray's-inn. The action was brought to recover a few pounds, which the plaintiff stated he had lent the defendant. His defence was, that he had a set-off for a cloak and an American rocking chair, sold by him to the plaintiff; and also that the latter had made some overcharges in a very strange and complicated account between the parties. According to the plaintiff's own account, having passed the greater part of his life in America, he returned to this country five years ago, and through the exertions of Nicholson, the defendant, was entered upon the books of the Ancient and Honourable Society of Gray's-inn, as a student for the bar. Thereupon very intimate relations were established between the parties, and pecuniary transactions of a most curious character took place between them. It appeared from the evidence that David, the plaintiff, was a person of such antecedents as make it difficult to understand his influence directly or indirectly with the Benchers of Gray's-inn, amongst whom are some distinguished and many highly honourable men. The meagre report of the case which appeared in the morning journals does not enable us to present our readers with anything like a complete biography of this gentleman. Here and there, however, in his cross-examination ugly facts crop up in such abundance as to leave little room for doubt that much of a similar character, although irrelevant to the issue between the parties, might be brought to light by further and more general inquiry, such as one might suppose it was the duty under the circumstances of any Inn of Court to institute. Apart from a scandalously immoral private life, it came out upon the cross-examination of David that he had been charged in America with having forged a bill for £1,000, and that he now has an office in Buckingham-street, Strand, "where he gives out that he is ready to make investments." It further appeared that Nicholson, to whom Gray's-inn was, as we have mentioned, indebted for adding the name of David to its roll, had on some former occasion preferred a charge against David, or Keller, or De Keller, as he was then sometimes called, of "having buried a lady under a false name; according to the certificate she was described as the wife of Henry De Keller." The truth appeared to be that she was a mistress of David, who for the time assumed her name together with the embellishment of an aristocratic prefix.

Now we cannot help thinking that notwithstanding the charge of forgery in America had been dismissed for want of evidence, and although he may have denied with truth that he ever "held himself out as physician to the Queen of the Brazils"—in short, admitting that all the strange and doubtful circumstances attending his early and errant career might possibly be justified or explained to the satisfaction of a Judge of Virtue and a jury of moralists—yet the just ground of complaint remains that such a person was admitted without any inquiry whatever, on the payment of a few pounds, as a candidate for the highest branch of an honourable profession, and as the associate of a body of men who ought to be, and generally are, distinguished, not less by gentlemanly conduct than by their intellectual endowments. It is surely time for so great

ad disgrace to be removed from the bar and the Inns of Court. If those who rule over the destinies of the bar think it unnecessary to institute any preliminary test of educational fitness in persons offering themselves as students of the Inns of Court, the least that the profession and the public have a right to demand of them is, that there should be such an inquiry into the character of these candidates as would ensure to some extent the rejection of men like this Mr. David, at all events until they were able to give a more satisfactory account of themselves than he gave before a Court of Nisi Prius the other day. We may add that even although the Benchers of Gray's Inn think it unnecessary to adopt this suggestion, they may, nevertheless, be induced to consider the question, whether they gain much credit by the fact that they number among their members men who ply the disreputable trade of money lenders, and that not with shame-faced secrecy, but in the face of day—in public offices, situate in the great thoroughfare daily traversed by members of both branches of the profession who frequent Westminster Hall. But if the society of Gray's-inn, regardless of public opinion, and only solicitous of adding to its revenue, persists in receiving into its bosom, without inquiry, men whose names have been notoriously mixed up with disreputable pursuits,

pharmacopolæ

Mendici, mimi, balatrone, hoc genus omne,

it cannot be surprised if its own reputation is damaged by such degrading associations.

We now turn to a case of a cognate character in which the Incorporated Law Society will have to take the position from which we are content at present to dismiss the Benchers of Gray's-inn, and one Mr. William Henry Hudson will step into the place of Mr. David, to whom we care not to allude again. There was tried at Westminster, on Wednesday last, an action brought to recover the sum of fifty guineas which was paid as a deposit upon a treaty for the purchase of a horse, as a morning paper quietly adds, "under very singular circumstances." They were shortly as follows:—

On the 24th of October last, Mr. Tipping, a gentleman residing near Sevenoaks, was induced, by an advertisement in the *Times*, to go to a certain place called the "Paragon Livery Stables," at Hackney—where Croft (the defendant to the action) was then carrying on the business of a livery stable-keeper and riding master—for the purpose of seeing a certain "bright chestnut horse" described in the advertisement, and therein announced for sale. On arriving at the stables, Mr. Tipping saw a man just mounting a horse, which, on inquiry, turned out to be the identical "bright chestnut" of the advertisement. After some conversation it was arranged that the horse should be submitted to the inspection of Mr. Tipping's veterinary surgeon in the country, and the man then asked Mr. Tipping to give him a cheque for the amount of the value of the horse as a deposit. Mr. Tipping accordingly signed a cheque for fifty guineas, never dreaming but that he had been negotiating with the defendant Croft, instead of Hudson, as it afterwards turned out. The veritable Croft, however, was standing by all the while and not interfering. The horse, on inspection, proved to be far from satisfactory, and was accordingly returned to the defendant's stable; but was refused admittance by the defendant on the ground that "his brother was not at home." After considerable difficulty the animal was taken in, but the defendant wrote to Mr. Tipping telling him that it would stand there at his expense; as he had bought it, and as the defendant was not going to take it back. Mr. Tipping, therefore, brought his action for breach of contract; but, as the defendant put in a plea of infancy, the plaintiff afterwards inserted a count in the declaration for fraudulent misrepresentation and appropriation of the fifty guineas paid as a deposit. It

appeared from the evidence of Hudson, who was put into the box to meet the plaintiff's case, that he used to go to the defendant's stables to ride, and that on the 24th of October last, just as he was going to mount the "bright chesnut horse," the plaintiff came in, and after some talk, handed Hudson a cheque in the presence of the defendant. On cross-examination, Hudson stated that he had been for four years an articled clerk to a solicitor; that previously he had been a sheriff's officer; that he had lent money to the defendant to start the business at Hackney; and that he had not been absent from the stables for more than two days during the two months preceding the 24th of October; that the "bright chesnut horse" had been bought at Aldridge's for £27 in the August preceding; that Hudson had pressed the defendant for payment of his debt, and had told him that he must sell a horse to do so. Accordingly, the advertisement was drawn up between them; and when the cheque was cashed, which was on the same day that it was signed, he received £35 out of the amount on account of his debt. He admitted that he suggested the plea of infancy after the action was brought; that he most likely told the defendant to put it on the record; that the defendant and he were often taken for brothers; and that when he was asked where his brother was, he might have said "that he was out," &c., &c.

The defendant Croft stated that he did not speak to plaintiff during the time he was at the stables. He led the horse out, but did not act as groom. He would not swear that he did not see Mr. Hudson take up one of the cards in the office with the defendant's name on it and give it to the plaintiff as Hudson's own card. Sometimes Hudson passed as his brother, and answered to the name of Croft.

At the close of the defendant's evidence the jury intimated that they had made up their minds, and on being interrogated by the judge said that they were prepared to go to the extent of finding that the whole transaction on the defendant's part was a fraud to cheat the plaintiff out of his money; and a verdict was taken for the plaintiff accordingly, with fifty guineas damages.

These facts and this verdict speak for themselves, and require no comment from us. It is not likely that such a person as Hudson would ever have had the opportunity of being a disgrace to the general body of articled clerks if his admission into it was made dependent upon the result of suitable preliminary inquiry. It is very improbable that this quondam sheriff's officer and practising jockey could have passed a suitable examination in either law or literature; but as nothing of the kind was required of him he had of course no difficulty in obtaining his articles, and thereby an opportunity, during the space of five years at least, of discrediting a class to which he ought never have been allowed to belong.

The act of last session has provided for the institution of an examination to be passed either before or during articles of clerkship. We earnestly hope it will be made a *sine qua non* of admission under articles; and that before long the profession may have some guarantee, in the shape of occasional examinations during articles, of the impossibility of an articled clerk devoting his time to the business of an ostler and the chicanery of horse dealing. Meanwhile, as Hudson has been deprived of the brotherhood of the infant Croft, we suggest to his fraternal regards the still more attractive claims of the enterprising plaintiff in the cause of *David v. Nicholson*.

It is stated that the claim which was made for both English and Indian income-tax upon Indian stock held in this country has been abandoned.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

VI. (Continued).

COMPULSORY DOMICIL.

At the conclusion of the former article, reference was made to the case of *Ringer v. Churchill*, and an extract given from the statement of the case by Lord Justice Clerk, with his observations thereon, particularly upon the two propositions, that the Court has no jurisdiction where the defender is not domiciled in Scotland, and that a merely fictitious decree cannot be given on account of acts done in a foreign country. His lordship continued, "In considering whether both or either of these propositions are well founded, as they involve the validity of the domicil referred to by both parties in this case, I feel it to be necessary to keep in view what the rule of law is in regard to the domicil of a wife. I cannot then entertain any doubt that the dictum of Lord Stair authoritatively settles the point, as in treating of the relation of husband and wife he expresses himself in these plain words, 'her abode and domicil followeth his;' and were anything else required in confirmation of this unequivocal expression, we see it very recently recognised in the clear opinions delivered in the House of Lords in the case of *Warrender*. It is no doubt perfectly true that in that case, reference was particularly made to the settled and permanent domicil of the party pursuer, as a landed proprietor residing in Scotland, but the opinion of Lord Stair is expressed without any qualification as to whether the husband's domicil is permanent or temporary, when he states that the wife's domicil follows his, and in the cases of *Forbes & Levett*, where the domicil was objected to as merely temporary. (Fergusson, p. 422). Lord Pitmilley, whilst deciding against any inquiry into the domicil of the pursuer, observed that in these two cases the pursuers were wives, whose domicil, except in the case of a regular separation, follows that of the husband. And no case has decided in reference to a domicil constituted by a residence of forty days and upwards within the territory of Scotland, that the domicil of a husband is not also to be held as that of his wife, or that she is to be considered as domiciled elsewhere and apart from him. If her domicil follows that of her husband it seems equally the same whether his domicil is temporary or permanent, and it has been shown that the rule has been declared in every case to apply *only* to the domicil of the husband which fixes his succession. The domicil of the wife, though in the view of law held to be that of the husband does not, however, avoid the necessity in such an action, of making her fully apprised of the proceedings instituted against her, if she happens to be beyond the territory in which her husband has acquired a legal domicil." His lordship then referred to the question whether the defender had had sufficient citation or notice of the action of divorce, and stated Lord Brougham's opinion in the case of *Warrender v. Warrender* (2 Cl. & Fin. 520), that the Scotch courts have jurisdiction in divorce, in a case where a formal domicil has been acquired by temporary residence without regard to the native country of the parties, the place of the ordinary residence, or the country where the marriage may have been had.

It will be seen that a great portion of this case turned upon the question of jurisdiction, in which the technicalities of the Scotch law make a prominent figure; but the English reader will not fail to have observed one great peculiarity with respect to the light in which the Scotch courts look upon domicil, namely, that for some, and those purely legal purposes, they recognize a species of domicil which the English law does not admit, a domicil very analogous to the fifteen days' residence within a parish

or district which enables a party to publish his or her banns there, and which invests a foreigner (not being, I presume, an alien) with the power of suing for some purposes as a domiciled Scotchman in the courts of that Kingdom; and it is likewise remarkable that this power is not a mere phantom or shadow and fiction of law, but goes to a very vital part of it, and one in which it differs most materially from that of other countries, namely, in the law of marriage. If any further illustration were needed after what has been elsewhere adverted to in these pages with respect to the identity of the old word "settlement," and the modern word "domicil," this certainly would serve, I think, as a very strong one, for in both cases of forty days' residence in the territory of Scotland, and fifteen days or three Sundays' residence in a parish or district in England, the sole object is to acquire a particular legal status, *et præterea nihil*. In reference to this it may be as well to insert a few words which fell from Lord Jeffery in the case under discussion when he came to deliver his opinion. "I consider," (he says), "that when the word domicil is used to describe residence of forty days which subjects a man *passivè* to the courts of this country, it is really used in a sense which may be called metaphorical, it certainly is not used in the genuine and appropriate sense to which the well-known definition of the civilians applies: *Locus ubiqueque larum suum posuit sedemque fortunarum suarum; unde cum proficiscitur peregrinare videtur, quo cum revertitur, redire domum.*" In the genuine domicil of a party his proper home is always included, it is where the seat and centre of his family and affairs are habitually placed. It is true that in a certain loose sense, a man may be said to have a domicil wherever he has a residence, and if a party has had a residence in Scotland for forty days, it is now a settled rule of the Scotch law, that he thereby becomes liable to answer in the Scotch courts as if domiciled there.

It is true that the doctrine is, that the domicil of the husband is the domicil of the wife; but the doctrine rests on the plain and reasonable presumption of fact; it is not a mere arbitrary *dictum* which is to be pushed as far as the mere letter can be carried without reference to its true sense and import; it is a doctrine founded on the presumption generally consistent with truth, certainly derived from regard to conjugal duty; that a wife always ought to be with her family. "Suppose," said Lord Jeffery, "that a married Englishman is sent to Scotland along with his regiment, or as a commissioner appointed to conduct some public inquiry, as soon as he has been for forty days in Scotland he would become amenable to our jurisdiction; but if his wife was left behind in England where his family is, and where his proper home *ex hypothesi* continues to be, can it be held that she is thereby also amenable to the jurisdiction of this court? Notwithstanding the strict nicety of the *societas vitæ* implied in the state of matrimony, in the eye of the law, I cannot see any ground whatever for holding that she would be bound to answer in our courts. Her *forum* remains the *forum* of her husband's proper domicil, and in the case now supposed the domicil never has been elsewhere than in England." His lordship was therefore of opinion that there was no jurisdiction in the Scotch courts. Lord Cockburn concurred in this, but Lord Meadowbank thought that there was, but in the minority. Lord Medwyn expressed himself to the effect that Lord Stair's opinion was only meant to apply to a proper domicil, not a temporary one, and that there was no jurisdiction, and Lord Moncrieff concurred, observing that in the case of Colquhoun; "Faculty," Coll. clv. vol. xiii., 347; "Morrison's Dict. App. Husband and Wife," No. 5, it was held that the husband was entitled to fix an abode for his wife different from his, but even when he did so, that he did not thereby change her legal domicil; but his

own proper permanent home, remained in law her domicil, because it was his. But as the rule holds good only with respect to the proper and permanent domicil of the husband, the result is that a husband by gaining a temporary domicil of forty days does not thereby make that the domicil of his wife. A domicil of forty days has no *animus remanendi*. Lord Cuninghame considered that the conjugal rights of spouses, and the legitimate conditions and rights of children are not fit subjects of cognizance in a foreign court, but are peculiarly appropriated to the courts of the country where the marriage, and where the parties permanently reside and carry on their business. In this Lord Murray concurred, and therefore the majority of the Court were against the proposition of there being jurisdiction. I have gone thus at length into this case of *Ringer v. Churchill*, not by reason of the question of jurisdiction, barely as such, but because it has, as I conceive, a most important connection with the question of a wife's domicil, and all the observations that I have quoted bear, in some degree, upon that question; as do the following cases, the whole law on the point being collected in the last; *Reid, McCall, & Co., v. Douglas*, 11th June, 1814; 17 "Fac. dec." 643; see also *Forrester v. Watson*, Dec. Court of Sess., vol. vi., 2nd series, 1358; *Grant v. Peddie*, 1 W. & S. 716; *Pirie v. Lunan*, Morrison, 4594; *French v. Pilcher*, *ibid.* app. *forum competens*, No. 1; *Wych v. Blount*, *ibid.* app. No. 2; *Alison v. Catley*, 1 Dunlop, 1025; *Yelverton v. Yelverton*, 1 Smith & Sew. Div. Cas. 49; *Dolphin v. Robins*, 7 Ho. of Lds. 390. The first case of *Forrester v. Watson*, has reference to the jurisdiction of the Scotch courts in the case of temporary domicil of a husband in Scotland where the wife after separation had obtained a domicil, and been sued for adultery committed in Scotland.

The case of a servant involves another species of compulsory, or involuntary domicil: and the same question has often arisen whether servants of the Crown or of some large public body holding official situations in various parts of the world, came within this category, and the tenure again upon which they held their positions was also an important element in the consideration. This applies chiefly to the case of officers both naval and military upon half-pay, both in the service of the Government and of the East India Company. The case of *Cockerell v. Cockerell*, 4 W. R., p. 730, which I have referred to upon this subject in another part of these pages, laid down the law distinctly that the mere continued receipt of half-pay, where other circumstances went to constitute an acquired domicil other than that of origin, was not sufficient either to form a compulsory domicil in another country, or to prevent the acquirement there of a domicil of choice. In the case of *The Commissioners of Inland Revenue v. Gordon's executors*, Dec. of Court of Sess., vol. xii., p. 657, Mr. Gordon, a native of Scotland, entered the English navy in 1813, at the age of thirteen, and was engaged in active service till the year 1822, when he retired on half-pay. After his retirement he resided in lodgings in Jersey, till 1834, when he went to reside at Tortola, one of the Virgin Islands, having been appointed a stipendiary magistrate there under the Act for the emancipation of Negro slaves, the provisions of which expired in 1841. He subsequently was appointed president and senior member of the Council of the Virgin Islands, an office to which no salary is attached. In 1839, he got leave of absence and came to Scotland, on a visit to his relations. He married a Scotch lady, and was on his return with her to Tortola, when he died at St. Kitt's, in June, 1840. Mr. Gordon continued to receive his half-pay till his death. By the regulations of the service, naval officers on half-pay are required to reside in Great Britain unless they have obtained leave of absence, and they are liable to be called upon for active service at any time after six months' notice in the Gazette. The Crown had claimed legacy duty upon the ground of an English

domicil, but upon these facts it was held that Mr. Gordon had acquired a domicil at Tortola, and therefore that his estate was not liable to legacy duty; *vid. Thompson v. The Advocate-General*, 13 Sim. 153; 12 Cl. & Fin. 1; 4 Bell App. Cases 1. The wife was also dead, and the *Lord Ordinary* found that her domicil followed that of her husband, and was at Tortola also.

(To be Continued).

The Courts, Appointments, Promotions, Vacancies, &c.

ROLLS' COURT.

(Before the MASTER OF THE ROLLS.)

Feb. 7.—*Business of the Court.*—After giving judgment in a special case, which was of no interest to the public,

His Honour said, It is proper that I should inform the gentlemen of the bar, at the earliest time that I have been able to ascertain the state of my paper, that after the causes which are in my paper to-day have been disposed of, there are only nine which are ripe for hearing. I do not see any prospect, in the present state of the business, of the Court being fully engaged during this, which is usually the most laborious and severe, period of the year. The state of the cause lists before the Vice-Chancellors is such that there is no more business than can be reasonably disposed of by them, and I cannot therefore properly ask for a transfer of causes. This is the first time that such a state of things has occurred since I have had the honour of occupying this seat, and although it would certainly be more agreeable to myself, and probably also to the bar, to be fully occupied, yet I cannot but say that it denotes a very wholesome state of the Court of Chancery that one of the courts has not sufficient business to keep it in motion. This state of things may, perhaps, also arise from the assistance which the Court receives from the bar in disposing of the business before it, as well as from the unprecedentedly light character of that business. I have made this statement at the earliest opportunity for the convenience of the bar and the information of the public. I believe there are only fifty causes set down for the whole period of the sittings.

COURT OF COMMON PLEAS.

(Before the LORD CHIEF JUSTICE.)

Feb. 6.—Lord Enfield, attended by the Hon. George Waldegrave, the Speaker's Secretary, came into court to complain of his having been summoned as a juror to attend the court. Mr. Edwin James, on behalf of Lord Enfield, stated that it was not his wish to make a complaint in his place in the House of Commons, but his lordship preferred to submit to the court that he ought not to have been served with a summons, as he was free from liability to attendance on a jury, owing to his duties as a member of the House of Commons, which ought to have been well known by the summoning officer.

The LORD CHIEF JUSTICE said that the officers of the court had no authority to remove his lordship's name from the jury-book. The parish officers had the duty of making up the lists, and they did not always take cognisance of the result of the last election. He would state, however, that his lordship ought not to have been summoned as a juror, as members of Parliament were not bound to serve in any other court than that in which they had been returned to serve—namely, the High Court of Parliament, which was the highest court of the realm.

Lord Enfield and Mr. Waldegrave having thanked his lordship for so clearly expressing the undoubted privilege of members of Parliament, retired.

COURT FOR DIVORCE & MATRIMONIAL CAUSES.

(Before the JUDGE ORDINARY.)

Feb. 1.—*Cubley v. Cubley and Smith.*—The petition in this case was by a husband for a dissolution of marriage, and a decree *nisi* was pronounced. An application was then made for an order for a permanent allowance to the wife. Alimony *pendente lite* had been awarded her at the rate of £30 a year. She prayed for the custody of her child, aged two years, and

the petitioner stated in his pleadings his consent that she should retain it.

His LORDSHIP directed that the respondent should retain the custody of the child until further order, and that the petitioner should pay her 5s. a-week for its maintenance. He was not disposed to make the petitioner maintain her and her paramour. His lordship added that it had been suggested by the registrar that he had no power to make a final order as to the child's custody until after the final decree, and as the decree would not now become final until the expiration of three months, the order must be an interim order, under the 35th section of the Act. Some very pleasant questions would arise before long under the statute of last session. Would alimony *pendente lite* cease when the decree *nisi* was pronounced? At what time would the parties who had obtained a decree *nisi* have the privilege of marrying again? If a husband died between the decree *nisi* and the absolute decree, would the wife be treated as a widow, and entitled to a share of his property? Or would the suit be abated by the husband's death in the interval, so as to deprive the wife's proctor of his costs? The suit might not be at an end, for cause might be shown in the course of three months, and the petition might in the result be dismissed. Then were the material facts which might be brought before the Court only those facts which were within the knowledge of the parties, and which they had the means of bringing before the Court, or facts which had been discovered since the decree *nisi*? These questions would no doubt furnish them with a reasonable amount of occupation.

It was submitted that the respondent was not entitled both to the alimony *pendente lite* and to the 5s. a-week until the final decree.

The JUDGE ORDINARY.—She must make her election.

The respondent elected to retain the alimony.

BUSINESS OF THE COURT.

The Court will not proceed with the list of petitions for dissolution until the 18th inst. During the last sittings the Court disposed of 57 petitions, including those which were withdrawn and those which stand for judgment.

MIDDLESEX SESSIONS.

Feb. 4.—The February general sessions commenced this morning at the Court-house on Clerkenwell-green, before Mr. Bodkin, the Assistant-Judge, Mr. Payne, Deputy, Mr. Pownall, chairman of the bench, and a full bench of magistrates.

COURT OF ALDERMEN.

At a meeting of the Court on the 5th inst., on the motion of Mr. Alderman Wilson, seconded by Sir R. Carden, it was ordered that a copy of the seventh edition of "The Magisterial Synopsis," edited by Mr. George C. Oke, the assistant clerk to the Lord Mayor at the Mansion-house, be presented to each member of the Court.

Mr. Robert Edmund Mellersh, of Godalming, Surrey, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the counties of Surrey and Sussex.

Mr. Richard Stubbs, of Bristol, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women for the counties of Somerset and Gloucester.

Recent Decisions.

EQUITY.

PRACTICE—MOTION FOR RECEIVER BEFORE HEARING.

Pare v. Clegg, M.R., 9 W. R. 216.

In this case the Master of the Rolls decided that the Court would not appoint a receiver upon a motion before decree, the bill not having prayed that a receiver might be appointed. It has been long understood, that where an injunction or a receiver may be required in a cause before it comes on for hearing, the proper course is to have a specific prayer to that effect in the bill. Although very frequently an injunction or the appointment of a receiver by the Court is *festinum remedium*, and is obtained upon an interlocutory application; yet both, at all events the appointment of a receiver, may some-

times be regarded as substantive relief, and ought, therefore, to be the subject of an explicit prayer, so as to give the defendant at the earliest moment due notice of the case to be made against him. Indeed, according to the practice before 1852, it is doubtful whether the Court ever appointed a receiver, except upon bill (or claim) filed for that purpose; and so strictly was this practice observed, that if a defendant (and although he was in the same interest as the plaintiff) desired the appointment of a receiver, he must, for that purpose, have filed a cross bill. Where the bill, however, contained a prayer for a receiver, although it might have been refused upon the hearing of the cause, yet a renewed application might be made if, in any further stage of the cause, the appointment of a receiver was desirable. In the last edition of *Dan. Chy. Prac.*, p. 995, it is laid down, however, that it is not in all cases absolutely requisite that the bill should contain a prayer for the appointment of a receiver. It is stated, that "if the facts of the case authorize, the Court may appoint a receiver, although there is no prayer to that effect in the bill." But the cases upon which this statement is alleged to be founded are not sufficient for the purpose. In the report of the first, *Ramsbottom v. Freeman*, 4 Beav. 145, it does not appear whether a receiver was prayed for by the bill. Neither in *Hart v. Tulk*, 6 Hare 611, does it in fact appear whether the bill contained such prayer. The same remark applies to *Dowling v. Hudson*, 14 Bea. 423. In *Ramsbottom v. Freeman*, *Hart v. Tulk*, and *Dowling v. Hudson*, the question was, whether notice of motion for a receiver might be served upon defendants, before appearance. The only case cited by Mr. Headlam, the editor of the last edition of "Daniel," which at all appears to sanction the account which he has given of the practice of the Court in this respect is *Menden v. Sealey*, 6 Hare, 820, in which Sir James Wigram, V.C., gave the plaintiff leave to serve a defendant, before appearance, with notice of motion for receiver. But although it does not appear from Mr. Hare's report that a receiver was prayed for by the bill in that case, yet it is stated that the bill asked for an injunction—a remedy of a reciprocal character being intended to prevent a threatened wrong, the object of receiver being to protect the property pending litigation. Thus we find that the practice of the Court is not correctly laid down upon this subject in the last edition of *Daniel's Chancery Practice*; and our readers may remember that upon the appearance of the work we warned them* that "it was one of the most dangerous books which a solicitor could place upon his shelves." Subsequent experience has justified this condemnation, which, perhaps, at the time was considered too strong. In this case, the passage which we have quoted appears to have misled the plaintiff in *Pare v. Clegg* into a futile motion, of which he had to pay the costs. Sir J. Romilly, M.R., observing that the "practice was not as stated in the passage cited;" but that "on a motion before a decree for a receiver, the appointment of a receiver ought to have been prayed for by the bill."

The question has been raised whether a receiver could be appointed at chambers in a summons suit. In *Grot v. Bing*, 9 Hare, App. 1, Sir J. Stuart, V.C., decided that where the application for the appointment of a receiver is made for the first time in a cause, it must be heard in court; but where the application is only to supply the place of a receiver already appointed, and whose office has become vacant by death or otherwise, it may be made at chambers. In a subsequent case, however, *Brooker v. Brooker*, 5 W. R. 382,† the same learned judge was of opinion that he had jurisdiction under the Chancery Amendment Act, 1852, s. 45, without bill filed to appoint a receiver, after an order had been made for administration upon summons at chambers—the ground of his Honour's decision being that such an order had all the effect of the ordinary administration decree, made at the hearing of a suit instituted by bill, and that the Court had been in the habit of interfering by granting an injunction or appointing a receiver, (although neither relief was prayed for), where a decree had been made in the suit. We are not aware whether this case has been since followed. Indeed, it appears to be in principle somewhat opposed to the ruling of Sir R. T. Kindersley, V.C., in *Partington v. Reynolds*, 6 W. R. 388, and of Sir W. P. Wood, V.C., in *Sleight v. Lawson*, 5 W. R. 589. But whatever may be the practice in summons suits, *Pare v. Clegg* is a distinct enunciation of the rule that in suits instituted by bill, the Court will not appoint a receiver before decree unless where the appointment of a receiver is part of the prayer of the bill.

REAL PROPERTY AND CONVEYANCING.

DEVISE SUBJECT TO PAYMENT OF DEBTS—IMPLIED POWER OF SALE BY EXECUTORS.

Hodkinson v. Quinn, 9 W. R. 197.

This decision of Wood, V.C., adds another to a long list of cases bearing on the much controverted question—namely, how far, and under what circumstances, a general charge of debts upon real estates authorizes a sale of the estate by the executors? The authorities on the question, up to a recent date (1858), are collected in *White & Tudor's Leading Cases*, vol. i., 2nd ed., pp. 71-77; and a short epitome of the decisions is all that is necessary to show the present bearings of the question. Sir L. Shadwell held, in 1843, that "if a testator charges his real estate with payment of his debts, that *prima facie* gives his executors POWER TO SELL the estate, and to give a good discharge for the purchase-money" (*Forbes v. Peacock*, 12 Sim. 541). In another case, where there was a direction in a will amounting to a general charge of debts on all the testator's real estates; and the question was, whether the trustees and executors together could make a title to the purchaser of that part of the estate which was devised to the trustees for special purposes, Lord Langdale considered that such a charge ought to be treated as a trust which gave the creditors a priority over the special objects of the devise; and that, as the Court, on the application of creditors, would compel the trustees to raise the necessary money, there was no reason to doubt that the trustees and executors might themselves do that which the Court would compel them to do on the application of the creditors (*Shaw v. Borrer*, 1 Keen, 559). This case was approved by Lord Cottenham, who observes that a charge of debts is equivalent to a trust to sell so much as may be sufficient to pay them (*Ball v. Harris*, 4 M. & Cr. 264). In these two last-mentioned cases, the difficulty which arises when the sale by the executor has to be effected in the absence of the owner of the legal estate, did not occur. That question was discussed in *Gosling v. Carter*, 1 Coll. 644; where Knight Bruce, V.C., held that, the executors proceeding to sell the real estate by auction under a general direction for payment of debts, the purchaser was not to be compelled to complete the purchase without a conveyance from the heir-at-law. In *Curtis v. Fulbrook* (8 Hare, 278), where there was a general devise of real and personal estate to H. for life, and then a devise of certain copyholds to B., and a direction that on the decease of B., the copyholds should be sold and the money distributed, on a bill filed after the death of A. and B., by the persons interested, against the executors and customary heir for a sale, the V.C. Wigram held that the executors were necessary parties to the conveyance, without absolutely deciding the question that they had an implied power of sale. In this case, however, it appears there was no direction whatever as to payment of debts. The important decision of *Doe v. Hughes*, 6 Ex. 223, is the next in order, where the rule was emphatically laid down by a court of judges, comprising Barons Parke and Alderson, that "an executor has NO implied power to sell a mortgage land which descends to the heir charged *simpliciter* with the payment of debts." This case is hitherto undisturbed by authority, and remains an exposition of legal doctrine, of the greatest weight. *Doe v. Hughes*, however, though unreversed, is at least modified in its consequences by subsequent decisions. Thus in *Robinson v. Lowater*, 17 Beav. 592, the testator, after devising his N. estate, gave his estate S. to his son R. for life, with remainder over. He further charged his personal estate with payment of a mortgage debt outstanding upon N., and of legacies and debts. If the personality should be insufficient for the purpose, he charged the S. estate with the deficiency, and appointed R. his sole executor. The son proved the will, and exhausted the personality in the payment of debts, the mortgage debt upon N. remaining unsatisfied. Afterwards R. sold the S. property to a person who took with full notice of the will, and through whom the defendant claimed. The plaintiffs, who were devisees of the N. estate, filed a bill insisting that the S. estate was still liable in the hands of the defendant to pay off the mortgage on the N. property. The Master of the Rolls dismissed the bill with costs. After referring to the cases, he said he was of opinion that a good title was made to the purchaser, and that the defendants were entitled to hold it, discharged of all claim in favour of the plaintiffs. This decision was upheld on appeal. Knight Bruce, L.J., said: "Does the case of *Doe v. Hughes* deal with anything beyond the question of the legal estate? Can it govern the present, which is an application to a court of equity to give effect to a charge?" Turner, L.J., said that the question was, how and by whom the money was to be raised. The

* 1 Sol. Jour. 296—315.

† On this case, see Recent Decisions in Chancery, 2 Sol. Jour. 435.

purpose was to pay debts; therefore, it would have to be raised immediately, but no power was given to the devisees, and the devisees during the existence of the life estate, with contingent remainders, could have no power themselves to raise it. On the face of the will, therefore, it appeared to be the intention of the testator that the money should be raised by the executor. *Robinson v. Lowater* was followed by *Storry v. Walsh*, 18 Beav. 539. The Master of the Rolls there said, "There is no question that this Court holds that if an estate is charged with the payment of debts, the executor can make a good title to a purchaser by sale of that estate. There is also no question that if the estate is charged with the payment of certain specified scheduled debts the purchaser is bound to see that they are paid. It is equally clear that if the estate is charged with the payment of legacies generally, which legacies are necessarily specified, then also the purchaser must see to the application of the purchase money; but if it is charged with the payment of debts and legacies, he is not bound to see to such application, because the legacies are not payable until after the debts." In *Wrigley v. Sykes*, 21 Beav. 337, where a testator directed his debts and legacies to be paid out of his real and personal estate, and then devised certain freehold messuages for a term of years, of which one of the trusts was that on refusal by any of the beneficiaries of the term to pay his share of the debts, &c., within twenty days, there should be a peremptory sale, and after a lapse of thirty-three years from the death of the testator the surviving executors sold the estate, as they alleged, to pay the debts, the Master of the Rolls held they had power to sell, and decreed specific performance against the purchasers. The conclusion drawn by Messrs. White & Tudor is this:—That when there is a general charge of debts upon real estate the executors have in equity an implied power to sell it, and they alone can give a valid receipt for the purchase money; yet, as they do not take by implication a legal power to sell, the persons in whom the legal estate is vested must concur with them in the conveyance. They add, "The opinion amongst conveyancers, nevertheless, seems to be that when, subject to a charge of debts, an estate is devised to persons either beneficially, or as trustees for special purposes, a sale can be effected by them alone." Mr. Clayton, in his *Elements of Conveyancing*, pp. 104—112, relying upon *Robinson v. Lowater*, supports the view that a sale may be worked out by the executors alone when there is a general charge of debts; though he admits that the charge ought not to fetter any honest alienation of land by the devisee, and admits the danger of an arbitrary power in executors overruling all alienations by beneficiaries for an unlimited period of time. He even cites some very strong arguments against his own position, which we are led to suppose are supplied by Mr. Hayes, and to these he appends answers, the general result of his view being that a charge of debts in a will is sufficient to raise a presumption of intention that the executors are the persons to sell. He further urges the necessity, in the present state of authority, that testators should clearly point out the exact agency by which they mean the payment of their debts to be carried out. Mr. Joshua Williams, in an article of some celebrity (2 Jur., N.S., part ii., p. 68), combats these views. He points to the construction commonly placed upon *Robinson v. Lowater* and *Wrigley v. Sykes*, as showing that, after a lapse of many years, an execution under a general charge of debts may unexpectedly step in and sell lands which have been long held by the devisee; and moreover, that a purchaser from a devisee of lands charged with debts has, from the same cause, an incurable flaw in his title. The exposition of cases in this article alone entitles it to the fullest consideration. Lord St. Leonards alludes to it in the "Concise Vendors," 13th ed., p. 545 (n), by saying that "the two cases referred to have introduced considerable difficulty upon titles by implying a power of sale in cases from a charge of debts though the estate is demised to others. This is contrary to the received opinion. It would not be safe to rely on the authority of these cases." Mr. Dart also (V. and P. 3 Ed., p. 401) alludes to the point as one of the greatest difficulty and importance. "In such cases," he says, viz., where there is a charge of debts and a devise of land to A.B. in fee beneficially, A.B. not being the executor, "it has been the practice to accept titles from the devisee alone, without requiring evidence of the debts having been paid or causing the executors to concur in the conveyance. Recent decisions, however, tend to raise a very serious doubt as to whether this practice has not been erroneous, and as to whether the sale should not have been by the executors, or at any rate with their concurrence; even the efficacy of such concurrence is doubted by many practitioners upon the ground that the power of the executors to sell, if it exists, is a collateral power, and is incapable of

being released." He adds that "in this state of the authorities it is impossible to lay down with confidence any rule of practice for such cases. It seems, however, to be reasonably clear that, as matters stand at present, a purchaser from the devisee in the devisee's absence cannot safely complete without either satisfying himself that all debts have been paid, or requiring the executors to authorise the proposed payment of the purchase money to the vendor." The very latest remarks on the subject will be found in a note to the same volume, p. 476. Since that was written another decision has been given by the Master of the Rolls in *Sabin v. Heap*, 29 L. J. N. S. 79. There a testator had commenced his will by a general direction that all his just debts, &c., should be paid and discharged; and after a lapse of twenty-seven years, although the parties beneficially entitled had been in possession, the executors exercised the power of sale, and the Master of the Rolls enforced the rule that they could make a good title, although they had refused to answer a requisition whether there were any debts of the testator unpaid. A stronger case than this can scarcely be supposed.

We now come to *Hodkinson v. Quinn*. A testator devised real estate at T., after his just debts, &c., should be first paid thereout, to C. and W., and the survivor of them and the heirs of such survivor upon certain trusts for the benefit of his two daughters, and after the death of the survivor of the two daughters upon trust to sell (the receipts of the trustees to be good discharges), and to pay the proceeds as therein mentioned. Testator directed his executors L. and F. to collect and get in all debts and moneys due to him, and sell all his personal estate and effects (not consisting of moneys), and apply the proceeds and all his ready money in payment of such of his debts as should not be secured by mortgage of the real estate at T. Testator died in 1838; the surviving daughter in 1859. In 1857 the plaintiffs were appointed trustees in the room of C. and W. In 1860 the plaintiffs put up the estate for sale, and the defendant became a purchaser, but objected to complete, on the ground that the concurrence of the testator's representative was necessary. This the plaintiffs were unable to obtain, as the executor of the surviving executor refused to act in any way. The defendant, on this ground, demurred to specific performance of the contract. The Vice-Chancellor said he thought the case might be disposed of on the fact of the refusal of the executors to act: but this he considered to be ground too narrow for the decision. He fully adopted *Robinson v. Lowater*, and even *Sabin v. Heap*, to the extent that in every case where there is a direction for the payment of debts, and no definite provision made by whom and when those debts are to be paid, the executors have an implied power to enter into contracts for sale. Whether or not they have a legal power, they at least have full power of insisting that the contract be performed by those who have the legal estate. Thus *Doe v. Hughes* and the cases in equity may be reconciled. His Honour then proceeds to deal with the question of the double power; one, the implied power in the executors to sell at any time; the other, the express power in the trustees to sell at a fixed epoch. And here, after stating what the result might have been, had the power of the executors been express instead of implied, which was not the present case, he said he could not consider the cases to go so far as to establish the proposition, that in no case can the devisee in fee sell without the concurrence of the executor. This was the point contended for by counsel on behalf of the demurrer; and it is certainly difficult, after *Robinson v. Lowater* and *Sabin v. Heap*, to see how that conclusion is to be avoided. The reasoning on this point was not full, but the Vice-Chancellor has delivered his opinion on the question, and the result is, that the uncertainty in practice which formerly prevailed remains in all its force. It is plainly unsafe for the purchaser to rest content with the assurance that all the debts are paid, even if he gets such an assurance, which the executor is not bound to give, for unexpected debts may at any time start up; nor can he compel the executor to join in the sale, or to authorise the receipt of the purchase money by the devisee. The case, indeed, does not go the entire length of the opinion above expressed. It rather turns upon the fact that the executors, who had the implied power, did not exercise it until the time arrived for the devisees to exercise the express power, nor did they interfere with the devisees in so selling, they merely refused to join. After this it was held, following *Spackman v. Timbrell*, 8 Sim. 260, and the remarks in 5 Jarman on Mortgages 141, that the estate was effectually put out of the reach of creditors. The doctrine in *Robinson v. Lowater* could not apply after a sale by the devisees had actually taken place.

His Honour then proceeded to notice Mr. Joshua Williams's arguments, so far as they went upon the ground that this was a collateral power in the executors which must extend over all time, and could not be released, except by the executors joining in the sale. His Honour was not disposed to go that length, but in the present case was of opinion that when a duty had been imposed upon trustees to sell at a given epoch, the executor could not afterwards step in and sell the same property after an actual alienation by the devisees had taken place. Looking at the decision with reference to the special facts of the case, the principles it involves will be found to go no further than in many previous authorities. In so far, however, as it declares, whilst upholding *Robinson v. Lowater*, and the succeeding cases, that these decisions do not *always* render the concurrence of the executors necessary in a sale by devisees, it leaves the practice where it was; or rather it seems to place intending purchasers less under the guidance of a general rule, and more exposed to the effect of special circumstances than before.

COMMON LAW.

COMMON LAW PROCEDURE ACT, 1852, s. 18—ACTION AGAINST BRITISH SUBJECT OUT OF THE JURISDICTION OF THE COURTS.

Bates v. Bates, 9 W. R. C. P. 235.

By the 18th section of the Common Law Procedure Act, 1852, a writ of summons is provided to meet the case of the defendant, being a British subject, who is resident at the time of action brought beyond the jurisdiction of the Court, and not either in Scotland or Ireland. The form of the writ in this case is similar to that in ordinary use, except that it bears an indorsement purporting that it is for service out of the jurisdiction; and the time for appearing thereto, instead of as in other cases being *fixed*, viz., eight days—is regulated according to the distance from England of the place where the defendant is residing. The provision in question proceeds to enact (in case of *non-appearance* by the defendant), that if the writ was personally served, or reasonable efforts, to the knowledge of the defendant, made to effect such service, but the defendant wilfully neglects to appear or is living out of the jurisdiction in order to defeat and delay his creditors—then, in any of such cases, the court or judge may direct that the plaintiff may proceed in the action in such manner, and subject to such conditions, as to the court or judge shall seem fit, having regard to the time allowed for the defendant to appear being reasonable, and to the other circumstances of the case. It is, however, made a condition precedent to such order, that the court or judge shall be satisfied by affidavit not only with regard to the facts already mentioned, but also that "there is a cause of action which arose within the jurisdiction or in respect of the breach of a contract made within the jurisdiction." With respect to the ulterior proceedings of an action so commenced, and in which an order dispensing with the defendant's appearance has been obtained, the provision proceeds to require that the plaintiff, before he can obtain judgment, shall prove the amount of the debt or damages he claims either before a jury (as on a writ of inquiry) or before a master of the court according to the nature of the case, and as the court or judge may direct.

The present case arose out of the above provision, which it may be remarked, was intended as a substitution for the former unsatisfactory mode of reaching the effects of a defendant resident abroad, which might happen to be in this country through the pressure of a distringas. The order to proceed had been originally made on the terms of *filing* a declaration, and serving the defendant (who resided in California) with a notice to plead in *fifty days*; and it was now sought by the plaintiffs (on the ground that in the meantime the defendant was parting with his property to defeat his creditors), to vary this order by substituting eight days for fifty, and by allowing the notice to plead to be stuck up in the master's office, instead of being served on the defendant. And, moreover, that the plaintiff might be at liberty to sign judgment after proving his case by affidavit, or otherwise, as the master should think fit. This application was made and granted upon the authority of the case of *Firmin v. Perry* (see Law Dig. by Wise & Evans, 5 N. S. p. 1253.) There the defendant, having contracted a debt in England, went to reside in Australia. He was personally served with the proper form of writ, and required to appear in five months; and having made no appearance according to its exigency, the plaintiff then obtained an order to proceed in the terms granted in the present application. It should be remarked, however, that Mr. Justice Willes entertains considerable

doubt whether, in such cases, a declaration can be dispensed with; and he states authoritatively the intention of the framers of the Act to have been, that in all cases where the defendant resides beyond the jurisdiction, and an order to proceed is made under this section, there should be notice of each step given to the defendant, and an opportunity given him to plead to the declaration.

CRIMINAL LAW.

AGENT—MISAPPROPRIATION OF MONEYS, WHEN NOT WITHIN 7 & 8 GEO. 4, c. 27.

Reg. v. May, 9 W. R., C. C. R., 256.

This is an important decision; first, because the species of misappropriation to which it refers is far from uncommon, and second, because it throws considerable doubt upon the case of *R. v. Carr* (Russ. & Ry. 198). The prisoner was an *agent* of several companies or houses of business, or at least was paid by them a commission on all business he could procure for them; and it was his duty to receive payment for the orders he procured, and to hand over any money he might receive for them forthwith. Instead of doing so he, on two occasions on which he had received money for the company, first neglected and then (on demand) failed to hand over the amounts; for which conduct he was prosecuted and convicted at the sessions under the statute of Geo. 4. But the conviction was quashed by the Court of Appeal on the ground that under the circumstances he was not the servant of the company. "He was not," in the words of the Chief Justice of the Queen's Bench, "subject to such control as is necessarily introduced in the relationship between master and servant."

In support of the conviction the case above referred to was chiefly relied on. Then it was held that a commercial traveller is a *clerk* of the house or houses with which he is connected, and for which he takes orders and receives payment of the goods forwarded; and that he can, as such, be guilty of embezzlement. But, as remarked by the court in the present case, an ordinary commercial traveller must obey the orders of the house or houses for which he travels—which distinguishes his position from that of the person then under the consideration of the court; for he was under no control at all. Moreover, the authority of the case of *R. v. Carr* has itself been questioned on the ground of its correctness depending upon the possibility of a man being the *servant* of several masters at one time. See per Parke B. in *Reg. v. Goodbody* (6 Car. & P. 667). It may further be remarked that in *Reg. v. Walker* (27 L. J. M. C. 207) it was held that a man who, being a refreshment house keeper, was also employed by some manufacturers of manure to get orders for their goods and pay over to them the moneys received in payment—the person employed being himself paid by a commission—could not be guilty of embezzlement in the character of a servant. The relationship between the parties was held to be rather that of principal and agent, for the prisoner's only obligation to get orders, was the loss of the commission he would otherwise earn.

Parliament and Legislation.

HOUSE OF LORDS.

Tuesday, Feb. 5.

Her Majesty opened Parliament in person this day, and read her speech from the throne.

The address in answer to the royal speech was moved by the Earl of SEFTON and seconded by Lord LISMORE, and agreed to.

HOUSE OF COMMONS.

Tuesday, Feb. 5.

NEW MEMBERS.

The following gentlemen took the oaths and their seats for the places appended to their names:—Mr. Layard (Southwark); Mr. Moffatt (Honiton), Mr. Hardy (Dartmouth), Mr. Pigott (Reading), Lord Bury (Wick Burghs), Mr. Beaumont (Newcastle), Lord Stanhope (South Notts), Mr. Vyner (Ripon), Mr. Barttelot (West Sussex), Mr. Wyndham (Cumberland), and Mr. Philipps (Pembrokeshire).

NEW WRITS.

On the motion of Mr. BRAND, writs were directed to be

issued for the election of new members for South Wilts, in the room of Mr. Sidney Herbert, who has been called to the Upper House as Lord Herbert; for Bolton, in the room of Mr. Joseph Crook, who has accepted the Chiltern Hundreds; and for Bradford, in the room of Mr. Titus Salt, who has also accepted the Chiltern Hundreds.

On the motion of Sir J. ELPHINSTONE, a new writ was also ordered to issue to elect a member for the county of Aberdeen in the room of Lord Haddo, now Earl of Aberdeen in the peerage of Scotland.

THE BANKRUPTCY AND COPYRIGHT BILLS.

The ATTORNEY-GENERAL gave notice that on Monday next he should move for leave to bring in a Bill to amend the law relating to Bankruptcy and Insolvency, and that on Friday, the 15th inst., he should move for leave to bring in a Bill to amend the law relating to copyright in works of high art.

THE ADDRESS.

Sir E. COLEBROOKE moved the address in answer to her Majesty's speech, which was seconded by Mr. PAGET, and after some discussion agreed to.

Wednesday, Feb. 6.

NEW WRIT.

On the motion of Mr. BRAND, a new writ was ordered to issue for the election of a member for the county of Cork in the room of Mr. Deasy, who has accepted the office of one of the Barons of her Majesty's Court of Exchequer in Ireland.

FORGED TRADE MARKS.

Mr. ROEBUCK said the predecessor of her Majesty's present Attorney-General framed a Bill for the purpose of preventing, as far as possible, the affixing forged and dishonest English trade marks to bad foreign goods. He wished to ask the President of the Board of Trade whether he was prepared to bring in such a measure in the course of the present session.

Mr. GIBSON said the Board of Trade returns for December had been delayed in order to afford time to make up the lading accounts of all cargoes properly appertaining to the year 1860, but they would be laid on the table in the course of a week. With regard to the question of the hon. and learned member for Sheffield, a Bill had been prepared, and would shortly be introduced into the other House of Parliament.

Mr. HADFIELD asked whether any powers would be taken in the Bill to negotiate with foreign states for a reciprocal measure of protection.

Mr. GIBSON said that this Bill was for the purpose of amending the law of England as it now stood in relation to the fraudulent marking of merchandise, and it would attach penalties to the use of trade marks for the purpose of defrauding purchasers of goods. Undoubtedly the Government would be very glad if Englishmen could obtain national treatment in all countries. This country gave foreigners national treatment with reference to trade marks, and as the Bill would render our law more efficient, it might induce other powers to give national treatment to Englishmen in foreign countries.

Thursday, Feb. 7.

CONSOLIDATION OF THE STATUTE LAW OF ENGLAND AND IRELAND.

The SOLICITOR-GENERAL gave notice that on Thursday, the 14th of February, he would move for leave to bring in a Bill to consolidate and amend the Statute Law of England and Ireland relating to offences against the person; and other Bills to consolidate and amend the Criminal Statute Law of the kingdom.

HIGHWAYS.

Sir G. C. LEWIS moved for leave to bring in a Bill for the better management of highways in England. The Bill was substantially the same with that which he brought in last year and which passed the second reading.

Friday, Feb. 8.

NEW MEMBERS.

The Hon. Captain Windsor Clive took the oaths and his seat for Ludlow, in the room of Colonel Percy Herbert, resigned.

Mr. Heygate took the oaths and his seat for Leicester in the room of Dr. Noble, deceased.

MARRIAGE WITH A DECEASED WIFE'S SISTER.

Mr. M. MILNES gave notice that on this day fortnight he would move for leave to bring in a Bill to legalise marriages with a deceased wife's sister.

Correspondence.

CHANCERY "CHAMBERS."

Now that the new system and practice established by the Acts and Orders of 1852 may be said to have been fairly tested, I wish to make some remarks, and suggest what I think would be improvements.

First, I would recommend that the Master of the Rolls, and each of the Vice Chancellors, sit two days a-week in chambers instead of in court. The advantages of this plan would be, that the chief clerks would not be compelled to act judicially. Instead of the judge coming to chambers worn out with court work, and the prospect of judgments to prepare when he gets home, he will come in the morning fresh and ready for his work. Instead of listening to a hurried explanation from a chief clerk, who gives his own view, perhaps omitting what might be urged against it, the judge would hear what all parties have to say. It must be recollected that many clerks of large agency firms, who were versed in the practice before 1852, and many solicitors who attend the judges, do not pretend to be advocates. At present they are hurried into the awful presence of a judge, and standing around him say something that may have relation to the summons more or less; they could tell their story in their own way if they had time; but does a judge at chambers ever listen to a long affidavit if read? I doubt it. I remember a story of a late master, not very remarkable for good temper, and an old managing clerk. The master interrupted the clerk before he had said two words, whereupon the veteran said, "Sir, if you will let me tell my story my own way, I can do so. I do not pretend to be as clever a pleader or advocate as you were" (that, no doubt, was a little bit of soap). Whereupon the generally irate master was calmed, and let the old fellow go on. The judges should let the solicitors sit down, and put them at their ease, so as to discuss the matter quietly in all its bearings; in fact, do what their chief clerks do. A very common objection to this seemingly obvious course (which evidently was contemplated by the Acts) is, that the chief clerks' valuable time would be taken up; but I would dispose of that as I would the objection which would be taken to the judge being obliged to delay his business in court—how will the work be done? It is unimportant, comparatively speaking, that it is done if it is not done properly. The more haste, the less speed. Suppose the hearing of suits is delayed, I do not see that it much matters. One of the judges, and generally another, can at the present time hardly get causes for hearing into his paper to make up the proper complement. I suppose counsel would not like it; but the juniors could in some cases attend the judge in chambers, and the seniors have a little more leisure for drilling or amusement. Surely a counsel with consultations from 9 to 10, in court till 4, and reading briefs till 10, would be glad of a little leisure. Possibly, on a future occasion, I may pursue this subject.

J. C.

The practice now constantly adopted in some of the chambers for the chief clerk not to say at the time of attending a summons, what is to be allowed to the solicitor for attending is very injurious to the London agent. He sends in his agency bill say twice a-year, and charges 6s. 8d. for an attendance; what benefit is it to him to find, when his country client is taxing his bill (as is now so often done), and gets a sixth taken off, making him pay costs of taxing, that 13s. 4d. is allowed, and if he charges 1 guinea, 6s. 8d. is added to the taxings off? And even if his bill is not taxed, everyone is aware of the great awkwardness of making additions to a delivered bill. I submit that what is to be allowed should be stated at the time. If the chief clerk likes to add anything afterwards, well and good. I would recommend solicitors to be very careful to get their attendance noted by the chief clerk, otherwise they will find out, perhaps a year and a half after the attendance, that they have been probably three hours before him for nothing—for not only may another solicitor object that their client ought not to attend, but if they have nothing to say, and say nothing (and perhaps even if they say something), the chief clerk will possibly allow nothing.

A CHANCERY CLERK.

HILARY TERM EXAMINATION.

Notwithstanding Mr. President Pollock's wishing the candidates "a good deliverance" with their examination, I observe that he and his brother examiners found it necessary to "postpone" (in more vulgar language *pluck*), no less than 28 candidates out of the 105 who were examined last term, or more than a quarter of the entire number—in fact, approaching very near to the greatest plucking examination yet known of, viz., Easter Term, 1850, when the proportion of the rejected to the successful candidates was one in every three and a half.

On looking through the questions they do not appear to me to be at all unusually difficult or abstruse ones, as is evidenced by the examiners commending no less than sixteen out of the seventy-seven candidates who passed; so that for the sake of the credit of the "knowledge" of the profession, I will charitably hope that the Christmas gaieties of the past month must have interfered with the unsuccessful candidates' brains, and that by next term it will have worn off, and that they will then amply redeem their present position by appearing in the then list of meritorious (passed) candidates.

Seriously speaking, however, the result of this examination does not speak creditably for the proficiency of the rising generation of articulated clerks, who, it is to be hoped, will not again let such a black list be recorded against them; and though I am not desirous that they should work themselves to death as poor W. D. Lewis literally did (whose obituary so opportunely occurs in the same number of the Solicitors' Journal as the result of this Hilary Term's examination), yet I am desirous that they should remember that unless they sow they cannot expect to reap, and that they will be as surely "known" in after life as is the tree by its fruits.

Bristol, Feb. 4.

LEX.

COSTS OUT OF THE ESTATE.

The recent case of *Wing v. Angrave* (30 L. J., Chy., 65), decided in the House of Lords, is an instance of the loss which may be sustained, in the shape of costs, by a person being named as "a beneficiary" in testamentary documents.

The facts of the case are shortly these. Mr. and Mrs. Underwood, and three infant children, on the 13th of October, 1853, embarked on board the *Dalhousie*, for Australia. The vessel was wrecked, and the passengers and all the crew, except one seaman, perished. Mr. Underwood by his will, dated 4th of October, 1853, bequeathed all his real and personal estate to Mr. Wing, upon trust for his (testator's) wife, and in case she died in his lifetime, then upon trust for his three children, and in case they died under age and unmarried, then to Mr. Wing absolutely, and he appointed his wife and Mr. Wing executors. Mrs. Underwood by her will, dated the same day (made in exercise of a power), bequeathed her real and personal estate to her husband, and in case he died in her lifetime, then to Mr. Wing absolutely, and she appointed her husband and Mr. Wing executors. Mr. Wing proved both wills. There was no evidence whether Mr. or Mrs. Underwood survived the other. It was, no doubt, considered to be immaterial which of them was the survivor, as if Mr. Underwood survived his wife, then her property as well as his own would pass by his will to Mr. Wing absolutely (the trust for the children having failed by their death under twenty-one and unmarried), and if Mrs. Underwood survived her husband, then his property, as well as her own, would pass by her will to Mr. Wing. The law lords held (*disentente* Lord Campbell, L.C.), that in the absence of evidence as to the survivorship, Mr. Wing was not entitled; and they dismissed his appeal without costs, and refused an application that the costs should be paid out of the estate.

C.

COPYHOLDS—PRACTICE.

H. is a tenant on the rolls as trustee for A. A. wishes to have the copyholds surrendered to him, but H. not being able to attend the court, gives a power of attorney to D. to act for him. C. being the solicitor to the lord, and also to H. & D., claims the right to prepare the power for execution by his client; but A.'s solicitor contends that it is his duty to prepare it, although his client is not made a party to it in any way. Can any of your readers say what is the usual practice in such cases?

A SUBSCRIBER.

APPOINTMENT OF NEW TRUSTEES OF CHAPELS.

Your correspondent "A. G. P.," in your number for January 26, does not state upon what points he seeks a judicial deci-

sion. I am not aware of any such decision; but having several times availed myself of the 13 & 14 Vict., c. 38, I have come to the following conclusions:—

1. That the mode of appointing new trustees provided by the Act applies chiefly to cases where there is no power of appointing new trustees in the trust deed, or where the power has lapsed. In such cases the Act is of great service, and saves the heavy expense of resorting to the Court of Chancery.

2. That the Act may also be used where there is an existing power in the deed, but that, in such cases, a short conveyance in the usual way is the better mode of procedure. In either case no enrolment is required, and the stamp and expense would be about the same. The power of appointing new trustees is usually vested in the survivors when reduced to a certain number, but sometimes it is vested in the members of the church, or their consent or concurrence is necessary. In the latter case it must, of course, be seen that the church meeting has been properly convened, and the consent or concurrence properly effected; and evidence of these facts should be preserved to accompany the title deeds.

R. L.

The Provinces.

BIRMINGHAM.—At the half-yearly meeting of the Birmingham Chamber of Commerce, held on the 1st inst., it was announced that, in conjunction with the Chambers of Commerce of Sheffield and other towns, some progress had been made in the preparation of a measure having in view the registration of trade marks, it being in contemplation to introduce a Bill with that object into Parliament in the ensuing session. Upon this question Mr. A. Ryland remarked that the subject had been brought under the notice of the Board of Trade last year by some of the principal Chambers of Commerce in the kingdom, who considered it desirable that some plan for the registration of trade marks should be provided, so that in case of any legal proceedings being instituted, the proof of property in trade marks might be accomplished at a less cost than at present.

DARLINGTON.—Mr. Francis Mewburn, solicitor of this town, has retired from the profession. Mr. Mewburn was solicitor to the first railway company in the kingdom. He became solicitor to the Stockton & Darlington Railway Company in 1817, and continued to hold that office until the period of his retirement at the beginning of the present year.

WEDNESBURY.—At the Wednesbury Police Court, on the 22nd ult., W. Partridge, Esq., stipendiary magistrate, delivered his decision in the following case:—A short time ago the clerk to the Local Board of Health applied that the whole of any fines inflicted upon informations laid by the said board should be paid over to the funds of the board, and not, as theretofore, one half to the Stipendiary Justices' Fund, and the other half to the board. Mr. Partridge then said he would consider the case, as it was one of great importance. He now gave judgment. He said: "In this case, which came before me a few weeks ago, in which the Wednesbury Local Board of Health were the complainants, and in which I adjudged a certain defendant to pay a penalty of £5, for an offence punishable under the provisions of the Public Health Act (1848), the clerk to the above board subsequently applied to me to direct that the penalty so imposed should be paid to the treasurer of the said Local Board instead of to 'The Fee Fund' of the justices for the northern division of the Hundred of Seisdon; and in support of such application cited sec. 24 of the 9 & 10 Vict., c. 65 (the Stipendiary Justices' Act), and also the 11 & 12 Vict., c. 63 (the Public Health Act), s. 133; which last-mentioned Act, after providing that no proceedings for the recovery of any penalty incurred under the provisions of this Act shall be taken by any person other than by a party aggrieved, or the Local Board of Health in whose district the offence is committed, without the consent in writing of her Majesty's Attorney-General, proceeds to enact as follows:—'And if the application of the penalty be not otherwise provided for, one half thereof shall go to the informer, and the remainder to the Local Board of Health of the district in which the offence was committed, provided always that if the said Local Board be the informer, they shall be entitled to the whole of the penalty recovered, and all the penalties or sums recovered on account of any penalty by them shall be paid over to the treasurer, and shall by him be placed to the district fund mentioned in this Act.' Now s. 24 of the 9 & 10 Vict., c. 65, provides as follows:—'And be it enacted, that all

other fines, penalties, and forfeitures, except such as are hereinbefore referred to, and which shall be imposed by such stipendiary justices, either alone or together, with any other justice or justices of the peace for the said county, which are or shall be by any Act made payable to her Majesty or to any person whomsoever, save and except the informer who shall sue for the same, or any party aggrieved, shall be recovered and adjudged to be paid to the treasurer of the public stock of the county of Stafford, and shall be applied in aid or reduction of the general county rate.' Now I am clearly of opinion, first, that the application of the penalty in question is 'otherwise provided for' by the 9 & 10 Vict., c. 65, s. 24; and secondly, that in the section already referred to a broad distinction is drawn between 'a party aggrieved' and the Local Board of Health; and having come to this conclusion, I hold that the Local Board of Wednesbury is not a party aggrieved within the spirit and meaning of the Act, and, consequently, I cannot entertain the application."

Ireland.

THE NEW JUDGE.

Mr. Deasy has been appointed to the vacant seat in the Irish Court of Exchequer. By this appointment a vacancy will occur in the representation of the county of Cork.

THE LEGAL APPOINTMENTS.

It is stated that the official and formal notification has been given to the Solicitor-General (Mr. O'Hagan) and to Mr. Serjeant Lawson, that the former has been appointed Attorney-General and the latter Solicitor-General. The other vacancies have not as yet been filled up, but the names of Messrs. Rolleston, Q.C., Armstrong, Q.C., and Andrews, Q.C., are spoken of for the serjeantcy; and Serjeant Sullivan, Messrs. Hemphill, Q.C., and Barry, Q.C., for the office of law adviser to the castle.

THE IRISH BENCH.

It has been stated that eight out of twelve of the Irish common law judges are Roman Catholics, (including two of the three chiefs)—viz., Chief Justice Monahan (the Chief Baron). Judges O'Brien, Fitzgerald, Ball, and Keogh, and Barons Hughes and Deasy. The new Attorney-General being also a Roman Catholic, it is not improbable that, ere long, the proportion will be increased to three-fourths instead of two-thirds.

MARITIME LAW.—SALVAGE.

On the 28th of May, 1860, a Prussian barque was caught in a fearful hurricane off the coast of Norfolk, and about 70 miles from the port of Great Yarmouth. The captain and four of the crew were washed overboard, and drowned. At 7 a. m. on the 29th of May, the vessel, which was then lying on her broadside with some of the crew still clinging to the wreck, was discovered by Captain Hubbard, the master of the smack "Gihon," of Yarmouth. At the most imminent peril to the lives of himself and crew, Captain Hubbard was enabled to save the lives of the survivors on the wreck. The sufferings of the men he had saved induced Captain Hubbard immediately afterwards to set sail for Yarmouth without attempting to take the barque in tow. The barque and cargo were of considerable value and were shortly afterwards picked up by other vessels and towed to Great Grimsby. Soon after the barque had been taken to that port a claim was made on behalf of the owner master and crew of the "Gihon," for life salvage, under the Merchant Shipping Act, 1854. The parties interested in the Prussian barque declined to pay the life salvage, and proceedings were instituted for its recovery. The cause recently came on for hearing before the Court of Admiralty, when the Court decided against the claim on the ground that the 458th section of the Merchant Shipping Act, which provides for the recovery of life salvage, only extends to cases in which lives are saved within three miles from the shore of the United Kingdom. The case which we have mentioned shews that this section requires amendment.

Foreign Tribunals and Jurisprudence.

FRANCE.—A singular case was recently submitted to the President of the Civil Tribunal of Paris, sitting in chambers. Some time back a literary man named Ludovic was arrested and lodged in prison for the non-payment of a debt of 1,400*fr.* to a restaurateur. He had been cited as a witness before the Correctional Tribunal of Bordeaux in a case which was to be heard on the 31st of January last. By the administrative regulations the only way by which a prisoner can be conveyed from one place to another is by the gendarmerie, from brigade to brigade; but Ludovic represented that it was repugnant to him to be handed over to the gendarmerie as if he were a criminal. He therefore prayed that he might be sent to Bordeaux in custody of a garde-du-commerce, and he offered to pay the travelling expenses both of himself and the man. He also offered as full security to his creditor to deposit 2,000*fr.* in the hands of the garde-du-commerce, subject to the condition of the sum being restored on his being reinstalled in prison. But the President held that, as the law and regulations make no difference between a prisoner for debt and a criminal as to the manner in which they are to be conveyed from one place to another, the application could not be granted.

Reviews.

A Treatise on the Statutory Jurisdiction of the Court of Chancery, with an Appendix of Precedents. By WILLIAM WHITTAKER BARRY, of Lincoln's-inn, Barrister-at-Law. London: V. & R. Stevens & Sons. 1861.

The state of transition in which the jurisdiction and practice of courts of equity have been placed for some years past is strikingly exhibited in the attempts which have been made by text writers to adapt their books to the alterations during the period in question. One of the most remarkable features in the modern works on chancery practice is their departure generally from the old plan of a treatise; in which, under the former state of things, such writers as Nowland, Daniel, and Sidney Smith, exemplified the forms and procedure under which the Court exercised its jurisdiction. For some time after the modern statutes had effected a great revolution in its business, it was discovered that the form of a treatise, or of any systematic and complete work, was unsuitable for the embodiment of what was still very indefinite and unsettled. There was no doubt that much would be modified, if not entirely swept away, by enactments resulting from the experience gained in the working of the first few of the statutes to which we refer, and which were for a while regarded as somewhat tentative and empirical. Thus there sprang up a system of separate editions of each important Act affecting practice, and of grouping, merely according to the requirements of convenience, some Acts which had no other connection. We have also had books which although not affecting to give any complete account of the practice of the Court, included a considerable number or the whole of its General Orders, and of as many recent statutes of importance as practitioners might desire for their ordinary work. The author of the treatise now before us has pursued a middle course, between the manner of the old essayists or treatise writers and of the modern compilers and annotators. On the one hand, he avoids (except in the title of his book, which is hardly correct), every appearance of an attempt at an exhaustive treatment of the subject; and on the other, so far as he has gone, he has adopted the method of a treatise, and presents the information which he has to give, not in the form of mere notes referring to the statutory enactments, but rather in substantive propositions, embodying the effect of the statutes, and of decided cases. There can be no doubt that this form is very much the best for the purpose of those who want to make themselves generally acquainted with the procedure of the court. Mere notes tacked on to the statutes themselves, are certainly very convenient for use in court, or for reference *pro hac vice*; but it is impossible for a student to sit down and read such a work with any comfort; and, therefore, a book like the present was really a desideratum. At all events, nowhere else can be found so clear and intelligible an account in a substantive form of the Trustee Acts of 1850 and 1852, the Lands Clauses Consolidation Act, Sir George Turner's Act, the Trustee Relief Acts, the Infants Settlement and Leases and Sales of Settled Estates Acts, and other statutes under which the Court exercises its special

jurisdiction. The construction of these various Acts, and their practical application, is pretty well settled by more than 1,000 reported cases, of which the *Weekly Reporter* (established in 1852, the year of the Chancery Amendment Acts and Orders) has been the largest contributor. What was wanting to systematize these numerous enactments and decisions, was a book which would not group them both in an arbitrary manner, but which would arrange and co-ordinate them according to their logical sequence. Mr. Barry has successfully attempted this task, and has produced an excellent book on chancery practice for students. One difficulty necessarily attended the exact execution of our author's design. The General Orders of the Court are so interwoven with the statutes conferring jurisdiction upon it, as to make a separate treatment of each extremely difficult. Mr. Barry, therefore, is obliged not unfrequently to refer to the Orders, and sometimes he does so where he was not compelled to do so; while he makes no reference whatever to them in other parts where any author would have introduced them, unless he was bound to exclude them by the design of his work. This is one inconvenience resulting from the restriction imposed by the title of this book. It is hard to define the class of subjects, or points of procedure, which are considered proper to be dealt with by the Legislature only, as distinguished from those which belong to the province of General Orders. In this respect there has been heretofore in truth no nice discrimination, and therefore there is something rather too arbitrary in a scientific treatise confining itself to what is thus, in a great measure, purely accidental. Unquestionably, some of the statutes included in this treatise have descended into comparatively trivial details, such as are usually prescribed by General Orders, while, on the other hand, many of the latter contain rules equally important and arbitrary as those enacted by Parliament. It is unnecessary to cite any illustrations of what we have just observed. So far the title of the work, if taken as indicating its proper scope and design, may fairly be considered as too narrow and restrictive; but also, as we have already intimated, it is open to the further charge of being too comprehensive, when viewed in the light of the author's performance. A book professing to treat of the statutory jurisdiction of the Court of Chancery which omits altogether the Acts of 1852, and the whole of the Winding-up Acts, is either wrongly entitled or very incomplete. The design of Mr. Barry was not to write a treatise upon the statutable jurisdiction of the Court, but upon certain important statutes by which the summary jurisdiction of the Court is greatly extended; and this he has done with care and ability; but yet we should not have felt ourselves justified in abstaining from offering the foregoing remarks upon the misleading title of the book before us.

Mr. Barry has added an appendix of precedents, which appear to have been judiciously selected. We doubt, however, the utility as a general rule of incumbering treatises with precedents. To persons accustomed to the practice of the Court, the precedents contained in this volume cannot be supposed to be of much use. Others, no doubt, may find them very convenient as guides; but Mr. Tripp's Chancery Forms appear to us to be all that such persons require; and we think, moreover, that practical forms and precedents ought to be material for a separate work, rather than of an appendix to every book on the subject to which they may appear to be relevant. The forms contained in Mr. Barry's appendix are well adapted to modern practice, and relate to a great number of different proceedings, and we would have no objection whatever to offer to them if they had not been made a part of his treatise.

The work contains a very complete table of contents and list of cases, and a very good general index.

Lectures Elementary and Familiar on the English Law. By JAMES FRANCILLON, Esq., County Court Judge. Second Series. London: Butterworths. 1861.

Last year we had an opportunity of expressing our entirely favourable opinion of the first series of Mr. Francillon's lectures. The volume then published contained 39 short lectures of a very elementary character, upon a large number of scattered heads of law. The volume now before us purports to be intended as the complement of our English system of jurisprudence. The object of the writer is to impart to a young student some general knowledge of the entire domain of our law, as a preparation for its more severe and elaborate study at some future time. The design of the work not merely encourages but in fact necessitates the most discursive treatment of the topics upon which it touches. It makes any thing like

systematic plan or subjective sequence impossible; and it is hard, in such a book, to prevent subjects which require handling at length from assuming undue proportions when viewed in relation to the entire work. The student therefore must not expect to discover in these lectures any chart or map of the law of England, giving him a cursory view of its entire area and its main landmarks and subdivisions. But he will find in them a great deal of useful and reliable information, which, moreover, is imparted in a very agreeable manner. Although they do not go near exhausting the topics of English law, yet they neatly touch upon and illustrate very many of them sufficiently at all events to prompt the reader to further investigation for himself. Mr. Francillon is a pleasant writer and his notion of elementary law lectures is a happy one. He has got the knack of saying a little about a large subject without misleading his reader by a too absolute statement of propositions—which is one of the commonest faults of text writers who aim at generalization and simplicity. There is a temptation to state doctrines without indicating their endless modifications. From this Mr. Francillon has well escaped, and so far is a safe guide for beginners; to whom we recommend the perusal of his lectures as being not only instructive but entertaining.

The Law Magazine and Law Review for February, 1861. Butterworths.

The Law Magazine for this quarter contains a great variety of interesting matter. It opens with an article upon the trial of Lord Cochrane, in which it attributes the conviction of the renowned Sea-King very much to unintentional unfairness on the part of Lord Ellenborough. We have next a paper on common law pleading of the present day, founded principally upon the recent edition of Mr. Serjt. Stephen's treatise. There are also articles on the prospects of the Admiralty Court, the Bench and Bar of France, Mr. Hare's scheme for the reform of our Parliamentary representation, and other interesting subjects; together with several reviews of new law books, or new editions of old ones; nor must we forget to make special mention of a very interesting contribution towards the biography of the late Mr. Jarman. In the usual chapter on the events of the quarter, there is a vehement, and, in our opinion, a very disrespectful, attack upon the Lord Chancellor, for his recent observations on the practice of judges delivering oral judgments. The writer, who is very severe about what he terms the "bad taste" of the Chancellor, himself exhibits the worst possible taste in the expressions which he has made use of towards one who is not only in the distinguished position of being the head of the legal profession, but who is also unquestionably a great lawyer and most able judge. We have felt compelled by the respect which we owe both to the Lord Chancellor and Vice-Chancellor Wood, to abstain from any observations upon so delicate a subject as that of taste in reference to the question at issue; and the comments contained in the *Law Magazine* fully convince us of the propriety of the course which we adopted.

At the last moment before going to press we have received a printed paper containing a reply to certain strictures in this number of the *Law Magazine*, on Mr. MacLachlan's Treatise on the Law of Shipping. In observance of a rule well understood amongst journalists, we did not feel ourselves to be at liberty to criticise any of the reviews contained in the magazine. We are bound, however, to say that, upon further acquaintance with Mr. MacLachlan's work, we still entertain the high opinion of it, which we expressed in our review some months ago. Nothing stated by the reviewer in the *Law Magazine* induces us to reduce our estimate of the merits of the treatise in question; on the contrary, we think the writer in the *Law Magazine* has made only such a charge of plagiarism against Mr. MacLachlan as might be made against the writer of any large law book that ever was written, and such as there were no particular grounds for making against Mr. MacLachlan.

BIRMINGHAM LAW STUDENTS' SOCIETY.

The annual meeting of the Birmingham Law Students' Society was held on Friday evening, the 1st inst., at the Midland Institute. The Mayor (Arthur Ryland, Esq.) presided, and among the gentlemen present were Messrs. H. W. Tyndall, C. T. Saunders, G. J. Johnson, T. Horton, J. Marigold, C. E. Mathews, H. Neville, Swinden, Balden, J. Chirm, and others (solicitors), honorary members; Mr. Lilly Smith (honorary secretary), and a large number of ordinary members. The chief objects of the Society are the reading and discussing legal works, debating moot points, and accumulating a library;

and its importance, especially to articulated clerks, may be estimated from the report of the committee, read by the honorary secretary, from which it appears, that although the Society has been in existence but little more than twelve years, it possesses a library of upwards of 400 volumes of valuable treatises and digests for the use of the ordinary members as well as for the honorary members, the latter of whom are barristers and solicitors of the town. The total number of members both honorary and ordinary is 175, and notwithstanding the number of members fluctuates from time to time by the draughting to London of those ripe for examination, the average number at least is sustained by the admission of new members. Among the ordinary members who passed their examination last year, the report notices the name of Mr. W. Septimus Harding, who obtained honorary distinction—a feature, as the committee observed, not new to their reports, which for several years past have had to record distinctions awarded to one or more of its members.

After the adoption of the report, and other usual proceedings, the CHAIRMAN delivered the following address:—

The fact that you are members of this society, devoted to the study of the principles and practice of the law, renders it unnecessary for me to say one word as to the importance either of the acquisition of such knowledge, or of the habit of study as distinguished from mere reading. Your society, I am happy to find, truly deserves its name of the *Law Students' Society*. I greatly admire your plan of taking the questions of the examiners, reading them one by one aloud, answering them *vis à voce*, and criticising the answers. In addition to this excellent practice, you discuss moot points. Your library of 400 well-selected volumes acquired in twelve years, is a testimony to the earnestness and wisdom of your predecessors and yourselves. I congratulate you on your possessing these means of knowledge, these incentives to study; and I congratulate our branch of the profession on the augury here afforded for its future reputation: and it is well for the town, too, for the welfare of every community is sensibly affected by the character of its practising solicitors. The few observations which I now address to you shall be directed to other matters than those which form the objects of your society, but which cannot be out of place to law students from one who has had thirty years' experience in the profession into which you are about to enter. I think it is as possible to spoil a Society as it is to spoil a child by praise and petting. I know it is by some considered the correct thing for a president at an annual meeting to devote his address to the glorification of the society. I could find much in your history and present state to justify such a course now, but I have too much regard for you to do so. A yearly repetition of such praises might lead some of your body to imagine that to be a studious and industrious member would insure his being a good lawyer—to look upon office work as drudgery unnecessary to be borne—and to hold cheap certain other qualities because they are not needed peculiarly in the professional man; against this silly blunder I desire to warn you. Be you sure that good and desirable, nay, essential, as is the possession of the knowledge to the acquisition of which you devote yourselves in this Society, such knowledge alone will not make you good lawyers. Much more is needed, and I will tell you what more I think is needed; and my observations and experience have taught me this, that successful lawyers have owed more to the qualities I am about to name than to their knowledge of law, essential although that is. And these qualities are—a habit of steady, persevering application to business; method in everything—in the smallest as the greatest thing—in action and in argument; ability to fix attention on details. This ability and these habits will best be gained by patient and faithful attention to office duties during clerkship. Many other reasons might be adduced why it is good we should bear this yoke in our youth. I warn you, for your own sakes, not to shirk what is called drudgery in the office. I would mention next, as one of the essentials of a good lawyer, the ability to express your thoughts in writing readily, accurately, clearly, and with brevity. The possession of this quality cannot be too earnestly desired. It can be acquired best by study and practice in youth. A knowledge of accounts and commercial mode of procedure is most valuable in our profession, but does not often receive the attention it deserves at the hands of clerks. I now come to qualities of a higher order; they are, a deep sense of responsibility, forgetfulness of our own immediate pecuniary interest, a calm temperament, courage, and an inviolable love of truth. It may be said, all this is very trite, why tell us what is so obvious? I will tell you why I do

so; because I have seen so many failures from a disregard of some of these obviously good qualities. I have seen solicitors of first-rate ability and of great acquirements in legal lore, fail because they loved themselves better than their clients—because their love of gold was greater than their love of truth, than their sense of responsibility, or because their irascible temper was not under due control, or their want of courage occasioned a loss of opportunities. Let me put a case: A client desires to make his will. If you have a proper sense of your responsibility you will ascertain the condition of his family and connections in reference to their dependence upon him, and if his proposed disposition of his property is not in accordance with what you deem to be just, you will advise him accordingly; if he insist on doing what is wrong, you will, if you have courage and forgetfulness of your own immediate pecuniary benefit, you will refuse to make his will. I have referred to a will because I have found less vigilance in making a will by young attorneys than the importance of the occasion requires; but in numberless other cases the qualities to which I have referred should often lead a solicitor to interfere between the intentions and the acts of his clients. Better to lose a client than your own self-respect. How much of our business consists of negotiations; and what tells then? Is not the successful man he who has the calmest temper, the clearest method, and who is known never to depart from the truth, and never to be influenced by a love of personal gain? These qualities will prevent you being the servant of your client. He should be guided by you, not you by him. I have seen much done and bitterly repeated of because the attorneys were either afraid of losing their clients or had the bad habit of regarding themselves simply as their servants. The checking of wrong by preventing the angry passions of offended clients finding vengeance in litigation, by averting unrighteous wills, by refusing to recognise an untrue statement, even if the end proposed to be gained thereby appear to be good—this we may daily do; this we ought never to omit to do; and if we cultivate the qualities I have referred to we shall do. These qualities require cultivation. A man naturally indecisive may, by constant self-watchfulness and self-discipline, become decisive; the irascible and excitable self-controlled and patient; and the careless methodical. The hardest thing to do is to check the love of money, yet this is one of the most important; but this may be done in early life. One word, and I will conclude. Let me warn you against a habit which besets a young lawyer, and if yielded to will interfere with his success quite as much as a want of book-knowledge—a juggling dexterity, cunning, or smartness. It has been well observed in a book I recommend to your study, “*Essays Written during Intervals of Business*,” “That the proper use of dexterity is to prevent you being circumvented by the cunning of others. It should not be aggressive.” A cunning lawyer is disliked by everyone, except by those dishonest people who wish to use him. When you have lived as long as I have, you will find that one rule, which you learned as children, will guide you in determining your advice to your clients. Do not think what will please them, what will secure them as clients, what will put most money into your pockets; but advise them to do that which, if in their position and with your knowledge, you would yourself do—in other words, follow our Saviour's golden rule, “Do unto others as you would have others do unto you.”

An enthusiastic vote of thanks was awarded to the chairman for his great kindness in the chair, and for his excellent and valuable address.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. GEORGE WIROMAN HEMMING, on Equity, Monday, February 11.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, February 15.

University Intelligence.

CAMBRIDGE.

The Professor of Modern History will commence his lectures in the law schools on Monday, February 11, at twelve o'clock, and will continue them on every Monday and Friday till further notice.

Court Papers.**Queen's Bench.**

NEW TRIAL PAPER.—HILARY TERM, 1861.

Surrey. Havill v. Amber.

Common Pleas.

NEW CASES.—HILARY TERM, 1861.

NEW TRIAL PAPER.

Middlesex. Cox v. Matthewa,
Lloyd v. Piper.**Spring Circuits of the Judges, 1861.**

BRAMWELL, B., will remain in town.

Midland.

Sir A. E. COCKBURN, Bart., and CROMPTON, J.

Oakham, Wednesday, February 27; Northampton, Thursday, 28; Leicester and borough, Monday, March 4; Nottingham and town, Thursday, 7; Lincoln and city, Tuesday, 12; Derby, Saturday, 18; Warwick, Thursday, 21.

Home.

Sir W. ERLE and WIGHTMAN, J.

Hertford, Thursday, February 28; Chelmsford, Tuesday, March 5; Maidstone, Monday, 11; Lewes, Monday, 18; Kingston, Saturday, 23.

Norfolk.

Sir F. POLLOCK and WILLIAMS, J.

Aylesbury, Monday, March 4; Bedford, Friday, 8; Huntingdon, Tuesday, 12; Cambridge, Thursday, 14; Bury St. Edmunds, Tuesday, 19; Norwich and city, Saturday, 23.

Western.

MARTIN, B., and WILLES, J.

Winchester, Thursday, February 29; Dorchester, Wednesday, March 6; Exeter and city, Saturday, 9; Bodmin, Friday, 15; Taunton, Tuesday, 19; Devizes, Monday, 25; Bristol, Thursday, 28.

North Wales.

CHANNELL, B.

Welchpool, Wednesday, March 13; Bala, Saturday, 16; Carnarvon, Tuesday, 19; Beaumaris, Friday, 22; Ruthin, Monday, 25; Mold, Thursday, 28; Chester and city, Saturday, 30.

South Wales.

BYLES, J.

Haverfordwest and town, Saturday, February 23; Cardigan, Thursday, 28; Carmarthen, Monday, March 4; Swansea, Friday, 8; Brecon, Thursday, 21; Presteign, Wednesday, 27; Chester and city, Saturday, 30.

Northern.

HILL, J., and KEATING, J.

Lancaster, Saturday, February 16; Appleby, Wednesday, 20; Carlisle, Friday, 22; Newcastle and town, Wednesday, 27; Durham, Saturday, March 2; York and City, Thursday, 7; Liverpool, Thursday, 21.

Oxford.

BLACKBURN, J., and WILDE, B.

Reading, Thursday, February 28; Oxford, Monday, March 4; Worcester and City, Thursday, 7; Stafford, Monday, 11; Shrewsbury, Wednesday, 20; Hereford, Monday, 25; Monmouth, Thursday, 28; Gloucester and City, Tuesday, April 2.

Births, Marriages, and Deaths.**BIRTHS.**

BLAKE—On Jan. 28, at Croydon, the wife of Alfred G. Blake, Esq., Solicitor, of a daughter.

COUCHMAN—On Jan. 23, at Henley-in-Arden, the wife of T. B. Couchman, Esq., Solicitor, of a son.

GARRETT—On Jan. 27, at Dunesk, Malone, Belfast, the wife of Thomas Garrett, Esq., Solicitor, of a daughter.

GAWLER—On Nov. 9, 1860, at Adelaide, South Australia, the wife of Henry Gawler, Esq., Barrister-at-Law, of a son.

HAYNES—On Jan. 31, the wife of Freeman Oliver Haynes, Esq., of Lincoln's-inn, Barrister-at-Law, of a daughter.

HITCHCOCK—On Jan. 29, at Dublin, the wife of Henry Hitchcock, Esq., Solicitor, of a daughter.

KEKEWICH—On Feb. 6, the wife of Arthur Kekewich, Esq., Barrister-at-Law, of a daughter.

MOSSOP—On Feb. 3, the wife of Charles Mossop, Esq., Solicitor, 60, Moor-gate-street, of a daughter.

PATTEN—On Feb. 2, the wife of James Coverdale Patten, Esq., Barrister-at-Law, prematurely, of a daughter.

MARRIAGES.

BAKER—CORNWELL—On Feb. 5, Henry Baker, Esq., Solicitor, of Bishop Stortford, to Emma Adelaide, daughter of John Carter Cornwell, Esq., of same place.

BERRIDGE—WOODWARD—On Jan. 31, Isaac Berridge, Jun., Esq., Solicitor, Beccles, Oxon, to Jane, daughter of the late George Woodward, Esq., Surgeon, of the same place.

BROOKS—TABOR—On Feb. 2, Henry Brooks, Esq., Barrister-at-Law, son of Robert Brooks, Esq., M.P., of Woodcote-park, Surrey, to Fanny Clifton, daughter of the late Charles William Tabor, Esq., of Russell-square.

MOURILYAN—On Jan. 26, Mary, the wife of Joseph N. Mourilyan, Esq., Solicitor, Sandwich, Kent.

SHEPPARD—Lately, at Wells, R. Sheppard, Esq., Solicitor, aged 61.

TEMPLE—CHITTY—On Feb. 2, T. R. S. Temple, Esq., of Lincoln's-inn, Barrister-at-Law, to Henrietta, daughter of the late Joseph Chitty, Esq., Jun., of the Middle Temple.

DEATHS.

CAZENOVE—On Jan. 27, at New Brighton, aged 77, Mr. Casenove, one of the Official Assignees of the Liverpool Bankruptcy Court.

LYDDON—On Jan. 30, at Folkestone, Richard Lyddon, Esq., Solicitor, aged 62.

PRETTY—On Oct. 29, 1860, at Maryborough, Australia, from the effects of a railway accident in England, Henry Granger Pretty, Esq., Solicitor.

TUDOR—On Feb. 4, in his sixth year, William James, son of O. D. Tudor, Esq., Barrister-at-Law.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	233	Shrs. Ditto A. Stock	105
3 per Cent. Red. Ann..	91	Stock Ditto B. Stock	124
3 per Cent. Cons. Ann..	91	Stock Great Western	69
New 3 per Cent. Ann..	91	Stock Lancash. & Yorkshire ..	116
New 2½ per Cent. Ann..	92	Stock London and Blackwall..	64
Consols for account ..	92	Stock Lon. Brighton & S. Coast	116
India Debentures, 1858.	95	Stock Lon. Chatham & Dover ..	80
Ditto 1859.	95	Stock London and N.-Westm..	100
India Stock	218	Stock London & S.-Westm..	94
India 3 per Cent. 1859..	99	Stock Man. Sheff. & Lincoln..	51
India Bonds (£1000) ..	99	Stock Midland	121
Do. (under £1000).....	99	Stock Ditto Birm. & Derby ..	106
Exch. Bills (£1000)....	par.	Stock Norfolk	84
Ditto (£500).....	dis. 3	Stock North British	66
Ditto (Small) ..	dis. 1	Stock North-Eastn. (Brwck.)	104
RAILWAY STOCK.		Stock Ditto Leeds	61
Shrs. Stock Birk. Lan. & Ch. June.	82	Stock Ditto York	92
Stock Bristol and Exeter....	101	Stock North London	103
Stock Cornwall	64	Stock Oxford, Worcester, & Wolverhampton ..	50
Stock East Anglian	16	Stock Shropshire Union	40
Stock Eastern Counties	50	Stock South Devon	40
Stock Eastern Union A. Stock	39	Stock South-Eastern	85
Stock Ditto B. Stock	28	Stock South Wales	82
Stock Great Northern	111	Stock S. Yorkshire & R. Dun	100
		Stock Stockton & Darlington	43
		Stock Vale of Neath	68

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

COWARD, Rev. WALTER SCOTT, of Spanish-town, Jamaica, and ANNE EMILY COWARD, his wife, £1,343 ss. Consols.—Claimed by WALTER SCOTT VIDAL COWARD, administrator of Rev. Walter Scott Coward, who was the survivor.

CREAK, MARGARET, Spinster, St. Andrew's, Norwich, £12,000 Consols.—Claimed by ANN GILBERT, Widow, the Administratrix with the will annexed of the said Margaret Creak.

OASTLER, JONAH, Gent., of Bermonsey, and WILLIAM MORTIMORE, Gent., St. Mary-axe, £1,568 12s. 7d. Consols.—Claimed by the said JONAH OASTLER.

OWEN, ELIZABETH, Spinster, Gastigny-place, St. Luke's, £14 8s. Consolidated Long Annuities.—Claimed by ANN OWEN, Widow, and JOHN WHITING, the administrators of the said Elizabeth Owen.

PINDAR, The Right Hon. JOHN REGINALD, Earl Beauchamp, Madresfield Worcestershire, trustee to the Rev. Reginald Pindar, £196 19s. 6d. Consols.—Claimed by the Hon. CHARLES GRANTHAM SCOTT, SUPAN,

KITCHENS, wife of Joseph Kitching, and the Rev. THOMAS PHILLIPS, the Executors of the said Earl Beauchamp.
 YOUNG, MARY, Widow, Wareham, Dorset, £1,030 New Four per Cents.—Paid to WILLIAM YOUNG, the surviving executor, who has claimed the same.

Heirs at Law and Next of Kin.

Advertised for in the London Gazette and elsewhere.

DALTON, WILLIAM, formerly Master of the Blue Coat School, Oxmantown, Dublin. Next of kin to apply to Messrs. Fletcher and Meade, Foster-place, Dublin.
 READERS, SUSANNAH, late of 15, Alma-terrace, Lilford-road, Camberwell, in the county of Surrey, Spinster, who died there on or about the 3rd day of November, 1860. Next of kin to apply to the Solicitor to the Treasury, Whitehall.
 WILLIAMS, JOHN HENRY, late of Ipswich, in the county of Suffolk, who died there on or about the 11th day of March, 1850. Next of kin to apply to the Solicitor to the Treasury, Whitehall.

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, Feb. 6, 1861.

CLARKE, EDWARD, & HENRY EARLE, Attorneys & Solicitors, 29, Bedford-row, Holborn, Middlesex, by mutual consent. Feb. 2.
 JACKSON, HENRY, & WILLIAM THOMAS TRAVIS, Attorneys & Solicitors, Westbromwich, Staffordshire (Jackson & Travis), by mutual consent. Jan. 1.
 PULLEY, WILLIAM, & D. CLARKE, Attorneys & Solicitors, High Wycombe, Buckinghamshire (Pulley & Clarke), by mutual consent. Jan. 31.

FRIDAY, Feb. 8, 1861.

HARDISTY, EDWARD RAYDOES, & ARTHUR GOODRICH, Attorneys-at-Law & Solicitors, 43, Great Marlborough-street, Middlesex (Hardisty & Goodrich); by mutual consent. Dec. 31.

Windings-up of Joint Stock Companies.

TUESDAY, Feb. 5, 1861.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY (REGISTERED).—Petition to wind up, presented January 31, will be heard before V.C. Kindersley, on February 15. Warry, Robins, & Burges, Solicitors, 70, Lincoln's-Inn-fields.

LIMITED IN BANKRUPTCY.

UNION DISCOUNT COMPANY (LIMITED).—A petition to wind up, presented 25th January, will be heard before Mr. Commissioner Evans, Basinghall-street, on Feb. 12, at 1.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Feb. 5, 1861.

ADRY, STEPHEN, Esq., 11, Harwood-square, Middlesex. Leman & Co., Solicitors, 51, Lincoln's-inn-fields. Feb. 28.
 BARKER, JOSHUA, Gent., Thorne's-lane, Wakefield, Yorkshire. Whitham, Solicitor, Wakefield. July 1.
 CHAMPION, JOHN, Captain, Mine Agent, Newlyn, Cornwall. Chilcott, Solicitor, Truro. March 30.
 GREGORY, GEORGE, Esq., Harlaxton Manor House, Harlaxton, Lincolnshire. J. B. Andrews, Esq., Cannon-gate, Hythe, Kent, and W. Taylor, Esq., Hadley Hurst, near Barnet, Hertfordshire, Executors. March 30.
 FITCHCOCK, MARTHA, Widow, formerly of Exeter, late of Clifton, Bristol. Domville, Lawrence, & Graham, Solicitors, 6, New-square, Lincoln's-inn. April 6.
 LOUD, GEORGE HENRY, Gent., Herne Bay, Kent. Furley & Callaway, Solicitors, Canterbury. March 5.
 MOYLE, ELIZABETH, Widow, Penzance, Cornwall. Edmonds, Solicitor, Penzance. May 1.
 NICHOL, WILLIAM, Wine Merchant, 9, Raneemoody-gully, Calcutta, East Indies. Cowdell & Boyce, Solicitors, 21, Abchurch-lane, London. June 30.
 POPE, GEORGE, Gent., Kingston Doverhill, Wilts. T. Pope, Gent., Horningsham, Wilts, and W. Neale, Gent., Yeovil, Somersetshire, Executors. March 1.
 POTTER, JOHN, Farmer, Hunsingore, Yorkshire. S. A. Potter, Widow, Hunsingore, T. G. Hartley, Painter, York, and W. Atkinson, Farmer, Kirk Deighton, Executors. April 1.
 PRYOR, CATHERINE, Widow, 28, Regency-square, Brighton. Warry, Robins, & Burges, 70, Lincoln's-inn-fields, Middlesex. March 1.
 QUESTED, ELIZABETH, Widow, Sandgate, Kent. J. V. Bean, Farmer, Executor, Inbgate, near Hythe, Kent. May 1.
 STEPHENSON, JAMES, Gent., Gainsborough, Lincolnshire. Heaton & Oldman, Solicitors, Gainsborough. March 25.
 SYDDALL, ANN RHODES, Spinster, Tunbridge Wells, Kent. Spratt, Solicitor, Mayfield, Sussex. May 1.

FRIDAY, Feb. 8, 1861.

DOULTON, JAMES, Licensed Victualler, King George Tavern, Philadelphia-street, St. Paul, Bristol. Nash, Solicitor, 6, John-street, Bristol. March 4.
 BRUCE, JAMES, Esq., 19, Pentonville-road, Middlesex. Hoppe & Boyle, Solicitors, 3, Sun-court, Cornhill. March 25.
 BURGESS, STEPHEN, Farmer, Grazier, & Salesman, Westbrook, Lydd, Kent. Stringer & Son, Solicitors, New Romney, Kent. March 1.
 CLARK, THOMAS, Accountant, 4, York-road, Montpellier, Bristol. J. & H. Livett, Albion-chambers, Small-street, Bristol. April 15.
 GREEN, PHILIP JAMES, Esq., Notting-hill, Kensington, Middlesex, and of Great St. Helens, London. Barnes & Bernard, Solicitors, 2, Great Winchester-street, London. March 18.
 GREGORY, GEORGE, Esq., Harlaxton Manor-house, Harlaxton, Lincolnshire. White, Borrett & White, Solicitors, 6, Whitehall-place, Westminster. March 30.
 GUNDY, WILLIAM, Shoe Maker to her Majesty, 1, Soho-square, Middlesex. Parker, Rooke, & Parkers, Solicitors, 17, Bedford-row. April 6.
 HOWSHIP, ELIZABETH, Melcombe Regis, and Preston, Dorsetshire. Howard, Solicitor, 35, St. Thomas-street, Melcombe Regis. March 18.
 JENKINSON, JAMES, Gent., formerly of 126, Grange-road, Bermondsey, Surrey, but late of William-street, Neate-street, Old Kent-road. John & Walter Butler, Solicitors, 191, Tooley-street, London-bridge. April 6.
 LABREY, THOMAS, Tea Dealer, Manchester. Cooper & Sons, Solicitors, 44, Pall Mall, Manchester. April 8.
 LATTER, LAWRENCE, Farmer, Earl's Farm, Wadhurst, Sussex. Bam, Solicitor, Mayfield, Sussex. March 25.
 LEWIS, WILLIAM, Tanner, formerly of St. Mary-le-strand-place, Old Kent-road, but late of Portland-terrace, New Kent-road, and of Upper Russell-street, Bermondsey, Surrey. John and Walter Butler, Solicitors, 191, Tooley-street, London-bridge. April 6.
 MARSHALL, WILLIAM, Tailor, 134, Regent-street, Saint James, Westminster, Middlesex. Routh, Howden, & Stacey, 14, Southampton-street, Bloomsbury, Solicitors, Middlesex. Dec. 20.
 MEDHURST, JOHN VINCENT, Surgeon, Hurstbourne Tarrant, Southampton. Earle & Smith, Solicitors, Andover. April 16.
 NEWMAN, JOHN, Optician and Philosophical Instrument Maker, 26, High-street, Camden Town, Saint Pancras, Middlesex, and 122, Regent-street, Saint James, Westminster. Rye, Solicitor, 16, Golden-square, Westminster. April 8.
 WALLIS, HENRY, Market Gardener, Five Fields, Ealing, Middlesex. Seap, Solicitor, 2, Middle Temple-lane, London. April 27.
 WEBB, JOHN, Yeoman, Fetcham, Surrey. Druce & Sons, Solicitors, 10 Billiter-square, London. April 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Feb. 5, 1861.

AYERS, CHARLES, late of Nelson, New Zealand. Ayers v. Ayers, V. C. Kindersley. Nov. 5.
 BATLEY, WILLIAM, Shopkeeper, Great Yarmouth. Jackson v. Batley, V. C. Stuart. March 5.
 CHUNE, JOSEPH, sen., Timber Merchant, Coalbrookdale, Salop. Lloyd v. Chune, V. C. Stuart. March 11.
 FYRE, GEORGE, Grocer, Handsworth Woodhouse, Yorkshire. Eyre v. Gray, M. R. March 2.
 GREGORY, FREDERICK WILLIAM SMITH, Brick Manufacturer, Fordington, Dorsetshire. Lock v. Gregory, V. C. Kindersley. March 5.
 HARTWELL, LUCY, Tobacconist, Chichester. Richardson v. Le Feaux, M. R. Feb. 22.
 INGOLDBY, CHRISTOPHER, sen., Louth. Abbott v. Ingoldby, V. C. Stuart. March 4.
 KRAUTLER, WILLIAM, Merchant, Cornwall-terrace, Regent's-park, Middlesex, and of Angel-court, Throgmorton-street, London. Krautler v. Merville, V. C. Stuart. Feb. 21.
 MASON, WILLIAM, Innkeeper, Smith, & Wheelwright, Colchester, Essex. Gall v. Dearn; Gall v. Dearn, V. C. Wood. Feb. 28.
 PETTINGALL, EDWARD, Major-General in her Majesty's Indian Army Oriental Club, Hanover-square, Middlesex. Inman v. Hawes, V. C. Stuart. March 1.

FRIDAY, Feb. 8, 1861.

BLAKE, SIR FRANCIS, Baronet, Tilmouth-park and Twisel-castle, Northumberland. Skele v. Blake, M. R. March 2.
 CAVE, WILLIAM, 26, Rathbone-place, Oxford-street, Middlesex. Cave v. Cave, V. C. Wood. Feb. 28.
 LEE, JOHN, Machine Maker, Alderley-edge, Chester. Elce v. Elce, M. R. March 7.
 GRESHAM, WILLIAM RUSHTON, Pawnbroker and Salesman, formerly of Nottingham, and late of Sheffield, Bedfordshire. Nodes v. Wing, V. C. Wood. Feb. 28.
 HALES, THOMAS, Gent., 23, Stanhope-street, Bath. Hales v. Cox, M. R. March 4.
 MANCHEE, JOHN, Gent., Cliff-terrace, Margate, Kent. Manchec v. Kay, V. C. Stuart. March 11.
 NIELL, WILLIAM VANDERBARS, Gent., Lower Green, Speldhurst, Kent. Mills v. Alleyne, V. C. Stuart. March 16.
 TODD, JOHN, Farmer, Fornest, St. Peter, Norfolk. Todd v. Simpson, M. R. March 4.

WALLIS, CHRISTOPHER, Surgeon, Litcham, Norfolk. Beck v. Batterham, V. C. Wood. March 2.

Assignments for Benefit of Creditors.

TUESDAY, Feb. 5, 1861.

ASHDOWN, JOHN, Miller, North-street, Kellingby, Sussex. Sol. Slinnch, Hailsham. Jan. 23.
 BAILEY, JAMES, Joiner, Liverpool. Sols. Avison & Radcliffe, 18, Cook-street, Liverpool. Jan. 31.
 COCK, WILLIAM, Victualler, St. Breock, Cornwall. Sols. Symons & Son, Wadebridge. Feb. 1.
 DAVIES, WILLIAM, Shopkeeper, Blaenavon, Monmouthshire. Sol. Blakey, Newport. Jan. 7.
 FRANK, JAMES, Tailor & Outfitter, Stockton, Durham. Sol. Thompson, Stockton. Jan. 25.
 FUNNELL, JOHN BARNES, Grocer & Cheesemonger, Hastings. Sol. Heathfield, 19, Lincoln's-inn-fields. Jan. 21.
 JONES, HENRY, Draper, Grocer, & General Shopkeeper, Bulkeley-square, Llangefni, Anglesea. Sol. Owen, Llangefni. Jan. 28.
 PARKER, THOMAS, Draper, Strangeways and Deansgate, Manchester. Sols. Sale, Worthington, Shipman, & Seddon, Manchester. Jan. 23.
 PEARCE, JONATHAN, Glass Cutter & Paper Hanger, 9, Westbourne-grove, Bayswater, Middlesex. Sols. Wild & Barber, 104, Ironmonger-lane, Cheapside. Jan. 9.
 RAYSELL, GEORGE JOSEPH, & PADDON, GEORGE, Jewellers & Watchmakers, Boston, Lincolnshire. Sol. York, Boston. Jan. 26.
 ROBERTS, WILLIAM, Linen Draper, Swansea, Glamorganshire. Sols. Surr & Gribble, 12, Abchurch-lane. Jan. 25.
 WALTON, WILLIAM, Farmer, Somerton, Somersetshire. Sols. Welch & Estlin, Somerton. Jan. 26.
 WOOD, GEORGE, jun., Farmer, Farnborough Hall, Farnborough, Kent. Sols. Essel, Knight, & Arnold, The Precinct, Rochester. Feb. 1.

FRIDAY, Feb. 8, 1861.

ABBOTT, JOHN, Blackburn, and GEORGE ABBOTT, Blackburn. Jan. 18. Sols. Sale, Worthington, Shipman, & Seddon, Manchester.
 BULL, DANIEL GINGELL, Cheesemonger, 63, Aldergate-street, London. Feb. 4. Sol. Taylor, Fenchurch-street, London.
 COUNT, CHARLES, Farmer, Rayleigh, Essex. Jan. 31. Sol. Woodard, Billericay, Essex.
 CROSBY, WILLIAM, Boot-maker, Chester. Feb. 2. Sol. Ford, 2, Grosvenor-street, Chester.
 DORSON, TOM HENRY, Draper, Hexham, Northumberland. Dec. 23. Sol. Stokoe, Hexham.
 DUNN, CHARLES, Cordwainer, Canterbury. Feb. 5. Sol. Wilkinson, 16, Best-lane, Canterbury.
 FRANT, ROBERT, Export Oilman, 13, Bishopgate-street Without, London. Jan. 24. Sols. Philp & Son, 26, Bucklersbury, London.
 LAWBRACE, EDWIN, China and Glass Dealer, High-street, Clapham, Surrey. Jan. 17. Sol. Greig, 2, Verulam-buildings, Gray's-inn, Middlesex.
 ROBINSON, HENRY WILLIAM, Hardwareman, 25, Crosby-row, Walworth, Surrey. Jan. 8. Sol. Bell, 102, Lendenhall-street.
 ROSECOE, ROBERT, Mercer and Engine Driver, Castle-street, Shrewsbury. Dec. 31. Sols. Norton & Davies, 4 and 5, Talbot-chambers, Shrewsbury.
 SMITH, WILLIAM JOHN, Builder, Chigwell, Essex. Jan. 29. Sols. Gepp & Veley, Chelmsford.
 THATCHER, JOHN, Baker, Lambourn, Berkshire. Jan. 28. Sol. Rowland, Hungerford.

Bankrupts.

TUESDAY, Feb. 5, 1861.

ALCOCK, JOHN, Printers' Joiner, 15, Fuller-street, St. Matthew Bethnal Green, Middlesex. Com. Evans: Feb. 14, at 11; and March 19, at 12; Basinghall-street. Off. Ass. Bell. Sols. May & Son, Solicitors, 2, Princes-street, Spitalfields. Pet. Jan. 24.
 BARTON, GEORGE, Draper & Haberdasher, Cromford, and also of Bonsall, Derbyshire. Com. Sanders: Feb. 19, and March 14, at 11.30; Nottingham. Off. Ass. Harris. Sol. Richardson, Manchester. Pet. Feb. 2.
 BICKLEY, JOHN, Grocer, Confectioner and Provision Dealer, Burton-upon-Trent, Staffordshire. Com. Sanders: Feb. 22, and March 15, at 11; Birmingham. Off. Ass. Kinnear. Sols. Potter & Crump, Walsall. Pet. Feb. 1.
 BROOKSBANK, JOHN, Brush Board Cutter, 33, King-street, Clerkenwell, Middlesex. Com. Evans: Feb. 14, at 11.30; and March 19, at 11; Basinghall-street. Off. Ass. Bell. Sol. Cart, 7, South-square, Gray's-inn. Pet. Feb. 1.
 BURTON, WILLIAM, Butcher, Liverpool. Com. Perry: Feb. 15, at 12; and March 8, at 11; Liverpool. Off. Ass. Turner. Sol. Jones, 44, Castle-street, Liverpool. Pet. Feb. 1.
 CAIRNS, CHARLES, Bonded Store & Provision Merchant, Newport, Monmouthshire. Com. Hill: Feb. 19, and March 19, at 11; Bristol. Off. Ass. Acraman. Sol. Blakey, Newport, Monmouthshire. Pet. Jan. 30.
 DAVID, MORGAN WILLIAM, Draper and Grocer, Aberaman, Glamorganshire. Com. Hill: Feb. 19, and March 19, at 11; Bristol. Off. Ass. Miller. Sol. Henderson, Bristol. Pet. Jan. 17.
 HAGENBUCH, JOHN MELCHIOR, Trimming Dealer and Agent, 8, Addle-street, Aldermanbury, London. Com. Fane: Feb. 15, and March 15, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sol. Billing, 33, King-street, Cheapside. Pet. Feb. 4.

HAYES, MARK, jun., Tea & General Dealer, Staines-road, Hounslow, Middlesex. Com. Evans: Feb. 15, at 12.30; and March 19, at 1; Basinghall-street. Off. Ass. Johnson. Sol. Kent, 11, Cannon-street, West, London. Pet. Feb. 4.

KIRK, WILLIAM, Wholesale Milliner, Birmingham. Com. Sanders: Feb. 20, and March 25, at 11; Birmingham. Off. Ass. Whitmore. Sol. Smith, Birmingham. Pet. Jan. 25.

LE MARC, JOSHUA, & WILLIAM CLOSE CURRIE, Merchants & Commission Agents, 9, Broad-street-buildings, London (J. Le Marc & Co.) Com. Goulburn: Feb. 18, at 2; and March 20, at 11; Basinghall-street. Off. Ass. Pennell. Sols. Reed, 2, Gresham-street, London; or Sale, Worthington, Shipman, & Seddon, Manchester. Pet. Dec. 29.

M'ILLAN, ALEXANDER, & WILLIAM BLACKBURN, Woollen Warehouseman, Star-court, Bread-street, Cheapside, London. Com. Evans: Feb. 14, at 11; and March 14, at 12; Basinghall-street. Off. Ass. Johnson. Sols. Blakeley & Stone, 26, Nicholas-lane; or Settle, Leeds. Pet. Jan. 23.

PARKER, EDWIN, Currier & Leather Seller, Gloucester. Com. Hill: Feb. 19, and March 19, at 11; Bristol. Off. Ass. Acraman. Sol. Wilkes, Gloucester. Pet. Feb. 1.

PENN, BENJAMIN, & JOHN ATTWELL, Uae Iron Manufacturers, Tipton, Staffordshire. Com. Sanders: Feb. 21, and March 14, at 11; Birmingham. Off. Ass. Whitmore. Sols. Caddick, Westbromwich; or James & Knight, Birmingham. Pet. Jan. 24.

SKINNER, AMBROSE, Coach Builder & Harness Maker, Camberwell-green, Lambeth, and Denmark-hill, also of Dulwich, Surrey. Com. Goulburn: Feb. 18, at 11; and March 18, at 1; Basinghall-street. Off. Ass. Pennell. Sol. May, 67, Russell-square, London. Pet. Jan. 30.

WHITAKER, WILLIAM, Merchant, Bradford, Yorkshire. Com. West: Feb. 14, and March 15, at 11; Leeds. Off. Ass. Young. Sols. Taylor & Jeffrey, Bradford; or Blackburn & Son, Leeds. Pet. Jan. 22.

FRIDAY, Feb. 8, 1861.

ASHWORTH, HARDEL, Machine Broker & Cotton Manufacturer, Dukinfield, Cheshire. Com. Jemmett: Feb. 20 & March 13, at 12; Manchester. Off. Ass. Fraser. Sols. Darnton & Graves, Ashton-under-Lyne, or Sale, Worthington, Shipman, & Seddon, Manchester. Pet. Feb. 6.

BARRATT, THOMAS, Timber Merchant & Builder, Market Drayton, Salop. Com. Sanders: Feb. 23 & March 15, at 11; Manchester. Off. Ass. Kinnear. Sols. Hodgson & Allen, Birmingham, or Warren, Market Drayton. Pet. Feb. 7.

BENT, JOHN, jun., Grocer, Provision Dealer, Auctioneer, & Valuer, Dudley, Worcestershire. Com. Sanders: Feb. 21 & March 14, at 11; Birmingham. Off. Ass. Kinnear. Sols. James & Knight, Birmingham, or Wood, Dudley. Pet. Feb. 2.

BOOTH, EDWIN, Millster, Prior's Lee, near Shiffnal, Salop. Com. Sanders: Feb. 21 & March 14, at 11; Birmingham. Off. Ass. Whitmore. Sols. H. & J. E. Underhill, or Langman, Wolverhampton, or Hodgson & Allen, Birmingham. Pet. Feb. 7.

CALVERT, JONATHAN FIELDING, Draper, Blackburn, Lancashire. Com. Jemmett: Feb. 20 & March 13, at 12; Manchester. Off. Ass. Fraser. Sols. Sale, Worthington, Shipman, & Seddon, Manchester. Pet. Jan. 29.

CURTIS, EDWIN, Dealer in American Goods, 164, Strand, Middlesex (E. Curtis & Co.) Com. Goulburn: Feb. 18, at 1, & March 20, at 12.30; Basinghall-street. Off. Ass. Pennell. Sols. Allen, Nicol, & Allen, 80, Queen-street, Cheapside, London. Pet. Jan. 29.

DAVIS, WILLIAM POPHAM, Slate & Marble Merchant, Dealer in Bricks, Cement, & Pottery, Cardiff, Glamorganshire. Com. Hill: Feb. 19 & March 19, at 11; Bristol. Off. Ass. Miller. Sol. O'Donoghue, Shannon-street, Bristol. Pet. Feb. 6.

DENTON, JOHN, WILLIAM DENTON, & JOHN DENTON, jun., Builders & Brickmakers, Dartmouth-park, Forest-hill, Kent (John Denton & Sons), Com. Fane: Feb. 21 & March 22, at 11; Basinghall-street. Off. Ass. Cannan. Sols. Plews & Boyer, 14, Old Jewry-chambers, Old Jewry. Pet. Feb. 5.

DEMCOE, FRANCIS CONSTANTIN JOHN, Beerseller, Canteen, Northampton. Com. Fonblanque: Feb. 19, and March 20, at 1.30; Basinghall-street. Off. Ass. Stansfield. Sols. Harrison & Lewis, 6, Old Jewry, London; and Shield, Northampton. Pet. Jan. 29.

DUNN, WILLIAM, Grocer & Beerseller, Burslem, Stafford. Com. Sanders: Feb. 22, and March 15, at 11; Birmingham. Off. Ass. Whitmore. Sol. Litchfield, Newcastle-under-Lyme; or James & Knight, Birmingham. Pet. Feb. 4.

GOLDSCHMIDT, EDWARD, & HERMANN BOAS, Wholesale Stationers, Nottingham (Edward Goldschmidt & Co.) Com. Sanders: Feb. 21, and March 14, at 11.30; Nottingham. Off. Ass. Harris. Sol. S. R. P. Shilton, Nottingham. Pet. Feb. 5.

HUNT, JACOB, Cotton Manufacturer, Stockport. Com. Jemmett: Feb. 27; and March 20, at 12; Manchester. Off. Ass. Hernaman. Sols. Earle, Son, Hoppes, & Orford, Prince's-street, Manchester. Pet. 4.

RILEY, JOHN, Iron Founder & Machine Maker, Blackburn. Com. Jemmett: Feb. 19, and March 12, at 12; Manchester. Off. Ass. Pott. Sol. Pankhurst, Manchester. Pet. Feb. 5.

SHIPLEY, JOHN GEORGE, Saddler & Harness Maker, and also being Joint Proprietor of the Sporting Life and Eclipse Newspapers, and Sole Proprietor of the Court Circular Newspaper, 179 & 181, Regent-street, Middlesex. Com. Fonblanque: Feb. 19, and March 20, at 1; Basinghall-street. Off. Ass. Graham. Sols. Reece, Wilkins, & Blyth, 10, St. Swithin's-lane, London. Pet. Feb. 6.

SMITH, ROBERT, Builder and Timber Merchant, 8, Harwood-place, Hampstead-road, Middlesex. Com. Goulburn: Feb. 20, and March 25, at 12; Basinghall-street. Off. Ass. Pennell. Sols. Wild & Barber, 104, Ironmonger-lane, London. Pet. Feb. 5.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Feb. 5, 1861.

BARTLE, JOHN, Lace Manufacturer, Lenton, Nottinghamshire. Feb. 28,

at 11; Nottingham.—BASSETT, DAVID, Corn Merchant, Uxbridge, Middlesex. Feb. 27, at 1; Basinghall-street.—BEVAN, RICHARD, Wine Merchant, Liverpool, March 19, at 1; Liverpool.—BLACKHAM, GEORGE, Grocer & Provision Dealer, Birmingham, Warwickshire (Blackham, Brothers). March 1, at 1; Birmingham.—COX, JOSEPH ESKENEER, Dealer in Stone Ware, Pipes, & Cement, 1 & 2, High-street, Lambeth, Surrey. March 1, at 1; Basinghall-street.—FOX, JOHN, Scrivener & Money Broker, Ashbourne, Derbyshire. Feb. 28, at 1; Nottingham.—HEWISON, MICHAEL, Hoiler & Outfitter, Nottingham. Feb. 28, at 1; Nottingham.—JERVIS, GEORGE, THOMAS LEES, & WILLIAM HENRY BRADBURY, China Manufacturers, Longton, Staffordshire. Feb. 28, at 1; Birmingham.—PALMER, WALTER, Clothier & Seedsman, Pencoyd, Herefordshire. Feb. 16, at 1; Birmingham.—ROWE, WILLIAM HENRY, Builder & Contractor, 7, Gloucester-place, Gloucester-crescent, Regent's-park, Middlesex. Feb. 27, at 11.30; Basinghall-street.—WORMAN, ADOLPH, Boot & Shoe Manufacturer, 126, Minories, London, nad 16, Alfred-street, Bow-road, Middlesex. March 1, at 1; Basinghall-street.

FRIDAY, Feb. 8, 1861.

BURKE, ABRAHAM, Importer of Foreign Glass, and Merchant, 46, Skinner-street, Snow-hill, London. March 1, at 12.30; Basinghall-street.—COX, WILLIAM, Pickle and Fish Sauce Manufacturer, 84, Lamb's Conduit-street, Middlesex. Feb. 20, at 1; Basinghall-street.—DAUNT, EDWARD RUSSELL, & JOHN WILSON, Bill Brokers, 37, Old Broad-street, London (Daunt, Wilson, & Co.) March 1, at 11.30; Basinghall-st.—JACKSON, THOMAS, Contractor, 10, Cannon-street, London. March 5, at 12; Basinghall-street.—LORD, JOHN, SIDNEY AQUILA BUTTERWORTH, & HORATIO BUTTERWORTH, Dyers, Shelf, near Halifax (Lord & Co.) March 1, at 1; Leeds.—PALMER, RICHARD, Plumber & Glazier, 20, St. James's-street, Brighton, Sussex. March 2, at 1; Basinghall-street.—PARSONS, JAMES CHARLES, Publican, Liverpool Arms Hotel, Beaumaris, Anglesea. March 4, at 1; Liverpool.—PHILLIPS, WILLIAM, Currier, Leather Cutter & Publican, Norwich. March 8, at 12; Basinghall-street.—POOLE, LEWIS ROBERT, and SAMUEL BRYAN, Boot & Shoe Manufacturers, 504, New Oxford-street, Middlesex, and Northampton. Feb. 19, at 11.30; Basinghall-street.—WENTWORTH, ANTRUM, and THOMAS WENTWORTH, Hide and Skin Salesmen & Dealers in Hides and Skins, Skin Market, Bermondsey, Surrey (A. & T. Wentworth). March 8, at 12; Basinghall-street.—WHITELOCK, PETER, Grocer, Leeds. March 1, at 1; Leeds.—WILLIAMS, JAMES, Upholsterer, Cabinet Maker, & House Agent, 11, Finsbury-pavement, London. March 1, at 12.30; Basinghall-street.—WOLSTENHOLME, WILLIAM, Ironmonger, 97, Brook-street, Old Garrett, Manchester. March 6, at 12; Manchester.—WOODHALL, ABNER, Felt Manufacturer, Barns Cray, Kent. March 8, at 1; Basinghall-street.

LAW STUDENTS' DEBATING SOCIETY, AT THE LAW INSTITUTION, CHANCERY LANE.

QUESTIONS FOR DISCUSSION.

For Tuesday, February 12th, 1861. President—Mr. GREEN.

XCIIL.—Should the Federal Government of the United States prevent, by armed intervention, the secession of South Carolina?

Mr. H. J. SMITH is appointed to open the debate, and Messieurs M. B. BAKER, OLIVER, and ATWOOD to speak on the question.

For Tuesday, February 19th, 1861. President—Mr. WINGATE.

265.—Ought the decision of the Vice-Chancellor Kinderley in Day v. Day, 8 W. R. 288, to be reversed on appeal?

Affirmative—Mr. WOOLF and Mr. HODSON.

Negative—Mr. G. HILL and Mr. COLLINS.

For Tuesday, February 26th, 1861. President—Mr. WINCKWORTH.

266.—Prior to a sale by auction of chattels, the owner gives to an intending purchaser a secret warranty. Is such warranty valid? Hopkins v. Tanqueray, 23 L. J., C. P. 162.

Affirmative—Mr. COE and Mr. YEO.

Negative—Mr. WOOLLACOTT and Mr. BEAL.

Members are urgently requested to provide the Committee with questions.

Members requiring books are requested to apply for them five minutes before seven o'clock on the evenings of debate.

Copies of the Rules and all requisite information will be furnished by the Secretary, with whom gentlemen desirous of becoming members are requested to communicate.

GEO. L. WINGATE, Secretary,
9, Copthall court, E.C.

COALS.—THE KING'S-CROSS COAL DEPARTMENT, ESTABLISHED 1846. Best Walls End, Hettons, Stewarts, or Lambtons, free from small and slates, 26s. per Ton. Why pay more? Richmond 24s., Best Silkestone 24s., Claycross 24s., South Yorkshire 22s., Barnsley 20s., large for kitchen use 19s. Terms cash. To test the economy of purchasing coals at this establishment, sample half-tons will be sent of any particular quality required. A trial is solicited.

Address, James M. Rees, 2, Wharf-road, King's-cross, N.

EQUITABLE REVERSIONARY INTEREST SOCIETY, 10, Lancaster-place, Strand.—Persons desirous of disposing of Reversionary Property, Life Interests, and Life Policies of Assurance, may do so at this Office to any extent, and for the full value, without the delay, expense, and uncertainty of an Auction.

Forms of Proposal may be obtained at the Office, and of Mr. Hardy, the Actuary of the Society, London Assurance Corporation, 7, Royal Exchange.

JOHN CLAYTON, } Joint Secretaries.
F. S. CLAYTON, }

LIFE POLICIES as SECURITIES.—The policies granted by the LIFE ASSOCIATION of SCOTLAND (founded 1834), under their new scheme of unconditional assurance on life, are wholly free from the restrictions attaching to policies on the ordinary system of other offices, and are specially adapted for securities in connexion with debts, family provisions, leases on lives, and the purchase of reversions. No restriction is imposed as to occupation or residence, and no extra premiums can ever be payable. The premiums required under this new scheme are moderate, and are as follow:—

Rates for Assurance of £100, payable at Death.

Age.	Without profits.	With profits.	Age.	Without profits.	With profits.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
25	1 19 8	2 6 4	45	3 12 8	4 1 8
30	2 5 8	2 12 10	50	4 7 8	4 18 8
35	2 12 6	3 0 2	55	5 6 6	5 19 10
40	3 1 2	3 8 10	60	6 10 0	7 6 2

A medical officer in attendance daily, at half-past twelve o'clock.

THOS. FRASER, Res. Secy.

No. 20, King William-street, E.C.

EQUITY AND LAW LIFE ASSURANCE SOCIETY.

NOTICE IS HEREBY GIVEN, that the ANNUAL GENERAL MEETING of this Society will be held at the OFFICE, No. 18, LINCOLN'S-INN-FIELDS, on FRIDAY, the 23rd day of February instant, to receive the Report of the Directors, to elect four Directors and two Auditors in the room of those who retire by rotation, also to elect a director in the room of John Herbert Koe, Esq., Q.C., deceased, and for other business. The chair will be taken at TWELVE o'clock precisely.

By order of the Board of Directors,

ARTHUR H. BAILEY,

Actuary and Secretary.

Feb. 5, 1861.

REVERSIONS AND ANNUITIES.

LAW REVERSIONARY INTEREST SOCIETY 68, CHANCERY LANE, LONDON.

CHAIRMAN—Russell Gurney, Esq., Q.C., Recorder of London.

DEPUTY-CHAIRMAN—Nathan W. Senior, Esq., late Master in Chancery.

Reversions and Life Interests purchased. Immediate and Deferred Annuities granted in exchange for Reversionary and Contingent Interests Annuities. Immediate, Deferred, and Contingent, and also Endowments granted on favourable terms.

Prospectuses and Forms of Proposal, and all further information, may be had at the Office.

C. B. CLABON, Secretary.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

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CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal is 5 per cent. The investment being secured by a subscribed capital of £35,000, £70,000 of which is not yet called up.

LOANS.—Advances are made, in sums from £25 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to

JOSEPH K. JACKSON, Secretary.

To Landowners, the Clergy, Solicitors, Estate Agents, Surveyors, &c.

THE LANDS IMPROVEMENT COMPANY is

incorporated by special Act of Parliament for England, Wales, and Scotland. Under the Company's Acts, tenants for life, trustees, mortgagees in possession, incumbents of livings, bodies corporate, certain leasees, and other landowners, are empowered to charge the inheritance with the cost of improvements, whether the money be borrowed from the Company, or advanced by the landowner out of his own funds.

The Company advance money, unlimited in amount, for works of land improvement, the loans and incidental expenses being liquidated by a rent-charge for a specified term of years.

No investigation of title is required, and the Company, being of a strictly commercial character, do not interfere with the plans and execution of the works, which are controlled only by the Enclosure Commissioners.

The improvements authorised comprise drainage, irrigation, warping, embanking, enclosing, clearing, reclaiming, planting, erecting, and improving farm-houses, and buildings for farm purposes, farm roads, jetties, steam-engines, water-wheels, tanks, pipes, &c.

Owners in fee may effect improvements on their estates without incurring the expense and personal responsibilities incident to mortgages, and without regard to the amount of existing incumbrances. Proprietors may apply jointly for the execution of improvements mutually beneficial, such as a common outfall, roads through the district, water-power, &c.

For further information, and for forms of application, apply to the Hon. WILLIAM NAPIER, Managing Director, 2, Old Palace-yard, Westminster.

We cannot notice any communication unless accompanied by the name and address of the writer

**Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, FEBRUARY 16, 1861.

CURRENT TOPICS.

It was explained at the time when the present arrangements respecting Statute Law reform were made, that the primary object in view was the preparation of an edition of the statutes, containing only Acts in force, and omitting those of a local or personal nature. The Statute Law Revision Bill, re-introduced by the Lord Chancellor on Monday evening, purports to be auxiliary to the work of editing. It proposes to repeal, expressly and specifically, a very large number of enactments which have ceased to be in force, either by being repealed in general terms, or virtually repealed, or superseded; and it appears from the preamble that this course is adopted with a view to the revision of the statute law, and particularly to the preparation of a revised or expurgated edition. The usefulness of such a work is unquestionable, and it is one which could not be accomplished except under the authority of the Government, and by the means which are at the disposal of it alone. One great advantage of such a repealing Bill is, that when the work of examination is once done, its results are authoritatively recorded, by the direct action of the Legislature, for all time to come. Future expurgators will not have to search and investigate for themselves; they will be saved the labour of going again over the ground which has been once swept clear.

The present Bill, which is the work of Messrs. Reilly and Wood, relates to a period of nearly a century, extending backwards from the present time. We have reason to believe that another Bill on the like plan is in preparation, and will shortly be introduced, dealing with the early statutes, and extending over several reigns; and that some portion of the first volume of the revised edition is, in fact, in type, and will receive its final shape on the expurgating Bill being adopted by Parliament.

The New Bankruptcy Bill is an improvement on the Government Bill of last session in all respects save one. It is not a consolidating measure, and is, so far, inferior. But the experience of last session showed the difficulty of passing a consolidating and amending Bill through the House. Therefore, perhaps, the Attorney-General has done wisely in making it simply a measure of amendment. The expense which it is proposed to entail on the country is very much less now than it was last year; and the burden on creditors also is diminished by a reduction of fees. The new Bill avoids the error of restricting the jurisdiction of the County Courts, and in respect to the winding-up of the estate, the creditors are left free to follow their own devices, whether to retain the official assignee, or to employ one or more of the creditors as assignee, or to appoint a committee of creditors, with a manager as their agent, after the exact pattern of the Scotch system. It may, perhaps, be doubted whether it is wise to vest all the functions of the creditors in the hands of a majority of value of that body. But even if it be wise to do so with regard to the choice of assignees, it is certainly inexpedient and somewhat unreasonable to do so with regard to the transfer to a county court; for the very object of a transfer to a county court is to accommodate the body of creditors as to locality, and not to give to a few creditors, or it may be to one large creditor, the power of

inconveniencing all the rest. In this case the decision should be by a majority in number and value.

The trust deed clauses of the new Bill are satisfactory. Those relating to the administration of the estates of deceased debtors are meagre; but probably as much as can be passed. The clauses making the courts in Scotland, Ireland, and the colonies, auxiliary, are, we believe, new and would be most beneficial.

We observe in the schedule to the new Chancery Order that an Examiner of the Court who is taken into the country for the purpose of the examination or cross-examination of any witness, is to be allowed for every mile which the examiner travels from London to the place of examination and back the sum of one shilling and sixpence. This is the same allowance as that fixed by the order of 8th May, 1845. In that Order the fact that the allowance was exorbitant was comparatively harmless, inasmuch as country examinations were very rare. Under the new general Order it is not improbable that they will become frequent, unless they are prevented by considerations of expense; but according to the present scale the mere travelling expenses of an examiner going to and returning from Liverpool would amount to not less than the sum of £31 1s.

We noticed some weeks ago that an attempt was being made to throw open the prosecutions of offenders committed by the Leeds Borough Magistrates to the profession generally, instead of allowing them to be conducted exclusively by two gentlemen appointed fifteen or sixteen years ago by the Town Council as public prosecutors. The subject was referred to a committee of the council which, on the 13th inst., reported as follows:—"That this committee approve of the principle of the employment of public prosecutors, and are of opinion that the ends of public justice would be best served by the appointment of such officers, but recommend to the Council that the present appointments be rescinded from and after such time as the Council may deem expedient, and that the future appointments to these offices be not permanent, but rotatory, and continue in force for twelve months only; the parties appointed being required to conduct such prosecutions for the county allowance. That the justices be recommended in all special or important cases, where it is considered expedient for the ends of public justice so to do, to bind over the party aggrieved to prosecute at either the sessions or assizes, as the case may be."

It was thereupon moved that the report be adopted, and that the committee be authorised to carry it out, and report to the council; and a resolution to that effect was, after some discussion, carried unanimously. The gentleman who moved the adoption of the report explained that the system which its framers contemplated was that the public prosecutors should conduct all cases, excepting those which might seem so important to the magistrates as to induce them to bind over the party aggrieved to prosecute, instead of binding over a policeman, and that such exceptional cases should be conducted by the prosecutor's own attorney. Instead, moreover, of the office of public prosecutor being a permanent one, it would only be held for a year by each occupant, who would be selected by lot from those attorneys practising within the borough, who were able and willing to take it. If the town council and the magistrates insist on interfering with the conduct of prosecutions which they appear to have no right to do, the arrangement suggested by the committee appears to be as little open to objection as any that could be made. The main ground alleged for assuming the right is, that if the party aggrieved were left free in every case to choose his own attorney, there might be touting for prosecutions on the part of some attorneys who do not stand high in the profession. So far as Leeds is concerned, however, we believe that this apprehension is unfounded, and

even if it were not we object, on principle, to the doing of evil that good may come. The Town Council of a borough has no more right to appoint a public prosecutor than has the parish vestry or the board of guardians, nor have the magistrates any right to say to the real prosecutor, "You shall not prosecute, but we will bind over one of the police to do so." If the present system of prosecuting offenders requires amendment, let the Legislature interfere, but in the meantime corporations and magistrates ought not to exceed their powers on the mere ground of expediency.

TAXATION OF SUITORS.—No. V.—LAW TAXES.—LEGAL FINANCE.—COURTS OF JUSTICE AS BANKERS.

Having mapped out the subject of the Taxation of Sutors we proceed to that of Legal Finance.

All the courts of justice have more or less to act as bankers or stakeholders for suitors. In contentious suits money is often paid into court on pleas of tender and the like, or by way of bail or security. In administration business such payments amount to very large sums; witness the fifty and odd millions under the care of the Court of Chancery. The common law courts are now vested with extensive equitable jurisdiction, the right use of which will be learned in a generation or two, and will involve the conduct of very large banking transactions under their orders. In the first article of our present series we indicated the questions which were involved in considering courts of justice as bankers; but before proceeding to discuss those questions it will be well to inquire somewhat into the statistics of the subject, and to point out what are the existing modes of providing for the safe custody of the monies and funds of the suitors in the several courts of the kingdom. For the present we shall confine ourselves to the Courts of Chancery, Common Law, and Admiralty.

1. As to the COURT OF CHANCERY:—

Previously to 1725 all monies of the suitors directed to be brought into the Court of Chancery were deposited with the masters or usher of that court. The interest made by them on such monies as had to remain uninvested formed a most important part of their emoluments. It appears by the evidence given in the very interesting trial of Lord Chancellor Macclesfield in that year, as reported in the State Trials, that the price or bribe at which the Lord Chancellor of those days sold each Master's appointment depended upon the amount of suitors' cash deposited in the particular office then vacant. The evidence shows that the masters deposited large portions of these monies with the goldsmiths to be lent at interest; but the South Sea Bubble which had occurred at that time having caused many of these goldsmiths to fail, the masters were unable to repay to the suitors the monies so deposited with them,* and the deficiency, which amounted to upwards of £100,000, had to be made good to the suitors by the produce of a tax imposed by the Act of 12 George 1, c. 33, on future suitors not only in Chancery, but in all other courts of justice in England and Wales.

To obviate such mishaps in future, it was determined to appoint an Accountant-General, and in 1726, the Act of 12 Geo. 1, c. 32, was passed, regulating the modes of providing for the safe custody of all monies of the chancery suitors paid into court. This Act, though it provided with sufficient care for the safe custody of the suitors' future monies, yet clogged the mode of paying in and paying out such monies, and of selling and purchasing stock, with many cumbersome and expensive proceedings and dilatory checks: these it is hoped will be removed or diminished by the commission

which it is rumoured is about to be issued for the long-desired inquiry into the mode of transacting the business of the suitors in the Accountant-General's office, and of dealing with the suitors' funds.

Neither the last-mentioned Act of Parliament, nor any subsequent one, has established that kind of financial supervision which any banker or financier would exercise over funds placed under his control. But this observation belongs to an after part of our subject.

The Court of Chancery, as a banker, has now in stock and cash upwards of fifty millions of suitors' property in its hands. By arrangement with the Bank of England, £300,000 cash is the amount of cash balance to be kept for the bank remuneration; but at this moment we believe it to be upwards of a million, upon no part of which are the suitors allowed any interest; and yet the present rate of discount is 7 or 8 per cent.

Another account (which may be called an account of "waifs and estrays") still remains to be mentioned, and (looking at the small amounts from which it has been gathered together) its existence affords another proof of the utter incapacity of the present system to deal properly with suitors' monies.

Every chancery suitor appealing to the Court of Appeal in Chancery from a decree of the Master of the Rolls or a Vice-Chancellor, is required to make a deposit of £20, and this sum was up to 1852 deposited with the senior registrar of that Court. In consequence of the neglect of the successful suitor on the termination of such appeal to apply for payment to him of such deposit, a large amount had been accumulated, which rumour assigns as having been invested by the senior registrar in the purchase of £10,000 Stock, the interest whereof was received by him, and appropriated to his own use; and this course had been considered perfectly legitimate so long as he was able to replace the amount so invested when demanded by the suitors. In 1852, the amount of such stock, and of the cash in the hands of the senior registrar arising from these deposits, was, pursuant to Lord St. Leonards' Act of 15 & 16 Vict. c. 87, s. 41, transferred and paid into the Bank of England, to the credit of the Accountant-General of the Court of Chancery, to an account entitled, "The Appeal Deposit Account;" and all future deposits have, pursuant to the same Act, been paid to the senior registrar, and by him paid into the same account every three months. The 41st section of the same Act directed that "the monies which shall from time to time be standing to such account, shall be paid and applied as the Court of Chancery shall from time to time in that behalf direct." But it is believed this authority has never been exercised, and that the interest which has since 1852 accrued on the stock so transferred into court in that year, has remained idle on this account, and has not been applied for the benefit of the suitor.

2. As to Courts of COMMON LAW.

All monies paid into the Court of Queen's Bench by the suitors are deposited at the private bankers of the Masters of that Court, for the time being—a course not dissimilar to that which prevailed in Chancery previously to 1725, when it was attended by the disastrous results before mentioned. It appears at p. 125 of the Report of 1860 of the Commission on the Concentration of the Courts of Justice, that the cash balance of suitors' funds then in the several Courts of Common Law was £37,023 7s. 3d.; viz.:—

Queen's Bench	15,482	7	10
Common Pleas	10,227	8	7
Exchequer of Pleas	11,313	10	10

What security for the repayment of these monies so deposited the suitors have, we know not.

In a report of the select committee of the House of Commons on Sinecure Offices in 1834 (printed 25th July, 1834, and cited in the evidence in the Report of the Commission on the Concentration of the Courts,

* In the celebrated picture of the South Sea Bubble in the Vernon Gallery, a Master in Chancery with a bag labelled "Chancery Sutors' Monies," has been unaccountably omitted.

p. 91), the question of Lord Ellenborough's right as chief clerk of the King's Bench, to the interest on monies paid into court, and placed in his hands as chief clerk, is fully discussed. Lord Ellenborough claimed that, as he was bound to pay out the sum to a certain point, any interest he might make belonged to him as his perquisite; but the committee stated that they conceived that this interest should be dealt with "as money held in trust for the public."

3. As to the ADMIRALTY COURT.

It is only a few years since (1853), the newspapers announced that the then Registrar of the Court (Mr. Swabey) had decamped with a large amount of the suitors' monies—and in the Appropriation Act of 17 & 18 Vict. c. 121, s. 23, authority is given to issue out of the consolidated fund "any sum or sums of money not exceeding £25,000, to enable the Registrar of the Court of Admiralty to discharge the legal claims of the suitors of the said court in the year ending 31st March, 1855." The money paid into the Court of Admiralty continues to be paid to the registrar, but to guard against any similar occurrence it is stated by the present registrar in his evidence before the Concentration of Courts Commission (report, p. 77) that soon after his appointment in 1853 the Treasury made an order that the account to his credit at the Bank of England to meet current expenses should not exceed £5,000, and that the excess beyond that sum should be paid over to the Paymaster-General, and be held by him to the credit of the Admiralty Court deposit account, so that the Government might have the use of the balances. We consider, however, any use and profit by the Government of these monies wholly wrong, and that so long as any special tax is imposed on the suitors towards the maintenance of the Court, they are entitled to this profit in reduction of such special tax.

All monies so deposited by the suitors in either of these courts remain dormant, and do not fructify and bear interest for the benefit of the parties entitled thereto, as monies do which are deposited by prudent individuals in a savings bank, and this we hope will be rectified by the rumoured Commission. It is an admitted fact that no suitor willingly pays his own money into any court, and the greater portion of the funds in the Court of Chancery have been paid in either by trustees, or by purchasers of estates sold by that court, and it appears very hard that money so paid in—whether it is ultimately adjudged to belong to the person paying it in, or to others—should remain in an unproductive state. In reply to this it will be said "it should have been invested;" but where? considering that Consols were until the present month the usual investment authorized by the Court of Chancery. Such investment in Consols is all very well when it is certain it will remain in court during a course of litigation for a considerable period; but inasmuch as the average duration of suits in chancery is but three years and half, and a great part of the monies paid into the Court of Chancery (of which the larger portion consists of the parliamentary deposits of promoters of public undertakings) are paid out within six months, it is obvious, considering the chance of the fluctuation of the funds, that it would be most imprudent and improvident to make any such investment for so short a period.* The average weekly balance of the chancery suitors' cash in the Bank of England from 13th January, 1859, to 15th August, 1859, was upwards of £1,000,000, of which more than half-a-million probably arose from such parliamentary deposits, and from January, 1846, to July in 1846, such cash deposits averaged upwards of eight millions cash. When any one happens to have a larger balance at his bankers than he has immediate occasion

for, or any client of a solicitor has money waiting to complete a purchase, he does not allow it to remain unproductive, but places it at one of the joint stock banks on a deposit account; and either a similar system, or the system proposed in the New Post Office Savings' Bank Bill, whereby a certain even though small rate of interest may be allowed for each entire calendar month, on every full pound sterling of suitors' cash so deposited, we hope to see recommended by the members of the rumoured Commission.

In our next article we intend to point out the banking or financial statistics of the bankruptcy and insolvent courts, and of the county and some local courts, and perhaps of the Irish Court of Chancery.

ACKNOWLEDGMENT OF DEEDS BY MARRIED WOMEN—3 & 4 WILL. 4, c. 74, s. 91.*

Upon this section a question has arisen, whether a deed executed pursuant to an order made under it requires acknowledgment or not. As in this question, which has been gravely entertained, every "perpetual commissioner" will, of course, feel an interest, we propose to consider it somewhat at large. In the absence of authority to the contrary, we should have thought it pretty clear that the wife must acknowledge the deed. Her only ability is created by s. 77, which clogs it with two essential requisites:—1. The concurrence of the husband; 2. The acknowledgment of the wife. These conditions fulfilled, her disposition is to have the same efficacy as if she were a *feme sole*, i.e., for all the purposes of the transaction which is the subject-matter of the deed; or, more accurately speaking, for the purposes of that transaction, so far as they are embraced by the contents and incidents of the deed, she is, but only on the terms prescribed, declared to be discover. By s. 79 every deed to be executed by a married woman, for any of the purposes of the Act (with an immaterial exception) is, upon her executing the same or afterwards, required to be produced and acknowledged by her as her act and deed; and then s. 80 directs an examination as to free volition before the acknowledgment by any married woman of any deed made under the Act shall be received, and declares, by the awkward and superfluous tail-piece "and in such case, &c.," (i.e. literally the case of her not being permitted to acknowledge), or means to declare (or reiterate) that her execution of the deed, unless or until acknowledged, shall go for nothing; or it may be meant (though not quite consistently with the "or afterwards," i.e., at any future time, of s. 79), that a refusal of permission to acknowledge shall render the execution incapable of acknowledgment—a strange and inconvenient result. Thus all deeds of all married women, so far as any extraordinary force is given by the Act, must have the requisites of the husband's concurrence and of the wife's acknowledgment, while the means of complying with this last requisite are withheld until a certain ceremony has been gone through. But by s. 91 the first requisite (the husband's concurrence) is struck out in certain exceptional cases. That section empowers the Court of Common Pleas (most unwisely entrusted with such a discretion, having regard to its ordinary functions and to its ancient fine-and-recovery predilections), under special circumstances attending the husband, to dispense by its order with his concurrence "in any case in which his concurrence is required by this Act or otherwise," but not, in terms at least, with any other requisite of the Act, and the section then proceeds to declare that all acts of the wife done "in pursuance of such order," (i.e., an order dispensing with the husband's concurrence) shall be done "in the same manner as if she were a *feme sole*," and when done shall be as valid as "if the husband had concurred." Now the question is, whether the act may

* As to the risk of asking for such investment we may refer to the decision of Vice-Chancellor Stuart in *Tompsett v. Wickens*, 2 Jur., N.S. p. 10, and the consequences resulting therefrom.

be done by an unacknowledged deed? This section supposes a "case" within the general purview of the Act—a case contemplated and provided for by the previous enactments relating to the dispositions of married women: it qualifies those enactments by engrafting a dispensing power. It is not a simple, substantive enactment, enabling a married woman, if the Court of Common Pleas shall think fit to make an order dispensing with her husband's concurrence in a particular act, to do that act irrespectively of all that has gone before in the same statute—to do that act as "by her own recovered might" not only with all the legal effect of a single-woman's deed, but with all the personal volition of a single-woman. The ambiguity (for ambiguity there is) appears to be mainly created by the words "shall be done by her, &c., in the same manner as if she were a *feme sole*," but these words must be construed with a due regard, as well to the concluding member of the same clause, "and when (so) done, &c., shall (but without prejudice to the rights of the husband, &c.,) be as good and valid as they would have been if the husband had concurred," as to the previous context, and to all the preceding provisions in relation to the married proprietress, and, so construed, can hardly be taken to import, as respects the particular act, not qualified competency, but absolute emancipation. Those equivocal clauses "and all acts, &c., shall be done by her in the same manner as if she were a *feme sole*, &c.,"—"and when done, &c.," laid together, seem to purport nothing more than "and all acts, &c., may, notwithstanding any of the previous enactments, be done by her without the concurrence of her husband, as effectually as if the husband had concurred." The Legislature could not well have intened an imperative mandate on the *feme* to assume the free agency of discovery. This section is part of a general scheme, not an isolated provision; "the acts, deeds, or surrenders" are such "acts, deeds, or surrenders," only as fall within the previous sections, omitting the one ingredient of the husband's concurrence. The larger construction would ignore s. 77; the assurance would not necessarily be an instrument under seal (a deed); yet this section (91) starts by putting the case of a husband "incapable of executing a deed or of making a surrender of lands held by copy of court roll," being the two forms of assurance to which the antecedent enactments as to married women confine the exercise of her disposing power. This section, therefore, was hung on to these enactments as a rider, not as an over-rider. This would have been plain enough (omitting the "or otherwise") but for the superadded clause "and all acts, &c.," which is really nothing more than the confusion of a cloudy mind labouring to clear itself, till the first faint glimpse of meaning vanishes in the fog of elucidation. It may be urged that where the husband is not a party, and where the Court grants the wife's application, a separate examination, which must precede the acknowledgment, is an idle ceremony; but may not the deed be in favour of the husband or the husband's relative, and, though he may be far away, yet induced by past menaces, or by the coercion of a telegram? The state of circumstances which existed at the date of the order may have changed. It must be confessed that this section is confused in matter and form—"the latter end of the Commonwealth forgets the beginning." We more than suspect that it is not the handy-work of the very able, candid, conscientious, and, we fear, it may be added, ill-requited planner of the substitute law and framer of its principal provisions; for (with its "or shall from any cause be incapable, &c.,"—"or from any other cause whatsoever,"—"or otherwise,"—"and all acts, &c.,"—"and when done, &c.," its general incoherency, superfluity, and even grammatical inaccuracy) it savours strongly of the ingenuity which enacted that a contingent remainder shall be an executory devise or use, or (to use the sarcasm of the present Lord Chancellor, in

speaking of the now repealed enactment) "that a square shall be a circle." It was inevitable that out of a scheme so elaborate and untried, provisions so numerous and complex, (deranged, mutilated, and interpolated by the necessity of coaxing obstinate prejudices, quieting crotchety fears, sopping the many-headed guardian of the ancient mysteries, and running a race with official impatience) a host of questions should arise to perplex the practitioner, especially in regard to the new conservative office of protector. These questions are floating about in the profession and ought speedily to be set at rest. With the lights now afforded by many years' experience, the Act should be forthwith reviewed, retrenched, reconciled, explained—in short, reconstructed on the same basis, with improvements suggested by its past working, and, yet more urgently, by an advanced period of our judicial policy, by the decay of old attachments and the growth of new desires. Among other improvements the jurisdiction of the Court of Common Pleas in these matters should be transferred to the Court of Chancery, or rather (as the business must be inconsiderable) to one of its branches—enrolment and acknowledgment should go together. We shall hardly have credence for the statement that the Rules of the Common Pleas were prepared and adopted without the aid or approval of the experienced framer of the Act and not without some discourtesy. We may add, that the highest bid, as we are informed, yet made for an amended Bill (affecting the "wealth of nations" and the well-being of millions) is somewhere about the fee of a leading counsel on a brief of no extraordinary bulk or specialty. With a figure just a trifle higher, an inaugural dinner, a modest share of the credit, and the whole onus of faults and slips, there would be nothing wanting to induce an efficient hand to do this needful national work, for its own dear sake, but—leisure, love, and patriotism. It has been said, that

"The *tampering* world is subject to this curse,
To physic its disease into a worse;"

and certainly there is no patient on whom that curse has fallen more grievously than the Law, which, by gratuitous nostrums and cheap remedies, as shown by the large amount of unpaid or ill-paid doctors' Bills, has been brought into a state of chronic dyspepsia. While the individual citizen is prescribed for, the body-politic is quacked.

MOSE'S CASE.

Satirists and dramatists have never been sparing of the law or lawyers. In all countries, so far as civilization extends, the profession of the law and its processes must, in the nature of things, become identified with a class of cases which reflect little credit upon either, and which powerfully enlist the sympathies, if not the passions, of our common nature against both. The misfortune is that one such case is more than enough with the unthinking multitude to balance all that is of honest and good report which may be set upon the other side. However this may be, lawyers, more than all other men, have certainly the deepest interest in probing these causes of scandal, and dragging into the light of day whatever of such injustice and wrong would seek to shelter itself at the expense of the entire profession and of the law itself.

A few days ago, the inhabitants of the quiet university town of Cambridge were shocked beyond measure by the occurrence of a tragical and lamentable event. On the morning of last Sunday week it became known that a Mr. John Bailey, a highly respected tradesman of the town, had committed suicide; and the rumour ran that he was driven to this dreadful act by his want of success and bitter disappointment in a Chancery suit. Extraordinary and unlikely as was the reason assigned, its truth was proved beyond doubt at an inquest which was held on the following day, before the Borough Coroner and a jury of towns people. The ver-

dict was, that "the deceased shot himself while in a state of temporary insanity, which was induced by the litigation relating to the matter of Alfred Mose." The facts which transpired, although not nearly so definite and satisfactory as might have been expected in such a case, enable us to give some slender account of this unhappy suit. It appears that Mose, the person named in the verdict of the jury, has been long known in his neighbourhood as a claimant for considerable real estate, consisting mainly of houses in Reading. For many years Mose's case had been spoken of in the neighbourhood, and was fast becoming one of the local myths, when Bailey, most unhappily for himself, was induced to mix himself up with it. An agreement was entered into, under which Bailey was to receive "half the clear profits" arising from the successful prosecution "of the case;" and thereupon he immediately devoted himself to his miserable and hopeless task. Mose some years before had been a bankrupt, and the creditors' assignee of his estate and effects having died, it became necessary to have a new assignee named before the institution of legal proceedings, and Bailey for this purpose had himself appointed. Having thus acquired a legal status and a right to file a bill in Chancery against the parties in possession of the estate, that first step was unhappily taken. Of what passed between this and the catastrophe which abates the suit, little was stated at the inquest beyond the fact that Bailey had paid to his lawyers not less than £170, in full expectation of the success of his suit, and that very shortly before his death he received a letter from them to the effect "that it would be better to dismiss the bill, and that he would have to pay costs." Having been assured "when he first took up the case that he would have nothing to pay, and that the other parties would have all to pay," he was unable to stand this blow, which not only crushed his hopes of success in the suit, but overwhelmed his little business and good name with bankruptcy and disgrace.

Now, although the evidence as to the suit adduced upon the inquest was by no means complete, yet there was sufficient to yield serious grounds for reflection upon the duty of lawyers in connection with such cases as Mose's. It came out that there was a letter to Mose from Mr. Kenneth Macaulay, written three years before the commencement of Bailey's suit; and from this it appeared that Mr. Macaulay, who was then as now member for the borough, had himself, with a generosity and in a manner worthy of his high character, investigated the claim of Mose, "which he could not see any gleam of a chance of establishing—even if Mose was in a condition to follow up the matter with vigour." It also appeared that Mose was at that time actually in prison for non-payment of costs which he had incurred in another Chancery suit relating to the same matter—which costs Mr. Macaulay ultimately paid; and indeed it was quite notorious that Mr. Macaulay was not the only competent person who, yielding to the earnest solicitations of Mose, had investigated his case, and arrived at an opinion entirely unfavourable to him. It is stated that this fact was not only well known in the locality of Mose's residence, but that it was explicitly communicated to the legal advisers who instituted the suit in which unfortunate Bailey was plaintiff. It is also said that the former suit included as a defendant a clergyman of the highest reputation, who was nevertheless expressly charged with being party, together with the other defendants, to a conspiracy which, if the charge was true, was of the vilest and most outrageous character; but which was most positively denied by the clergyman and his co-defendants, and indeed seems to have been made without any justification or reasonable pretence. It has been stated, and it appears not unlikely, that all these circumstances were in the knowledge of the legal advisers of Bailey prior to the institution of his suit; and although an answer to his bill had been put in yet that

it conveyed no information which could not have easily been obtained by private inquiry, or which justified the relinquishment of the suit if there had been anything to justify its institution. It is no wonder then that both the coroner, who was himself a lawyer, and the jury, amongst whom Bailey seems to have stood in the highest repute, should have expressed themselves indignantly at the conduct of Bailey's legal advisers; and without at all venturing to decide upon this question, with our present scanty materials, we find it difficult to avoid participating in the foregone conclusion of those who were present at the inquest. Upon this point, however, it is not unlikely that we may before long have better grounds upon which to form our opinion. For the present we desire to call attention to the case for the sake of the lessons which it affords, and also because we ought not to omit the occasion of insisting, in the most emphatic terms, that neither lawyers, nor the law itself, should be visited with any of the odium arising from such a case as we have been considering. The processes of law may, no doubt, be abused by unscrupulous persons, and in such hands may be made instruments of torture. But, happily, there is far more difficulty in procuring in our profession agents for this purpose, than the public generally is willing to believe.

It is, moreover, a salutary reflection that all persons actively engaged, whether as principals or agents, in such proceedings, expose themselves as a rule to the risk of as much vexation and suffering as the luckless objects of their litigious propensity; and although in such a case the lawyer may appear to occupy a position of comparative immunity, in truth he is liable to the loss, not only of his money, but of his character. The law has wisely discountenanced the *trade* of litigation, and looks with aversion upon arrangements to carry on suits for the benefit of strangers who supply the sinews of war; and one useful lesson to be drawn from this sad story is the folly of any lawyer who endeavours to countervail the policy of the law in this respect, by lending himself to the prosecution of such suits. There are few practitioners who have not been often earnestly solicited to take up some such "case" as that of Mose. Everybody knows some madman or schemer who thinks or pretends he is entitled to estates, of the possession of which he is—according to the judgment of common sense—deprived by the rightful owner. Fortunately for the good of society, and the character of our profession, it is generally a matter of some difficulty to find a lawyer who is willing to be identified with these cases; and it would have been lucky for luckless Bailey if that first obstacle had been more difficult than it appears to have been in his case.

We are compelled to hold over until next week an article upon the recent examination of articled clerks, and also some articles upon other subjects.

LIABILITIES BY SPECIALTY AND BY SIMPLE CONTRACT.—INCONVENIENCES OF THIS DISTINCTION BETWEEN CONTRACTS.

II.

The account which we gave, in the former paper* on this subject, of the probable origin of sealed documents, and of their introduction and effect in the early stages of our law, goes far, we think, to show that covenants at that period had seldom any independent existence, but were merely incidental to a conveyance. Where there was a conveyance by feoffment or grant, there might or might not also be covenants; but covenants, it would appear, were hardly ever entered into at that

* *Ante*, p. 215.

time, except as subsidiary to an actual conveyance. Now deeds were used only to pass estates in land, and hence we can find a reason why covenants, when they became a frequent form of contract, did not at common law bind estates in land after the death of the covenantor, unless the covenant, like a conveyance, contained the word "heirs." In the first stages of our law, the courts preferred accommodating the existing writs and forms of action to inventing new ones. Covenants, it appears, were but little, if at all, known to our commercial law under the feudal régime; but as such forms of contract were the only ones then in frequent use, as comprising those causes of action which alone could arise generally throughout the kingdom when land was the staple of wealth, a necessity arising from the predilection for established forms which then prevailed, would seem to have existed for permitting an action of covenant to be brought in the centres of commerce, although the agreement was not entered into by deed. Accordingly, we find that by the custom of London and of other localities, an action of covenant might have been brought under an agreement by parol (1 Lev. 2). These customs, however, as contravening the general rule of law, are construed strictly; so that an executor is not chargeable under such. To the customs of commerce, then, which do not brook delay or intricacy of rights, we are indebted for the first inroad upon the forms of contract specially favoured by the common law. Equity, likewise, lent her plastic hand in correcting the technical analogies to which the doctrines relating to specialties gave rise. Positive legislation has, also, been applied to level the distinctions between contracts, both expressly, as, for instance, in cases of bankruptcy, as also indirectly, as in the case of the Winding-up Acts. It has been determined that under one of the latter Acts, a call transmutes and levels all securities to the order of simple contract. We shall now endeavour to detail some of the inconveniences which have been occasioned by the distinction of liabilities into those raised by simple contract and those raised by parol. From a consideration of these inconveniences it will, we think, be manifest that the complete eradication of the distinction is the only remedy in any degree adequate to the evil.

The inconveniences of the distinction of debts into different classes, each having its peculiar rights, are very clearly shown by the order which an executor or administrator must observe in the payment of the debts of the deceased whom he represents. In the preceding paper on this subject, we stated that the priority of judgments in administration cases did not conflict with the reasons which appear to us to require the abolition of the existing distinction between debts not of record; inasmuch as judgments are matter of process. We do not desire to balk an active creditor, whose contract no longer rests in *feri*: *vigilantibus non dormientibus subveniunt leges*. To judgments, then, we gladly yield their present priority, especially as Lord St. Leonards' Act of last session has revived the security afforded to executors by the statute 5 W. & M., c. 20, the Docketing Act. The only suggestion we offer in connection with this priority is, that rent, which is at present merely of the order of a debt by specialty, should be constituted of equal rank with debt by judgment. We would, also, suggest that statutes and recognizances should be rendered co-ordinate with judgments, only that, as the former have become somewhat obsolete, we do not wish to see legal transactions complicated by the use of different kinds of debts or obligations of record. We, therefore, think that the complete removal of statutes and recognizances from all legal transactions in future, and the substitution of judgments in all cases for those antiquated securities, would so far tend to prevent unnecessary complication.

We may here briefly state the order to be observed in the administration of assets. First in order are crown debts; then, judgments; next, statutes and recognizances; and this order is to be observed whether the assets are legal or equitable. So

far as the assets are equitable (and real estate can alone constitute equitable assets), all specialty and simple contract debts are paid *pari passu*. As to legal assets, the specialty debts of the deceased, whether binding the heir or not, are paid *pari passu* out of the personal estate, Wms. Pers. Pr. 97, but preferentially to debts by simple contract, ib. p. 100. Specialty debts binding the heir should be paid before those not binding the heir out of real assets, out of which the latter class of specialties and debts by simple contract are paid *pari passu*. To the class of specialty debts belong debts by obligation, debts by covenant, whether for a sum certain, or for damages on a breach of covenant; and debts for rent, whether the land for which the rent is due be held under lease by deed, or merely by parol.

These four kinds of debts are of the same degree, *Plumer v. Merchant*, 3 Burr. 1380, *Gage v. Acton*, 1 Salk. 826. But in the administration of the separate estate of a married woman a bond debt is not entitled to this rank, because as a bond it is void; the debt secured by it is therefore only of the order of simple contract, *Anon.* 18 Ves. 258. An executor is also bound to pay a debt by specialty as on a bond, even though it be not yet due, in priority to debts by simple contract; the obligation being a present duty, whereof the condition is merely a defeasance, 11 Vin. Abr. 304. We notice with pleasure, in the case of voluntary bonds, one class of exceptions to the stringent exactions of specialties. Voluntary bonds are postponed in the administration of assets, to the simple contract debts of the deceased. If the assets are insufficient to discharge all the liabilities, and if these are both by specialty and by simple contract, the office of an executor would appear to be somewhat of the nature of a *damnosa hereditas*. Nay, even if the debts are of one class only, yet, owing to the confusion which the classification of assets and debts into different classes has introduced, he can hardly undertake the administration with any degree of confidence that some latent technicalities may not be the means of imparting to him an undesired amount of legal knowledge at a future day, when he may be called upon to pay out of his own estate the testator's debts, and for the want of a professional education on his own part. Specialty creditors, as we have stated, and as our readers are probably well aware, are entitled to priority over creditors by simple contract only, so far as the assets are legal; as equity acts on the maxim that "*equality is equity*," and pays specialty debts only *pari passu* with those incurred by simple contract. If, moreover, a specialty creditor has to resort for a portion of his demand to assets that are equitable, he will be postponed until the simple contract creditors have received the same proportion of the equitable assets that he has received from the legal assets. Equity requires this according to the maxim that "*he who seeks equity must do equity*." A sum due from an administrator who has entered into an administration bond is not a specialty debt to the administrator *de bonis non*, *Parker v. Young*, 6 Beav., 261; even though the sanction of the Ecclesiastical (Probate) Court has been obtained; *Bolton v. Powell*, 14 Beav., 275, 287; although it is a specialty to the ordinary. This absurdity appears to us not to have even a single agreeable feature, upon which the imagination could for a moment pleasantly dwell, or endeavour to draw therefrom some extenuation for the paradox. The bond, indeed, is confessed to the Ordinary, and in a court of law he alone could sue upon it. But, in equity, if it were only to avoid circuitry of action, there is a manifest reason that he should be regarded as a trustee for the administrator *de bonis non*. We really can conceive no greater perversion of so-called scientific reasoning than is exemplified by this rule of law and equity. The acumen of an executor must not be content with a scrutiny of the principles referred to in the foregoing remarks. He has carefully to distinguish the portion of his testator's liabilities by specialty, which is to be paid on contingencies

that have not yet occurred from those liabilities by specialty, which are to be paid *in futuro*—a discrimination, the making of which, with the elaborate accuracy which a future Chancery censorship may require, his own sagacity aided by distinguished professional advice, may entirely fail of accomplishing. Amidst the dialectic labyrinth into which his mind shall have been plunged, the only legal principle he will be likely to remember is the costly one, "*Ignorantia legis neminem excusat*." The advice of the Court, which he can now obtain on petition without suit or by summons, under 22 & 23 Vict. c. 35, is his only adequate security. The rule of law just stated, in respect to liabilities of the description appears to be that liabilities by specialty which are contingent, and upon which it is uncertain whether anything will ever become payable, shall not stand in the way of simple contract debts; but, that if the liabilities will certainly become due, though on a future day, the special securities are then entitled to the priority of their class; *Atkinson v. Grey*, 1 Sm. & G. 577, 581. Thus, a bond conditioned for indemnity, *Eeles v. Lambert, Ayley*, 40 s. c., cited in *Lancy v. Fairchild*, 2 Vern. 101; a statute to perform covenants which are yet unbroken, *Harrison's case*, 5 Co., 28 b.; a recognizance conditioned to pay a certain sum or perform a certain act on a contingency which may never happen, as for instance when A. B., an infant, shall attain his majority; a covenant for further assurance; these and similar securities, prior to the breach of the condition, or the happening of the contingency specified, must not be regarded by the executor as entitling him to retain assets to meet these possibly forthcoming demands, to the prejudice of the simple contract creditors of the testator. Of this class of contingent securities, there appears further to be two derivative varieties; in one class of which, viz.: in those cases in which a breach of the condition has been committed by some positive act, the executor will be answerable out of his own property for a *devastavit*; while in those cases which are merely contingent, as in the case we have quoted, of an infant's attaining his majority, the specialty creditor is, in case of a deficiency of assets, remediless. Securities for indemnity, given by a principal debtor to his surety, ought, we think, to have been considered rather as liabilities payable *in futuro* than as contingent, inasmuch as the contingency is dependent upon the principal debtor for its realization; and this was held in *Goldsmith v. Lidnor*, 1 Roll. Abr. 925, tit. Exors. (C.) pl. 4, s. c. This old case appears, however, to have been disregarded by the current of modern decisions. When the contingency has taken place, or the condition has been broken, the security is equally a specialty, as before stated by us, whether the debt is ascertained or the damages are unliquidated; *Cox v. Joseph*, 5 T. R. 307. Finally, a specialty creditor of a testator, if injured by a *devastavit*, is but a simple contract creditor of the executor; *Charlton v. Low*, 3 P. Wms. 331. We can conceive nothing more inconsistent with the supposed rights of a creditor by specialty than the decision in *Charlton v. Low*. But the doctrines relating to specialty debts seem, like the laws of chemistry, incapable of assisting us in determining the result of any future case which may have a single element different from the components of those already analysed by judicial solution.

The anomalies which the distinction of debts into different classes has occasioned in cases of contracts *inter vivos*, appear to have been generated without any regard whatever even to the principles of technicality. Thus, the recital of a debt under hand and seal does not in law conclusively amount to a debt under seal; *Lacum v. Mertins*, 1 Ves. sen. 313. And the recital of its existence does not amount to an implied contract under seal to pay it; *Iren v. Elwes*, 3 Drew. 25. The point of this decision appears to be that sealing is a formality recognised by the law, not primarily or chiefly as a special mode of evidence, so much as an essential ingredient of the contract itself. For if it affected contracts by estoppel, and

not by a direct and primary operation of its own, the recital ought to have been conclusive that the debt was of the highest nature, and had all the requisites which the law deems important, according to the maxim *Omnia presumuntur rite acta*. And yet the doctrine of estoppel has considerably affected the construction of similar cases; as, for instance, *Stone v. Van Heythusen*, Kay 721, in which case the fact of the creditors not being a party to the deed was considered material. Now, this could not be a very important circumstance, except in relation to the doctrine of estoppel, which, as our readers are aware, operates only between the parties to a deed. The reader will find in Kay 725, 726, and 3 Drew. 34, cases which exercised the acumen of the Court in no ordinary degree in determining whether recitals were only inoperative statements, or, on the other hand, by reason of their bearing upon the context, were capable of being construed as indicating an intention on the part of the debtor to transmute his simple contract debt into a debt by specialty.

Prior to the Mercantile Law Amendment Act, 1856 (19 & 20 Vict. c. 97, s. 5), if a co-obligor to a bond paid even as surety the debt secured by the bond, he became only a simple contract creditor of the principal debtor. The surety was entitled in equity to an assignment of all collateral securities held by the creditor; but as the bond or judgment itself, which was the primary evidence of the debt, became extinguished by payment, he could not claim an assignment of it. His rights were thus determined by the stringency of the principal creditor, in exacting manifold securities from the principal debtor. Liabilities under covenants, as we have before observed, are of the same rank, whether they be for sums certain or sound merely in damages; *Plumer v. Merchant*, 3 Burr. 1380; *Freemount v. Dedire*, 1 P. Wms., 429. Yet, in *Whitchurch v. Bargutan*, 2 Vern. 272, where the husband, having agreed by marriage articles to settle a certain sum upon the issue, settled lands which were insufficient in value, and devised his unsettled lands for payment of debts, it was adjudged in equity that, as the articles did not contain any covenant in regard to the value of the land, the widow and children, although entitled to compensation, were yet to be postponed to creditors by bond. So, also, mortgage debts for the payment of which no covenant has been entered into, are only simple contract liabilities; *Ferrot v. Austin*, Cro. Eliz. 232. If a covenant for the payment of rent be contained in a lease, the landlord will be entitled to recover arrears for twenty years; while, if there be no such covenant, he can only recover arrears for six years. Rent in all other respects is equivalent to a debt by specialty; but, for the completeness of its legal incidents, special conveyancing is necessary—rent being an incident of tenure arising primarily from the privity of estate between the landlord and tenant. Yet with all these feudal and common law advantages, a covenant for its payment is still rendered necessary both to strengthen its feudal incidents as also to impose a personal obligation on the tenant independently of the privity of estate. Now, as voluntary bonds are postponed in administration suits to simple contract debts, why should not covenants which increase the landlord's rights beyond the standard of common law, be deemed so far voluntary, and, therefore, pious to the simple contract debts of the tenant. We merely wish to show that, once technical deductions were admitted to flow from the doctrines of contract by specialty, they should have been rigorously carried out to their legitimate consequences. Such an interpretation of the law would have been "inconvenient" indeed, but the effort to harmonise technical deductions with common sense and urgent necessity could only be attained, as has been the fact, by the introduction of uncertainty—a legal mischief still more to be deprecated than the practical application of technical reasoning based upon indistinct and erroneous data. Consistency and expediency may, however, be very easily subserved by the reform which we advocate.

Breaches of trust, even though the trust be created by deed, are only simple contract debts of the defaulting trustee. As, prior to the 3 & 4 Will. 4, c. 104, lands were not liable to the simple contract debts of a deceased owner, a *cestui que trust*, prior to the passing of that Act, required special conveyancing in order to have any remedy whatever against the real estate of a deceased trustee who had been guilty of a breach of trust. An acknowledgment under seal of a sum received under the trust deed will constitute the debt a specialty; an express agreement by the trustees to discharge the trusts will, likewise, have the same effect. But those cases really amount to positive and express stipulations, independently of that raised by the fiduciary position of the party. The law has in such cases hitherto acted not unlike a swindler, whose honour would not permit him to deceive except according to the standard routine. The law of specialties has transcended the ordinary limit of error incident to all human rules, and has been oppressive when it should have been lenient, and lenient where rigour was required. In point of fact, the security afforded by a deed is altogether precarious, and sometimes fails, as we have shown, even in cases such as those arising under trust deeds, where the peculiar privileges of a particular class of contracts should be viewed with least disfavour. In *Robinson's Executor's case*, 6 De G. M. & G. 372; 4 W. R., 186, it was decided that a call under the Winding-up Act of 1848 constitutes only a simple contract liability, even though the call be made under a deed executed by the contributory, or by the party whom he represents. This decision was arrived at only after two hearings on appeal, first before the Lord Chancellor (Lord Cranworth) sitting with the Lords Justices, and subsequently before the same learned judges, assisted by two from the other side of Westminster Hall (Cresswell, J., and Martin, B.), the result being that the judgment of the Vice-Chancellor Stuart was affirmed, but against the doubts of both the Lords Justices. So great was the difficulty in discovering what the law on this point, simple as the question involved was in itself! An Act of Parliament has since given the sanction of the Legislature to the doctrine laid down by the Vice-Chancellor, and affirmed by Lord Cranworth with the advice of two common law judges.

The current of judicial authority has harmonised with the rule of common law, in holding that a liability by specialty can only be raised by express words to that effect; *implied covenants* applying to real estate solely. The general scope of legislation in this department has likewise been to abridge the sphere of the operation of contracts by specialty. Thus the Bankrupt and the Winding-up Acts 1848, 1849, as already stated, as also the 14 & 15 Vict. c. 25, s. 1, which relates to tithe, have in cases falling under them, changed special into simple contract liabilities. The only retrogressive enactment on this head has been the 8 & 9 Vict., c. 106, s. 3, which requires that leases for a period of more than three years shall be created by deed. But neither judicial nor legislative tendencies are competent to do anything more than to cause still further confusion, while the distinction itself remains as the basis for evolutions. If all contracts, as distinguished from specific charges, were reduced to the one uniform standard of debt by simple contract, all those complicated anomalies which we have endeavoured to detail, would cease to lengthen conveyancing and confuse our law.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

VL (Continued).

COMPULSORY DOMICIL.

At the conclusion of the last article I was considering the domicil of servants of the Crown, upon which point I referred

to the case of *The Commissioners of Inland Revenue v. Gordon's executors*, 12 Dec. C. Sess. 657, which is valuable as laying down the following doctrine: that it never was originally understood to be doubtful that the numerous functionaries in India and our Colonies effectually acquired domicils by their residence in the discharge of their duties, though it was clear that, but for their appointments they never would have quitted their original home. Even holding the power of the Crown to be as extensive as in this case was assumed, the only effect would be that the Crown had the power to oblige the party to change his domicil which it had at one time authorised him to acquire, and if he died before the power was exercised, and before the change took place, the domicil which he had acquired and which he retained till the moment of his death, must afford the rule for the determination of all questions regarding his personal succession. But it was a mistake to say that the Crown had the power to make the party change his domicil: the order to return might have been issued, but, according to the regulations affecting half-pay, the only consequence of his refusal to obey would have been the forfeiture of his half-pay (*vid. Cockerell v. Cockerell*, 4 W. R. 730,) so that in no sense of the term could it be said that the residence abroad was dependant on anything but his own will, though it was likely enough that that will might have been materially influenced by his recall. It was generally understood that officers in the latter predicament did not acquire a legal domicil in the quarters to which they might be sent and in which they remained in the performance of their duty; but the principle of the exception was not that the Crown had the power to recall them, but the more important consideration that it had the power to send them there, and that they presumably were there only in obedience to that power. The inference drawn thence was supposed to be, that however long their mere corporeal residence might be in any particular place, the residence is to be ascribed not to any *animus* of theirs but to the *animus* of their military superiors, to which, so long as they continued in the profession, they were bound to yield obedience. There was consequently in such a case a complete separation between the mere *de facto* residence in a particular locality and the *animus* of betaking themselves to that locality, and continuing in it, which last was indispensable to the existence of a domicil in the legal sense of the term; but analogy naturally failed in the most essential particular, when it was attempted to be applied to officers on half-pay. The Crown had no power to determine where they should remove themselves to. In a very recent case of *The Attorney-General v. Napier*, 6 Exch. 217 (15th Feb. 1851), a British born subject, an officer on service in her Majesty's army in India, died there intestate, leaving all his property situate in that country, with the exception of a small debt due to him from the War Office in England. His widow took out letters of administration in India, and after paying his debts, &c., invested the rest of the estate in India in her own name for her own benefit and that of the next of kin. She afterwards took out administration in England for the purpose of getting the debt due from the War Office. The Crown then claimed legacy duty on all the property of the intestate in England and India; and it was held that as the deceased was on duty in India in her Majesty's service he did not acquire a domicil in that country, and that the whole of his property, though chiefly situate abroad, was liable to legacy duty. It was likewise held that an officer in the service of the East India Company did thereby acquire a domicil in India. This case, therefore, is a confirmation (if any were wanting) of the observations made by Lord Fullerton and Lord Robertson in the case immediately preceding, and the principles upon which they both proceed are too plain to need explanation. The following cases may likewise be referred to on the same

points: *Logan v. Fairlie*, 1 Myl. & Cr. 59; *Jackman v. Forbes*, 2 Cr. & Jer. 382; *Attorney-General v. Jackson*, 8 Bligh. N. S. 15; 2 Cl. & Fin. 148; *In Re Ewing*, 1 Cr. & Jer. 151; *Arnold v. Arnold*, 2 Myl. & Cr. 256. I have thus treated of the cases of a wife, and of a servant of the Crown, or of any great body having possessions or jurisdiction in a foreign country, such as the East India Company; for one instance is sufficient to evolve the principle.

With regard to the case of a minor or infant, that subject is so fully treated of in the next chapter, under the head "domicil of origin," that it would be but tautology to go into it at length here. I may, however, remark, that the condition of an infant in respect to his domicil, partakes of the character of all disabilities; he can have no legal status of his own, except that of origin, and as he is not responsible for any act which would make an adult liable (civilly speaking) unless he clearly adopts it when he has attained twenty-one, so he is dependent upon the status of his father for his domicil, and failing that, his origin is traceable to the country wherein he first draws breath—if on the high seas to that country to which the vessel belongs where he is born, and within cannon shot of the shore to that country off whose shore such vessel is lying, or in a port the limits would extend to the limits of such port.

The case of a domestic servant may be in some degree different from that of a servant of a public governing power, because the tenure is somewhat different. The ordinary tenure of domestics is, that both master and servant may separate from each other with one month's notice, although in the case of agricultural labourers it is understood that the hiring is for one year (see *Reg. v. Twemlow*, 4 W. R. 412; *Lowther v. Earl Rudnor and Another*, 8 East. 113; referring to the 20 Geo. 2, c. 19 & 31, *ibid.* c. 11, s. 3). These Acts apply to all labourers generally. The question of domicil upon this head can only arise where servants accompany their masters abroad, a very common case. Knowing the principles which govern the general law of domicil, it is only necessary to apply them to the case under consideration. Now, in every case where the will of the party is not an agent to determine the domicil, we must of necessity look at the power upon which they are dependent, and the domicil of that power becomes that of its subject or servant, and the only thing to refer to then is the duration and nature of the connection between them. As we have seen in the case before us, this is not certain for more than a year in one case, and may not last in the other except *de mense in mensem*. This, be it remembered, is where there are no assisting circumstances to help us in determining the question; for the same *animus* may reside in a servant as in an independent individual, and any expressions or acts forming an *animus* and *factum* would be sufficient, I apprehend, to override the rule of compulsory domicils. Thus, suppose a servant lives for a number of years in a family with whom he has gone to a foreign country, marries there, and has a home and family near the residence of his master, where he resides, only following his service at his master's house during the day, and having saved and possessing a competence, constantly declares his intention to leave the service whenever his master's family return to England, and to spend the remainder of his days at his chosen home. I think, upon such a state of circumstances, there would be little or no doubt, that if he died in the service his domicil would be in that foreign country, whether his master or mistress had acquired a domicil or not. On the other hand, a servant of an individual holding an office where the original domicil is not lost, in the ordinary course would follow such domicil; and the exception in this case, as in all others, proves the rule. The case of an apprentice can hardly apply to this question,

because, generally speaking, he is a minor also; but supposing him of age, he has so little will in his movements that, whilst his indentures remain uncanceled, he must of necessity have the same domicil as his master. The determination of indentures otherwise than by cancellation involves a criminal question, and the apprentice would then come under another head of compulsory domicil, namely, that of a prisoner, of which hereafter. Our law is sadly bare of authorities on these heads, beyond what we find in the text books, and those generally the *dicta* of foreign writers. Thus *Voet*, art. 1, t. v. § 96, has the general proposition that servants follow the domicil of their masters, and the cases do no more than proceed upon the principles which govern the general law, and which I have endeavoured to apply at the outset of these observations. Thus in the case of *Dalhousie v. McDowall*, 7 Cl. & Fin. 331, 817, it was held that a servant who follows his master does not thereby lose his domicil of origin; *cod.* x. 40-7; *Cod. Civile*, art. 109. The fact is that a servant stands in a very different position to any other person under disability (if his case can indeed be classed with theirs, which is very doubtful) for he has the power, within a limited and time certain at least, to act as he pleases, in respect to his place of abode, whereas they must of necessity follow that of others, reside where they reside, and go where they go, moreover this even is not always necessary, for although for the time resident in another place, whether the domicil of their superior or not, their domicil and his still continues to be the same. Thus a slave can have no other domicil but that of his master whilst he continues in that relation to him. The best instance, perhaps, of compulsory domicil would be that of a prisoner, not because there is any doubt as to his domicil being that of the country in which he is imprisoned, but because he cannot leave it; and this element it is which determines his domicil. I speak now of an entire imprisonment, that is during the remainder of his days, for, in this case, the *animus* is taken away from him and transferred to that of the power holding him in durance, and the *factum* is represented by the place or locality in which he is imprisoned. *Prima facie* a prisoner does not lose his domicil of origin merely by the fact of being incarcerated, for it may be, and generally is for a limited time; and it must be presumed that, as soon as the term is over he will avail himself of his freedom to act according to his own will and convenience, and either regain his original domicil or acquire another, as circumstances may render it expedient or necessary for him to do.

(To be Continued).

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

(Sittings at Nisi Prius at Westminster, before LORD CHIEF JUSTICE COCKBURN, and a special jury.)

Feb. 13.—*Costerton v. Lacon*, Bart.—The plaintiff is a solicitor of Yarmouth, and brought this action against Sir Edmund Lacon for slander, contained in a speech which he had made at a public dinner at Yarmouth, reflecting upon the character of the plaintiff, as a member of the committee for conducting a petition against the return of the defendant to the House of Commons.

After the evidence for the plaintiff had been given, counsel on behalf of Sir E. Lacon said he withdrew any charge he had made against Mr. Costerton, and regretted having made them.

The plaintiff's counsel said the plaintiff would never have brought this action, had he not have been pointed at as a person who had been engaged in most discreditable acts. If he had not brought the action, it would have been professional ruin to him.

The CHIEF JUSTICE said the result was highly creditable to

the defendant, but he considered the plaintiff was bound to bring the action.

Verdict for the plaintiff for 40s. damages.

COURT OF PROBATE.

(Before Sir C. CRESSWELL.)

Feb. 13.—Winstone v. Winstone and Dyne.—The wife in this case had presented a petition for judicial separation on the ground of cruelty. The husband had denied the cruelty, and charged the wife with adultery. The case was tried in February, 1860, and a verdict found for the husband on both issues. A petition for a dissolution of marriage by the husband, in which the same questions were raised, was tried in December last, and the husband again obtained a verdict on both issues, and a decree nisi was pronounced. An order for alimony *pendente lite* had been made in the judicial separation suit. Since the decree nisi in the second suit the wife had filed a petition for permanent alimony, alleging simply the amount of the husband's income.

Counsel for the husband moved that the petition for permanent alimony might be taken off the file. He submitted that such an application by a wife who had been proved to be guilty of adultery was unprecedented. But even if it were competent to the wife to make it under the 32d section of the Act of 1857, it ought to have been introduced in her answer in order that the husband might have had the opportunity of producing evidence on the trial of his petition, showing that her conduct had been such as to deprive her of a right to a permanent provision.

Counsel for the wife contended that the 32d section gave to the wife a right to apply for a permanent provision at any time before the decree finally dissolving the marriage was pronounced. It could not be necessary to introduce the prayer for alimony into the answer, because the court would not on the trial of the petition enter into the question of the husband's faculties.

His LORDSHIP took time to consider his decision.

In the course of his argument, counsel for the wife mentioned that an allegation of the husband's faculties was introduced into the petition in consequence of the information given at the registry as to the practice of the court in that respect.

His LORDSHIP repeated an observation which he has frequently made, that professional men ought not to go to the registry when they were at a loss upon a point of practice, and put questions to the clerks, who had other matters to attend to. They ought to take the advice of counsel.

WORSHIP-STREET POLICE-COURT.

Feb. 12.—John Robinson Gibson, 46 years of age, stated to be a solicitor residing at Edmonton, was charged with embezzlement.

Evidence having been given of the prisoner's non-accounting for £60 11s. and £31 5s. received by him on account of the Eastern Counties Railway Company on the 6th of September, 1860, and £31 5s. on the 7th of December in the same year, a remand was asked for to prove further defalcations.

Superintendent Kent, attached to the railway in question, said,—When I took the prisoner this morning at the Shore-ditch station he said in reference to the charge, "I've received the amounts, but not with any felonious intent. I shall not give any trouble. I am guilty."

A remand being applied for, and the prisoner expressing no desire to be admitted to bail, he was remanded accordingly.

Mr. Norton, one of the Masters of the Queen's Bench, has been appointed to the office of Queen's Coroner, and attorney in the place of the late Mr. Corner. Mr. J. G. Malcolm, of the Home Circuit, will succeed Mr. Norton as Master. The office of assistant master of the Crown Office has been abolished.

Mr. Francis Impey, of No. 12, Bedford-row, Middlesex, has been appointed a commissioner to administer oaths in the Courts of Queen's Bench, Common Pleas, and Exchequer.

The Queen has been graciously pleased to grant unto John Fortescue Brickdale, of Newland, Gloucester, and West Monckton, Somerset, Esquire, Barrister-at-law, her royal licence and authority that he may, as one of the co-heirs of John Disker Inglett Fortescue, of Buckland Filleigh, Devon, Esquire, deceased, take and use the surname of Fortescue, in addition to and before that of Brickdale, and also bear the arms of Fortescue quarterly with those of Brickdale.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, Feb. 11.

STATUTE LAW CONSOLIDATION.

The LORD CHANCELLOR laid on the table a Bill for clearing the statute book of a mass of useless matter, which, he said, was a preliminary stage in the ground work of the consolidation of the statute law. The Bill had been carefully drawn by Messrs. Reilly and Wood. It had been circulated during the recess to all the public offices, and the answers received from them in reply to questions put concerning the Bill shewed that it would require but very slight amendment.

The Bill was read a first time.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

This Bill was read a second time.

In reply to a question from Lord Cranworth, Lord Chelmsford said that this was the same measure as that introduced into the House last session.

Tuesday, Feb. 12.

FORGED TRADE MARKS.

The LORD CHANCELLOR laid on the table a Bill for the protection of manufacturers against forged trade marks. The Bill proposed that the forging of trademarks, or the sale of articles bearing forged marks, with intent to defraud, and the using of marks falsely describing the quantity and quality of goods should be made misdemeanours punishable by fine and imprisonment. If the name or monogram of any particular artist were fraudulently attached to any work of art, that would be a misdemeanour and punishable in like manner.

Thursday, Feb. 14.

THE ADMIRALTY COURT.

The LORD CHANCELLOR laid on the table a Bill relating to the Admiralty Court, the object of which is to abolish the right of appeal from the Admiralty Court to the Judicial Committee of the Privy Council.

Friday, Feb. 15.

THE COURTS OF CHANCERY.

Lord ST. LEONARDS rose, to quote the words of his motion, "to draw the attention of the House to the report of the Commissioners of Inquiry as to the expediency of building new law courts on the same spot, and where the money was to come from, with a view of preserving the funds arising from the investment of monies belonging to the suitors of the Court of Chancery for their benefit and security; for which purpose the monies were laid out subject to certain charges, and for the reducing of fees payable to the Court by such suitor, for which object the funds stand appropriated."

(Left speaking.)

HOUSE OF COMMONS.

Monday, Feb. 11.

LOCAL TAXATION AND GOVERNMENT OF THE CITY OF LONDON.

Mr. AYRTON intimated that on Friday week he would move for a select committee to inquire into the local taxation and government of the city of London, and the expediency of constituting the metropolis a county in itself for the administration of justice and management of its own affairs.

BANKRUPTCY AND INSOLVENCY.

The ATTORNEY-GENERAL moved for leave to bring in a Bill to amend the law relating to bankruptcy and insolvency. This was only an amending Bill. One of the great evils it was necessary to remedy was the confusion that exists in bankruptcy between the judicial and administrative functions of the Court. The charges on the administration of an estate in bankruptcy amounted to 33 per cent. He proposed to appoint a chief judge of the Court of Bankruptcy, and to continue the five London Commissioners. The Bill would abolish the Insolvent Court and leave the administration of justice both in bankruptcy and insolvency, in the London district, in one and the same Court. That district was very

extensive, stretching from the extremity of Norfolk on the one side to the borders of Hampshire on the other. Another part of the Bill proposed to augment the jurisdiction of the county courts, and to give creditors the power of removing an estate from the Court of Bankruptcy to the county court without any limit in point of amount, and that all petitions for removing bankruptcy should be presented in the first instance to the Court of Bankruptcy, except in those cases where the debts of the trader do not exceed £300. These changes were the most material changes made by the Bill, and were all the differences that exist on this part of the subject between the Bill of last session and the present. He then explained the course of procedure proposed by the Bill. One great object was to enable a bankrupt's estate to be administered and worked out without going into bankruptcy at all. He then described the powers and functions with which he proposed to clothe the creditors, and official assignees, and the nature of the discharge to be given to the debtor. The Bill abolished the distinction of the certificates to be given to bankrupts. The Bill described instances of misconduct which should warrant the judge in refusing or suspending the order of discharge or of committing the bankrupt to prison for any period of time not exceeding one year. Among the offences so enumerated was the acquiring of fictitious capital, and the trading with false capital, principally produced by the excessive and unjust application of accommodation bills. The chief judge is to have power to try bankrupts for criminal offences; but if the bankrupt desires it he may be tried by a jury. No appeal is allowed to any other tribunal. This procedure applied to trader debtors. With respect to non-traders he enumerated the following tests of bankruptcy, —abandoning from the country with the intent of evading creditors, a creditor being unable to find the debtor to enforce a judgment obtained by the ordinary process of law, and the debtor being arrested on final process and placed in prison. After-acquired property of non-traders should not be liable to debts due at the time of his insolvency. He explained the other details of the Bill, and in conclusion expressed his expectation that the portion of it which provided for private arrangements by means of deeds of composition would be found most beneficial, ensuring economy and expedition.

Mr. Hadfield, Mr. Malins, and Mr. Crawford, expressed their concurrence in the measure; and it was commended by Mr. Walpole and other members.

Leave was given to introduce the Bill.

BANKRUPTCY COURT.

On the motion of Mr. MURRAY, returns were ordered of the revenue and expenditure, balances, and the number of sittings of the Court of Bankruptcy for the year 1860.

LAW OF LUNACY.

Sir G. C. LEWIS (in answer to Mr. Walpole) said that a Bill to amend the law of lunacy was in preparation, and he hoped to bring it in on an early day. He might also state that the Lord Chancellor intended to bring in a Bill on the subject of Chancery lunatics, which would be a separate measure.

Tuesday, Feb. 12.

DISQUALIFIED WITNESSES.

Sir JOHN TRELAWNY asked the Secretary of State for the Home Department whether he had been informed of a recent decision in the County Court at Rochdale by the judge, Mr. C. Temple, who is alleged to have nonsuited a plaintiff on account of the inability of the witness to affirm her belief in a future state of rewards and punishments; and whether, on the assumption that the judge ruled properly, the Government would deem it necessary to amend the law applicable to similar cases.

Sir G. C. LEWIS: In consequence of the notice given by the hon. baronet, I have been able to communicate with the judge who tried the case referred to. It was a case of *Maden v. Catenack*. The law is not at all narrow or intolerant with respect to the administration of an oath, because it permits the administration of any oath which is binding according to the religious belief of a witness; so that a Mussulman, a Hindoo, or a Chinese may be sworn according to the ceremonies which are binding upon his conscience, but which, nevertheless, all presume the existence of some religious belief. The only instance in which an oath is dispensed with is in the case of members of the Society of Friends, who are by a special Act of Parliament allowed to make a declaration which implies a

religious belief, in lieu of an oath. That being the state of the law I can only say that it is not my intention to ask for leave to introduce any Bill to alter it.

Wednesday, Feb. 13.

NEW MEMBER.

Mr. W. E. FORSTER took the oaths and his seat for Bradford.

Thursday, Feb. 14.

BANKRUPTCY AND INSOLVENCY BILL.

On the motion for the second reading of this Bill, Mr. ROEBUCK objected to the Bill. The Bill was a complete failure. What could the chief judge, whom it was proposed to appoint, do, that was not already done by the Lords Justices? It was not proposed to diminish the fees now payable. The distinction between bankruptcy and insolvency was not done away with, for an act of bankruptcy on the part of a trader was not an act of bankruptcy on the part of a non-trader, and thus the distinction was preserved in spite of the Bill.

Mr. BOVILL said it was a matter for serious consideration whether the House would appoint a new chief judge at a salary of £5,000 a-year, in place of a tribunal which now worked well. By the Bill of last year it was proposed to abolish the messengers of the court. It was now intended to retain them at salaries not exceeding £500 a-year. While ready to admit the many excellent provisions of the Bill, he was not satisfied with it, and thought it was not such a one as the country had a right to expect.

Mr. LYSLEY said with respect to the appointment of a chief judge, that 19-20ths of bankruptcy business arose out of the collection and distribution of the estate, and suggested that the functions of the chief judge should be increased by giving him a general supervision over the administrative business of bankruptcy.

Mr. MOFFAT, Mr. J. C. EWART, and Mr. HADFIELD supported the measure.

The ATTORNEY-GENERAL replied.

The Bill was then read a second time, and ordered to be committed on Monday next.

CRIMINAL LAW CONSOLIDATION (ENGLAND AND IRELAND).

The SOLICITOR-GENERAL moved for leave to introduce a series of seven Bills to consolidate and amend the statute law of England and Ireland relating to criminal offences.

Leave given.

LAW OF FOREIGN COUNTRIES.

Mr. DUNLOP moved for leave bring in a Bill to afford facilities for the better ascertainment of the law of foreign countries when pleaded in courts within her Majesty's dominions.

The Bill was read a first time.

PENDING MEASURES OF LEGISLATION.

QUALIFICATION FOR OFFICES BILL.

This Bill proposes that it shall not be obligatory on any one hereafter chosen mayor, alderman, common-councilman, &c., or to any office or magistracy relating to the government of any county or corporation of England, or "for any person who shall hereafter be admitted into any office or employment," or who shall accept any grant or commission from the Crown, to make and subscribe the declaration required by the Act of 1828 (repealing the Test and Corporation Acts), that he will not exercise the power, authority, or influence of his office to injure or weaken the Established Church, or to disturb that Church or its bishops and clergy in the possession of the rights and privileges to which they are by law entitled.

Recent Decisions.

EQUITY.

PRACTICE—AGENT—INSPECTION OF DOCUMENTS.

Draper v. The Manchester &c., Railway Company, L. L. J., 9 W. R. 215.

It was held in this case that under the common order for inspection of documents in a cause by the plaintiff, his solicitor and agent, the plaintiff could not appoint as his agent for the

* The facts of this case are stated ante p. 232.

purpose of inspection, a professional accountant to whom the defendants, a railway company, objected on the ground that he was connected with a rival company. Lord Justice Turner, having observed that the words "solicitors and agents" had for some years received a limited construction, said that "it might not be necessary that an agent for the purpose of inspection must of necessity be a legal agent, but his lordship thought that he must be a general agent, and not an agent appointed for the special purposes of the case." The general practice no doubt has been to consider an order for inspection to be restricted to the party obtaining it and his solicitor and agent in the cause. There appears to be some doubt, however, whether it may not, where the case requires it, include a special agent to whom no objection could be made by the other side. In the present case there was a valid objection to the special agent, and therefore it was not necessary to decide the point generally.

PRACTICE—23 & 24 VICT. c. 127, s. 28.

Bonser v. Bradshaw, V. C. S., 9 W. R. 229.

This section enables Courts before whom any suit, matter, or proceeding has been heard or is depending, to declare the attorney or solicitor employed therein to be entitled to a charge for his costs upon the property recovered or preserved, upon which declaration the attorney or solicitor is to have a charge upon such property, and all conveyances to defeat the same, except to *bond fide* purchasers for value without notice, are to be void as against such charge.

In this case Sir J. Stuart, V.C., intimated an opinion that the section to which we have referred applies only to the case of a solicitor claiming his costs against the estate of an adult client. His Honour, however, does not appear to have stated any ground for this dictum, and it is not easy to discover in the enactment itself, any reason why it should be limited in the manner suggested. The words of the section are very large, and certainly include every "suit, matter, or proceeding in any court of justice," whether infants or any other class of persons not *sui juris* are parties, the Legislature having confided to the judge the discretion to decide in each case, whether the solicitor shall or shall not have the statutory charge upon the property recovered or preserved.

The Court of Queen's Bench in a recent case (*Ex parte Thompson*) has also come to a decision which will have the effect of limiting the application of this enactment in a manner, however, which appears consistent, and, indeed, required by its terms, and which is also reasonable in itself. The Court of Queen's Bench in this case held that the 28th section applies only to the costs of the particular suit or action in which the estate was recovered. The words of the section are that the solicitor is to have a charge "for the taxed costs, charges, and expenses of or in reference to such suit, matter, or proceeding." The words in italics, however, would doubtless be wide and general enough to include in some cases preliminary proceedings or attempts to accomplish without suit what afterwards required litigation to achieve.

Now that we have touched upon this section we may invite the attention of those of our readers who are particularly engaged in transactions between vendors and purchasers to the importance of the provision which makes the solicitors' charge in such cases indefeasible except by a purchaser for valuable consideration without notice. It will be necessary for purchasers where it appears that the property may have been recovered or preserved, to be satisfied that no charge under this section is in existence; for, no doubt, should the purchaser have information of the fact of any suit, matter, or proceeding, in which the property might have been recovered or preserved, he would be considered to have constructive notice under the provisions of this section, of the solicitor's charge, if such existed. Mortgagees, moreover, not being expressly named in the exception, it is doubtful whether it would be held that they would have the advantage of the exception in favour of purchasers for value.

REAL PROPERTY AND CONVEYANCING.

GAVELKIND—DOWER ACT.

Farley v. Bonham, V. C. W., 9 W. R. 299.

It has been here decided that gavelkind lands are subject to the provisions of the Dower Act. The lands were in Kent, and it was an established part of the old law that by the custom of Kent, the wife, after the death of her husband, should have for her dower a moiety of all his lands and tenements of the nature of gavelkind; Robinson on Gavelkind, 3rd ed. 205. The Dower Act, by the interpretation clause, enacts that

"land" is to extend to manors, advowsons, and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower). The simple question was, whether lands of the nature of gavelkind were comprised within these words? The language at first sight seems to be of the most comprehensive description, and to exclude all argument. It was argued, however, that the Real Property Commissioners, in their first report, had declared (pp. 16 & 19) that "they did not propose at present to extend the alterations of the law of dower to gavelkind lands, or borough-English lands, or to copyhold or customary lands, as to all which the right of dower or freebench was regulated by a variety of peculiar customs;" the inference being that such, also, was the intention of the Legislature. Further, that it had been held that the Act did not apply to copyholds; *Smith v. Adams*, 5 De G. M. & G. 712; *Powdrell v. Jones*, 2 Sm. & Giff. 415, in which case Stuart, V.C., observed, "The language of the statute itself shows that it refers only to estates which pass by deed and not by surrender, and the opinion of Lord St. Leonards is repeatedly expressed that copyholds are not within that statute." The observation was also made as against the operation of the statute that the words "of any tenure," which occur in the Fines and Recoveries Act, are omitted, as if purposely, from the Dower Act, though nearly of contemporaneous date, and it was contended that the latter Act contemplates dower at common law only, as distinguished from customary dower. Decisions on the Disgavelling Act, 31 Hen. 8, c. 3, show that that statute extended to no other custom of the land, save that of descent; Robinson, 3rd Ed. p. 97, and it was a principle of construction that general words in an Act of Parliament are not to be construed so as to alter the previous policy of the law, unless no sense or meaning can be applied to those words consistently with the intention of preserving the existing policy untouched; *Minet v. Leman*, 20 Beav. 269. These arguments were overruled by the Vice-Chancellor Wood. He showed that the policy of this Act, as stated in the report of the Commissioners, was to remedy the previous uncertainty in the system of law, and in the deduction of titles, owing to subtle refinements in the law of dower; and that the right of dower was of very trifling benefit to the widow, and often injurious to her, by involving her in litigation. These evils were met by giving the wife dower in all real property, whether real or equitable, where the husband had not clearly defeated her right by declaration. There was no contrast in the Act between customary dowers and dower at common law; the inconsistency, now rectified, was between legal and equitable estates. The decision that copyholds were not included in the Dower Act and the remarks of Vice-Chancellor Stuart, were founded probably on the circumstance, that generally, in the case of copyholds, the husband's disposition controlled the right to freebench. This reason could not apply to gavelkind land. The omission of the words "of any tenure," could not have the effect of limiting the large operation of the word "land." Moreover, the evils proposed to be remedied by the Act extended to gavelkind as well as to other lands. As to the Disgavelling Act of 31 Hen. 8, it was observed that that statute was passed on the petition of certain landowners in Kent, and the design of the Legislature was, not that the land should be divested of any of its former privileges in the case of forfeiture for felony and the like, but simply that it should be rendered partible. The Dower Act, on the other hand, was a measure founded on public policy. Upon the question of the construction of the statute, the Vice-Chancellor agreed with the observations of the Master of the Rolls, in *Minet v. Leman*, and after pointing out that the policy of the Act had direct reference to gavelkind lands, asked what there was to show that the proposed alteration in the law would be other than was intended, if the provisions of the new Act were extended to lands of this tenure. The customary right to dower was quite as strong as the common law right; there was nothing in the word "dower" to indicate a subject matter different from the general subject matter of the Act, and this was a case where the abrogation of a custom would benefit both husband and widow, and persons claiming as purchasers from them both. The conclusion was, that on every ground the widow was entitled to dower.

COMMON LAW.

COUNTY AND BOROUGH QUARTER SESSIONS—APPEAL, COSTS OF—8 & 9 WILL. 3, c. 30.

Reg. v. Recorder of Leeds, Q. B., 9 W. R. 270.

This was an appeal from the decision of a recorder, with regard to the costs of an appeal to the borough quarter sessions,

under the following circumstances. Two justices of the borough of L. had made an order for the removal of a pauper to the township of B., against which order the parish officers of B. gave notice of appeal, stating to the overseers of L. their intention to appeal to the county sessions of the district within which the borough was situate. Previously, however, to the county quarter sessions being held, and before, also, the time of holding the borough quarter sessions (which had been fixed for a few days earlier than the sessions for the county), the appellants discovered that the appeal should properly have been to the borough sessions; and they then asked the respondents to try the appeal at the county sessions by consent—saying, at the same time, that if the respondents declined to accede to that proposal, the appeal of which notice had been given, must be considered as abandoned. The respondents refused to accede to the proposal made by the appellants, as jurisdiction could not be given by consent in the case of appeals against removal orders. They afterwards applied to the borough quarter sessions for the costs they had incurred in relation to the abandoned appeal, under 8 & 9 Will. 3, c. 30, s. 3. This provision is to the effect that the county magistrates in their general or quarter sessions, upon any appeal before them there had concerning the settlement of a pauper, or upon proof there made of notice of appeal to the churchwardens or overseers of any place, though such appeal be not afterwards prosecuted, may at the same sessions award to the party in whose behalf the appeal shall be determined, or to whom notice of appeal shall have been given, their "reasonable costs and charges." It will be observed that this enactment, in its terms, applies only to county sessions and allows costs of appeal to be awarded there; whereas in the present case the application for costs was made to, and granted by, the borough quarter sessions. This difficulty, however, is probably removed by the general enactment in 5 & 6 W. 4, c. 76, s. 105, giving the recorder of a borough in his court of quarter sessions of the peace, cognizance of "all matters whatever" (with certain exceptions mentioned in the same Act) which are cognizable by any county quarter sessions: and further providing that he shall have power to do all things necessary for exercising such jurisdiction, notwithstanding his being sole judge. These general words seem to be sufficient to give a recorder jurisdiction over the costs of an appeal; but the point does not appear in the present case to have been brought before the Court of Queen's Bench—the question for their decision rather being whether the respondents were justified in treating the notice of appeal as a good one for the next borough sessions; in reference to which, alone, it had a legal application, however it might be worded. The Court were of opinion that they were justified in so treating it, and that consequently the recorder had jurisdiction to make an order for the costs of the abandoned appeal. This conclusion was chiefly come to on the authority of *Reg. v. Recorder of Liverpool* (15 Q. B. 1070). There the appellants made the same mistake, but discovering their error before anything was done, and having thereupon informed the other side (without any fresh notice), that the appeal was to be to the borough sessions, it was held that such notice enured as a valid notice of appeal for the borough sessions; and the recorder (who had entertained a different opinion, and had dismissed the appeal for want of due notice thereof having been given), was compelled by mandamus to hear the appeal notwithstanding.

MASTERS AND WORKMEN—CONSPIRACY—6 GEO. 4, c. 129, s. 3.

Walsby, app., v. Anley, resp., Q. B., 9 W. R., 271.

This is another decision upon the provisions in 6 Geo. 4, c. 129, prohibitory of conspiracies by workmen to obtain terms from their employers by intimidation and other improper practices. The law upon this important subject, so far as it was required by the case then before the Court, was luminously expounded by the Chief Justice of the Queen's Bench to the following effect. Every workman is free to quit his master when he will if he be not bound by any contract to remain any specified time; and he may also tell his master that he will quit his service unless A. or B. be discharged. And not only a single workman may lawfully make such an announcement, but several may also make it each for himself. But beyond this workmen cannot go. They may not proceed in a body to their employer, and endeavour to coerce him by a threat that they will leave all together unless A. and B. be discharged. Such combination makes their conduct amount to a conspiracy at common law; and, moreover, seems to come within the 3rd section of the Act, which (among other things) makes it criminal for any person, by "threats or intimidation," to force, or endeavour to force, any person carrying

on any trade or business, to limit the number or description of his workmen.

With regard to the distinction above taken by the Chief Justice, it may be remarked that it lies at the very foundation of the law of conspiracies—for a purpose is often criminal when concerted by several, which would not be of that character if entertained merely by an individual. And the reason given in the books is, that though every wrong may not be of a dangerous character to the public (which wrongs alone are punished by the criminal law), yet every coalition to promote wrong is clearly of that character.

ATTORNEY AND CLIENT—WHAT IS MAINTENANCE.

Earle v. Hopwood, C. P., 9 W. R. 272.

The offence of *maintenance* is punishable with fine and imprisonment by statutes still unrepealed; though in modern times it is chiefly heard of in connection with some contract which is sought to be set aside, on the ground that the consideration for it is illegal, as amounting to this offence. As to what maintenance is, we find one species of it defined as "an officious intermeddling in a suit that no way belongs to one by maintaining or assisting either party with money or otherwise to prosecute or defend it." This species of the offence is termed *curialia*, and if in addition the party maintaining stipulates to have part of the thing in suit, the offence is then known as *champerty* (1 Russ. on Crimes, p. 175). It is, however, to be remarked that there are many acts in the nature of maintenance which become justifiable from the circumstances under which they are done—and one instance is, when they are done by a barrister or attorney in the legitimate exercise of his profession. As to this, however, there are some nice distinctions, according to which the conduct of the party is justifiable or ranges itself under this offence. Thus, it is said that an attorney (but only when *specially* retained) may lawfully prosecute or defend an action for his client, and lay out his own money in the suit (Russ. *ubi sup.*), but this must not be coupled with an agreement to receive part of what is recovered; and the present case shows that neither can he so lay out his money, on the understanding that whether he is to receive remuneration at all is to depend upon the success of the action, and that the amount of his remuneration (if any) is to be proportionate to the value of what is recovered. A declaration framed on such an agreement, was demurred to as being bad in substance; and an unanimous judgment against it was given by the Court of Common Pleas, without even calling upon the defendant to support the demurrer.

Correspondence.

LORD CRANWORTH'S MORTGAGEES' ACT.

What would you do in this case? A client of mine has agreed to borrow £500 of another person upon security of a mortgage of certain freehold property, and as every pound of expense is matter of consideration, I propose to the mortgagee's solicitor to give a mortgage framed under the above Act of last session, so as to keep the deed as short and the expense as low as possible. The mortgagee's solicitor, however, declines to draw it under this Act, and proposes to draw it in the old full length style, with usual powers of sale, insurance covenants, covenants for title, &c., and to exclude the operation of the Act under the section enabling parties to do so, I know of no reason for this, except that it may make a difference of £5 in the costs of drawing, fair copy, engrossing, parchment, and stamps, which my client will have to pay. Is there any remedy for this, or what would a court of equity decide upon such a point in a case like this of an open contract, or in fact no contract at all except a verbal one? It appears to me to be matter of some professional practical importance, and it suggests the question whether or not in future agreements or memoranda of deposit of deeds by way of equitable mortgage, a clause ought to be inserted providing that any mortgage to be prepared in pursuance thereof should be drawn under or with reference to the above Act. Most banks, for instance, keep printed forms of agreements by way of equitable mortgage for use by their customers who may deposit deeds as a security for advances. In such cases I apprehend the bank solicitors will, until a contrary practice is established or decided, claim *stare super antiquas vias* in drawing mortgages thereunder. I should like to ascertain the general professional opinion on this matter.

Feb. 11.

A PROVINCIAL SOLICITOR.

"CHANCERY CHAMBERS." APPLICATIONS UNDER THE DEFENCE ACT.

SIR,—I observe in recent numbers of your publication (*ante*, pp. 195 & 233) you have advocated the extension of procedure by summons at chambers to applications relating to money paid into court under the Lands Clauses Consolidation Act. I beg to direct your attention to a provision for this very purpose in relation to money paid in under "The Defence Act, 1860" (23 & 24 Vic., c. 112) contained in sect. 23 of that Act. I have not observed that you referred to this enactment, and therefore infer that it has escaped your notice or your memory.

Old-square, Lincoln's-inn, Feb. 8. A. J. WOOD.

MEMBER OF PARLIAMENT—HIGH SHERIFF.

SIR,—Can a member of Parliament for a county be legally appointed High Sheriff of the same county? Please reply in your next paper.

Yours very obty,

Carlisle, 13 Feb. 1861.

DANIEL M'ALPIN.

The Provinces.

WETHERBY.—*Informer: how for a competent witness.*—*Jackson v. Knowles.*—This case was heard before the borough magistrates on the 7th instant. It was an information preferred under the 3 & 4 Vict. c. 85, against the defendant, for compelling a young person under the age of 21 to ascend a chimney for the purpose of sweeping it. Mr. Granger, for the prosecution, proposed to examine the informer as a witness, to which Mr. Bruce, for the defendant, objected, on the ground that he had a pecuniary interest in the result of the information; under 3 & 4 Vict. c. 85, s. 7, which gives half the penalty to the informer. In support of the objection he cited 11 & 12 Vict. c. 43, s. 15, which enacts that every prosecutor of any information not having any pecuniary interest in the result of the same shall be a competent witness to support such information, and also Arnold's "Duties of a Justice out of Sessions," p. 22, where that enactment is treated as still subsisting un repealed. The magistrates allowed the objection. [We may mention that Mr. Oke, in the last edition of his "Magisterial Synopsis," pp. 63 and 143, lays it down that so much of the 11 & 12 Vict. c. 43, s. 15, as prohibits an interested informer from being a witness is repealed by 14 & 15 Vict. c. 99, s. 2; and that the informer is now in all cases a competent witness. It appears strange that upon a question which must arise repeatedly there should be such a difference of opinion between two very eminent authorities—one of them administering justice law in the City and the other in Westminster, and both publishing their treatises in 1860.—ED. S. J.]

Ireland.

Mr. John Pitt Kennedy has been appointed Crown prosecutor for the county of Tyrone, vacant by the death of Mr. Leatham, Recorder of Londonderry.

Mr. Serjeant Sullivan has been appointed law adviser to the Castle, in the place of Mr. Lawson, Q.C., the new Solicitor-General. It is stated that Mr. A. S. Mehan has been appointed Recorder of Londonderry in the room of the late Mr. W. P. Leatham.

Review.

The Law of Debtor and Creditor. By CHARLES FRANCIS TROWER, M.A., Barrister-at-law. Stevens; Sweet; Maxwell. 1860.

A treatise upon the law of debtor and creditor has been a desideratum to the legal public these many years. The book before us professes, not without reason, to be a compendium of the law upon this extensive class of legal relations, and to dispense with the hitherto necessary references both to the equity and law shelves of a library, for information upon questions of debt and credit. The law of debtor and creditor is, in one sense, obviously co-extensive with the entire sphere of contracts. A debt, indeed, cannot properly be said to be created as long as

the contract from which it may arise is *in fieri*, and not actually completed. Nevertheless, in all cases of contract a certain liability is incurred by at least one of the contracting parties. The terms debtor and creditor, however, are generally used both in colloquial and legal phraseology, in reference to that class of obligations in which a certain ascertained sum of money is due from one of the contracting parties to the other—as distinguished from those cases of assumpsit, covenant, or tort, in which the amount of the liability is unascertained. A treatise, then, on the law of debtor and creditor suggests to us by its terms that it describes the results rather than the origin or nature of contracts. We should expect to find in such a book the principles of pleading, practice, and evidence, in relation to debts; their enforcement, release, or liquidation; but not an examination of the law of contracts; or, if such a treatise alluded to the conditions and circumstances of legal contracts, we should at all events expect mention of those species only which arise merely out of the relative status of the parties, independently of any collateral securities, such as mortgages, pledges, or liens, for the enforcement of the debt, or the performance of the contract.

Mr. Trower states his design to be, "by avoiding, as far as possible, everything which is not law at the present moment; by stating the results of decisions rather than their reasons; and by aiming at condensation of expression as well as of matter; to compress a practical treatise upon the entire subject into a single volume." The chief cause, he adds, which has deterred text writers from a task like his, appears to be "the risk of perpetual legislative changes." The extent over which a comprehensive treatise, such as the book before us, travels, is, on the other hand, a counterpoise to this legislative obstruction to the vitality of an author's fame, inasmuch as a great portion of the existing law of contracts must continue unaffected by a legislation which is studiously partial and incomplete. Mr. Trower notices Lord St. Leonards' Act to further amend the Law of Property, passed in the last session, as a specimen of this piecemeal method of law reform, and considers that the claims of creditors have been unduly depreciated in a zeal bestowed upon the interests of purchasers exclusively. With this view we entirely concur, and we are happy to find our opinion upon this point corroborated by Mr. Trower. The first three chapters of his book relate to judgments, and are a complete abridgement of the laws relating to this class of debts. The consolidation of the statute law, "its administration by one set of courts, animated by the same principles, and regulated by the same procedure, together with an authoritative declaration of Parliament as to the conflicting decisions of our 'case' law," are the remedies suggested by Mr. Trower for the weighty and manifold burdens under which the legal public of this empire labours. These are, no doubt, desiderata; but are also likely to continue so. The disuse of ceremonies, such as sealing documents in cases of contracts, would tend, as we endeavour to show in our present number, to remove very many of the intricacies of that branch of law with which we are just now more immediately concerned.

The law of debtor and creditor does not admit so easily of a scientific exposition as many other equally or more complicated branches of law. The laws of real property, for instance, are characterized by the regard for tenure and seigniorial rights which their feudal origin impressed upon them. This characteristic of tenure runs through our whole real property system, and whenever it conflicts with the claims of creditors, these, unless protected by statute, are ignored. We have no similar pervading principle in the law of personal property. Smith's lectures on contracts is a work as scientifically constructed perhaps as an elementary outline on the subject could be. Yet, surely, the philosophy of the law of contracts in general, or even of the law of debtor and creditor, which is less extensive than that of contracts, whereof it forms only a part, must have an intimate connexion with the first principles of juridical science. The subject at the present time has any especial interest, owing to the Bankruptcy and Insolvency Bill, which is a remnant of the last session that is likely immediately to become law in some shape. This view of the question, however, is too ephemeral to be had in view in a treatise which naturally seeks more enduring bases. Mr. Trower does not enter upon the juridical relations of debtor and creditor, but, as a plain lawyer, states what the law is, not what it ought to be.

His division of the subject is simple, and violates no logical rule. The treatise is divided into two parts, the first of which comprises judgment, specialty, and simple contract debts, as between subjects; the second, mortgage

debts, annuities, and Crown debts. The principle of this division appears to be the distinction between debts strictly as such, and debts secured by being specifically charged on property. He says, in some cases, indeed, the result of a debt "follows so simultaneously upon the contract as to be hardly distinguishable from it. Thus, in the case of goods sold and paid for over the counter, the debt and contract seem contemporaneous." It has been well, we think, for Mr. Trower that he confined the scope of his treatise to statement but little diversified with metaphysical disquisitions. A purchase of goods has nothing akin to a debt. All debts are contracts or the results of contract; but all contracts are not cases of debt. The terms debt and contract are not synonymous in our law, although they are in the law of France. These terms differ in our use of them, as a part differs from the whole; a debt being a contract merely to pay a certain specified sum of money: sales and purchases in themselves, and as distinct from corroborative stipulations, being simply nothing more than commercial exchanges, of the circumstances attending which political economy or social science may take cognizance; but such transactions have no legal significance. Mr. Trower adopts the usual threefold division of debts—by judgment, by specialty, and by simple contract. He then considers these three classes of debts in two periods of time—as they confer rights during the life of the debtor, and as they confer rights after his death. A consideration of the relative status of debtor and creditor, and of the remedies upon contracts, opens up a sufficiently wide field for a comprehensive survey. Mr. Trower's book, however, treats not only of the relations of debtor and creditor according as these are defined by the character and form of the contract, but also contains much learning that is usually considered as appropriated to works on equity or real property. He states in an able but concise manner the law relating to the especial province of his treatise; and incidentally to this, he gives succinctly the law of marital rights, coverture, infancy, and legal incapacity. The third chapter of the first part of his book contains a neat summary of the law of partnerships and public companies. The second chapter of the second part contains a tabular statement of the parties necessary in suits after the death of the debtor. The chapters on mortgages are very concise abridgments of the law of these securities. The parts relating to judgments, assets, rent, and clubs, also deserve notice. Mr. Trower expresses himself with somewhat of indignation upon the present state of the laws relating to joint stock companies. This is a branch of law, however, which does not admit of an easy consolidation, inasmuch as the intricacies naturally inherent in such a complication of rights cannot be removed by legislation. Although mercantile law does not differ in principle from the laws relating to contracts generally, yet, owing to the numerous parties that are frequently concerned in a common mercantile undertaking, and bound by the same contract, mercantile law has become so varied in its details as to be deemed on the Continent a distinct province of law, and even in England to possess almost specific peculiarities. It is not, then, a province the most promising for law reformers. An appendix of sixty pages is given, containing a tabular view of all the Courts in England and Wales for the recovery of debts. It specifies the nature of the jurisdiction and the procedure of each court, and states many other interesting and important particulars.

Mr. Trower sometimes diverges from his prescribed course not by offering original suggestions, but by treating of matters such as donations *mortis causa*, which are only connected with the question of debts in the same manner that the national debt is—as lessening the fund of the subject for paying his debts. Mr. Trower offers no philosophic ideas upon the subject of his treatise. It is a bare compilation; but, we must add, that the province of his labours is certainly one not giving easy access to the philosophic exponent. He condenses much matter sometimes, indeed, in a phraseology inelegant; but he is at all times fluent in expression, and never leaves his statement of the law, which he is describing, incomplete. His work may be considered a handbook of many branches of law, and we confidently recommend it to the favourable notice of the legal public.

A deputation of Lancashire magistrates had an interview with Sir G. C. Lewis at the Home-Office on the 12th inst., on the subject of the expenses of criminal prosecutions, and the scale of allowances to witnesses at sessions and assizes, and on the effects of the inadequacy of such allowances in aiding the escape of criminals and checking the prevention of crime.

Obituary.

OWEN OWENS, Esq.

Mr. Owen Owens was a solicitor of Holyhead, and departed this life at the latter end of last month. By his talent and perseverance he had risen from an humble position to very great eminence in the legal profession. As a lawyer, he was of strict integrity, and faithful to his clients. He stood in the first rank as a session pleader, and enjoyed the highest confidence of the magistracy, as well as his professional brethren. His practice for a long period had been a very lucrative one, and he always discharged his professional duties with unsullied fame. He was a gentleman of sound general knowledge. His clients always spoke highly of him as one who never incited to litigation, but would rather appease hostilities, and advise an amicable settlement, if at all practicable. His funeral took place on the 1st inst., and so greatly was he respected that hundreds of persons of all grades and positions in life paid their last tribute to his memory by being present.

HINTS TO ARTICLED CLERKS.

No. I.

We propose to devote a few columns of the *Solicitors' Journal* to some hints to those who are still in *statu pupillari*, upon the best mode of conducting their studies and regulating their conduct during the period of clerkship. It is surely unnecessary for us to say that we feel the warmest interest in their welfare, remembering as we do that it is upon them that will hereafter rest the duty of maintaining the honour of the profession to which they aspire to belong. Some twenty years ago the writer himself belonged to the body which he now addresses, and he then painfully felt the want of some guide through the labyrinth which he saw extended in apparently endless mazes before him. Since that time indeed, several works of more or less repute have appeared upon the subject of legal education; but all of them labour under one radical defect, namely, that of aiming too high, and of setting before the student an amount of labour which could hardly be accomplished in the course of a long life-time, much less in a period varying in time from three to five years. These authors appear to have forgotten that life is short, although they cannot be charged with obliviousness of the fact that art is long: One might gather from them that their readers intended to become legislators or juriconsults, and not solicitors. Perhaps nothing is so disheartening to a young man as to have an impossible task set before him, and to be told that unless he performs it, he cannot be deemed adequate to the profession which he has chosen. He turns away with disgust from his mentor, and the great probability is that, feeling he cannot do all, he will not attempt to do anything. If, on the other hand, he does enter upon the prescribed course of study, and endeavours faithfully to go through with it, he will load his mind with many a useless burthen, learn a good deal that he must afterwards unlearn, and waste much valuable time. Few spectacles are so melancholy as that of honest, persevering labour wholly misdirected and misapplied, and thus producing not a tithe of the result which half the same amount of work would have accomplished had it been directed into the proper channels. Another defect under which the writers referred to labour is that they do not sufficiently impress upon the minds of their readers the all-important fact that the business of an attorney and solicitor can no more be learned by mere reading than can the art and mystery of boot-making. In order that a man may practise successfully as an attorney, he must not merely know *what the law is*, but he must know how to *apply and use it*. This can only be learned by steady and unflinching attention to the duties of the office. If an attorney could be duly qualified as such by the mere study of books, the service under articles would be a useless, impertinent and expensive form, since very few attorneys give any formal instruction to their clerks or direct their course of reading. The object of being articulated is that the clerk may see how actual business is conducted, so that in due time he may conduct it himself, and however learned he may be in the theory of law, he will assuredly not be competent to practise it, unless during his clerkship he has gone faithfully through what is sometimes, although very improperly, called the drudgery of the office. There is much work, and work, too, of an exceedingly profitable kind, in every trade and profession which is routine, and a knowledge of which can only be acquired by practice, and he is a mere

simpleton and knows nothing of the duties and responsibilities of actual life who neglects to acquire this knowledge, because he thinks it beneath him. The clerk has undertaken by his articles "faithfully and diligently to serve his master in his profession of an attorney-at-law;" and the discharge of the duty which he has thus imposed upon himself will, like the discharge of every other duty, carry with it its own exceeding great reward in a thorough practical knowledge of an honourable and remunerative profession.

We have used the expression, "remunerative profession," and here perhaps it will be proper, although by way of parenthesis, to guard the article clerk against being discouraged at the very outset of his career by being told, as it is not unlikely that he may be, "Oh! the profession is nothing now to what it once was. You have fallen upon evil days and times. The changes which have been made in the law of late years have cut down profits to a minimum;" and so forth. That vast changes have been made and are still in progress is indeed perfectly true, but still we may be permitted to doubt, for reasons which we will not now enter upon, whether they have diminished the profits of the attorneys, as a body. The profits on individual transactions have been diminished, and some costly proceedings have been entirely swept away from our legal system; but the very fact that men may now go to law without incurring ruinous expense and delay, coupled with the prodigious increase of late years in the wealth and population of the country, has fully compensated for any loss which may have accrued to the profession from law reform. There are croakers in all callings who are never so well pleased as when they can prove to their own satisfaction, and that of their hearers, that the class to which they belong is irretrievably ruined. Do you pay no heed to such prophets of evil; and rest assured that the profession which you have chosen must, so long as the prosperity of this country endures, and so long as human nature remains what it is, continue to afford substantial rewards to its laborious and learned professors.

So much by way of introduction to our subject, which may naturally be divided into three main topics:—

- I. The article clerk's conduct in the office.
- II. His course of professional reading.
- III. His general conduct during the period of his articles.

Upon all these subjects the advice offered will be the result of the writer's own experience and observation during a five years' clerkship, and a practice of nine years as an attorney.

I. THE ARTICLE CLERK'S CONDUCT IN THE OFFICE.

It is all-important that the article clerk should enter the attorney's office with a deeply-rooted and salutary conviction of his own ignorance. If we were asked to point out what was the best preparation for learning, we should answer without a moment's hesitation—Humility. We do not mean the "humbleness" of Uriah Heep, but that frame of mind which may well be felt by a man fully conscious of his own powers, when he knows that he is entering upon an entirely new sphere, and planting his foot on paths which he has not hitherto trodden. The article clerk should fully recognise the fact on the outset of his career that he has everything to learn, and that no detail of office duty can be too trivial for his attention. There is, probably, no one, from his master down to the lowest clerk, from whom he may not learn something, and no one who will not be glad to give him information if he frankly admits his own ignorance, and shows a desire to replace it by knowledge. There are few persons who, being conscious of the possession of knowledge, are not glad to impart it to those who manifest a desire for its acquisition, provided the inquirer is willing to admit, at all events *pro hac vice*, his own inferiority. Unless, however, this admission is made,—if the article clerk shows that he thinks himself omniscient, or if he gives himself the airs of an accomplished lawyer during the first year of his articles—he will find all the avenues of information closed to him by his own foolish pride. Nothing disgusts an older man so much as an air of self-sufficiency in a younger one; while, on the other hand, nothing conciliates his regard so much as an ingenuous admission by his juniors of their ignorance and of his knowledge. A priggish, conceited youngster is a bore and a nuisance in all societies; but when he has to take a part in the actual business of life he becomes absolutely intolerable.

We trust, however, that the article clerk who reads these lines has made the first great step to knowledge by confessing to himself the depths of his own ignorance, and that he is therefore willing to be instructed. He will then not be ashamed to appeal to his master or to his fellow clerks for help and advice when he meets with anything in the office routine

which puzzles him, and as to which he can obtain no information from his books. The art of asking questions is one which he ought to cultivate most assiduously; and an art it really is, for every one does not know when, how, and from whom to ask them. For instance, the clerk who appeals to his master for a solution of his doubts when the latter is wholly absorbed in some important business, who frames his queries so clumsily as to show that he has not previously digested the subject in his own mind, and does not even precisely know what is the point upon which he wishes to be informed,—or who troubles his master for information which he might equally well get from the engrossing clerk, shows that he has not mastered the art of question-asking, and must therefore sometimes expect to be laughed at or snubbed for his pains. Nor ought the clerk to ask questions where he might with a little trouble acquire the information for himself, either by consulting a treatise, or exercising his own powers of observation or reasoning. When he has taxed these resources and they have failed him, or where the exigencies of business do not give him time to appeal to them, then he may reasonably seek for oral information. While, moreover, we counsel the asking of questions, the clerk must remember that he cannot expect to have all his difficulties solved at once. It would be preposterous for him to insist upon being acquainted with the *rationale* of everything that passes around him, and he must therefore use some moderation in pumping his instructor and fellow clerks, and hope that "in some other day, at some other place," his doubts will be removed.

(To be continued.)

THE NEW CHANCERY ORDER—INVESTMENT OF TRUST FUNDS.

We extract the following from the *Times* City article of the 11th inst.:—

"The order of the Court of Chancery regarding the investment of trust funds, posted in the Stock-Exchange on Saturday, was simply, it is presumed, in formal compliance with the Act passed last session, authorizing the employment of such funds in a wider range of securities than has hitherto been permitted, an Act which, from the extent to which it was carried, was regarded by prudent persons with much regret. Among the new investments allowed is Bank Stock, and a more dangerous precedent could not have been established. This stock merely represents the capital of a trading corporation, over which the Government have no control, and, although it happens to be the most sound and influential corporation in the world, its stability still depends upon private management, with respect to the successful continuance of which through future generations the Government and Legislature could have no right to enter into any assumptions. We all regard the Bank of England as a type of the strength of the country itself, and most persons—especially after recent experiences—would prefer holding a Bank of England obligation to any pledge, whether in the form of a telegraph guarantee or otherwise, from our modern State financiers; but that has nothing to do with the principle now involved. The Court of Chancery is bound to keep the funds of which it has the custody under the control of the State, and should on no account place them entirely out of its reach, to be managed for profit or loss by a body of independent directors. At the same time the example furnished to private trustees is of the worst description. We shall soon probably have an agitation which will be difficult to answer for a logical carrying out of the new system. If one joint-stock bank is to be selected, why not another, especially when the favoured establishment happens to be founded, like the Bank of England, on limited liability, which a majority of our legislators still pretend to regard as highly dangerous and objectionable, in comparison with the unlimited plan? The Bank of England, moreover, is a constant mark for the grasp of every hard-pressed Chancellor of the Exchequer. For 50 years this has been the case. At one period the Government action in that respect caused a sudden fall of 20 or 30 per cent. in the value of the stock, and it is a curious circumstance that while Mr. Gladstone was countenancing the present measure he can scarcely have been unconscious that in the course of a few months he would be likely to make a proposal to the proprietors which, had it been accepted in its original form, would have been followed in the market by a serious depreciation."

The following letter on the subject also appears in the same journal:—

Sir,—With reference to your observation on the recent

order of the Court of Chancery sanctioning the investment of trust funds committed to its care in the stock of a trading corporation, allow me further to call your attention to the sanction the Court has given to the investment in Indian stock. It does not appear whether this is Indian Loan or stock of the defunct East India Company, but I assume it to be the latter. This stock is now nearly 220, but it is redeemable in 1874 at £200; the investment consequently involves the loss of 10 per cent. in the capital, and the adoption of it is a sacrifice of the interests of those entitled in remainder, or to the *corpus*, to those presently entitled to the income—a principle which it is not easy to justify, and which must surely have escaped the attention of the Chancery judges.

"It is difficult to understand why these eminent authorities have not sanctioned an investment in funds guaranteed by the Imperial Government, such as the Turkish 4 per Cents.—I remain, Sir, your obedient servant, "A SOLICITOR."

Public Companies.

BILLS IN PARLIAMENT

For the Formation of New Lines of Railways in England and Wales.

The standing orders of both Houses of Parliament have been complied with in the following cases:—

ALTON, ALRESFORD, AND WINCHESTER.—Capital, £150,000.

ASTON TO DITTON AND BRIDGWATER CANAL.—Capital, £350,000.

CHELFORD AND KNUTSFORD.—Capital, £60,000.

COLEFORD.

DEWESBURY, BATLEY, GOMERSAL, AND BRADFORD.—Capital, £400,000.

DISLEY AND HAYFIELD.—Capital, £25,000.

EASTERN COUNTIES AND SAFFRON WALDEN.—Capital, £25,000.

EDGEHILL AND BOOTLE.—Capital, £190,000.

HAMMERSMITH, PADDINGTON, AND CITY JUNCTION.—Capital, £180,000.

MARLBOROUGH.—From Berks and Hants Extension to Marlborough. Capital, £45,000.

MIDLAND.—A line from WHITACRE to NUNEATON. Capital, £186,000.

MIDLAND COUNTIES AND SHANNON JUNCTION.—Capital, £120,000.

MONMOUTH.

PONTYPOOL.

RAMSEY.—Capital, £30,000.

RHYMNEY.—Capital, £90,000.

USEK.

WEST MIDLAND AND SEVERN VALLEY JUNCTION.—Capital, £100,000.

WINWICK AND GOLBORNE.—Capital, £40,000.

REPORTS AND MEETINGS.

BRISTOL AND EXETER RAILWAY.

The directors of this company will recommend at the approaching meeting a dividend of $5\frac{1}{2}$ per cent. per annum.

CHARING CROSS RAILWAY.

At the half-yearly meeting, held on the 13th instant at the London-bridge station, the Hon. J. Byng in the chair, it was resolved that the proposition for extending the line to Cannon-street should be carried out. By this extension passengers could be conveyed from Cannon-street to Charing-cross in six minutes, the time now occupied by omnibuses being twenty-five minutes. It was stated that a large increase of traffic might be anticipated from this source.

GREAT WESTERN RAILWAY.

The directors recommend that a dividend of $3\frac{1}{2}$ per cent. per annum be paid for the year ending the 31st Dec. 1860. This will leave a balance of about £13,000 to be carried forward to the next half-year.

HULL AND SELBY RAILWAY.

A dividend of £2 10s. per £50 or whole share, and in like proportions on the half and quarter shares, was declared at the half-yearly meeting of this company, held on Monday last.

LANCASHIRE AND YORKSHIRE RAILWAY.

The directors by their report recommended that a dividend of 6 per cent. per annum (less income tax), carrying a balance of £22,007 to the next half-yearly account.

At the half-yearly meeting of the company, held on the 13th inst., the report was confirmed.

The directors have introduced into Parliament five Bills for extensions and branches, and seek authority to raise £500,000 additional capital beyond the cost of the new railways.

LONDON AND NORTH WESTERN RAILWAY.

The directors of this company resolved, on the 13th inst., to recommend to the ordinary meeting, to be held on the 22nd inst., a dividend at the rate of $5\frac{1}{2}$ per cent. per annum for the half-year ending the 31st of December last, leaving a balance of £27,000 to be carried forward.

LONDON AND SOUTH WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 14th inst., the report of the directors, recommending that a dividend of £5 5s. per cent. per annum be declared, and to be payable on the 28th instant, was adopted.

MID KENT RAILWAY.

The directors of this company recommend a dividend of £5 per cent. per annum.

MIDLAND RAILWAY.

The directors report that the traffic receipts for the last half-year have been very satisfactory. They recommend that the following dividends (less income tax) be declared, and payable on the 1st of March, viz.—

£3 10s. upon each £100 of consolidated stock.

£2 16s. 3d. upon each £100 of Birmingham and Derby consolidated stock.

£3 10s. upon each £100 of preferential and Erewash Valley stock.

£2 5s. on each £100 of consolidated $4\frac{1}{2}$ per cent. preferential stock.

£2 upon each £100 of Leicester and Hitchin preferential stock.

£2 5s. upon each £100 consolidated irredeemable.

$4\frac{1}{2}$ per cent. preferential stock.

1s. 4 1-5d. on each £6 preference share.

5d. upon each £6 4s. share, being 91 days' interest on the deposit at 7 per cent. per annum, leaving a balance of £3,726 for the next half-year.

NORTH EASTERN RAILWAY.

The directors report a considerable increase in the traffic receipts, and recommend the following dividends to be declared, viz.—

On the Berwick ordinary stock, at the rate of $5\frac{1}{2}$ per cent. per annum; and on the Thirsk and Malton stock, at the rate of 4 per cent. per annum.

On the York ordinary stock, at the rate of 5 per cent. per annum.

On the Leeds ordinary stock, at the rate of 3 per cent. per annum.

NORTH STAFFORDSHIRE RAILWAY.

The report of the directors states that the general prospects of the undertaking are satisfactory. At the half-yearly meeting, held on the 14th instant, the recommendation of the directors that a dividend of 4 per cent. per annum should be declared, leaving a balance of £3,859 6s. to be carried forward to the next half-year, was adopted.

ROYSTON AND HITCHIN.

At the half-yearly meeting of this company, held on the 11th instant, the following resolution was moved and carried unanimously—viz., "That a dividend after the rate of 6 per cent. per annum, less income-tax and 1d. per £6 5s. stock for expenses of management, adding to the dividend 6d. per £6 5s. stock, as determined by the proprietors on the 13th of August last, be declared on the Royston, Hitchin, and Shepreth consolidated stock for the half-year ending the 1st of February, 1861, and be paid forthwith."

SOMERSET CENTRAL RAILWAY.

At the half-yearly meeting of this company held on the 9th instant, resolutions declaring a dividend at the rate of 4 per cent. per annum (less income tax), converting paid up shares with consolidated stock, and re-electing the retiring directors and auditor, were passed.

SOUTH STAFFORDSHIRE RAILWAY.

At a special meeting of this company, held on the 14th inst., the proposal for a transfer of the lease of the line from Mr. McLean to the London and North Western Co. was carried by a large majority.

STOCKTON AND DARLINGTON RAILWAY.

At a recent meeting of this company a dividend of 9½ per cent. per annum was declared on the ordinary shares, after payment of the following dividends on preference shares:—viz. 5 per cent. per annum on the preference A shares, 6 per cent. per annum on the preference B and C shares.

The following amongst other Bills have been sent up for consideration on their merits before committees of the House of Lords:—Charing-cross (City terminus), Cornwall, Dartmouth, and Torbay, Devon Valley; Eastern Counties and Saffron Walden; Edgware, Highgate, and London; Finsbury-circus Railway Station; Hammersmith, Paddington, and City Junction, Kensington and North and South London Junction, Metropolitan (extension to Finsbury-circus), North-Eastern and South-Western, North London (branch to the City and widening), North Metropolitan Junction, Victoria Station and Pimlico, and West London Extension.

Law Students' Journal.**LAW LECTURES AT THE INCORPORATED LAW SOCIETY.**

Mr. FREDERICK JOHN TURNER, on Conveyancing, Monday, February 18.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Friday, February 22.

Court Papers.**Exchequer of Pleas.**

This Court will hold a sitting on Monday, the 25th day of February next, and will, at such sitting, proceed in giving judgment in matters then standing for judgment.

Court for Divorce and Matrimonial Causes.

The sittings of the Court for Divorce and Matrimonial Causes are postponed from Monday, the 18th of February, until Thursday, the 21st of February, 1861.

Divorce Registry, February 12, 1861.

PETITIONS FOR PRIVATE BILLS.—The House of Lords has recently agreed to an order that it will not receive any petition for a private Bill after the 26th of March next, unless such private Bill shall have been approved by the Court of Chancery; nor any petition for a private Bill approved by the Court of Chancery after the 16th May next. And that it will not receive any report from the judges, upon petitions presented to the House for private Bills, after the 16th May.

CHARITABLE FUNDS.—A return has been made showing the aggregate amount in the hands of the official trustees of charitable funds at the close of the year 1860. These official trustees are appointed by the Lord Chancellor under the Charitable Trusts Act of 1853, and to them the judge of any court may direct the transfer of funds for better security, or at the desire of the previous trustees; and at the end of the year they held no less than £785,008 Government Stock, £1,369 India Five per Cent. Stock, £5,388 Bank Stock, and £3,000 debenture stock of the London and North-Western Railway Company, besides £23,652 cash.

Births, Marriages, and Deaths.**BIRTHS.**

ASTON—On Feb. 9, the wife of James Jones Aston, Esq., Barrister-at-Law, of a daughter.

MARTIN—On Feb. 8, at Strood, Kent, the wife of Charles Martin, Esq., Solicitor, of a daughter.

TURNER—On Feb. 13, the wife of Frederick J. Turner, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

FITZGERALD—DOWNING—On Feb. 12, Pierce Fitzgerald, Esq., of Cork, Solicitor, to Kate, daughter of the late Dennis Downing, Esq., of Ashfield, county Cork.

LEWIS—COATES—On Feb. 7, Charles Matthew Lewis, Esq., H. M.'s 1st Bombay Grenadiers, son of Arthur James Lewis, Esq., Advocate-General, Bombay, to Louisa Middleton, daughter of Edmund Coates, Esq., of Park-place Villas, Paddington.

WILKS—STRINGER—On Feb. 12, George Wilks, Esq., Solicitor, Hythe, Kent, to Fanny, daughter of William Stringer, Esq., Solicitor, New Romney.

DEATHS.

HALL—On Feb. 10th and 12th, Henry Brooke, aged 4 years, only son, and Eleanor Dalton, aged 2 years, youngest daughter of Henry Hall, Esq., Solicitor, Ashton-under-Lyne.

OWENS—On Jan. 29, at Holyhead, aged 87, Owen Owens, Esq., Solicitor.

WILLIAMS—On Feb. 11, aged 63 years, Elizabeth, relict of Peter Williams, Esq., Solicitor, Holywell, Flintshire.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BRANSON, ROBERT THOMAS, Esq., Pembroke College, Oxford, £100 Consols.—Claimed by Rev. ROBERT THOMPSON BRANSON.

HAYWARD, BENJAMIN, Gent., West Lavington, Wilts, and JOHN HAYWARD, Gent., Wilsford, Wilts, £1,319 16s. 3d. Consols.—Claimed by JOHN HAYWARD, the surviving executor of the said Benjamin Hayward.

HELE, WILLIAM SELBY, Esq., Sussex-gardens, Hyde-park, and BARTLE JOHN LAWRIE FREE, Gent., Lincoln's-inn, £2,197 1s. 4d. Consols.—Claimed by BARTLE JOHN LAWRIE.

PALMER, JOHN, Gent., Ryder-street, St. James's, £40 New Three per Cents.—Claimed by GEORGE PALMER, the administrator.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	238	Shrs. Stock Ditto A. Stock	108
3 per Cent. Red. Ann. ..	91	Stock Ditto B. Stock	124
3 per Cent. Cons. Ann. ..	91	Stock Great Western	70
New 3 per Cent. Ann. ..	91	Stock Lancash. & Yorkshire ..	112
New 2½ per Cent. Ann. ..	91	Stock London and Blackwall. ..	64
Consols for account ..	92	Stock Lon. Brighton & S. Coast ..	112
India Debentures, 1858. ..	95	Stock Lon. Chatham & Dover ..	50
Ditto 1859. ....	..	Stock London and N.-Westm. ..	99
India Stock	100	Stock London & S.-Westm. ..	94
India 5 per Cent. 1859. ..	100	Stock Man. Sheff. & Lincoln. ..	31
India Bonds (£1000) ..	dis	Stock Midland	132
Do. (under £1000)	dis 23	Stock Ditto Birm. & Derby ..	106
Exch. Bills (£1000)	par.	Stock Norfolk	86
Ditto (£500)	par.	Stock North British	64
Ditto (Small) ..	par.	Stock North-Eastn. (Brwk.) ..	102
		Stock Ditto Leeds	58
		Stock Ditto York	89
		Stock North London	103
		Stock Oxford, Worcester, & Wolverhampton ..	..
		Stock Shropshire Union ..	51
		Stock South Devon	41
		Stock South-Eastern	45½
		Stock South Wales	82
		Stock S. Yorkshire & R. Dun ..	180
		Stock 25 Stockton & Darlington ..	42
		Stock Vale of Neath	70
RAILWAY STOCK.			
Stock Birk. Lan. & Ch. Junc. ..	82		
Stock Bristol and Exeter	101		
Stock Cornwall	64		
Stock East Anglian	16		
Stock Eastern Counties	50		
Stock Eastern Union A. Stock ..	39		
Stock Ditto B. Stock	76½		
Stock Great Northern	112		

London Gazettes.**Findings-up of Joint Stock Companies.**

UNLIMITED IN CHANCERY.

FRIDAY, Feb. 15, 1861.

SOLVENCY MUTUAL GUARANTEE COMPANY.—Creditors to prove their debts before V. C. Wood, on or before March 7.

LIMITED IN BANKRUPTCY.

LIVERPOOL TRADESMAN'S LOAN COMPANY (LIMITED).—Commissioner Perry has appointed March 6, at 11, Liverpool, for creditors to prove their debts.

Creditors under 22 & 23 Vict. cap. 35.*Last Day of Claim.***TUESDAY, Feb. 12, 1861.**

- BELCHER, JOHN**, Druggist, 1, Walcot-place, Hackney, Middlesex. Thompson & Debenham, Solicitors, Salter's Hall, London. March 11.
- BEX, SARAH**, otherwise BECKS, Widow, Ifield, Sussex. Rawlinson, Solicitor, Horsham. March 31.
- DOWNER, CHRISTOPHERIA** Baroness, Right Hon., 19, Grafton-street, Piccadilly, Middlesex, and of Rinstead Cottage, near Hyde, Isle of Wight. Patterson & Brady, Solicitors, 19, Portland-street, Southampton. April 1.
- ECCLESTON, WILLIAM**, Fishmonger, Dall Cord, Birmingham, Warwickshire. Hodgson & Allen, Solicitors, 13, Waterloo-street, Birmingham. March 30.
- FROGINS, VINCENT**, Type Founder, Southgate, Middlesex, and of West-street, London. Clarke & Morice, Solicitors, 29, Coleman-street, London. April 1.
- HALL, HENRY**, Butler, 7, Bedford-square, Bloomsbury, Middlesex. Harcourt, Solicitor, 2, King's Arms-yard, Coleman-street, E.C. March 23.
- HICKLING, THOMAS**, Gent., Lovell's-lane, Aston, near Birmingham. W. & A. F. Morgan, Solicitors, 37, Waterloo-street, Birmingham. March 27.
- HUBBARD, JAMES**, Shipwright, Falmouth. Berry, Solicitor, 27, Bucklersbury, London. March 23.
- MILLO, JOHN**, Tallow Chandler, 49, Kingsland-road, Middlesex. Harcourt, Solicitor, 2, King's Arms-yard, Coleman-street, E.C. March 23.
- PEATTIE, JOHN**, Joiner, formerly of Preston, late of Liverpool. Cattley & Fryer, Solicitors, 40, Lime-street, Preston. March 11.
- SHARP, CATHERINE**, Innkeeper, Castle Inn, Canterbury. Trehern & White, Solicitors, 13, Barge-yard chambers, Bucklersbury. April 6.
- TURNER, ANN**, otherwise HUNTER, 9, Richmond-terrace, Clifton, Bristol. Strickland, Solicitor, 2, All Saints-court, Bristol. April 1.
- WATERS, WILLIAM**, Gent., formerly of Westbourne-place, Queen's-road, Bayswater, afterwards of Nuncaton, Warwickshire, late of 271, Bethnal-green-road, Middlesex. Twiss, Solicitor, 12, Gray's-inn-square, London. March 31.
- WELLS, CHARLES**, Blacksmith, Cheriton, Kent. Brockman & Harrison, Solicitors, Folkestone, Kent. May 1.
- WILKINSON, ANN**, Spinster, Kempsey, Worcestershire. Barnes & Bernard, 2, Great Winchester-street, London. March 23.

FRIDAY, Feb. 15, 1861.

- COTTE, ROBERT**, Printer, Bookseller, and Stationer, Southampton. Lamb, Brooks, & Challis, Solicitors, Basingstoke. Feb. 30.
- DRUMMOND, HENRY**, Esq., M.P., Albany-park, near Guildford, Surrey. Fladgate, Clarke, & Finch, Solicitors, 40, Craven-street, Strand, Middlesex. March 21.
- HOOPER, STEPHEN**, Stationer, formerly of 45, Fleet-street, London, and late of Blackfriars-road, Surrey. Hooper, Executor, 45, Fleet-street, London. April 16.
- MCHUGH, MICHAEL**, Coal Merchant, Gloucester-terrace, Old Brompton, Middlesex. Atkins, Andrew Atkins, & Irvine, Solicitors, 5, White Hart-court, Lombard-street. April 13.
- OAKES, SAMUEL HENRY**, Engineering Contractor, formerly of Holly Bank, Hanbury, Staffordshire, then of Gerard-street, Derby, but late of Merthyr Tydfil, Glamorganshire. Porter, Builder, Gerard-street, Derby, or Norris, Surveyor, Market-street, Nottingham, Executors. April 15.
- PENDLE, CATHERINE**, Widow, 14, Charlton, King's-road, Kentish-town, Middlesex. Hostler, Solicitor, Halsead, Essex. May 25.
- SPRINGOUR, MARGARET**, Spinster, 11, Brompton-crescent, Brompton, Middlesex. Clark, Solicitor, 160, Oxford-street, Middlesex.

Creditors under Estates in Chancery.*Last Day of Proof.***TUESDAY, Feb. 12, 1861.**

- BRADSHAW, JAMES**, 7, Lewis-street, Victoria-road, Kentish Town. Elsmore v. Pratt, V. C. Stuart. Feb. 25.
- CADLE, THOMAS**, Gent., formerly of Newent, Gloucestershire, late of Ross, Herefordshire. Cadle v. Woollett, V. C. Kindersley. March 7.
- FITCHETT, HENRIETTA MARIA**, Widow, Nuncaton, Warwickshire. Drake v. Row, V. C. Wood. March 5.
- HOSE, JOHN CHRISTIAN**, Druggist, 12, Bedford-terrace, Trinity-square, Southwark, Surrey. Hose v. Woodward, M.R. March 4.
- INSKIP, HARRY**, Seed Crusher, Hertford. Inskip v. Inskip, V. C. Wood. March 6.
- KEMP, THOMAS**, Yeoman, Mystole, Chartham, Kent. Kemp v. Steddy, M.R. March 8.
- PATERSON, PETER**, Esq., Park Lodge, Highbury-park, Middlesex. Paterson v. Paterson, M.R. March 7.
- PARKIN, MARY**, Widow, formerly of 36, Southampton-row, Russell-square, late of Inverness-road, Middlesex. Magdon v. Boots, M.R. March 4.
- PLUMMER, MATTHEW**, Newcastle-upon-Tyne. Collingwood v. Plummer, V. C. Stuart. March 1.
- POTTER, ELIZABETH**, Spinster, Cheam, Surrey. Rickey v. Bailey, V. C. Kindersley. March 13.
- SMITH, HUGH WILLIAM PALLISER**, Esq., 2, Upper Moira-place, Southampton. Perkins v. Cooke, V. C. Wood. March 4.
- STAINS, ELIZABETH**, Spinster, St. Peter, Canterbury. Cooper v. Anderson, M.R. March 2.
- STAINS, EDWIN**, Esq., formerly of Patricbourne, Kent, and now of Munster House, Fulham, Middlesex, a person of unsound mind. Kersey v. Stains, V. C. Stuart. March 7.
- WATERS, JAMES**, Wine Merchant, 1, Arthur-street West, London Bridge. Waters v. Groom, V. C. Stuart. March 10.

FRIDAY, Feb. 15, 1861.

- BROWN, THOMAS**, Gent., Camberwell-new-road, Surrey. Brown v. Brown, M. R. March 5.
- CANDY, JOHN**, Gent., Widcombe, Bath. Candy v. Candy, V. C. Stuart. March 8.
- MANSFIELD, RICHARD**, Yeoman, Hill Farm, Droxford, Southampton, but formerly of Fareham. Batchelor v. Howard, M. R. March 9.
- MARSDEN, JOHN**, Gent., Colchester, Essex. Cartwright v. Marsden, M.R. March 8.
- MATTHEW, STEPHEN WILLIAM**, Licensed Victualler, 17, London-terrace, Hackney-road, Middlesex. Everard v. Matthew, V. C. Stuart. March 23.

Assignments for Benefit of Creditors.**TUESDAY, Feb. 12, 1861.**

- BARRETT, RICHARD**, Builder, Truro, Cornwall. Sol. Carlyon & Paul, Truro. Feb. 8.
- BEAUMONT, JOSEPH**, Manufacturer, Smithy-place, Almondsbury, York-shire. Sol. Mills, 35, New-street, Huddersfield. Feb. 6.
- LEWIS, THOMAS HOWELL**, Grocer, Dowlais Iron Works, Glamorganshire. Sol. Smith, Victoria-street, Merthyr Tydfil. Jan. 12.
- MAY, WILLIAM**, Grocer & Draper, North Frodingham, Yorkshire. Sol. Allen, Great Driffield. Feb. 7.
- OILEY, ROBERT**, Maltster & Corn Dealer, Chippenham, Wilts. Sol. Gold-ney, Chippenham. Jan. 29.
- PIKE, WILLIAM**, Innkeeper & Brewer, Hotwell-road, Bristol. Sol. Wood, Bristol. Jan. 18.
- PUTLAND, SAMUEL**, Builder & Road Contractor, Balcomb, Sussex, and Priory-street, Hastings. Sol. J. & S. Langham, Hastings, Sussex. Feb. 9.
- SEVILLE, THOMAS**, Silk & Cotton Manufacturer, Fallsworth, Lancaster. Sol. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester. Jan. 15.
- SHAW, JONATHAN**, Painter, Carver, & Gilder, Bevarley, Yorkshire. Sol. Champney, Beverley. Jan. 21.
- TAYLOR, EMANUEL, Jun.**, Grocer, South Shields. Sol. Hodge & Harle, Wellington-place, Hggrm-street, Newcastle-upon-Tyne. Feb. 1.
- WIDCOCK, JOSEPH**, Grocer & Tea Dealer, Penistone, Yorkshire. Sol. Unwin, 42, Queen-street, Sheffield. Jan. 17.
- WILLIAMS, WILLIAM**, Currier, Camborne, Cornwall. Sol. Jenkins, Penryn. Feb. 7.

FRIDAY, Feb. 15, 1861.

- BROADWAY, WILLIAM**, Draper, 23, Tavistock-street, Devonport. Sol. Davidson, Bradbury, & Hardwick, Weavers' Hall, 23, Basinghall-street. Jan. 31.
- COLLINS, WILLIAM**, Grocer & General Dealer, Bryntroedgam, Margam, Glamorganshire. Sol. Griffith, Aberavon. Feb. 5.
- ECCLES, THOMAS**, Grocer, Adlington, Lancaster. Sol. Stanton & Jones, Chorley. Jan. 15.
- GREGORY, WILLIAM HENRY**, Draper & Milliner, Birmingham. Sol. Jones, 15, Stue-lane, London. Feb. 11.
- HARDCASTLE, ROBERT ANTHONY**, Shipbroker & Merchant, Cardiff, Glamorganshire. Sol. Matthews, Church-street, Cardiff. Jan. 31.
- HARVEY, ROBT**, Mantle Manufacturer, Bury St. Edmunds, Suffolk. Sol. Jones, 15, Stue-lane, London. Jan. 30.
- HEATHCOTE, CHARLES**, Horn Merchant, Sheffield. Sol. Branson & Son, St. James-row, Sheffield. Jan. 19.
- HINZE, CHARLES**, Tailor & Draper, Holbeach, Lincolnshire. Sol. Rice, Boston. Jan. 30.
- JONES, DAVID**, Shopkeeper, Pyle, near Bridgend, Glamorganshire. Sol. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester. Jan. 21.
- JONES, WILLIAM**, Linen Draper, Aberavon, Glamorganshire. Sol. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester. Jan. 19.
- LABURN, RICHARD**, Steam Threshing Machine Keeper, Rushmere House, Leighton Buzzard, Bedfordshire. Sol. Blake & Snow, 21, College-hill, London. Feb. 7.
- MOORE, GEORGE**, Farmer & Nurseryman, Perry Barr, Staffordshire. Sol. Holden, 1, Cherry-street, Birmingham. Jan. 19.
- ROBINSON, FREDERICK**, Farmer, Brandon, Hough-on-the-Hill, Lincolnshire. Feb. 12. Sol. Footitt, Newark-upon-Trent.
- SIMCOCK, WILLIAM**, Watchmaker, Warrington, Lancashire. Feb. 6. Sol. Geddes, 3, Calro-street, Warrington.
- SKINNER, WILLIAM**, Innkeeper, Redcar, Yorkshire. Feb. 9. Sol. New-sam & Brewster, Middlesbrough.
- TICKWELL, WELLES**, Yeoman, West Nymph Farm, South Tawton, Devon-shire. Jan. 26. Sol. Fulford, Okehampton.
- WRIGHT, THOMAS**, Draper, Birmingham, Warwickshire. Jan. 16. Sol. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester.

Bankrupts.**TUESDAY, Feb. 12, 1861.**

- ARMSTRONG, ANDREW**, Flour & Provision Dealer, York. Com. Ayrton: March 4 & 25, at 11; Leeds. Off. Ass. Hope. Sol. Bond & Barwick, Leeds. Feb. 11.
- BATEMAN, HENRY**, Timber Merchant, 60, Old Broad-street, and of Lloyd's, Underwriter. Com. Fane: Feb. 28, at 12; and April 5, at 11; Basinghall-street. Off. Ass. Cannon. Sol. Lawrence, Plewa, & Boyer, 14, Old Jewry-chambers, Old Jewry. Feb. 12.
- CHAPMAN, JOHN**, & GEORGE GRANGER, Iron Masters, Britannia Iron Works, Oldbury, Worcestershire. Com. Sanders: March 1 & 22, at 11; Birmingham. Off. Ass. Whitmore. Sol. Hayes, Wolverhampton; or James & Knight, Bennett's-hill, Birmingham. Feb. 11.
- COGMAN, FREDERICK**, Tailor & Draper, Norwich. Com. Fane: Feb. 23, at 11:30; and March 22, at 12; Basinghall-street. Sol. Turner & Turner, 69, Aldermanbury; or Miller, Son, & Bugg, Norwich. Feb. 8.

COWELL, JOHN, & JAMES COWELL, Iron Founders & Machine Makers, Blackburn (Cowell, Riley, & Cowell.) *Com.* Jemmett: Feb. 28, and March 21, at 12; Manchester. *Off. Ass. Pott. Sol.* Marsden Parkhurst, Manchester. *Pet.* Feb. 6.

DENTON, JOHN, WILLIAM DENTON, & JOHN DENTON, jun., Builders & Brick-makers, Dartmouth-park, Forest-hill, Kent (John Denton & Sons). *Com.* Fane: Feb. 21, and March 22, at 11; Basinghall-street. *Off. Ass. Cannan. Sols.* Lawrance, Flews, & Boyer, 14, Old Jewry-chambers, Old Jewry. *Pet.* Feb. 5.

DUTTON, HERBERT, & EDMUND DUTTON, Builders, Kidderminster, Worcestershire (Herbert Dutton & Son). *Com.* Sanders: Feb. 23, and March 25, at 11; Birmingham. *Off. Ass. Kinnear. Sols.* Batham, Kidderminster, or Hodgson & Allen, Birmingham. *Pet.* Feb. 8.

FLOWER, EDWARD, Silversmith & Jeweller, Bold-street, Liverpool. *Com.* Perry: Feb. 25, at 11, and March 19, at 12; Liverpool. *Off. Ass. Morgan. Sols.* Crosby, Ironmonger-lane, and 3, Church-court, Old Jewry, London, or Dodge & Wynne, 7, Union-court, Castle-street, Liverpool. *Pet.* Feb. 8.

GENDERS, JOHN, Boot and Shoe Maker, Darlaston, Staffordshire. *Com.* Sanders: March 1 & 22, at 11; Birmingham. *Off. Ass. Whitmore. Sols.* Slater, Darlaston, or Hodgson & Allen, Birmingham. *Pet.* Feb. 8.

GREEN, WALTER, & JOHN GRIFFITH BEAVAN SAYCE, Wine and Spirit Merchants, Worcester (Green & Sayce); Wine and Spirit Merchants, Malvern, Worcestershire (Walter Green & Co.); Wine and Spirit Merchants, Llandudno, Caernarvonshire (George Beavan & Co.) *Com.* Sanders: Feb. 25, and March 25, at 11; Birmingham. *Off. Ass. Whitmore. Sols.* Watkins, Worcester, or E. & H. Wright, Birmingham. *Pet.* Feb. 11.

HARGREAVES, WILLIAM, JOSEPH OWEN, & JAMES PERKIN, Wrought Iron Manufacturers, Bradford (Hargreaves, Haley, & Co.). *Com.* West: Feb. 24, and March 22, at 11; Leeds. *Off. Ass. Young. Sols.* Wood, Bradford, or Cariss & Cudworth, Leeds. *Pet.* Feb. 8.

JONES, DANIEL, Ironmonger, Wrexham, Denbighshire. *Com.* Perry: Feb. 27, and March 19, at 11; Liverpool. *Off. Ass. Bird. Sols.* Buckton, Wrexham, or Evans, Son & Sandys, Liverpool. *Pet.* Feb. 7.

KILNER, WILLIAM, Licensed Victualler, High-green, Ecclesfield, Yorkshire. *Com.* West: Feb. 23, and March 23, at 10; Sheffield. *Off. Ass. Brewin. Sols.* Smith & Burdick, Sheffield. *Pet.* Jan. 26.

OWEN, HENRY, & GEORGE UGLOW, Hosiers, 12, Wood-street, London, and of Tewkesbury, Gloucestershire. *Com.* Holroyd: Feb. 26, at 2.30, and March 26, at 12; Basinghall-street. *Off. Ass. Lee. Sol.* Jones, 5, New-inn, London. *Pet.* Feb. 9.

PINKERTON, GEORGE, & HENRY HAWKINS, Metal Brokers, 34, Great St. Helen's, London (Pinkerton & Co.). *Com.* Fonblanque: Feb. 26, and March 26, at 12; Basinghall-street. *Off. Ass. Stansfeld. Sols.* H. & F. Chester, Church-row, Newington Butts. *Pet.* Feb. 1.

PRESCOTT, COMPTON, Corn Dealer, Yarnston, Oxfordshire. *Com.* Holroyd: Feb. 26, at 3; and March 26, at 1; Basinghall-street. *Off. Ass. Edwards. Sols.* Pownall, Son, & Cross, Staple-inn, London; or Dayman & Walsh, Oxford. *Pet.* Feb. 1.

ROSE, WILLIAM, Rope Maker, Birmingham. *Com.* Sanders: Feb. 23, and March 25, at 11; Birmingham. *Off. Ass. Kinnear. Sols.* Harrison & Wood, Birmingham. *Pet.* Feb. 11.

SKINNER, CHARLES RICHARD, TADDER & CURRIER, Worcester. *Com.* Sanders: Feb. 23, and March 25, at 11; Birmingham. *Off. Ass. Whitmore. Sols.* Duignan & Ebsworth, Walsall. *Pet.* Feb. 6.

FRIDAY, Feb. 15, 1861.

BOUGHAY, JOHN STEPHENSON, Wholesale Tea Dealer, 89, Great Tower-street, London. *Com.* Fonblanque: Feb. 27, at 12.30; and March 27, at 1.30; Basinghall-street. *Off. Ass. Stansfeld. Sol.* Hyde, 33, Ely-place, Holborn. *Pet.* Feb. 6.

BROOK, GEORGE, Boot & Shoe Manufacturer, Guildhall-street, Canterbury, Kent. *Com.* Fonblanque: Feb. 27, at 1; and March 27, at 2; Basinghall-street. *Off. Ass. Graham. Sol.* Preston, 15, Broad-street-buildings, London. *Pet.* Feb. 2.

BURROWS, GEORGE, Lace Manufacturer, Nottingham. *Com.* Sanders: Feb. 28, and March 21, at 11; Nottingham. *Off. Ass. Harris. Sol.* Maples, Nottingham. *Pet.* Feb. 11.

CARLYLE, JOHN, Linen & Woollen Draper, 17, Moss-street, Liverpool. *Com.* Perry: Feb. 27, and March 19, at 12; Liverpool. *Off. Ass. Morgan. Sols.* Aspinall & Bird, 3, Union-court, Castle-street, Liverpool. *Pet.* Feb. 5.

DANIEL, WILLIAM, Innkeeper & Grocer, Penydarren, Merthyr Tydfil, Glamorganshire. *Com.* Hill: Feb. 26, and March 26, at 11; Bristol. *Off. Ass. Miller. Sols.* Ensor, Cardiff, or Abbot, Lucas, & Leonard, Bristol. *Pet.* Jan. 31.

DRUMMOND, ROBERT HOBART WILLIAM, Contractor & Manufacturer of Manure, Iceland-wharf, Old Ford, Bow, Middlesex (Robert Drummond & Co.). *Com.* Holroyd: Feb. 28, at 2; and March 26, at 12.30; Basinghall-street. *Off. Ass. Lee. Sol.* Brutton, 27, Basinghall-street, London. *Pet.* Feb. 14.

FERGUSON, JAMES, Draper, Stonehouse, Devonshire. *Com.* Andrews: Feb. 25, and April 8, at 12.30; Plymouth. *Off. Ass. Hirtzel. Sols.* Wood, Bristol, or Elworthy, Curtis, & Dawe, Plymouth. *Pet.* Feb. 4.

HOGG, WILLIAM, Buyer and Letter of Machines, Lophord, Devonshire. *Com.* Andrews: Feb. 28, and April 11, at 12; Exeter. *Off. Ass. Hirtzel. Sol.* Tanner, Crediton; Agents, Turner & Hirtzel, Exeter. *Pet.* Jan. 29.

HOWARTH, THOMAS, & WILLIAM CROSSHAW, Calico Manufacturers, Warrington, Lancashire. *Com.* Jemmett: March 1 & 21, at 12; Manchester. *Off. Ass. Hermann. Sols.* Higson & Robinson, Cross-street, Manchester. *Pet.* Feb. 7.

M'MILLAN, ALEXANDER, & WILLIAM BLACKBURN, Woollen Warehousemen, Star-court, Bread-street, Cheapside, London. *Com.* Evans: Feb. 28, and March 22, at 11; Leeds. *Off. Ass. Young. Sol.* Settle, Leeds. *Pet.* Jan. 22.

NICKOLL, JAMES, & ROBERT FRAXER NORTH, Tallow Brokers, 27, Bishopsgate-street Within, London (Nickoll & North). *Com.* Fonblanque: Feb. 27, at 2; and March 27, at 1; Basinghall-street. *Off. Ass. Graham. Sols.* Freshfields & Newman, 6, Bank-buildings, London. *Pet.* Feb. 2.

NIEMANN, EDMUND JOHN, Picture Dealer, 76, Newman-street, Oxford-street, Middlesex. *Com.* Holroyd: Feb. 28, at 1.30; and March 26, at 2; Basinghall-street. *Off. Ass. Lee. Sols.* Lawrance, Flews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* Feb. 14.

ROBERTS, JOHN SIMPSON, Factor and Gun Maker, Birmingham. *Com.* Sanders: March 1 and 22, at 11; Birmingham. *Off. Ass. Kinnear. Sol.* Bartlett & Son, Birmingham. *Pet.* Dec. 31.

ROBINSON, BENJAMIN, Cloth Merchant, Huddersfield. *Com.* West: Feb. 28, and March 21, at 11; Leeds. *Off. Ass. Young. Sols.* Jemop, Huddersfield, or Bond & Barwick, Leeds. *Pet.* Feb. 8.

SMITH, ARTHUR, Engineer, Paragon-buildings, New Kent-road, Surrey. *Com.* Goulburn: Feb. 27, and April 1, at 12; Basinghall-street. *Off. Ass. Pennell. Sols.* Peek & Downing, 10, Basinghall-street, London. *Pet.* Feb. 11.

WILLIAMS, WILLIAM HENRY, Apothecary, Manor House, Plaistow, Essex. *Com.* Fonblanque: Feb. 26, and March 26, at 1; Basinghall-street. *Off. Ass. Graham. Sol.* J. R. Chidley, 25, Old Jewry, London. *Pet.* Feb. 14.

BANKRUPTCY ANNULLED.

FRIDAY, Feb. 15, 1861.

CORNELL, CHARLES, Merchant, Rochester, and of Melbourne, Victoria, trading at Rochester (Cornell & Son), and at Melbourne as Cornell Brothers. *Sept.* 26.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Feb. 12, 1861.

BROADBRIDGE, JAMES, Grocer & Chinaman, Arundel, Sussex. March 6, at 12.30; Basinghall-street.—**BROWN, ROBERT**, Brewer, Malster, & Hop Merchant, Great Driffield, Yorkshire. March 20, at 12; Kingston-upon-Hull.—**FRANCIS, CHARLES JAMES, & HENRY FREER**, Wine, Beer, & Cider Merchants, 15 and 17, Great St. Helen's, London (Francis & Freer). March 6, at 11; Basinghall-street, separate estate of Charles James Francis.—**FRANCIS, CHARLES JAMES, & HENRY FREER**, same time, separate estate of Henry Freer.—**FREESTONE, EDWARD WASON**, Milliner & Straw Hat Manufacturer, 11, Clarke's-place, High-street, Islington, Middlesex. March 5, at 11; Basinghall-street.—**GREEN, EDMUND FRANCIS**, Merchant, 147, Leadenhall-street, London. March 6, at 2; Basinghall-street.—**HARRIS, WILLIAM, & WILLIAM WEST**, Drapers, Kingston-upon-Hull (William Harris & Co.). March 20, at 12; Kingston-upon-Hull.—**HAWKES, JOHN**, Builder, Lodge, Hornsey-rise, Hornsey-road, Middlesex. March 8, at 12; Basinghall-street.—**JOHNSTON, EDWARD, jun., & THOMAS MANLEY**, Sugar Refiners & Merchants, Whitehaven, Cumberland. March 7, at 12; Newcastle-upon-Tyne.—**LEWIS, EDWARD**, Lithographic Printer & Engraver, 18, Coleman-street, London (Edward Lewis & Co.). March 6, at 11.30; Basinghall-street.—**PHILLIPS, SAMUEL SMITH**, Bonded Store Keeper & Provision Merchant, Bate-street, Cardiff, Glamorganshire (S. S. Phillips & Co.). March 14, at 11; Bristol.—**REES, THOMAS**, Ironmonger, Castle Bailey-street, Swansea, Glamorganshire. March 14, at 11; Bristol.—**REES, WILLIAM**, Printer & Stationer, 36, Gracechurch-street, London. March 5, at 2; Basinghall-street.—**RITCHIE, GEORGE**, Grocer, Newcastle-upon-Tyne. March 8, at 11; Newcastle-upon-Tyne.—**ROBINSON, GEORGE**, Hotel Keeper, Lincoln. March 20, at 12; Kingston-upon-Hull.—**STATES, CHARLES**, Club-house Keeper & Victualler, Aldershot, Southampton. March 6, at 1; Basinghall-street.—**SEMMER, JAMES WILLIAM**, Builder, Wray-park, Reigate, Surrey. March 6, at 1; Basinghall-street.—**VANES, JOHN HOLLIS**, Tanner & Leather Merchant, Stourport and Dudley, Worcestershire. March 14, at 11; Birmingham.—**WHITWORTH, PAUL**, Grocer & Flour Dealer, Staleybridge, Cheshire. March 14, at 12; Manchester.—**WILKES, CHARLES**, Miller, Bloxwich and Tipton, Staffordshire. March 7, at 11; Birmingham.

FRIDAY, Feb. 15, 1861.

ATTWOOD, JESSE, Licensed Victualler, Bull Inn, Newington, near Sittingbourne, Kent. March 8, at 1; Basinghall-street.—**ASPENWALL, JOHN HATCHINSON**, Merchant & Commission Agent, 5, Argyle-street, Middlesex. Feb. 28, at 12; Basinghall-street.—**BARROW, CHARLES, jun.**, Wine & Spirit Merchant, 52, Coleman-street, London. March 8, at 1; Basinghall-street.—**BILES, ROBERT**, Rope & Twine Manufacturer, 4, South-place, Upper Grange-road, Bermondsey, Surrey, and 32, Seething-lane, Great Tower-street, London. Feb. 28, at 1.30; Basinghall-street.—**BOUND, JOHN**, Draper, Hay, Brecon. March 14, at 11; Bristol.—**BRENT, WILLIAM**, Tanner & Currier, Blue Anchor-road, Bermondsey, Southwark, Surrey, and 14, Wilbourn-terrace, Grange-road, Bermondsey. Feb. 27, at 1; Basinghall-street.—**BROAD, JAMES**, Coach Ironmonger, 149 & 150, Drury-lane, Middlesex. Feb. 26, at 12; Basinghall-street.—**COLLINGBOURNE, HENRY**, Ribbon & Trimming Manufacturer, Vauxhall Mills, Foleshill, Coventry. March 11, at 11; Birmingham.—**COOPER, JOHN**, Printer, Bookseller, and Stationer, Great Yarmouth, Norfolk. March 8, at 2; Basinghall-street.—**DICKINSON, JOHN GLADWIN, & JOSEPH AUGUSTERLONIE CREIGHTON**, Collar and Shirt Manufacturers, 39, Aldermanbury, London (Dickinson & Creighton). March 12, at 12; Basinghall-street.—**FREEMAN, HENRY, & CHARLES CHARTER**, Licensed Victuallers, 73, Cheapside, London. March 8, at 11; Basinghall-street.—**GODDSON, BENJAMIN, jun.**, Farmer, Victualler, and Silk Manufacturer, Little Coggeshall, Essex. Feb. 27, at 1.30; Basinghall-street.—**HEDGECOCK, THOMAS**, Painter, Plumber, Glazier, & Paper Hanger, 22, Bridge-street, St. Helen's, Lancashire. March 8, at 11; Liverpool.—**HILLIAN, WILLIAM**, Hotel Keeper, Eastham, Cheshire. March 19, at 11; Liverpool.—**LEAH, THOMAS, & LEAH, HENRY**, Merchants, Tower-buildings, Liverpool (Lea Brothers). March 8, at 11; Liverpool.—**LEWCH, JOHN**, Cope, Leather Seller, 73, Dale-end, Birmingham. March 11, at 11; Birmingham.—**POTTER, HENRY, & HIND, SAMUEL JAMES JOHN**, Builders, Sutton, Surrey. March 8, at 11.30; Basinghall-street.—**SCAMELL, WILLIAM**, Leather Seller, 81, Tottenham Court-road, London. March 8, at 12; Basinghall-street.—**SHARP, JAMES**, Apothecary, 21, Grosvenor-street West, Eaton-square, London. March 8, at 12; Basinghall-street.—**STRONG, WILLIAM**, Builder, Merton-road, Wandsworth, Surrey. March 8, at 11.30; Basinghall-street.—**WENTWORTH, ARTHUR, & WENTWORTH, THOMAS**, Hide and Skin Salesmen and Dealers in Hides and Skins, of the Skin-market, Bermondsey, Surrey (A. & T. Wentworth). March 8, at 2; Basinghall-street.—**WOOLLETT, WILLIAM HENRY, & WOOLLETT, JOHN FREDERICK SANFORD**, Ship and Insurance Agents and Commission Merchants, 1, Lime-street-square, London (Woollett & Nephew). March 8, at 2; Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer

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THE SOLICITORS' JOURNAL.

LONDON, FEBRUARY 23, 1861.

CURRENT TOPICS.

We desire to call attention to a novel feature of the *Solicitors' Journal*, which we expect will be found useful to our readers. In last week's number, under the head "Public Companies," we gave a list of the Bills in Parliament for new lines of railways in England and Wales (where the standing orders of both Houses of Parliament have been complied with), and also short notes of the reports and meetings of a number of companies; presenting thus at a glance a great deal of information which cannot be found in such a form elsewhere. It will be seen by reference to the same head in our present impression, that our intention is not to confine ourselves to railway companies only. We hope very soon to make this part of the *Solicitors' Journal* so complete as to include all public companies of any importance. But, as at present advised, we purpose restricting ourselves, for the most part, to the two general subdivisions of new companies, and reports of meetings of established ones. We shall be happy to receive suggestions upon the subject, having already had the satisfaction of learning from various quarters that this new feature of the *Journal* meets with general approbation.

The loud complaints which for many years past have been made on the subject of the wholesale adulteration of food induced the Legislature to pass an Act last session for the purpose of putting an end to such practices. But it has been hitherto inoperative, and we fear that while it remains unaltered it is likely to continue so. It depends, in the first place, upon the vestries in London, and upon the town councils in boroughs generally, to appoint an officer for the purpose of enforcing its provisions. If they do not choose to appoint such an officer, the Act must remain a dead letter. It would, no doubt, be competent for private parties to take proceedings on their own account, and possibly some public-spirited individuals may at times be found willing to incur the necessary trouble and expense. But this is a duty which the public at large will not willingly undertake. We would further observe that the Act, even if enforced, is singularly lenient in its provisions, for it only allows of the publication of the offender's name in the newspapers after he has been twice convicted. Lastly, it allows medical drugs and medicines of every kind to be adulterated with impunity. We need not be surprised, therefore, that the Act has created much dissatisfaction, and that it has been denounced at more than one vestry meeting as a piece of clumsy and useless legislation. We trust that it will be now amended, for the necessity of a measure of this kind has been long and universally admitted.

Our attention has been called to an attempt which is being made by some few London firms of solicitors to obtain the business of country firms on lower terms than are consistent with the customary usage of the profession. We abstain from giving any further publicity to the matter than is necessary for the purpose of calling the attention of our readers to it; but we reserve to ourselves the right of offering, at a future time, some observations upon the questions involved in this proceeding. A year or so ago we alluded at some length to an absurd project then afoot, the professed

object of which was in effect to do away with the present system of metropolitan agency. That scheme failed altogether, and as ignobly as everybody expected. The new plan appears to be that certain town firms should take upon themselves the task of soliciting country business upon lower terms than custom has hitherto permitted. Our provincial as well as our metropolitan readers may have something to say upon the matter, and our columns will be equally open to both; as our single aim is, what it always has been, the general good of the profession, and not of any one section of it, at the expense of any other.

At the last Yorkshire winter gaol delivery the grand jury made a presentment as to the insufficient scale of costs allowed to prosecutors and witnesses in criminal prosecutions. We are glad to see that this has been followed up by the justices of the West Riding, a deputation from whom had an interview with the Home Secretary on the same subject, on Friday, the 15th instant. In answer to a question put by Mr. Egerton on Thursday evening, Sir G. C. Lewis said that he had not yet been able to arrive at any satisfactory conclusion on the subject; but it is very clear that if the present scale of costs be allowed for a few years longer, the useless formalities of quarter sessions and gaol deliveries, police and prisons, may be dispensed with altogether, and thus a further saving to the country be effected. Everybody now who is injured by, or whose duty it is to detect crime, has an interest in hushing it up, and in allowing the delinquent to escape. It is not very likely that any man who has prosecuted once will prosecute again, or that any witness who has once been at sessions or assizes will go there again, if they can help it; and it requires a very strong professional interest in a policeman who has once been at the assizes to do anything which may require his attendance there a second time. No wonder, then, that criminal justice should now not only be often blind, but also lame and dumb. A very short continuance of the present system is required to reduce her to helpless decrepitude.

The *South Australian Advertiser* of the 26th December last contains the report of a case (*Hayne v. Dench*), which has excited great commotion in the colony. The decision, which is one of the Supreme Court, has upset hundreds of titles that had been supposed to be perfectly good under the Torrens' Registration Acts. This misadventure is attributed by Australian journalists to two contradictory causes—one being the faulty construction of the Acts; and the other the misconstruction of them by the Court. It is not our business to decide which of these theories may be correct, as we only advert to the matter to show that grave difficulties have arisen in the working of this attempt to simplify the system of real property by registration of titles. But the case of *Hayne v. Dench* has not only thrown discredit upon Torrens' Acts; it has also raised the very important question, whether there is any Court of Appeal in the colony from the decisions of the Supreme Court. The defeated party wished to appeal to the Executive Council, of which Mr. Torrens is a member, and which has hitherto sat as a Court of Appeal; but the counsel for the successful litigant argued that the Executive Council no longer existed, and that the only appeal was to the Privy Council here. The Supreme Court, however, decided against the right to appeal in the present case on other grounds, although one of the judges at the same time said, that he had no hesitation at all in saying that there was no Court of Appeal in the province. From the facts which we have mentioned, it really does not appear that the results of recent South Australian legislation have been so successful as to entitle it to any very high degree of confidence as a model for our imitation.

The Queen has appointed the Duke of Argyll, Lord Kingsdown, Sir George Grey, Bart., Robert Wigram Crawford, Esq., Pearce William Rogers, Esq., William George Anderson, Esq., William Strickland Cookson, Esq., and Edwin Wilkins Field, Esq., to be her Majesty's Commissioners to inquire into the constitution of the accountant-general's department of the Court of Chancery, and the provisions for the custody and management of the funds of the court.

THE RECENT LAW EXAMINATION.

The result of the last examination of articled clerks has been hardly less surprising to the professional public, than to the twenty-eight young gentlemen who were unfortunate enough to be *plucked*. Although there are no statistical returns showing the averages of unsuccessful candidates for university degrees—which may be considered in many respects analogous to the certificates of the Incorporated Law Society—some acquaintance with the subject enables us to say that, at the universities, nothing approaching an average of 25 per cent. of rejected candidates has ever been known. At the recent examination in Chancery-lane, 28 out of 105 articled clerks failed to pass. With one or two exceptions, this is the highest proportion of failures recorded at the Law Institution. The fact itself requires explanation; and as it falls peculiarly within our province, we desire to offer some observations upon it.

The first thought that strikes the mind of an inquirer is, that a solution of the question can only be found in one of two directions. Either the examination, or the persons examined, must have been at fault. If we assume that the former was a fair test of what is required of legal practitioners, then the number of those who failed in meeting it proves either that the profession of the law is vastly more difficult than any other calling in life, or that the class of persons who become articled clerks are relatively less fit than any other class of students for the professions which they have respectively chosen—a conclusion which no one will entertain for a moment. But although, in respect of natural ability and general education, articled clerks are as well fitted as any other class of students for their intended profession; yet the question remains, whether—taking the examinations to be only the fair and requisite test of competency—the preliminary training is sufficient to enable candidates of ordinary industry and ability so to prepare themselves as to ensure a reasonable certainty of passing? Upon the other hand, it is to be considered whether the examination is precisely what it ought to be; whether the questions are generally such as that inability to answer them would be just ground of exclusion from the profession; whether, in short, those who exhibit a moderate acquaintance with the subjects to which the questions relate, and no others, ought to be admitted to the practice of a lawyer?

We have assumed that no adequate explanation can be found in the general character of the class of articled clerks. Perhaps we need hardly call this an assumption; for it is well known that as a body, they are characterized by good education and more than usual intelligence. Not a few of them are young men fresh from the public schools or the universities; and most of them are selected for the profession of the law, because, in the opinion of their friends at all events, they are persons of more than ordinary capacity and acuteness. It is obvious, therefore, that either the examination is not a proper test, or that these young men have not a fair opportunity of preparing themselves for it. We have long been of the opinion that both these statements are correct. If then the Incorporated Law Society desires to adopt any remedy, we would urge upon that body the importance of attending to both

the considerations to which we have just now been adverting.

In the first place, we say that the examinations themselves are not what they ought to be. They are frequently such as would be very troublesome to competent lawyers, while to a great extent they are promotive of the system of *cramming*. By this process alone can any student hope to be prepared for a large number of the questions ordinarily to be found in the papers; while one who has been successfully crammed, and who therefore passes even with eclat, may nevertheless be but poorly qualified to discharge the duties incidental to the practice of a lawyer. Turning for a moment to the questions of Hilary Term, we find that there were only fourteen devoted to conveyancing. Of these the first three referred to Lord Cranworth's and Lord St. Leonards' Acts of last session; the fourth involved a point on which the authorities are extremely conflicting and unsatisfactory; and of the remainder we can only say that to our minds they would be better calculated for an examination of conveyancing counsel to the Court of Chancery than of young men desiring to become solicitors. We have no hesitation in asserting that there are many practitioners in large business, and not a few respectable conveyancers in Lincoln's-inn, who would find some difficulty in giving satisfactory off-hand opinions upon the questions put by the examiner on conveyancing last Hilary Term. They are, no doubt, very ingenious, and well fitted to probe and exhaust the information of advanced lawyers, whose minds are conversant with the particular topics touched upon. All that we contend for is, that they were not suitable under the circumstances. It is unreasonable to expect that articled clerks should be able to handle even in a passable manner some of the most difficult problems of real property law. On the other hand, a good *Coach* would have no great difficulty, if you give him time enough, to prepare his pupils so as to be able to pass through such an ordeal; although probably he would not pretend that they would be, in fact, much the better for it. If this be so, an examination of this kind is faulty, not only in aiming too high, but also in not reaching sufficiently low. Young men who, by artificial training, could be coached so as to answer these abstruse questions might likely enough be but poor hands in drawing a simple will or deed: the contrary also—namely, that those who could not pass such an examination might nevertheless be competent for ordinary practice—is equally true. Upon these grounds we cannot help being of opinion that the examinations in Chancery-lane are not always a fair test of the practical capacity of articled clerks; and that this fact goes far to account for the number of men who were last term sent back disconsolate from the Hall of the Law Society.

We do not wish, however, to be considered as suggesting that any mere change in the subjects or method of the examination will sufficiently meet the evil complained of. There cannot be a greater mistake than to suppose that any single examination is sufficient—unless indeed it be far too severe—to ascertain the competency of candidates for any profession. There ought at least to be some preliminary test, or matriculation, without which the student would not be permitted authoritatively to enter upon his course of study. Such an arrangement would not only ensure the advantage of having the same starting point for the whole body, and of excluding those who were manifestly unfit; but it would enable the authorities to restrict their subsequent examinations to certain branches of the law, a moderate acquaintance with any one of which would be no contemptible attainment for a young man during his articles. We have the sanction of the greatest name for saying that sound knowledge is to be acquired only *gradatim et continenter*. It is too much to expect that young students can learn all that is required of them in a few months before the examination, or remember with sufficient dis-

tinctness what they had read some years before. There ought, then, to be not only a compulsory entrance examination, but at least, two other examinations during articles, which might, however, be of a less formal and rigid character. Students would then be able to pass in different departments of the law at different periods, and so to obtain a sounder and more general acquaintance with its entire domain.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.

VI. (Continued).

COMPULSORY DOMICIL.

The case of an exile, or in our parlance a transported convict, would be different from the case of a servant travelling with his master, because, although only exiled his native country for a specified term, he might be transported to such a distance, and under such circumstances, as to render it morally impossible, having regard to his age, health, means, &c., that he should ever return. This, I apprehend, would seriously affect the question of his domicil, for the mere *animus revertendi*, however strong, would be entirely neutralized by such a state of things, and I know of no case which goes so far as to decide in direct terms that the domicil of origin in such a case would not be entirely lost: upon principle, I think it would.* Transportation, we know, is often followed by imprisonment also, in the distant colony to which the convict is transported, and in like manner a convict, though transported by sentence, is frequently retained in this country and kept in durance instead; but there is one consideration which is now of considerable importance, as it is a new element in this branch of legislation; namely, the tickets of leave which are so constantly and commonly granted to those under sentence, supposing their conduct has been thought to deserve such a remission of the punishment. This, of course, would very much assist the idea of the existence of the *animus revertendi*, and it would therefore take strong circumstances to counterbalance its influence, and allow this *animus* to be displaced, and its room filled by the *animus manendi*. In the case of imprisonment in a penal colony, slight provocation, a thing which would otherwise be little more than a fault, is elevated upon the top, as it were, of former transgressions, and the unfortunate being who is transferred to the mines of Port Arthur has little to hope for the future. The word "exile" is not exactly ours, because it rather belongs to the government of an autocracy, but as it is usually for life it has been considered to deprive the party exiled of his domicil of origin, *Deniaart, Domiciles*, 3. In the case of *Duncan v. Cannan*, 24 L. J. N. S. Chanc. 460, it was laid down in argument and confirmed by the decision of the Court, that questions of personal capacity in cases of minority, coverture, &c., were governed by the law of the actual domicil at the time when any dealing with the property was attempted, and not by that of the contract of acquisition; and this rule has been applied to a wife's equity to a settlement. In all these cases any particular law may by contract be substituted for that which would otherwise govern; Story, "Confli. of Laws," ss. 86, 69, 101, 102, 136, 141; *Gambier v. Gambier*, 7 Sim. 263, and 4 L. J. N. S. Ch. 81; *Foubert v. Turst*, 1 Bro. P. C. 129; *Lashley v. Hogg*, Rob. Pers. Succ. 414, 426; *Galpratte v. Young*, 4 De Gex. & Sm. 217; Frazer, on "Per. and Domest. Relat.," 1—417; *Brandon v. Brandon*, 3 Swanst. 312. Lord Justice

Knight Bruce, in the case above referred to (*Duncan v. Cannan*) observed, that the domicil at the time of the contract and at the time of the marriage, might be material, not so the subsequent domicil.

Amongst the cases of compulsory domicil those of a student and an emigrant are usually and not improperly classed. The former of these can hardly be considered as necessary to comment upon, inasmuch as a student can only be such for a very brief period, extending to a year or two at the most, and generally in this country, and even where, as is not uncommon, young men are sent to foreign seminaries or universities, they do not thereby lose their original domicil, because there must always be the strongest presumption that they will return to their native country when the purpose for which they left it is answered. The case of an emigrant is somewhat different, as of course, a man may leave his native country and settle in another in such a manner as to lose his native domicil and acquire a foreign one; but in the case of enforced emigration, of course the domicil of origin is not thereby necessarily lost. *De Bonneval v. De Bonneval*, 1 Curt. Eccl. Rep. 856.

The only other case of compulsory domicil is that of a lunatic, which I proceed to consider. Lunatics are of two kinds, those who have always been so, either as idiots or violently insane persons, and those who have suddenly become so. It may be that in the former case, up to a certain point, although totally incapable of managing their affairs persons of weak intellect have still filled some sort of *status*, legally speaking, because there has been no inquisition found respecting them, and I apprehend if any such died, without inquisition found, inasmuch as their property could be inherited, the ordinary principles would apply with respect to them, as in the case of a sane person. The moment, however, the law takes cognizance of them, and some person is appointed as a medium to deal with, they are in the same position as any other party under disability, and the domicil of the committee would be theirs, in the same manner as the domicil of a guardian would be that of his ward, or of a husband that of his wife. The 108th article of the *Code Civile* uses the word *tuteur*, signifying very much the same thing as our *tutor*, that is, one to guard or render the object of his care *safe* (from *tutus*). There is a very early case on this subject, which is referred to in Robertson, on "Personal Succession," pp. 113 and 114, and also in Doctor Phillimore's *Treatise on Domicil*. This is found in the *Dictionary of Decisions* for 1813, by Lord Elchies; art. "Idiotry and Furology," No. 2; also, same volume, notes 199, 1749, June 21, where we have the following case:—*George Morison, lunatic, and Walter Bain, and Penelope, his wife, committee of his estate, and John Hamilton their factor v. The Earl of Sutherland*. A man by inquisition being found in England lunatic, thereupon a commission of lunacy was given by the Court of Chancery, and the committee of his estate, having suit for the debt owing the lunatic in Scotland, it was objected that a commission by the Lord Chancellor of England out of the Court of Chancery could give no title to sue in Scotland, and the committee after advising with counsel in England, finding that an idiot's tutor appointed in Scotland could not on that title maintain an action in England, and being therefore doubtful that the law might be found the same in Scotland applied to the Chancellor for leave to take a letter of attorney for the lunatic, which having got, he insisted on both titles; but the Court found that neither of them was a sufficient title to carry on the suit. Reversed by the House of Lords 13th February, 1750, and the title to give action in the appellant Morison's name. The Chancellor thought the objection to the first suit well founded, and that a committee in England could not sue in Scotland, but that yet the lunatic might sue in his own name, and that though the

* Perhaps the increasing facilities of communication with our penal colonies, and the fact that so many now never leave this country at all, might greatly modify this proposition.

first suit was brought in the name of the committee, as if a lunatic, which they could not do in Scotland when the suit was afterwards brought in the lunatic's own, which could take no notice of his lunacy unless a brieve (inquisition) had issued (supposing he had been found furious), if they did take notice of it, it could only be as lunatic at large which could not bar a suit in his name, and that the union made no difference, for that the law would be the same in England. At page 109 of the notes is the following:—1st. Inquisition in England is no legal evidence in Scotland. 2ndly. If it was, the *Lord Chancellor* has no power to direct the management of an estate of his in Scotland, because *extra territorium*: answered that *statuta personalia voce domicilii* must bind everywhere. A lunatic or fatuous person or minor or married person who is held so there must be held so everywhere. Moveable *sequuntur personam*, and are regulated by the law of the place of domicile. Replied: *statuta even personalia* have no force *extra territorium* if it is not *ex comitate*. A man is major (i.e. of age) in Naples at eighteen, but if he had an estate in Scotland he could not dispose of it to the second in succession to moveables in Scotland, as ruled by the law of Scotland wherever the owner dies. Witness the case of *Duncan's executors*, same vol., tit. Succession, No. 4, 1738, February 16. The debts must be regulated by the law of the place where they must be sued.

Duncan's executors was this case. The nearest of kin of Adam Duncan competing the Lords thought that the succession to moveables and debts in Scotland and the office of executor must be regulated by the law of Scotland, and not by the law of the place where the deceased proprietor had his residence and died. They did not decide the point, but Adam Duncan who had his residence forty years in Holland having died there, the commissaries of Edinburgh preferred (as the Scotch term it) James and Ann Duncan, his brother and sister, to the office of executors. His nephews and nieces by other brothers and sisters presented an advocacy upon iniquity (that is put in their claim), for that by the law of Scotland they, *jure representationis*, had an equal right in the succession of the moveables as well as heritage. The Lords refused the bill, reserving to them to be afterwards heard upon their right to the succession of accords, and gave their opinion as above. It will be seen that the above cases refer chiefly to the question of jurisdiction which determines the domicile, and there are observations incidentally mingled with the facts and details, clearly showing the light in which a lunatic's status was regarded in Scotland. The *Lord Chancellor's* opinion was, that a lunatic might sue in his own name where his committee could not, by reason of the non-extent of the jurisdiction; but this was an enunciation of English law, as evidently appears by the next sentence; for it is stated in express terms that a lunatic, found what is called "furious," could not sue; but that if at large, his being lunatic as a mere fact was not sufficient to bar any suit by him; in other words, as I said at the beginning, the same principles apply to a lunatic before he is legally found so, as apply to a sane person not under any disability; for, in common parlance, we must bring a man within the pale of the law before the law can touch him. There is also a most important sentence at the conclusion of the case, namely, "and that the union made no difference, for that the law would be the same in England." In the same case as set forth in *Lord Elchies'* notes we are favoured with the heads of arguments, after stating the two propositions which he considered as laid down in the case, namely, that inquisition in England was no legal evidence (of lunacy) in Scotland, and secondly, if it was, the *Lord Chancellor* had no power to direct the management of such lunatic's estate in Scotland, because *extra territorium*, that is he had not the

jurisdiction. The arguments were these; that the laws relating to personalty in the place of domicile must bind everywhere, and therefore that a lunatic or indeed any person so regarded in the place of his domicile must be taken to fill that character everywhere, and the incidents must follow. The reason given is that moveables *sequuntur personam*, and are regulated by the law of the place of domicile. This was denied on the ground that moveables were regulated by the law of Scotland wherever the owner dies (which would of course include a domicile), and in proof of this the case of *Duncan's executors* given above was referred to, which certainly appears so to decide. It is almost unnecessary to say that this is just the contrary to the law of England, and goes upon the principle that debts must be regulated by the law of the land where they must be recovered. Other instances, perhaps, of domicile not of choice, might be adduced, but it is scarcely necessary to refer particularly to them, because, as I have so often said, the principles, once known, we have nothing to do but to apply them. Thus a person having a temporary residence does not lose his domicile of origin or that which he before possessed; whereas the taking up a permanent sojourn immediately confers one, and this applies to clerical as well as lay persons, and the distinction between a curate and a beneficed clergyman is immediately apparent; a bishop in his palace and a clergyman in his living stand on the same footing, and though each may have translation or further preferment, the domicile acquired is not lost until another be gained, and in all cases where the *sedes* is, there will the domicile be likewise. With regard to those of the clerical profession also, there is this simplifying circumstance, namely, that their movements are usually within the English territory, except in the case of Scotch church as given to English clergymen or *vice versa* or colonial bishoprics. There of course, the actual acceptance of the preferment followed by the act of going to and taking possession of it, would, I think there is no doubt, operate as a loss of one domicile and the acquirement of another, and it is no proof of the fallacy of this assertion to say that there is the chance of a further and better piece of preferment, inducing the party immediately to leave the domicile so acquired and obtain perhaps a new one; for in the cases supposed there are all the elements necessary, and we look no further, whatever else may take place, to alter the domicile, being in the balance as the uncertain future against the certain present.

(To be Continued).

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before Vice-Chancellor Sir R. T. KINDERSLEY.)

Feb. 15.—In re Smith.—This was a petition, and raised the important question whether a solicitor, who had formerly acted in a suit, but who had been removed by an order to change solicitors, was disentitled, on the mere ground of delay, which it was alleged there had been, in the prosecution of the suit, to his lien for costs. Several solicitors had been employed in the suit, and the right to costs of the last solicitor had been assigned to the petitioner, and the petition was presented to establish his lien for costs up to the time when solicitors were changed.

The VICE-CHANCELLOR was of opinion that the petitioner was entitled to what he asked. It was not a universal rule that unless a solicitor prosecuted a cause to a decree, he was not entitled to have his costs, properly incurred. If, indeed, at an imminent or inconvenient time he deserted his client, and loss was incurred, that might be a ground to disentitle him to costs.

SPRING ASSIZES.—NORTHERN CIRCUIT.

LANCASTER.

This Circuit commenced on Saturday, the 16th inst. The learned judges, Mr. Justice Hill and Mr. Justice Keating, arrived here on Saturday afternoon, and opened the commission. Their lordships attended Divine Service on Sunday at the parish church.

Feb. 18.—This morning Mr. Justice Hill charged the grand jury in the Criminal Court, and Mr. Justice Keating took his seat on the Civil side.

The cause list contained an entry and four causes, of which two were marked for special juries.

CROWN COURT.

(Before Mr. Justice HILL.)

Owing to the delay on the part of the grand jury in bringing in the bills, it was 3 o'clock before his lordship was able to try any prisoner.

MIDDLESEX SESSIONS.

Feb. 18.—The February adjourned sessions commenced this morning, at Clerkenwell, before Mr. W. H. Bodkin, assistant-judge; Mr. Payne, deputy; and a full bench of magistrates.

The calendar was heavier than usual.

SECOND COURT.

(Before Mr. PAYNE.)

Feb. 20.—The grand jury was discharged about mid-day.

The ASSISTANT-JUDGE in his address to them said, he had long been of opinion, and had frequently expressed it, that the attendance of grand juries at the metropolitan courts had become entirely useless. The cases which were submitted to them were almost without an exception cases which had been previously investigated by the magistrates of the police-courts in their several districts,—gentlemen of great legal knowledge and experience, who, having found that a *prima facie* case had been established before them, sent the person accused for trial, and the grand jury was scarcely called upon to say whether they concurred in the judgment the magistrates had arrived at.

Mr. J. Fraser Macqueen has, in consequence of his elevation to the rank of Queen's Counsel, resigned his appointment as Revising Barrister for the metropolitan boroughs and the city of Westminster. The other two metropolitan revising barristerships are by the deaths of Mr. Lancelot Shadwell and Mr. Young Mc Christie, also vacant. These appointments are in the gift of the Lord Chief Justice, and are the only revising barristerships given to the chancery bar.

Shortly after the commencement of business in the Marylebone Police-court on Thursday, it was rumoured that Mr. Secker, who for many weeks had been unable to perform his duty owing to indisposition, had expired. His colleague, Mr. Mansfield, upon receiving the information, directed Burrage, one of the warrant officers, to proceed at once to Mr. Secker's chambers, Essex-court, Temple, to ascertain whether the rumour was correct or not. He did so, and on his return stated that the much lamented gentleman expired at half-past five o'clock on the previous morning. It is a remarkable circumstance that within the last eight or nine months death has claimed no fewer than three of the Marylebone magistrates, viz., Mr. Broughton, Mr. Hammill, and the one whose dissolution we have now the sad duty to record.

The following gentlemen have been appointed Queen's Counsel:—Mr. William Dugmore, Mr. W. A. Collins, Mr. A. Cleasby, Mr. H. W. Cole, Mr. John Fraser Macqueen, Mr. Thomas Chambers, Mr. E. Plumer Price, Mr. Josiah W. Smith, Mr. Richard Baggallay, Mr. Henry Mills, Hon. Adolphus F. O. Liddell, Mr. W. Baliol Brett, Mr. John Burgess Karlake, Mr. W. Digby Seymour, Mr. John Duke Coleridge; Hon. George Denman, and Mr. George Mellish. A patent of precedence has been conferred on Mr. Serjeant Hayes.

John Forster, Esq., Barrister-at-Law, late Secretary to the Commission, has been appointed a Commissioner in Lunacy; on the resignation of Bryan Waller Procter, Esq.

Mr. John Robert Griffith, of Llanrwst, Denbigh, has been appointed a commissioner to administer oaths in the High Court of Chancery.

Mr. John Leach, of Martock, Somerset, has been appointed perpetual commissioner for taking the acknowledgments of deeds by married women for the county of Somerset.

Parliament and Legislation.

HOUSE OF LORDS.

Friday, Feb. 15.

THE CONCENTRATION OF THE LAW COURTS.

(Continued from last week.)

LORD ST. LEONARDS: The question was whether their lordships would sanction the taking the sum of £1,400,000 belonging to suitors, for courts which they did not require. Some of the judges were sufficiently accommodated. The only accommodation required was for the two new Vice-Chancellors. The Society of Lincoln's Inn would build new courts at an expense to themselves of £100,000.

THE LORD CHANCELLOR: The suitors fee fund now amounted to about two millions and a half, and might properly be applied for the purpose required.

LORD CRANWORTH disagreed with the views entertained by Lord St. Leonards.

Monday, Feb. 18.

CONSTRUCTIVE NOTICE AMENDMENT BILL.

On the motion of Lord St. LEONARDS, this Bill was read a second time.

COURT OF DIVORCE.

THE LORD CHANCELLOR gave notice that on an early day he should move for a select committee to inquire into the law affecting the parties entitled to sue in the Divorce Court or the Sessions Court of Scotland for a dissolution of marriage.

Thursday, Feb. 21.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

This Bill was read a third time and passed.

CONSTRUCTIVE NOTICES AMENDMENT BILL.

This Bill was read a third time and passed.

HOUSE OF COMMONS.

Friday, Feb. 15.

THE NEW LAW COURTS.

MR. COWPER (in answer to Sir J. Shelley) stated that a Bill was in preparation for purchasing the site on which the new courts of law were to be erected. He hoped to be able to introduce the measure shortly.

MR. TURNBULL'S CASE.

MR. STIRLING moved an address for a copy of all letters and minutes which have passed between the Government and the Master of the Rolls relative to Mr. Turnbull's appointment and resignation; together with all such letters and minutes as relate to the regulations under which the work of calendaring is pursued, and the means taken for securing the integrity of the public papers.

Agreed to.

Monday, Feb. 18.

BANKRUPTCY AND INSOLVENCY BILL.

The House went into committee on this Bill.

The clauses as to salaries having been agreed to in committee the House went into committee on the Bill itself.

After some discussion the clause appointing a chief judge was agreed to. During the discussion Mr. Henley observed that as the Master of the Rolls and Vice Chancellors appeared to have little to do, the functions of the chief judge might be performed by one of those judges. The Attorney-General explained the present position of the equity courts, and stated that the manifold duties of the new judge would require all his time.

The clauses down to the 49th, excepting two or three which were postponed, were agreed to. On arriving at the 50th clause the chairman was ordered to report progress.

HIGHWAYS BILL.

The order for the second reading of this Bill was postponed till Friday.

Tuesday, Feb. 19.

REAL PROPERTY.

MR. W. WILLIAMS moved a resolution. "That in the opinion of this House, real property should be made to pay the same probate duty as that now payable on personal property." He stated at some length his reasons why the distinction at present existing between the two classes of property should no longer continue.

Mr. HADFIELD seconded the motion.

The CHANCELLOR OF THE EXCHEQUER opposed the motion, and said his views upon the subject were entirely opposite to those of Mr. Williams. The proposition was neither just nor practicable. The adoption of the motion would lead to a greater anomaly than that it proposed to rectify. To get one per cent. on land it would cost two or three per cent. to obtain a valuation of it. According to the best estimate that can be obtained, four-fifths of the land of this country is under settlement and entail, and the greater portion of it would escape the proposed probate duty.

Mr. WILLIAMS having replied, the House divided, and the numbers were:—

For the motion	...	...	...	51
Against it	...	...	...	167
Majority	...	...	...	116

BANKRUPTCY AND INSOLVENCY.

The report of the committee on this Bill was brought up and agreed to.

Thursday, Feb. 21.

ALLOWANCES TO WITNESSES.

Mr. A. EORTON asked the Secretary of State for the Home Department whether he was prepared to alter the present scale of allowances to witnesses at sessions and assizes.

Sir G. C. LEWIS said, he had received deputations from South Lancashire and the West Riding composed of gentlemen of great weight and experience in their own counties, whose object was to represent the inadequacy of the present allowances to witnesses at assizes and sessions. These expenses, however, were defrayed by a grant of that House, and any increase in the allowance would fall as a burden on the public exchequer. The subject was one of great difficulty, whether considered as leading to a general increase of allowances, or to a variable scale involving different rates in different counties, and he could not say that he had been able yet to arrive at any satisfactory conclusion.

BANKRUPTCY AND INSOLVENCY BILL.

The House having resolved itself into committee resumed the consideration of the clauses of this Bill. Clauses 50 to 80 inclusive were agreed to with some slight amendments.

Clause 81, which abolishes the distinction between traders and non-traders was, after some discussion, agreed to.

Clause 82, which assimilates the law applicable to the two classes of debtors, gave rise to considerable discussion, in which Sir H. Cairns, Sir G. Bowyer, Mr. Malins, Mr. E. James, Sir F. Kelly, Mr. Walpole, Mr. Rolt, and the Attorney-General took part. The clause was eventually agreed to.

On reaching the 117th clause, which was agreed to, the chairman was ordered to report progress.

PENDING MEASURES OF LEGISLATION.

A BILL TO AMEND THE LAW RELATING TO BANKRUPTCY AND INSOLVENCY IN ENGLAND.

The Court of Bankruptcy to have for the purposes of this Act same jurisdiction as superior courts of law and equity, and court of insolvency.

A chief judge to be appointed.

Present commissioners to continue. Vacancy in number of commissioners not to be filled up until number reduced to less than three.

County court judges, except of the metropolitan courts, to have same jurisdiction as district commissioners.

Where no district commissioner business may be transferred to county court of district.

Power to her Majesty by order to establish additional county courts, and to re-arrange districts of bankruptcy and county courts.

Judge of new county court to be appointed by Lord Chancellor; powers of new county court judge.

Officers.

Persons now discharging the duties of chief registrar, registrars, taxing-master and official assignees to retain office subject to dismissal by Lord Chancellor. Vacancies to be filled up by Lord Chancellor. (s. 11.)

Registrar's office in Quality Court to be discontinued, and clerks and records transferred to the office of chief registrar.

County court registrars also to discharge duties of official assignees.

Bailiffs of county courts to discharge duties of messengers.

Accountant.

Office to be abolished on first vacancy, and duties discharged by chief registrar, and funds in bank to credit of such accountant to be transferred as may be directed by general order.

Taxing-Master.

To tax bills, &c., in matters before court of appeal and the court in London, and bills specially referred from district and county courts. Subject to review. (s. 18.)

Registrar in country districts to be taxing-officer.

Bills &c., of auctioneers, appraisers, valuers and accountants to be settled by registrar of court in which they arise. Subject to review.

Official Assignees.

Vacancies in office in London not to be filled up unless number reduced to less than five. Vacancy in office in country not to be filled up if another official assignee in district.

Messengers.

Messengers in London to continue to act. Vacancies in London not to be filled up unless number reduced to two, and in country to one. Where necessary to be filled up by Lord Chancellor.

Vacancies and Temporary Appointments

Vacancies in offices of commissioner or registrar or otherwise need not be filled up.

Insolvent Debtors Court.

Court abolished and commissioners released, and jurisdiction of county courts discontinued. (S. S. 24 & 25.)

Provisional Assignees.

Present provisional assignee to act as official assignee of court in London. To receive same salary as other official assignees.

Officers.

Chief clerks and taxing-officers transferred to London court.

Pending Business.

Returns of business pending in court to be made by chief clerk before Act comes into operation. Lord Chancellor may order business to be completed by commissioners.

Court may proceed summarily in winding up business.

Recognizances of sureties for insolvents extended.

Funds.

Funds standing to credit of court to be transferred to accountant in bankruptcy subject to payment of dividends and salaries, and for indemnifying provisional assignee.

Salaries of Judges and Officers under this Bill.

Chief judge, £5,000; secretary £300, payable out of the Consolidated Fund.

Chief Commissioner of Insolvent Court, present salary continued for life (s. 34).

Chief registrar, £1,400; London registrars, £1,200; country registrars, £1,000; registrar in attendance upon chief judge, £1,000; taxing master, £1,400; accountant in bankruptcy, £1,500; registrar of meetings, £200; other officers of court, same salaries as at present.

Clerks of Insolvent Court, transferred, same salary as at present (ss. 34—36).

Remuneration of Official Assignees.

Of official assignee in London, not to exceed £1,200 per of official assignee in the country £1,000.

Remuneration of Messengers.

Not to exceed £500, per annum, in London; nor £400 in the country. Surplus of receipts by messengers to be paid over to chief registrar's account.

As to Retiring Annuities and Compensation.

Chief judge, after 15 years service or previous disability, two-thirds of salary, to be charged on Consolidated Fund.

Commissioner or registrar, accountant in bankruptcy or taxing master, or other officer, after 20 years' service, or previous disability, two-thirds of salary. Time of service in Insolvent Court to be reckoned.

Where annuitant accepts other public office, salary received to be deducted from annuity.

Compensations now payable on certain abolished offices and annuities, and other expenses, charged on fund standing to chief registrar's account to continue charged on same fund (ss. 39—43).

As to Fees and Stamps.

Court fee on public sittings and per centage on estates, abolished.

Fees may be directed to be paid and altered by general orders. All fees to be paid by stamps.

Documents, &c., mentioned in schedule to be on stamped vellum as mentioned in schedule.

Documents, &c., not to be received unless so impressed (ss. 44—49).

Sittings of the Court.

Courts to sit every day except days mentioned. During absence of chief judge, from illness or otherwise, Lord Chancellor may authorise any vice-chancellors, or any judge of common law courts, or any commissioner in London to act as judge.

Chief judge to regulate sittings in vacation.

As to the Practice and Procedure of the Court.

Evidence may be taken orally, by interrogatories or affidavit, or by commission abroad.

Chief judge and commissioners to sit at chambers, and to have same jurisdiction as when sitting in court. Chief judge may direct any matter not being an appeal or rehearing to be heard by commissioners in London.

Registrars to sit in chambers for disposal of business.

Any party may take opinion of judge upon any matter certified by registrar. Certificate of registrar to be binding on all parties.

Parties and witnesses summoned before registrar to be liable for contempt in not attending. False swearing before registrar punishable as perjury.

Expenses to be settled by court and paid out of the estate, and if assets insufficient, then out of chief registrar's account. Registrars may exercise all powers but that of commitment.

Chief judge and judges of court of appeal may direct questions of fact to be tried before himself and themselves, and make orders on sheriff accordingly and may direct issues to courts of common law.

Short-hand writers may be appointed to facilitate business. Remuneration to be settled by general order.

Appeals.

Decision or order of London or country commissioner or county court judge may be appealed.

Appeal to be by petition, motion, or special case. No new evidence to be received on appeal. Appeal to be presented within twenty-eight days unless further time allowed by court below. Order on appeal to be final unless appeal permitted by chief judge.

On hearing chief judge may direct removal of proceedings from court appealed from to some other court.

Chief judge may request assistance of common law judges.

Decisions of chief judge subject to appeal (except decisions on appeal to him) within seventy days. Decision of appeal court final unless appeal sanctioned to House of Lords.

Buildings.

The buildings in Basinghall-street and Portugal-street to vest in commissioners of public works.

Persons subject to the Act.

All debtors, whether traders or not, may be adjudged bankrupt.

A non-trader who shall, to defeat his creditors, depart the realm, or remain abroad, or make a fraudulent conveyance of his estate, is to be deemed to have committed an act of bankruptcy.

The following rules to be observed with respect to non-trader departing the realm, viz.:—

1. The Court, upon satisfactory evidence, to order copy of petition to be served on him.

2. Order is to limit time for appearance.

3. If place of abode cannot be ascertained, petition may be served at last known place of residence, and not less than sixty days to be given from time of service for hearing.

4. After expiration of sixty days, if debtor does not appear, he may be adjudged bankrupt.

Lying in prison for fourteen days, escaping out of prison, and filing a declaration of insolvency, to be deemed acts of bankruptcy.

Trader debtor suffering execution to be levied for demand

exceeding £50, to be deemed to have committed act of bankruptcy. If petition for adjudication not presented in meantime, sheriff may proceed with execution.

Goods taken in execution to be sold by auction.

Filing a declaration of insolvency in foreign dominions of the Crown to be conclusive evidence of bankruptcy. Creditor after two months' notice in *London Gazette* may petition for adjudication (ss. 81—87).

As to Act of Bankruptcy by Non-payment after Judgment Debtor Summons.

Creditor entitled at the end of one week after signing judgment to sue out judgment debtor summons.

Creditor entitled to sue out summons where debtor has disobeyed order of court of equity, or in bankruptcy, insolvency, or lunacy, directing payment.

Judgment debtor summons to issue according to the following rules, viz.:—Where debtor in England and debt amounts to £50, out of court in district where debtor usually lives; where debtor is not in England, then out of court in district where debtor last resided.

Summons to be served personally when debtor in England, except otherwise ordered; where debtor not in England as court may order.

Duplicate summons to be delivered to sheriff.

Where service cannot be personally made, court may order notices to be inserted in *Gazette* and newspapers fixing time for debtor to appear.

Upon appearance debtor may be examined on oath, and to make discovery respecting his property. Debtor refusing to be sworn, or to make discovery, may be committed.

If after service of summons or notice thereof, debt not paid or secured, Court may adjudge him bankrupt without petition.

Three days allowed to show cause against adjudication; upon cause shewn adjudication may be annulled; adjudication to become absolute at the end of time allowed, or judgment against cause shown.

Debtor refusing to conform, may be committed, (s.s. 88, 97.)

Non-Traders.

Proceedings to be by petition. After filing of petition bankrupt and his estate subject to law of bankruptcy.

Petition to be filed in court within district where debtor shall have carried on business for six months previous; but Court may order petition to be presented within any district; or may transfer petition to any district or county court.

Amount of petitioning creditors' debts to be as follows:—A single creditor, or two, or more being partners, £50 or upwards; two creditors, £70 or upwards; three, or more creditors, £100 or upwards. Creditors for sums not due, may petition, or join in petitioning.

Debts antecedent to Act shall not support petition for adjudication, against non-trader.

Where bankruptcy fraudulently or maliciously prosecuted, Court may order satisfaction to be made to bankrupt for damages sustained.

Public officer of co-partnership may present petition.

Debtor may himself petition.

Debtor petitioning to file schedule.

Where debtor petitions, and his debts do not exceed £300, if resident in metropolitan district, to file his petition in London Court. Where debts shall exceed £300, and debtor shall not be resident in metropolitan district, petition to be filed in district county court.

Debtor petitioning, if in prison, to give notice to gaoler of his intention.

If creditor does not obtain adjudication in three days, any other creditor may proceed.

In computing debts for the purpose of petition, sums due on mortgage, or other securities, to be reckoned after deducting value of property comprised therein; and interest and costs respecting such debts to be also reckoned.

Proceedings after adjudication, &c.

After adjudication, the official assignee is to take possession of the bankrupt's estate.

Majority in value of creditors may transfer proceedings to county court.

Upon appointment of creditors' assignee, powers of official assignee to cease; the former to audit accounts of the latter; the former to realise estate, except amounts of £10 and under.

Court may determine on all differences between assignee, creditors, or parties claiming under trust deed.

Nothing in Bill as to last examination or proof of debts requires particular notice.

The classification of certificates is to be abolished.

A majority of creditors may resolve after adjudication to wind-up estate out of court under deed of arrangement.

Deeds of arrangement.

Trust deeds for benefit of creditors to be valid if executed by three-fourths in value of them, and by trustees and the debtor's execution thereof attested by a solicitor; possession of the property comprised therein being given up to the trustees; there being also certain formalities of registration, &c.; after registration the Court is to have jurisdiction, and the debtor is to be protected.

The Bill also contains a set of what has been called dead men's clauses, providing for the distribution of the estates of deceased debtors.

There are also numerous clauses relating to evidence, notices, &c.; misdemeanours under the Act, &c.

A BILL INTITLED AN ACT FOR PROMOTING A REVISION OF THE STATUTE LAW BY REPEALING DIVERS ACTS AND PARTS OF ACTS WHICH HAVE CEASED TO BE IN FORCE.

Whereas, with a view to the revision of the statute law, and particularly to the preparation of an edition of the statutes comprising only enactments which are in force, it is expedient that divers Acts and parts of Acts which have ceased to be in force otherwise than by express and specific repeal, should be expressly and specifically repealed: and whereas the Acts mentioned in the schedule to this Act have so ceased to be in force to the extent specified in the third column of the said schedule: be it therefore enacted, &c.

The Acts mentioned in the schedule to this Act shall be repealed to the extent specified in the third column of the said schedule, except as to any operation already effected by, or Act done under, any enactment herein comprised, or as to any right, title, obligation, or liability already acquired or accrued under any such enactment.

There is a prefatory note as follows:—

The object of the notes in the fourth column is to show the grounds of the proposed repeals. Acts of modern date, which have ceased to be in force, without being the subject of express and specific repeal, may be regarded as divisible into—

1. Acts repealed in general terms (for example, by the repeal of "all Acts relating to the Revenue of Customs," as in 7 Geo. 4, c. 48, s. 52).
2. Acts virtually repealed.
3. Acts superseded (where a later Act effects the same purposes as an earlier one, and thus renders the retention of the earlier one useless).
4. Acts expired (that is, Acts which, having been originally temporary, have not been made permanent, or been kept in force by continuance).
5. Acts spent (that is, Acts exhausted or spent in operation at the moment of their first taking effect, or at some specified time, or on the doing of some Act authorised or required).

The present Bill deals only with Acts of the first three classes. Where, however, part of an Act intended to be dealt with in the present Bill is spent or expired, that part has not been excluded from the repeal. At the same time, it has only been considered necessary to show in the fourth column how the remaining parts of the Act are gone. And so, where part of an Act has been already expressly and specifically repealed, that part has not been excluded from the repeal by the present Bill. The fourth column will show how such a previous partial repeal has been effected, as well as how the remaining part of the Act is gone. In consequence of the adoption of this course, the repeals in this Bill are in the great majority of cases of "the whole" of each Act dealt with, instead of being merely repeals of "so much as is not expired," or "spent," or of "so much as is not already repealed." Such a sweeping repeal is convenient for many purposes, and more particularly for simplifying the entries which will have to be made in the revised edition of the statutes, to show how the Acts and parts of Acts omitted are gone.

The fourth column of the schedule (with this note) is intended to be struck out at a late stage of the Bill.

The schedule consists of 103 pages, of which the following entries (being the two first and two last) are by way of specimen:—

SCHEDULE.

Act.	Subject.	Extent of Repeal.	
11 Geo. 3. c. 23.	Militia Pay	The whole - -	Repealed by 26 Geo. 3, c. 107, s. 135, in general terms; and the repealing Act is repealed by 42 Geo. 3, c. 90, s. 1, without a saving for repeals.
" c. 24.	Greenland and Whale Fishery.	The whole - -	Superseded by 31 Geo. 3, c. 43, s. 5.
16 & 17 Vict. c. 125.	Metropolitan Sewers Acts Continuance and Amendment.	The whole - -	Superseded. See 18 & 19 Vict. c. 120, ss. 145 and 181.
19 & 20 Vict. c. 25.	Drafts on Bankers.	The whole - -	Semble, virtually repealed by 21 & 22 Vict. c. 79

Recent Decisions.

REAL PROPERTY AND CONVEYANCING.

CHARGE OF DEBTS—DIRECTION TO PAY DEBTS—IMPLIED POWER OF SALE.

Cook v. Dawson, M. R., 9 W. R. 305.

Every decision being important which tends to give stability to a disputed doctrine of law, we return briefly to this subject. A leading proposition laid down by Wood, V.C., in *Hodkinson v. Quinn*, 1 Johns. & H., 303; 9 W. R. 198, is this—that where a will contains such a direction to pay debts as amounts to a charge upon the real estate devised, and there is no distinct provision as to the person by whom the debts are to be paid, there is an implied power in the executors to enter into a contract for sale of the estates, whether the persons beneficially interested are concurring or opposing; and, if they resist, the executors can compel those who have the legal estate to join in the conveyance. This decision, which follows that of *Robinson v. Lowwater*, before the Lords Justices, 5 De G. M. & G. 272, affirming the Master of the Rolls, 17 Beav. 592, has been again judicially acted upon by the Master of the Rolls in *Cook v. Dawson*. In this case it was admitted by counsel on both sides that, notwithstanding the doubts which have been expressed by eminent authorities on the question, some statement of which may be found *ante*, p. 259—the principle is now placed beyond dispute.

A no less important point which was strongly contested in *Cook v. Dawson* was this—whether the direction to pay debts in that particular case amounted to a charge upon the real estate or not. The direction was that the debts should be "fully paid and satisfied by the executrix"—without specifying out of what fund; and the testator gave to his widow, whom he afterwards appointed his executrix, a life estate in the real property, and "if she found that the net rents and proceeds were inadequate and not sufficient for her proper maintenance and comfort," then a power to mortgage. After her death there was a devise over. The Master of the Rolls laid down the proposition that a general direction by a testator for the payment of his debts, amounts to a charge of his debts upon the real estate, at least where the property is afterwards disposed of by the will. To this rule there is a well-known exception in cases where, coupled with the direction that the debts shall be paid, there is another direction that they shall be paid by the executor. It was denied in the course of the argument that this old exception was still the law, but the Master of the Rolls, though with some apparent reluctance, felt bound to support the rule. He said that although he might have entertained doubts upon the question had it come before him for the first time, the doctrine was too firmly established to admit of its being disturbed by him. The direction in such a case must be held to extend only to charge that property which comes to the executor's hands in the ordinary way, viz., the personal estate. But this exception, continued the Master of the Rolls, is open to another exception, in cases where there is a "devise of land" to the executor. In those cases the direction that the debts shall be paid by the executor "does not affect the validity of the general charge of debts upon the real estate." It must be confessed that it is difficult to reconcile this rule with that laid down in *Harris*

v. Watkins (Kay, 438); the marginal note of which is this: "When a will contains a direction to the executors to pay the testator's debts, and then a devise of real estate to that executor, it is considered that the testator has imposed upon the executor the duty of paying the debts to the extent of the property given to him, and accordingly that property "is held to be charged with the debts," a statement which is fully borne out by the judgment of Vice-Chancellor Wood, at p. 443. Whatever may be the solution of this apparent contradiction, it is to be observed that the decision in *Cook v. Dawson* went upon other grounds, viz., that, upon the construction of the will, the executrix took only a life estate in the lands, and that the power to mortgage did not include by implication a power of sale. The two cases which were relied on in favour of the right of the executrix to sell, were *Finch v. Hattersley*, 3 Russ. 345 (n), and *Gosling v. Carter*, 1 Coll. 644. In both there was a direction that debts should be paid by the executrix, and in both a life estate was given to her. But in the former case, all that appears from the report is a declaration that the real estates ought to be sold, &c., without specifying by whom; and in the second, the life estate given to the executrix was in the whole of the real and personal estate; and there appeared to the Court to be strong evidences of intention, from the wording of the particular will, that she should sell during her lifetime.

The results arrived at in *Cook v. Dawson* were these; that the direction above stated amounted to a charge of the debts upon the life estate of the executrix; and, there being no devise of the corpus of the real estate to the executrix, that the corpus of the real estate was not charged. Consequently the Court held, though with manifest reluctance, that the executrix could not make a good title to a purchaser.

COMMON LAW.

SALE OF GOODS—29 CAR. 2, c. 3, s. 17—WHAT IS A SUFFICIENT MEMORANDUM.

Bailey v. Sweeting, 9 W. R., C. P., 273.

We have it upon the authority of Mr. Justice Willea, that the particular question raised in this case has not before been the subject of judicial decision; and yet, if such be the fact, it is strange enough, for the dispute which arose between the parties in the present instance must be of very frequent occurrence. The point for decision may be put shortly thus: "Is the note or memorandum of a contract for the sale of goods for the price of £10 or upwards (required by the 17th section of the statute of frauds) sufficient to enable the vendor to maintain an action for their price, if such memorandum be given subsequently to the time when the sale took place, and if it contains in itself a repudiation of the vendee's liability on such contract?" Mr. Justice Blackburn, in his well-known treatise on the contract of sale, is of opinion that a memorandum containing a repudiation of liability, as well as the terms of the bargain, is not such as constitutes a sufficient compliance with the statute. He says (p. 66), that it sometimes happens that after a dispute has arisen, a party in a letter signed by him recapitulates the whole terms of the bargain, for the purpose of saying that the bargain is at an end; and that it has never been decided whether such an admission of the terms of the bargain, signed for the express purpose of repudiation, can be considered a memorandum to make the contract good. He adds, however, that in his own judgment it seems difficult on principle to see how it can be so considered: for the parties may, either of them, put an end to the contract at any time whilst it is not good, with cause or without cause; and a memorandum of the terms comes too late to make a contract good which is already put an end to by the will of one of them. Mr. Justice Blackburn concludes by saying, that he knows of only three cases in which the point could have been decided; and though in each of them the memorandum was held insufficient, yet that they seem all to have been decided on special grounds, irrespective of the question now under discussion. These cases are *Cooper v. Smith* (15 East. 103), *Richards v. Porter* (6 B. & C. 437), and *Smith v. Surman* (9 B. & C. 561); and of these, the first appears to have been decided in favour of the defendant, because the terms of the bargain were not correctly stated in the memorandum; the second, because the terms were not sufficiently specified; and the third, because they appeared from it to have been left undecided between the parties at the time of sale. But, though Mr. Justice Blackburn's opinion upon the point was strongly urged upon the Court in the present case, they decided nevertheless adversely to the defendant; and indeed, in express terms, held the passage above referred to, to

be erroneous. "I am bound to say," said Mr. Justice Williams, "that I do not consider the reasons given in my brother Blackburn's book to be sufficient." The particular circumstances of the present case are not perhaps very material with regard to the general proposition of law now under consideration; but it may be mentioned that the question arose out of a sale of some goods which were injured in the carriage, and which the defendant consequently refused by letter to accept; reciting in such his refusal (unfortunately for himself, though probably out of extreme caution) the precise terms of the bargain which he had made with the vendor. This letter the Court held to have a retrospective effect, and thereby to supply the signed memorandum required by the statute, in order to allow the vendor to sue for the price of the goods; and they accordingly directed the verdict to be entered for the plaintiff.

CRIMINAL LAW.

APPROPRIATION OF FOUND GOODS, WHEN IT AMOUNTS TO LARCENY.

Reg. v. Moore, 9 W. R., C.C.R., 276.

This is the most recent of a series of cases which point out the fine distinctions which the law draws, in judging of the conduct of him who appropriates to his own use the chattel of another,—which by being accidentally lost, or otherwise, leaves for a time the possession of its owner, and comes into that of the finder. The law upon this subject was far from settled at the date of the last edition of Mr. Russell's well-known treatise upon "Crimes and Misdemeanours." That author (vol. ii. p. 11) says, that where the "taking" of goods from another is by finding the property, the crime of larceny is not committed, though there be *animus furandi* in the finder. Several illustrations of this proposition are given, and among them it is said that if one lose his goods in the highway, and another find them and carry them away with all the circumstances that usually prove a felonious intent—as denying or secreting the property—yet as the first taking was lawful, no larceny has been committed. It is true that Mr. Russell goes on to observe that this doctrine must be received with great limitation; and proceeds to give several cases in which the party who found and appropriated the goods of another, was convicted of stealing them: and he finally arrives at the conclusion, that the old rule does not apply, if the finder knows the owner of the property; or if there be any mark, or other circumstances from which the owner can be reasonably ascertained. He adds that in cases of this kind (inasmuch as, after all, the *animus furandi* is the gist of the matter) the jury should be always satisfied that the prisoner intended at the time of offending to convert the article to his own use, for if such intention only came into his mind subsequently, before he had an opportunity of restoration to the owner no larceny has been committed. But a chain of cases since the date of the last edition of Mr. Russell's work have now thrown some additional light upon this subject. The first of these was *Thorburn's case* (1 Den., C. C., 387), which expressly recognises the correctness of the qualification engrafted by Mr. Russell upon the ancient rule; and lays it down that, to be guilty of felony, the finder of an article must know who the owner is, or have reasonable means at the time of finding it, of knowing who he is; and this criterion was in effect adopted in the subsequent cases of *The Queen v. Preston* (21 L. J., M. C., 41), *The Queen v. Dixon* (25 L. J., M. C., 89), and *The Queen v. Christopher* (28 L. J., M. C., 35). But the present case shows that the criterion is not in all instances sufficient; for here, at the time the prisoner found the article, he neither knew the owner nor had he reasonable means of knowing who the owner was (for so the jury expressly found, in answer to a question from the judge); but yet inasmuch as he believed at the time of finding that the owner might be found, and intended, nevertheless, to appropriate the property to his own use, whoever the owner might turn out to be—the Court of Criminal Appeal held him to have been rightly convicted of larceny. The prosecutor had come to the prisoner's shop, and had there dropped a £10 note, which the prisoner appropriated and changed forthwith; he took it, intending, when he picked it up, to take it to his own use, and believing that the owner could be found, though without knowing till afterwards who he was; "but," said the Chief Justice, "if that be not larceny, our law would be in a much more defective state than I take it to be."

Correspondence.

MOSE'S CASE.

Under this heading you have in your impression of the 16th inst. made some observations which, so far as they allude to my firm or me, are most unjust. As I had the conduct of the suit in question, and as I have to state my personal conviction in regard to facts of which my partner has no knowledge, I write on my own behalf, and not on that of my firm. Most deplorable as has been the end of poor Mr. Bailey, regard should be had to the statements made to me, upon which alone I could form an opinion. Of the nature and effect of those statements it is evident by your remarks you have been misinformed in several important particulars.

The grandfather of Mose by his will devised and bequeathed freehold, leasehold, and funded property. He may have laboured under a delusion. It was, and still is, my conviction that a grievous wrong was done to Mose's mother, who, under the will, was sole devisee and legatee. You observe that "Bailey expended his money in full expectation of the success of his suit." I pointed out to him, as was my duty, the risk he was incurring. The opinion of counsel was sent to him, making him fully aware of all the difficulties of the case arising chiefly from the Statute of Limitations, which, however, it was hoped, might not be available in a case of concealed fraud. On obtaining the first opinion of counsel I wrote to Mr. Bailey, on 29th November, 1859, thus:—"We send you copy of counsel's opinion, from which you will perceive that the Statute of Limitations is a bar to Mr. Mose's claim. The fraud of concealment is not, in counsel's judgment, such a legal, although a moral, fraud, as would induce a court of equity to restrain the defendant from setting up the Statute of Limitations. Under these circumstances it would be advisable not to proceed. We will, on your so informing us, remit you the money left with us, less our costs herein." Upon this Mr. Bailey and Mr. Mose came up to town, and at their urgent request I submitted the case to an eminent Queen's counsel. Of the opinion of this gentleman, which as to the Statute of Limitations was also adverse, I likewise sent Mr. Bailey a copy. This brought Mr. Bailey and Mr. Mose again to town, when Mr. Bailey urged me to proceed, notwithstanding these adverse opinions. He insisted that the defendant's answers and the production of the deeds would establish Mose's title. Counsel was also of opinion that time did not begin to run under the statute until the discovery of the fraud, which, according to the statements made to me, was within twenty years. I further pointed out to Mr. Bailey the difficulty he had to encounter arising from the non-identification of the property and the absence of evidence. In a letter read at the inquest, dated the 2nd of March, 1860 (before filing the bill), I wrote Bailey thus:—"In a former letter of ours to you we advised the necessity of your ascertaining where the property was situated and of what it consisted before incurring the expense of a Chancery suit. We can only again reiterate that advice. With regard to the Statute of Limitations, you felt disposed, notwithstanding counsel's opinion to the contrary, to institute the suit and take the opinion of the Court upon it if the point should be raised by the defendants, and so far we think the risk is worth running; but a more important question has to be considered: What are you fighting for? where is the property? Suppose you had at this moment a decree in your favour, of what are you going to take possession?" Bailey and Mose again came to town, and Mr. Bailey still insisted that a suit should be instituted, when I, influenced by his urgent entreaties, consented to carry the matter as far as the coming in of the answers; at the same time I distinctly informed him that unless evidence of title were thereby elicited it would be out of the question to proceed further, and that he would have not only to bear his own but to pay the defendants' costs of the suit. When the answers came in, and I had obtained a sight of the deeds, I refused to proceed further. Mr. Bailey, however, was determined to prosecute the suit to a hearing, and instructed another solicitor to act for him. With this gentleman I had several interviews, and it was arranged that I should deliver to him the papers in the suit on his obtaining the usual order to change solicitors, which but for poor Bailey's death would have been done. You state that Bailey had been assured when he took up the case that he "would have nothing to pay, and that the other parties would have all to pay." I have shown that I gave no such assurance, but the contrary. The risk he incurred was clearly explained to him, and brought prominently before him. These

facts, together with the applications to him for money as the suit proceeded, clearly ignore that he could have formed such belief as the result of any communication from me. I have referred to the report of the inquest, and cannot discover the expression of indignation you state the coroner to have made; on the contrary, the coroner, with the opinions of counsel and the letters before him, observed "the letters are most clear." It was in evidence that counsel's opinion stated that, "under existing circumstances, he did not see it possible to prosecute the suit with the remotest chance of success;" and yet "Bailey and his wife were anxious to go on with the case," and that Bailey, so far from being alarmed by the expense he had already incurred, said, "If he had £500 more he would go on with it." I must notice one other point. It transpired on the inquest (though at first denied by Mose) that there was an agreement between him and Bailey to divide the profits. Of this I had not the most remote knowledge until I read the account of the inquest. Bailey was suing as assignee of Mose and the property recovered would therefore, in the first instance, belong to Mose's creditors. There are other mis-statements in your article, one of which relates to the answers in the former suit. The material defendants put in no answer, but a mere plea, alleging the bankruptcy of Mose. One defendant alone, who ought not to have been made a party, answered, and he stated his ignorance of the facts charged. With Mr. Torr, of the firm of Sudlow & Co., the solicitors for the principal defendants, I conferred several times before the institution of the suit. He informed me that he had shown the title deeds to third parties, and that they were satisfied Mose had no claim to the property in question, to which I replied that production to a third party was not satisfactory, but that if he would permit me to inspect the deeds, and I was satisfied that Mose had no claim under them, I would not institute the suit. This he refused to do, but again offered to produce them to any third party to be agreed on. My reply was, "you may produce the title deeds to Black Acre, but I want to see the title deeds relating to White Acre." He still declined to allow me personally to inspect them, and the suit of necessity proceeded. The answers of the defendants were excepted to, and set down for hearing. Upon that occasion, my junior counsel in reply to a remark made by the defendant's counsel, said, "that if the defendant's solicitors would permit the plaintiffs' solicitors to inspect the deeds, and they were satisfied the plaintiffs had no case, he would undertake that all further litigation should cease." This offer was not accepted, and the litigation proceeded. Some of the exceptions were allowed; others overruled. Further answers were put in, whereupon counsel advised an application at chambers for production and inspection of documents, which was made, and although opposed by the solicitors for both sets of defendants, granted. In due course the affidavits came in. That made by Mr. Torr's clients set up as privileged certain title deeds and documents set forth in a very long schedule to the affidavit which they refused to produce. Those as to which they did not claim privilege were too insignificant to be looked at—mere waste paper. I then applied for a copy of the affidavit made by Mr. Torr's clients, whereupon he on the 1st January last, wrote my firm as follows, "Dear Sirs.—*Bailey v. Lamb*.—We send herewith copy of our defendant's affidavit as to documents as desired, and beg to add that we have our client's permission to produce (notwithstanding the protection claimed in the affidavit) all such of the documents as throw light upon the title to the late Mr. John Lamb the younger's property, and you can commence the inspection at any time convenient to yourselves; to-day even if you like."—This was the first time I was offered an inspection. Had it been offered me before the commencement of this suit, the suit would never have been instituted by me. Whether Mr. Torr or his client is to blame, I leave them to settle between themselves.

As this letter is already too long, I will conclude by once more suggesting that the facts should be looked at as they were represented to me at the time, and not under the bias of the recent distressing event.—I am, Sir, your's obediently,
February 22. JNO. F. W. FESSEMYER.

[We have no desire to enter upon any controversy with the writer of this letter, as to the correctness of our impressions of what the opinion of the coroner and jury was. We should have no difficulty, however, in finding authority, in the report of the inquest, for what we said last week on this subject. Messrs. Sudlow, Torr, & Co., are at issue with Mr. Fessmeyer upon a much more material point, as will be seen by their letter to-day. But as it is the duty of journalists to be

impartial, we think it right to abstain, for the present, from any further comment upon this case.—Ed. S. J.]

SIR.—The sympathy expressed in your leading article of last week in favour of the deceased plaintiff, Bailey, ought, we venture to suggest, to be extended also to our clients the unfortunate and much victimised defendants, who by reason of the plaintiff's suicide, are left to bear their own costs of the unnecessary and vexatious litigation which has been inflicted on them.

Our clients have been for many years harassed by claims made by Mose to property of which he alleged that his mother had been deprived by our clients' ancestors as long ago as the year 1773! Six solicitors in turn took up, and in succession abandoned, his case; and, in order to endeavour to put a stop to further annoyance we, in the year 1857, produced to the professional gentlemen who then interested themselves on Mose's behalf our clients' title deeds to the property in question, which shewed that our client's testator purchased the property more than thirty years subsequently to 1773; and further, that it never did belong to the ancestor under whom Mose claimed; and they advised Mose to that effect. We gave notice of the result of such production of the deeds to Bailey (or rather to Messrs. Grane & Fesenmeyer, his solicitors) last year, before he filed the present bill, referred them to the gentlemen who had previously inspected the deeds and offered again to produce the deeds to any competent disinterested third person whom we might mutually agree on. The offer was declined, the bill filed, and 190 folios of interrogatories administered to our clients. Our answer set out our title fully, and subsequently the plaintiff obtained a formal order for us to produce the deeds; and immediately his solicitors saw them, it appears from the proceedings on the inquest that they wrote to Bailey that he had better abandon his proceedings. He thereupon shoots himself and leaves the defendants to bear their own costs, for which, we fear, they have no remedy against his estate. The bill, as appears on the face of it, was filed without the approbation of the official assignee, who refused to become a co-plaintiff, and was accordingly made by Bailey, a defendant—a wise resolution, as it proves, on the part of the official assignee, who has thereby escaped liability to our clients' costs.

It is very hard on persons in the position of our clients (the defendants) to be exposed to such attacks, especially after they have produced their title deeds, and convinced the claimant's then advisers that his claim was without foundation; and it is surely a defect in the law that they should be left remediless as to the costs which they have sustained by reason of such vexatious and unwarrantable proceedings.—We are, sir, yours very obediently,

SUDLOW, TORR, & Co.

38, Bedford-row, W.C., 19th Feb. 1861.

THE SOLICITORS' ACT, 1860.

The Metropolitan and Provincial Law Association have often drawn attention to the fact that many official appointments that properly belong to solicitors are filled by barristers. The 16th section is a fearful step in the direction of continuing this practice, as was pointed out in your columns long ago. Who was the author of this clause? I cannot find it in the original Bill. The annual meeting of both the above and the Law Institution will afford a proper opportunity for inquiry; and I hope it will be ascertained.

P. P.

LORD ST. LEONARDS' BILL ON CONSTRUCTIVE NOTICE.

This Bill provides that a purchaser shall not be bound by constructive notice. In a former bill his lordship shaped the clause to the effect that a purchaser should not be bound by any other than actual notice; the clause now introduced is virtually the same, and the valuable remarks in your Journal of the 21st May, 1859, p. 542, equally apply. This remarkably short bill affords a marked instance of piecemeal legislation. It will materially affect the remedies of creditors, a class of persons with whom his lordship, apparently, has but little sympathy; the recent act on judgments has already limited the remedy of creditors, and the least that ought to be done for them should be that the registering of a judgment should be notice to a purchaser. There would then be one case in which the difficulty of what is and what is not a sufficient notice under the proposed Act would be defined.

Probably your influential journal will direct the attention of the profession to this bill.

Z.

26, Chancery-lane, Feb. 21, 1861.

LORD CRANWORTH'S MORTGAGEES ACT.*

I think the mortgagee's solicitor is quite right in refusing to accept of a mortgage framed under this Act, as any prudent mortgagee would prefer having the usual powers inserted in the mortgage deed to exercising those given by this Act, to the effect of which he knows little or nothing, and which may be materially affected or crippled by judicial decision. I am not aware that this Act dispenses with the necessity for covenants for title, and must suppose your correspondent refers to the Act of 8 & 9 Vic., c. 119, but surely he cannot consider it unreasonable for the mortgagee's solicitor to refuse to adopt that Act, it being practically a dead letter.

Your correspondent also greatly exaggerates the saving effected by adopting Lord Cranworth's Act. I have calculated that no more than fifteen folios is rendered unnecessary by it, and the costs of drawing and fair copy and engrossing this additional matter, together with stamp and parchment, is only £2 5s., and not £5 as stated by him.

ANOTHER PROVINCIAL SOLICITOR.

Liverpool, Feb. 19th.

In answer to the question of "A Provincial Solicitor," I would suggest that the remedy would be the taxation of the bill. How the taxing master or, ultimately, the Court, would decide the point your correspondent has raised is a matter of no little interest to the profession. If I could presume to offer an opinion, it would be that, as the adoption of the provisions of the Act is entirely optional they can only be used, and were only intended to be used, where parties agree to do so.

R. J. D.

SHERIFF OF COUNTY AND M.P.

There would seem to be an answer to the objection your correspondent would urge against an M.P. being also sheriff and consequently judge of his own election, that the writ from the Crown Office in all such cases might go to the coroner. The ministerial office of the coroner is only as the sheriff's substitute; for when just exception can be taken to the sheriff for suspicion of partiality (as that he is interested in the suit), the process must then be awarded to the coroner instead of the sheriff for execution of the King's writs, 4 Inst. 271, Blac. Com. 349.

There being so many sages of the law in the Privy Council, it is difficult to imagine such a question would not occur to them or the officials of the Crown; and, again, the sheriff acts by his deputy at most of the elections for county.

J. R.

A sheriff is ineligible to sit in Parliament for the county of which he is sheriff, as also for any city or borough to which his precept extends. A returning officer is, in like manner, ineligible for the city or borough for which he acts. The 16 & 17 Vic., c. 68, does not appear to have altered the law of elections in this respect. Mr. May, however, seems to think that it has had this effect. The ground of this suggestion of his must be the change in the form of the writ effected by the Act. There is a principle, however, involved in such cases independently of the terms of the writ, and that principle is the rational one that no man is to be judge in his own cause. The sixth section of the Act of Settlement prohibits persons holding offices or places of profit under the Crown from being capable of sitting in the House of Commons. And this is doubtless the principle that is supposed by the non-professional public to incapacitate sheriffs from serving as members of Parliament. Their office, however, has not that personal relation to the Monarch which alone was contemplated by the Act of Settlement. The true reason is the one we have stated. The Scotch Reform Act, s. 36, excludes from Parliament every sheriff substitute, sheriff clerk, and deputy-sheriff clerk; also town clerks, and deputy town-clerks. There also sheriffs may sit for any other place than that to which their office belongs, the principle of exclusion being applicable only to their sphere of quasi-judicial jurisdiction.—Vide May's Law of Parliament, p. 33; Rogers on Elections M.

The Provinces.

LANCASHIRE.—At the Bury County Court, on the 9th inst. the following case came on for hearing before J. Worlledge, Esq.:—*Trudgett v. Parkington*.—Mr. Walpole, solicitor,

* See ante, p. 293.

appeared for the plaintiff, and Mr. Salmon, solicitor, for the defendant.—The action was brought to recover the value of a hare. Trudgett was a miller at Stanton, and Parkington looked after the game for a gentleman named Loft, of Troston. Trudgett occupied a piece of land, upon which his mill stood, and this land ran directly into that of Mr. Loft. On the 29th of December Trudgett had some men carting muck, and he went with his dog to see the men at work, and the dog started a hare in Trudgett's field, and after running her across two or three fields and the high road she was killed on a piece of land in the occupation of Mr. Taylor, but belonging to Mr. Loft. Parkington then seized the hare which had been killed by Trudgett's dog and went to Trudgett and told him that he should hear more about it by and bye, and he summoned him before the magistrates, who dismissed the case. The question was whether under these circumstances Trudgett was not entitled to the hare. The judge said he had no doubt upon the case. The conversion of the hare complained of was taking it away from the dog, which he thought was justified under the 36th sec. 1 & 2 Wm. 4., and the judgment of the court must be for the defendant.

MANCHESTER.—At the annual meeting of the members of the Manchester Law Association, held on Friday the 15th inst. (Mr. Cobbett, president, in the chair,) after the reading of the report, Mr. Baker, the chairman of the committee for the past year, presented to Mr. Francis Marriott, on behalf of the association, a testimonial, consisting of an elegant silver salver, silver claret jug, and two silver goblets, the salver bearing an inscription acknowledging the valuable services of Mr. Marriott as honorary secretary for a period of six years.

Ireland.

THE PROFESSION AND THE LANDED ESTATES COURT.

(Concluded from page 223.)

The law of real property in Ireland resembling (except in a few unimportant details) that of England, it follows that the owner of land is at liberty to sell, or mortgage, or partition, or exchange it without having recourse to any court of justice whatever. The Court of Chancery maintains unimpaired its old jurisdiction; and claimants on land are still at liberty to institute suits for sale or foreclosure, and partition; suits may also be commenced as formerly. In short, the Landed Estates Court Act merely enables owners of and incumbrancers on land, to proceed, if they think fit, in that Court; and enables that Court, on proper applications being made and notices given, to sell, convey, partition, &c., and also to carry out contracts for sale. It is important to bear these facts in mind, when considering the place filled by this Court in the land system of the country. No petitioner comes in unwillingly, for he has the option of taking other means for effecting his object, whatever that may be. But the fact is (as already stated), that the solicitors, as a body, prefer to transact most of the business relating to land through the medium of the Court. The interests of their clients are, of course, the first object of their concern; but they are not uninfluenced by the fact that the rules of practice and the table of fees have been framed very much in accordance with the views of the Law Society, and without the slightest intention of either dispensing with the services of solicitors, or of denying them fair remuneration for their services. The estimate formed by the profession of the machinery provided by this Act is well shown by the increasing number of applications to the Court to execute contracts for sales of estates, and by the growing habit of inserting in such contracts a proviso that the Court shall be called into requisition for the purpose of carrying out the contract.

In point of fact, the Court assumes the functions of the conveyancing counsel rather than those of the solicitor, of course, with such enlarged powers as render this analogy a very imperfect one. Let a conveyancer be imagined, however, endowed with absolute power to call for and procure deeds or evidences of title from any custody—empowered peremptorily to require persons to put forward any claims that they may have—empowered to levy by sale all demands on the land, and enabled to clothe his orders and conveyances with the force of an Act of Parliament. Our imaginary conveyancer would soon have a complete monopoly of the business relating to land, for solicitors would, of course, recommend their clients to take advantage of his powers and skill.

Now, instead of this imaginary Brodie or Duval, possessed of

novel and unlimited powers, there exists for Ireland a court consisting of a trio of conveyancing judges, clothed with so much of the jurisdiction of an equity court as is required, and into whose offices and chambers nearly all the current landed business of the country passes, almost as a matter of course, the larger part of it being, of of course, the administrative or non-contentious kind. The initiatory step is by "petition," instead of by "instructions;" and in lieu of all fees, a duty or per centage on the value of the property is levied for the purposes of revenue, all the expenses of the Court being in the first instance defrayed by Parliamentary votes. It appears from returns just compiled that exactly 50 per cent. of the petitions of all kinds proceed from the owners themselves, and it is computed that 30 per cent. more are "friendly" petitions; leaving a balance of 20 per cent., or one-fifth of the applications only, being adverse petitions by creditors of the estates. Instead of a creditor's court, as it was in the first years of its history, it has become a kind of land-exchange, and the judges may be regarded as conveyancers-general; and here the vendor and the purchaser, the owner and the incumbrancer, resort, as readily as people in search of Three per Cents. resort to the Stock Exchange, the transactions being managed in the former case by a solicitor and in the latter by a broker. It is not to be supposed, however, that the services of the Bar are entirely dispensed with. Counsel find consolation in drawing petitions, in revising abstracts, and in arguing matters of title where the Court is in doubt, or where some contention arises touching a tenancy, an easement, a boundary, an annuity, or touching conflicting claims upon an estate or a fund. This Court seems to us to have judiciously defined the province of counsel, where it declares in its rules of practice that counsel's attendance is to be allowed on taxation where "any matter requiring argument" has come before the Court.

It may be inquired, How is the general conveyancing business of the country affected by this system?

The answer is, that while titles are greatly simplified, transactions in land are very much increased in number. Abstracts are shortened, but conveyances and other deeds are multiplied. On a rough estimate, 3,300 estates have passed through the court since its first establishment; and these have been conveyed (in lots) by about 13,000 separate deeds of conveyance. If the court had never existed, it is believed that less than one-tenth of this number of conveyances of land in Ireland would in due course have been executed. The title of a purchaser under the court, is, of course, comparatively simple, as no inquiries are made beyond the date of the purchase. But considering the increased number of separate ownerships, and the increased facilities for buying and selling land, there is every reason for concluding that even apart from the mere conveyances to purchasers, the number of deeds executed relating to land, has largely increased. This is a point on which, from its very nature, statistics cannot be adduced, but the experience of the solicitors, and the increased business of the office for registering deeds, confirm the statement.

But as the court is in the Irish metropolis, how do solicitors residing in the country manage to conduct cases in it?

Every solicitor has an address in Dublin, where notices, &c., may be served on him, and this address is in fact, the office of his town agent. With the arrangements between the solicitor and his agent, the court has, of course, nothing to do; but it may be stated that a very common arrangement is, the payment to the latter of an annual allowance—in other words, country solicitors frequently pay a salary in lieu of half-fees to their town agents, and we may add—from some instances that we have heard of sometimes, a very small one. Costs "out of pocket," there are few, if any, as the *ad valorem* duty to Government (in lieu of court fees) is levied at the last stage of the proceedings. But to explain the matter more clearly. The proceedings in the Landed Estates Court are of such a nature that, except so far as more attendances at court are concerned, the solicitor conducting a case may reside in the far north, or the extreme south; yet so long as the documentary statements are sufficiently framed, and the documentary evidence complete, it matters little who attends to lodge the papers, and receive the direction of the Court thereon. It is evident that matters of title depend very little on the person who attends court or chambers, and very much on the written statements and proofs. A brief sketch of an ordinary case in the Landed Estates Court, conducted by a solicitor living in some provincial town, will show how little the personal presence of the solicitor is required.

The Court expects that all the facts necessary and proper to be stated, shall appear on the *petition* and accompanying schedules. These are very full and minute, are drawn up according

to forms promulgated by the Court, and after verification by affidavit, are sent up to be filed. All affidavits also may be sworn before masters extraordinary in the country, by whom they are sealed up, and forwarded to the proper officer of the Court. Whatever the object of the petition, the first step after an order has been made on it, is the publication of a notice in the newspapers nearest to the property, informing all persons who may have claims on the estate of the order. Then follows the main step of all—the preparation of the *abstract*, and accompanying deeds and documents. Everything, of course, in a Court of Title depends on this; and further information and further evidence are often called for; but here again, the duty of a town agent is mainly to lodge what has been prepared for lodgment by a solicitor, and to obtain the rulings and directions of the Court upon the case. If a *sale* be required, it may take place either in town or country—at the discretion of the Court; and as to the mode, time, and place of sale, the vendors are always consulted. If a survey be required, it is of course made on the spot, and the maps are prepared at the central office of the Ordnance department; after a sale, the conveyance to a purchaser follows. The final step, where the estate is incumbered, is the preparation of the schedule of incumbrances, answering to the master's report in the foreclosure or administration suit of former times. This and the final notices to all parties interested may also be prepared at any distance, and then brought in to be settled by the officer of the court.

An important document has not been mentioned, the *Rental*, which contains very full particulars of all tenancies, if any, as well as the particulars and conditions of sale. This is usually prepared on the spot, after inspection of the tenants' leases; and the draft is sent up to be settled by the proper officer, before being printed. All the principal steps then being documentary and of a kind involving no question of locality, it is evident that the attendances in the offices of the Court are the principal items, requiring the intervention of an agent; and if there is a peculiarity in the "schedule of fees," it is that while the labour of preparing the various written statements and evidence required by the Court, is fairly remunerated, attendances, as such, are somewhat less liberally provided for.

From inquiries we have made of persons competent to give information on this subject, we arrive at the conclusion that, on an average, one-tenth part of the costs of proceedings are earned by the town agent, while nine-tenths may be set down as the share of the solicitor in the country, the difference in favour of the latter arising from the important items connected with the petition, abstract, and other documents required by the Court, to which reference has been made. So stands the case as between the town and country solicitors. It is right, however, to mention that the majority of the great landed proprietors confide their legal business to Dublin solicitors, so that it is unusual to find an estate of the first magnitude administered by the Court under the management of a provincial solicitor. The Court has, of course, no voice in the choice of a solicitor; but it takes care that the client shall be unfettered in his selection, and that it shall not be necessary for him to employ a solicitor in town. From what has been stated it will be obvious that the country solicitors are at no disadvantage, either as regards facilities for conducting cases, or as regards remuneration, when compared with the solicitors practising in town. Although the Court is a metropolitan one, its procedure is such as to involve none of the evils arising from centralization.

ADDRESS TO BARON GREENE.

The Incorporated Society of the attorneys and solicitors of Ireland have presented an address to Baron Greene on his retirement from the Irish Bench, which he had so long adorned. In consequence of the delicate state of the Baron's health, the address was signed in the usual manner by the president on behalf of the society, and transmitted to his lordship.

Review.

The Common Law Procedure Acts and other Statutes relating to the Practice of the Superior Courts of Common Law. With Notes. By JOHN C. F. S. DAY, Barrister-at-Law. Sweet. 1861.

The Common Law Procedure Acts of 1852, 1854, and 1860. With Notes, and the Forms and Rules, to which are pre-

fixed, or appended, all the Acts (or portions of Acts) relating to Common Law Procedure or the Trial of Issues of Fact, in the Courts of Common Law, Chancery, or Probate, with the Rules of each Court respectively. Adapted to the use of Practitioners in all the Courts; and also to the use of Students. By W. F. FINLASON, Esq., of the Middle Temple, Barrister-at-Law. Stevens & Sons. 1860.

A Handy Book for the Common Law Judges' Chambers. By GEO. H. PARKINSON, Chamber Clerk to the Hon. Mr. Justice Byles. Butterworths. 1861.

An important consequence of the reforms in procedure and practice introduced by the recent common law commission, and one which has not hitherto received sufficient attention, may be traced in the alteration effected in the form and character of that branch of the law, considered apart from the substantial amendments which constituted the immediate objects of those reforms. Our common law procedure was formerly an unwritten law; its sources were to be sought in the maxims of natural justice relating to procedure, and in the usage and practice of the Courts. Such a law was eminently uncertain and fluctuating, it varied from age to age and it varied in every court. It has now become characteristically a *lex scripta*: a written rule is to be found for the guidance of the suitor in every step in his appeal to justice. It is impossible to deny the superior advantage of this mode of treating the law of procedure. However important it may be thought to preserve the scientific connection between the commands of law and the pure sources of reason whence they emanate, the practice of the law requires some readier and more accessible guide for its ordinary and immediate necessities than the mere light of abstract principles.

The Common Law Procedure Acts have gone far towards supplying a new promulgation of the law of procedure in the form of a written law. In three successive efforts, each supplementary to the former, the Legislature has enacted a body of law on this subject which exhibits all the essential qualities of a code without its pretence. Indeed, it would not be a difficult task, by a consolidation and rearrangement of these statutes, to frame a very complete and sufficient code of procedure—one, moreover, the constituents of which have been proved by the test of experience to be adequate to the vast business conducted in our common law courts. If the next extensive alteration in the law of procedure were to take this direction, much benefit might be anticipated. At any rate, the course of our reforms in common law procedure are highly suggestive of reflections as to the true method and progress of codification in general, and as to the nature of the particular subjects to which it may rightly be applied.

This great change in the form of our law of procedure has produced a corresponding change in the mode of expounding it. The treatment of procedure as a matter of principle illustrated and explained by its manifold applications in decided cases, is now, for the most part, superseded by a plain reference to the directions of the rules and statutes. The bulky volumes of case law, compiled with so much labour and acumen by Tidd, Saunders, Lush, and Archbold, are displaced, for all ordinary practical purposes, by simple editions of the statutes. Chitty's edition of Archbold's practice, the work on procedure which is most in favour at present, and which, by the accumulated labours of successive editors, has attained a completeness that may be justly pointed to as one of the marvels of legal literature, still retains a large field of utility, and as an authority on the more minute points of procedure is indispensable; but for the commoner purpose of referring to the plain letter of the new statutes, it is certainly found very inconvenient and troublesome for use. The new enactments being scattered, section by section, throughout the work, it requires an amount of thought and care to find them, greater than the exigencies of every day practice can afford to spend. In fact, the work is too cumbersome and elaborate for the more simplified form of modern practice. In nine cases out of ten, a reference to the statute is sufficient to solve all difficulty, and the research into antecedent case law is superfluous. In order to maintain that work in the position it has hitherto held, it will be necessary to recast it thoroughly in a form more adapted to modern requirements.

In the meanwhile we can recommend to the profession Mr. Day's and Mr. Finlason's books of practice. Mr. Day's supplies the text of the statute law with just as much of case law as serves to guide its application and to explain its construction. It contains the three Common Law Procedure Acts, the Bills of Exchange Act, the Mercantile Law Amendment Act the Interpleader Acts, and other statutes of minor importance

with all the rules of court relating to procedure and practice. Mr. Day is well known in Westminster Hall, as engaged in a large business of that class which ensures an intimate familiarity with practice in all its branches; and his experience and discernment have been applied with much success in annotating this edition of the statutes. He has understood how to seize the salient points for practical use, where to refrain from comment, and where to enlarge. The decisions are noted clearly, concisely, and accurately, and with an exact appreciation of their practical bearing; where occasion required they are grouped together with systematic arrangement, and throughout the work they are so presented that the practitioner may at once come at any point with facility. Practical utility, the sole object of the work, has been carefully kept in view. The two latter Common Law Procedure Acts form comparatively new ground for annotation, and on these much careful labour has been bestowed. In this part of the work, the notes on *Inspection*, *Interrogatories*, *Attachment of Debts*, *Equitable Defences*, *Interpleader*, and *Equitable Relief against Forfeiture*, will be found to contain much new and valuable matter. Among the recent points of interest which have turned up on the new Acts, and which may be found referred to in this volume, the following seem worthy of notice. From the case of *The Penarth Harbour Company v. Cardiff Waterworks Company* (29 L. J., C. P., 230), it appears that the summary abolition of the old ceremony of *proferet* and *oyer*, inadvertently carried away with it the only mode by which one party obtained inspection of the documents relied on in the pleadings of his opponent. The judges, however, deciding that it was not the intention of the Act to abolish this right of inspection, granted an equivalent inspection upon summons, under their summary jurisdiction. This case appears to have been too recent for Mr. Day to insert under its proper section; but we find it duly noted up under the subsequent Act in treating of inspection. The case of *Bates v. Bates* (9 W. R. 255, noted in the addenda to Mr. Day's work), illustrates the extensive effect of the 18th section of the first Act. The plaintiff, having served the defendant with a writ in California, was allowed to proceed by filing a declaration, and sticking up a notice in the Master's office, requiring the defendant to plead in eight days. Willes, J., who had been one of the commissioners, however, said that he was quite sure that the intention of the framers of that section was, that there should be notice of the declaration, and an opportunity to plead. The case of *Ex parte Turner* (36 L. J. c. 93, noted in the addenda), is also important. It shows that funds in the hands of the official manager of a company may be attached by a creditor of the company under the garnishee clauses.

The Common Law Procedure Act, 1860, has extended interpleader proceedings to cases where "the titles of the claimants have not a common origin, but are adverse to, and independent of, one another." What cases fall within this extension, Mr. Day confesses his inability to explain. We feel obliged to confess a similar inability, and having sought in other quarters in vain for an explanation, cannot fairly impute it to him as a defect, especially as he has taken the occasion of this section to explain the difficult practice of interpleader in a very full note. On the whole, we have found his work very trustworthy and sufficient on the points to which we have referred for the purpose of testing it; and, in our opinion, it seems calculated to be highly useful to practitioners as a book of common law practice. A more than usually careful and copious index, by Mr. O. B. C. Harrison, renders the otherwise disconnected contents readily available, and shows that no pains have been spared in making the work complete.

The plan of Mr. Finlason's book is not quite so ambitious as that of Mr. Day. Mr. Finlason, in addition to the Common Law Procedure Acts, gives also the text of the Bills of Exchange Act; the Bills of Sale Act; the Mercantile Law Amendment Act; the County Courts Act, (so far as relates to procedure in the superior courts); the Chancery Amendment Act as to trials of issues of fact; the Court of Probate Act, and the Divorce Court Act; and upon all these there are judicious and practical notes, although there is of course nothing like an attempt at a complete or exhaustive treatment of the numerous subjects touched upon. Mr. Finlason's book embraces a wider field than is occupied by Mr. Day, is printed upon much better paper, and is altogether much more convenient for use in court, or the judges' chambers. There is one drawback to it, however,—it has no list of cases, and its index is certainly too meagre. The notes would also have been more useful if Mr. Finlason had made greater reference to the practice cases to be found in the pages of the *Weekly Reporter*.

We have hardly left ourselves room to say any more of Mr. Parkinson's Handy Book, than that it is extremely well calculated for the purpose for which it is intended. So much work is now done in common law chambers by junior clerks, that such a little treatise is much wanted. Mr. Parkinson has performed his task skilfully, and with care.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

At a meeting of this Society held on the 14th of January last, Mr. Serjeant WOOLRYCH read the following paper on "The Expediency of abolishing the practice of Opening Biddings in the Court of Chancery:"—

From very early times, certainly for more than a century, it has been the practice of the Court of Chancery to direct the re-sale of an estate, although an actual purchaser may be in existence. The estate having been sold under the order of the Court, this practice is denominated, "opening the biddings." There are undoubtedly instances where a purchase effected through fraud or collusion has been set aside by a court of equity, but it is peculiar to that court to set aside a *bond fide* purchase upon an advance of price (which is the staple of the new bidding), to open the sale after the purchase has been confirmed by the master, or, as at present, after eight days succeeding the judge's certificate. The latitude allowed is considerable, and the discretion absolute. It is immaterial, with regard to the principle, whether the disappointed claimant were present or not at the sale, nor is any advanced sum in particular, as £10, to be considered as conferring any certain right to the privilege; nor even after the eight days, can a purchaser be entirely sure whether some sinister suggestion may not, at least, embarrass him with an uncertain litigation, the Court having, on the one hand, the unction of keeping faith with purchasers, and on the other, an anxiety to help suitors by shielding them from the remotest chance of collusion. It may be said that these difficulties, which occasionally beset the purchaser in Chancery, may have operated to throw a shade over the value of the property offered. By analogy to the case of copyholds, the price of which is calculated with reference to the expected fines and other burthens, it might be supposed that the buyer of a chancery estate would likewise make his tender in conformity with the prospects he might entertain of future disappointment or litigation. Hence, on the other hand, the Court might have interposed its anomalous jurisdiction in order to protect property from undue depreciation. It must, however, be remembered, if any weight be assigned to this argument, that there is always a paper containing a reserved bidding, which remains in the hands of the auctioneer, until the close of the sale of each lot; so that it would seem to be a sufficient protection to produce this reserve without calling in aid the additional power which the courts have so long assumed. The question is, whether there are any claims on behalf of an intending purchaser in the Court of Chancery of a superior character to those of a person who has been disappointed of his wishes at an ordinary auction. There have been three elements in the consideration of this matter—the state of things before the confirmation of the report by the master; the position of vendor and purchaser after that approval; and the condition of the same parties under the modern usage of allowing biddings to be opened within eight days next after the signature of the judge's certificate of sale.

The first point has been productive of many discussions, the second and third must be viewed within a much narrower circle. Under the first head, a reasonable proposal of augmentation was generally deemed sufficient to warrant the suggestion of the application for a new sale, as in the case of a price wholly inadequate to the value of the estate. (By Lord Langdale, 17 L. J. Ch. 486, in *Manvers v. Furze*.) There is no rule as to 5 per cent. or 10 per cent. The discretion of the judge under each peculiar concern is employed. Where a sum of £350 was offered as an addition to £5,300, it was not accepted, being too small, and the judge took occasion to observe that the Court does not confine itself to a particular rate per cent., although 10 per cent. is a sort of general rule. (1 Sim. & Stu., 20, *Garstone v. Edwards*; 2 Madd. Ch. Pr., 856, *Bridges v. Phillips*, M.S.) But £500 added to £12,010 were permitted. (2 Russ. 606, *Lefroy v. Lefroy*.) So £500 on £8,950. (1 M'C. 82, *Pearson v. Collett*.) Under any circumstances, an advance of less than £40 will not be received. (4 Madd. 460, *Farlow v. Weildon and Gilbert v. Wethered* was cited, 8. P. Ibid; See some Irish cases; £40 at

the least, £10 per cent. in advance; Rule refused, *cor. Hart v. C.*, 2 Moll. 510, *Leland v. Griffith*; See *Ibid.* 508, *Aubrey v. Denny*; £10 per cent. required upon a larger sum, *Ibid.* 508, *Chester v. Gorges*; Costs of former purchaser to be paid; See several other cases, *Dart's Vend. & Purch.*, 3rd. ed. 755.)

A larger sum seems to have been expected from a person present at the sale than from a stranger; (*Jac. Rep.* 526, *Tyndall v. Warre*.) indeed a struggle was made to hinder a person present at the sale from any interference, as to future views upon the estate. The principle enunciated by Sir John Leach was, that the sales by the court would not in that case have the full benefit of the spirit of competition, and the cases were *Somner v. Charlton* (5 Ves. 655.) and *M. Culloch v. Colbatch*, (3 Madd. 314, *Ibid.*) and another case, as it seems, before Lord Kenyon. (16 Ves. 140, by Benyon, *amicus curie*, Lord Eldon apparently acc. in *Preston v. Barker*.) But these authorities have not survived in that character, although Lord Eldon was much disposed, using his own words, "To discourage a person present at the sale, and lying by, speculating upon the event, and afterwards coming forward with an advance." (6 Ves. 117, *Rigby v. Macnamara*.) Yet he gave way, upon being informed that in the only case to the contrary the person seeking to open the biddings was a party to the cause. (2 Jac. & W. 347, *Thornhill v. Thornhill*, 1 Ch. P. Coop. 380, *Shallcross v. Hibberson*.) Lord Loughborough had previously sanctioned such an opening, although it was said that the estates had been sold above the value. (5 Ves. 655, *Tait v. Ld. Northwick*.) It does not follow, nevertheless, that a chancellor considers himself bound by the decision of another chancellor. And the second bidding was allowed, at the instance of a person who had attended the former sale by an agent. (5 Ves. 655, *Tait v. Ld. Northwick*.) So again, the only doubt was as to the amount of the advance in such a case; and that amount having been increased, the order was made. (5 McClelland 82, *Pearson v. Collett*.) It is no objection that a party interested as a residuary legatee, seeks to have a second sale; (*G. Coop.* 95, *Hooper v. Goodwin*.) still, the right rule is, that the opening of biddings is not so much intended for the purchaser or persons desirous of a fresh sale, as for the owners of the estate, especially creditors, infants, and persons who are not acquainted with the value of the property. (2 Russ. 606, *Lefroy v. Lefroy*.)

After the confirmation of the report of the sale by the master, it was certainly most unusual to interfere. (3 Bro. C.C. 475, *Scott v. Nesbit*; 1 Ves., jun. 287, *Prideaux v. Prideaux*; 11 Ves. 57, *Morice v. Bishop of Durham*; 14 Ves. 151, *White v. Wilson*; 1 Kay & J. 28.) Mere overbidding was not deemed sufficient. (3 Anstr. 656, *Boyer v. Blackwell*.) There was some collusion in *Gower's case*; (2 Eden. 348.) and, on that ground, the biddings were re-opened, but after the second sale, an advance of £2,000 in order to a third sale was rejected, for this was overbidding alone. This denial, however, as to overbidding must not be confounded with overbidding alone before the confirmation of the report or the certificate. The principle is quite different.

A fault on the part of the purchaser will produce this alteration, as fraud. So fraudulent negligence in another person, an agent, for example, would have the same effect, for it is against conscience that the purchaser should take advantage of such misbehaviour. Yet so precarious were the proceedings of courts of equity, that in cases where Lord Eldon would decline to interfere, Lord Loughborough, even after the confirmation of the report, hesitated simply upon the amount of advance. "They must bid more," said the chancellor. They bade more, and the offer was accepted. (5 Ves. 86, *Chetham v. Grurgeon*.)

Upon one occasion the vendor was in prison, and before the confirmation of the report, he had a promise from two persons that they would instruct their agents to open the biddings, but they failed in their engagement. There was an overbidding of £4,000, the largest sum ever known in that character. Nevertheless, the lords commissioners would not have accepted that sum as an overbidding without more, but they yielded to the circumstance of duress, requiring from him, the vendor, a deposit of the full sum of £4,000. (2 Ves., jun., 51, *Watson v. Birch*.) Yet, strong as this case appears, Lord Eldon said he never would have made these orders. He disapproved strongly of *Watson v. Birch*. There was neither fraudulent conduct in the purchaser, nor fraudulent negligence in any other person. (In *Morice v. the Bishop of Durham*, 11 Ves. 57.)

Fraud, therefore, is decisive upon the point. A survey was made of an estate, and by collusion with the tenants (who would pay so much less rent), the value and quality of the estate were underrated. It was then sold for the benefit of creditors, and fetched £27,500. £800 were then offered in

advance, the report not having as yet been confirmed, and a second sale took place. The sum of £28,500 was then offered, and the master reported in favour of the bidder. The report was then confirmed, upon which all these facts of collusion and depreciation were revealed, and £2,000 more being tendered, the sale was again opened, it being positively affirmed by the chancellor (Lord Northington) that the overbidding alone would not have sufficed. The estate brought £38,000, and £2,000 still in increase being pressed forward, the court declined to interpose after the confirmation of a fresh report. (2 Eden. 348, *Gower v. Gower*.) Thus the principles of overbidding and fraud were clearly distinguished.

Surprise was scarcely held to be an ingredient upon the discussion of the master's report, nor is it now under the certificate. At all events, where the applicant was present at a sale, and was informed, in common with the rest of the company, by the auctioneer, that any one might come within eight days after the report, but failed to appear, no allegation of surprise was allowed to be entertained, (2 Jac. & Walk. 347, *Thornhill v. Thornhill*.) and a mistake as to the day of sale will require a strong advance. (1 Ves., jun. 453, *Anon.*)

We have said that the certificate of eight days is equivalent to the old confirmation of the report by the master, therefore, within that time the biddings will be opened, (1 Kay & J., 28, *Bridger v. Pinfold*.) and it is worthy of remark that the modern judges of the Court of Chancery are quite prepared to support the practice which is now under discussion, notwithstanding the force of prior decisions. Very special circumstances might even induce them to yield to an application made at the end of eight days from the certificate of sale. There appears to be some colour for this in a case where the purchaser bought a lot for £2,770, and signed the contract. It was on the 2nd of August. On the 4th the certificate was settled, and was approved on the 9th by the judge. Eight days clear were then allowable for any one to apply for an order to open the biddings. That period having expired during the long vacation, the purchaser required the abstracts of title, and these he got, together with the valuation of the timber on the estate on the 21st of August. The business then proceeded; but on the 29th a summons was served upon the purchaser, to the effect that if all his costs should be paid, another person having offered, an advanced bidding should be substituted in his room. The Vice-Chancellor stating that the increase of price amounted to £300, granted the prayer, and made the order; whereupon the purchaser appealed. Now, there were some singular facts in this case. The agent for the person who had been so far successful in opening the biddings, had actually declared that he would bid no longer, since the biddings had gone far beyond the value of the property. The land, as valued, was worth £1,400, whereas, £2,770 were offered for it at the sale. Of course, according to the most ordinary rules of common sense, the appeal succeeded; but the L. J. Knight Bruce used these equivocal expressions—"Glad as he would have been to give the applicant relief on a substantial advance of price, he thought it would be dangerous to the general practice of the court to grant the application. The case, however, was not one for costs." (25 L. J. Ch. 201.) If I read this decision rightly, it holds that an individual who has offered £1,800 more than the value of an estate, and who has, to all intents, been declared the purchaser, and who has duly awaited the time proscribed by law for the ratification of his purchase, may be suddenly invaded by a new claimant, narrowly avoid the consequences of the claim, and be saddled with his own costs of a most righteous appeal. So closely pressed were the counsel against the purchaser, that they first objected to the counting of any part of the vacation in the eight days; and, secondly, they called this a case of great hardship, because the interests of infants were concerned.

«This event occurred in 1856. Some months afterwards another case arose of equal hardship, if we regard the principle of the subject now under consideration. (*Osborn v. Foreman*, 25 L. J. Ch. 340.) A property had been put up for sale, but the reserved bidding was not reached. Upon this, it was settled that a sale with sealed tenders should be attempted. There were two candidates; one offered £36,500, the other £34,000. On the 8th of February, the chief clerk found in favour of the higher sum. On the 12th, the certificate was signed and approved by the Vice-Chancellor; but on the 11th, the day previous, a summons had been taken out by the person who tendered the lowest sum, i.e., £34,000, and upon the hearing, he having then proposed to give £38,000, was declared the purchaser. It must be understood that he undertook to replace the stock which had been sold out for the purpose of fulfilling the contract for £36,500. From this decision, the original pur-

chaser appealed. He did not dispute the power of the court to open the biddings, had the sale been carried on by auction, but he said that this was a sale by private contract. In fact, an opportunity was afforded for the court to escape from the principle of destroying the good faith of an accomplished contract, by likening it, as it really was, to the matter of a private transaction. Not so was the opinion of the court. They did not even hear the counsel for the new claimant. They dwelt upon the condition of sale, that it was to take place with the sanction of the Vice-Chancellor, and they held that all the incidents of days must apply as in the case of an auction. Of course, there being one day short, there was, in their view, time to disturb the certificate. But Lord J. Knight Bruce, who had on the former occasion declined to give costs, here said, "I concur with regret. Mr. Barlow's costs of the appeal ought to be provided for;" and they were immediately promised under an arrangement. (This case was confirmed by the House of Lords.) Now it seems rather strange that the Lord Justice, who had previously withheld costs from a party who was truly and justly successful, should here have recommended the payment of them to one who was unsuccessful. The judge must have thought it inequitable that a purchaser who by what was in reality a private contract, had offered more than £30,000 for an estate, should have been suddenly supplanted by a buyer who had deliberately sent, in writing, to the proper authority, the amount which he was prepared to give. It is presumed that the successful appellee in this case might, in his turn, have been deprived of his bargain by the tempting tender of £40,000 by another aspirant. Particular reference was made in *Osborne v. Foreman* to a decision of the Vice-Chancellor Wood, then recently delivered by that judge. Lord Justice Turner seemed anxious to avoid a collision between the authorities, or to establish a diversity of opinion between himself and the very eminent person just mentioned. "But," said the Lord Justice, "this case, in the opinion of their lordships, turned on different grounds from those in that case." (25 L. J., 341.)

Now that case was *Millican v. Vanderplank* (11 Hare, 136); that was also a case of private contract, but there were no sealed tenders, and the ground upon which it was sought to be distinguished was, no doubt, because the purchaser had entered upon the property and expended money upon it, and had incurred liabilities in respect of it, not merely at his own instance, but with the approval and acquiescence of all the parties interested. Both vendor and purchaser had so agreed as to prevent their being again placed respectively in their original positions. So far there seems to be a fair distinction. But the Vice-Chancellor laid down the principle rather more broadly. For he said that, "When the master has approved of a sale by contract in the presence of the parties, no stranger can intervene to prevent the confirmation of the report; nor will the sale be disturbed by the court on the mere ground that a larger price has been offered subsequently, and before such confirmation, unless there be some error or miscarriage in the proceedings, or the contract price be grossly inadequate." These remarks are of a very strong character. They point at a clear distinction between the sale by auction and by private contract, and can hardly be reconciled with the opinions expressed in *Osborne v. Foreman*, however ingeniously it was endeavoured upon that occasion to preserve the alliance. The only argument which has been advanced assumes a distinction between a sale with sealed tenders and one by private contract. It is not necessary to discuss the point here, because we pretend to higher ground, the absolute extinction of this equity custom.

Notwithstanding all these cases, you are not to suppose that the tide of judicial opinion has been uniform in favour of the custom. Lord Thurlow declared that he would not open at all after confirmation of the report. (3 Bro. C. C. 475. *Scott v. Nesbit*.) Mr. Maddock in his chancery practice, asserts on the authority of an anonymous MS., that "By some judges it has been thought that the permission to open biddings does more harm than good." (Vol. 2, p. 655.) Still it is but fair to say that he adds; "by others, that the right to open biddings should not be so much restrained as it is" (ibid.), and he cites Vice-Chancellor Leach as his authority, from an MS. (Vol. 2, p. 655.) But Lord Eldon, whatever his doubts, which have descended to posterity, may have been, was strong upon this point.

In 1809, his lordship remarked upon the bad effect of opening biddings in general, from the uncertainty attending purchasers in this court. (In *Preston v. Barker*, 16 Ves. 160.) Again, in 1820, he said, "I believe that the rule of opening the biddings, which was intended to protect, has frequently been very pernicious to the interests of the suitors in this court, and

that their estates have sometimes sold for next to nothing in consequence of it. (*Thornhill v. Thornhill*, 2 Jac. & W. 348.)

"For many years," he said again in 1822, "that I have been here, I have heard the practice of opening biddings lamented, and I cannot therefore account for it having continued a rule of the court, except upon a notion which I believe to be well founded, that there is in general more real wisdom in adhering to the old practice than in adopting new rules." (In *Tyndale v. Warre*, Jac. 326) Here the groundless apprehension of change was exhibited in high relief by the great lawyer. It was in a case indeed, where the appellant was present at the sale, but the observations were general. If it were necessary to make a change he would consult the Master of the Rolls and the Vice-Chancellor. Again, in 1823, Lord Eldon said, "During a period of nearly half a century which I have passed in this court, and in which Lord Apsley, Lord Thurlow, the Lords Commissioners, with Lord Loughborough at their head, have presided here, I have heard one and all of them lament that the practice of opening biddings was ever introduced. I confess that I have great doubts myself upon the subject; but after a practice so long established, it is not for me to disturb it." (In *Williams v. Attenborough*, Turn. & Russ. 75.) Lord Redesdale likewise observed in his court, "It is a general complaint that estates sold under decrees of the court go at considerable under-value; the cause of this is the trouble purchasers are put to, in completing their purchases. If greater strictness were preserved in opening the biddings, it would have the effect of producing better sales." (1 Sch. & L. 350.)

Lord Cranworth also made an ominous remark in *Barlow v. Osborne*, (4 Jur. 367.) which, had he been quite content with the existing practice, he might have foreborne. "These are all discussions which are proper to be addressed to the Legislature which has the power of altering the law;" (Id. 358) and again, "it does seem to me most unreasonable that a vendor should, in cases of this kind, when his property is sold under a decree of the court, be protected at both ends, as it were, both before and after the purchase is made. It seems to me to furnish the strongest grounds for thinking that a general order should be issued by the Court of Chancery for the purpose of altering the present practice, (Id. 369.) And in 1817, Macdonald, C. B., thus expressed himself: "If one who has given a fair price and is confirmed purchaser before the master, is liable at the distance of several months, and after he has arranged his affairs upon the faith of the purchase, to have it set aside, upon the mere circumstance of another person offering a larger price, it must necessarily affect all sales under the authority of the court, by deterring purchasers from bidding. It is, thereupon, the general interest of the suitors to discourage the opening of biddings, unless upon peculiar circumstances in the first sale. As no such circumstances appear in this case, the order cannot be granted." (In *Boyer v. Blackwell*, 3 Anstr. 657)

There is another principle not a little important, when we come to investigate the subject. The court will suffer a third sale, if there be found a candidate equal to the mark, (Bro. Ch. Ca. 475. *Scott v. Nesbit*), and upon an application by the same person. (8 Beav. 352. *Walrond v. Walrond*, see the cases of *Colliery Shares*, 8 Ves. 502. *Wren v. Kirton*.) However, in ordinary cases, the sale will be revived. £1,050 were bid, and there was an order to open the biddings upon a deposit of £300. The second sale took place, and £1,338 were bid; but another offer of £160 was made by the same person who had opened the biddings. The Lord Chancellor said he remembered no such application, but as the purchaser did not appear to object he made the order. (16 Ves. 140; *Preston v. Barker*.)

I may just mention as matter of legal history, that when a buyer has taken several lots, and as to one of these, the biddings are opened, it is the rule to give him the option of retiring from the remainder. Macdonald, C.B., thought this a reasonable request; (3 Anstr., 656. *Boyer v. Blackwell*) but the Vice-Chancellor (Leach) upon a subsequent occasion made a distinction between lots purchased before the lots which are the subject of the application and those after. He said, "Where a person became the purchaser of a subsequent lot, in consequence of his being declared the best bidder of a prior lot it was reasonable that he should have the option of retaining or retiring from the subsequent lot. (1 Sim. & Stu., 386. *Price v. Price*.) In another case, the same Vice-Chancellor required an affidavit from the purchaser "that he had bid for the lot in consequence of having been declared the best bidder for the prior lot." (Ibid. *Fielder v. Fielder*. See 4 Madd. 227. *Roffey v. Shallcross*, and note (C.) there. As to timber, see 6 Sim. 380. *Bates v. Bonner*, 10 per cent. advance; and for other cases, *Dart on Vendors*, p. 756.)

It is obvious that, from the details and observations which have been submitted to the society, the object intended in these papers is to prepare the way for an Act of Parliament, or it may be a rule of the courts to assimilate the sales directed by the Court of Chancery with other contracts between buyer and seller. It seems better to return to that ordinary commercial dealing which has so long established good faith and right assurance between man and man. Undoubtedly, the equity judges have endeavoured to preserve, as far as possible, the fair balance between buyers and sellers; but of a practice what can be said commendatory, when the great oracles which have the administration of it are by no means agreed as to the propriety of its continuance? No sooner will the Court of Chancery forbear or be restrained from this method of conducting sales, than the same confidence will arise in the market of that court which obtains in the great market of the world.

STREET RAILWAY COMPANY.

A Bill with this title is quietly making its way through the House of Commons in the guise of a "private Bill." But the measure is one of such great and general importance as to make it only fair and proper that it should be brought before Parliament in its true character of a "public Bill."

It proposes to authorise the company to lay down rails along the surface of such of the streets of the metropolis, or of any other towns in the United Kingdom, as shall be selected with the consent of the parties having the control or the duty of directing the repair of such streets, and to give to the company the exclusive right of using carriages with flange wheels on such rails, reserving to the public the right of using the rails and plates with carriages having common road wheels.

The general character of the measure, affecting as it does the streets of the whole kingdom, seems imperatively to demand that it should be treated as a public Bill, especially as this general nature of the Bill prevents the standing orders, which require notice to parties affected and provide other securities, being applicable to it.

The Bill stands for the second reading on Monday next.

INCORPORATED LAW SOCIETY, U.K.

The following is a list of the lecturers appointed by the Incorporated Law Society up to the present year:—

Conveyancing.—SAMUEL F. T. WILDE, Esq. 1833 to 1843.

Common Law.—CHARLES EDWARD DODD, Esq. 1833 to 1835.

Equity.—HENRY NELSON COLERIDGE, Esq. 1833 to 1835.

Public Records.—STACEY GRIMALDI, Esq. (A member of the Society). 1834.

Common Law.—DAVID JARDINE, Esq. (afterwards police magistrate) 1835 to 1836.

Equity.—EDWARD J. LLOYD, Esq. (now Queen's counsel) 1835 to 1838.

Common Law.—JAMES MANNING, Esq. (now Queen's ancient serjeant) 1836 to 1837.

Common Law.—JOHN W. SMITH, Esq. (author of "Leading Cases," &c.) 1837 to 1843.

Equity.—SPENCER H. WALPOLE, Esq. (late Home Secretary of State) 1838 to 1841.

Lord Bacon's Works.—BASIL MONTAGU, Esq. (afterwards Q.C.) 1838.

Equity.—JOHN ADAMS, Esq. 1842 to 1845.

Conveyancing.—CATLEY SHADWELL, Esq. 1843 to 1846.

Common Law.—ARCHIBALD JOHN STEPHENS, Esq. (now Recorder of Winchester, Q.C.) 1843 to 1847.

Equity.—SAMUEL MILLER, Esq. 1845 to 1848.

Law of Nations.—JOHN T. GRAVES, Esq. 1845.

Common Law.—JAMES P. WILDE, Esq. (now Baron Wilde) 1846 to 1847.

Conveyancing.—FIELDING NALDER, Esq. 1846 to 1849.

Common Law.—J. ALLEYNE MAYNARD, Esq. 1847 to 1850.

Equity.—RICHARD JEBB, Esq. 1848 to 1851.

Moral, Social, and Professional duties of Attorneys and Solicitors.—SAMUEL WARREN, Esq. (Q.C., Recorder of Hull, now Master in Lunacy) 1848.

Conveyancing.—EDWARD KENT KARSLAKE, Esq. 1849 to 1851.

Common Law.—HENRY JOHN HODGSON, Esq. (now one of the Masters of the Queen's Bench) 1850 to 1852.

Conveyancing.—REGINALD WALPOLE, Esq. 1851 to 1853.

Equity.—J. C. CONYBEARE, Esq. 1851 to 1853.

Common Law.—RICHARD GARTH, Esq. 1852 to 1854.

Conveyancing.—JOHN WILSON, Esq. 1853 to 1854.

Equity.—MARTIN A. SHEE, Esq. 1853 to 1855.

Conveyancing.—RICHARD BAGGALLAY, Esq. 1854 to 1856.

Common Law.—CHARLES EDWARD POLLOCK, Esq. 1854 to 1855.

Equity.—J. T. HUMPHREY, Esq. 1855 to 1857.

Common Law.—R. MALCOLM KERR, Esq. (now judge of the Sheriff's Court, London) 1855 to 1857.

Conveyancing.—J. PEARSE PEACHEY, Esq. 1856 to 1858.

Equity.—F. O. HAYNES, Esq. 1857 to 1859.

Common Law.—R. EDWARD TURNER, Esq. 1857 to 1859.

Conveyancing.—J. W. SMITH, Esq. 1858 to 1859.

Conveyancing.—F. J. TURNER, Esq. 1859 to 1861.

Equity.—G. WIRGMAN HEMMING, Esq. 1859 to 1861.

Common Law.—F. MEADOWS WHITE, Esq. 1859 to 1861.

Jurisdiction and Practice of Admiralty Court.—JOHN MORRIS, Esq. (a member of the society) 1859.

Public Companies.

BILLS IN PARLIAMENT

For the Formation of New Lines of Railways in England and Wales.

The standing orders of both Houses of Parliament have been complied with in the following cases:—

CONWAY AND LLANRWST.—Capital, £110,000.

The Select Committee have declared that the standing orders may be dispensed with in the following cases:—

ANCHOLME.

COLNE VALLEY AND HALSTEAD.

EASTERN COUNTIES.

GRIMSBY.

LLANIDLOES AND NEWTOWN.

LONDON, BUCKS, AND WEST MIDLAND JUNCTION.

SOUTH YORKSHIRE (Keadby Extension).

TRENT.

REPORTS AND MEETINGS.

BRISTOL AND EXETER RAILWAY.

The directors, by their report, recommend a dividend at the rate of 5½ per cent. per annum for the last half-year, carrying a balance of £2,991 to the next account.

EASTERN COUNTIES RAILWAY.

The directors of this company have declared a dividend of £1 3s. 9d. per cent. for the half-year, being at the rate of £2 7s. 6d. per annum on the ordinary share capital of the company, leaving £5,620 to be carried to the next account.

EQUITY AND LAW LIFE ASSURANCE SOCIETY.

This society held its sixteenth annual general meeting yesterday. During the past year 169 policies of assurance have been effected, producing in new premiums £7,407. The income of the society now amounts to about £60,000, and the funds to £274,489 11s. 2d. The number of policies in force on the 31st December last was 1,425, amounting, exclusive of bonuses and additions, to £1,533,707. The report was unanimously adopted.

GREAT NORTHERN RAILWAY.

The directors of this company will recommend at the ensuing meeting that the following dividends be declared, viz.:—At the rate of £6 7s. 6d. per cent. per annum on the original stock, £3 per cent. on the B stock, and £3 7s. 6d. per cent. on the A stock, leaving £965 to be carried forward.

GREAT SOUTHERN AND WESTERN RAILWAY.

At the half-yearly meeting of this company, held in Dublin

on the 16th instant, a dividend at the rate of £5 per cent. per annum was declared.

GREAT WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 15th instant, the Earl of Shelburne in the chair, a dividend of 3½ per cent. per annum on the Consolidated Stock of the company was declared, and the retiring directors were unanimously re-elected.

GREAT WESTERN AND BRENTFORD RAILWAY.

At the half-yearly meeting of this company held on the 20th inst. a dividend of 5 per cent. per annum on the preference shares, and of two per cent. per annum on the ordinary shares was declared, leaving a balance of £567 to be carried forward to the next account.

HULL AND HOLDERNESS RAILWAY.

The half-yearly meeting of this company was held on the 7th inst., and a dividend of 3½ per cent. was declared. The chairman stated that there would be only two more dividends at that rate. All subsequent dividends would be at the rate of £4 per cent. per annum.

LONDON AND BLACKWALL RAILWAY.

The half-yearly meeting of this company was held on the 19th inst. The report of the directors recommending a dividend at the rate of £4 per cent. per annum for the last half year on the consolidated stock was adopted. The dividend became payable on the 20th inst.

LONDON AND NORTH WESTERN RAILWAY.

At the half-yearly meeting of this company held yesterday, a dividend of 5½ per cent. was declared.

MARYPORT AND CARLISLE RAILWAY.

At the half-yearly meeting of this company held on the 20th inst. a dividend of 3s. on original £50 shares, and on other shares in proportion, was declared; being at the rate of £7 per cent. per annum.

MIDLAND RAILWAY.

At the half-yearly meeting of this company, held on the 15th inst., a dividend of 7 per cent. was declared on the old stock; the dividend in the usual proportion on the Birmingham and Derby stock, and on the other preferential and consolidated stocks of the company.

Resolutions were also passed for the consolidation of some of the smaller stocks, and a vote of £22,000 was taken for works.

NORFOLK RAILWAY.

At the meeting to be held on the 26th inst. the directors will recommend a dividend at the rate of £1 17s. 6d. per cent. for the last half-year, being at the rate of £3 15s. per cent. per annum.

NOTTINGHAM AND GRANTHAM RAILWAY.

The report of the directors states that the remainder of the share capital had been called up, and the mortgage debt reduced to £52,915, and before the next meeting would be discharged. The directors propose a dividend of 3s. 6d. per share payable on the 7th of March, making 7s. for the year as against 6s. 6d. for the year 1859.

SALISBURY AND YEovil RAILWAY.

The directors' report states that the balance available for dividend was £6,646, out of which they recommend a dividend at the rate of £4 per cent. per annum, should be declared. This will leave a balance of £246, which, with the balance in hand on 1st July last, makes a total of £3,560 to be carried forward to the next half-year.

SOUTHAMPTON DOCKS COMPANY.

The directors recommend a dividend of £1 10s. per cent. for the last half year. This, with the dividend paid for the previous half year, will make £3 10s. per cent. for the year 1860.

SOUTH EASTERN RAILWAY COMPANY.

At the ensuing half-yearly meeting on the 28th inst., the directors will recommend a dividend of 18s. on each £30 stock, being at the rate of 6 per cent. per annum.

SOUTH WALES RAILWAY.

The directors, by their report, recommend that a dividend be declared for the last half year at the rate of £3 per cent. per annum, leaving a balance of £2,310 to be carried forward.

SOUTH WESTERN STEAM NAVIGATION COMPANY.

At the half-yearly meeting of this company, held on the

14th inst., a dividend was declared at the rate of £5 per cent. per annum.

A resolution to convert the capital of the company into 4½ per cent. preferential stock of the London and South Western Railway Company was carried unanimously.

SOUTH YORKSHIRE RAILWAY.

After deducting the interest on preference shares the directors recommended a dividend at the rate of 4½ per cent. per annum on ordinary capital.

STOCKPORT AND DISLEY RAILWAY.

The report of the directors states that the traffic receipts show an increase of 15 per cent. over those of 1859, and recommends a dividend of 2½ per cent. per annum.

SUBMARINE TELEGRAPH COMPANY.

A dividend at the rate of £5 per cent. per annum was declared at the recent half-yearly meeting, and resolutions were passed authorizing the conversion of capital fully paid up into stock.

TAFF VALE RAILWAY.

The report of the directors states that the traffic receipts for the last half year are very satisfactory, and recommends a dividend at the rate of £9 per cent. per annum to be declared.

ULVERSTONE AND LANCASTER RAILWAY.

The directors recommend a dividend at the rate of £5 per cent. per annum for the last half-year, leaving a balance of £3,000.

VALE OF NEATH RAILWAY.

The report of the directors recommends a dividend at the rate of 2½ per cent. per annum for the last half-year. This will leave a balance of £1,180 to be carried forward to the next half-year.

VICTORIA STATION AND PIMLICO RAILWAY.

The half-yearly meeting of this company was held on the 20th inst. In moving the adoption of the directors' report, the chairman stated that it was probable a small dividend would be declared at the next half-yearly meeting. He estimated that the dividend would average up to 1867 about 6 per cent. on the ordinary shares, and that after that year it would be larger.

WEST MIDLAND RAILWAY.

The half-yearly meeting of this company was held on the 14th inst.

The chairman stated there were thirty Bills before Parliament in which the company were more or less interested. A line called the Coast of Wales Railway had been projected and the directors had arranged, subject to the sanction of the proprietors, to work it at 52½ per cent. on the traffic.

The report of the directors was confirmed, and dividends declared.

WHITEHAVEN JUNCTION RAILWAY.

The directors recommend a dividend at the rate of 8 per cent. for the half-year ending 31st Dec. last.

WHITEHAVEN AND FURNESS RAILWAY.

The directors propose that a dividend for the half year ending 31st Dec. last, at the rate of 4 per cent. per annum shall be declared. This is an excess of 1½ per cent. over that declared for the corresponding period of the previous year.

University Intelligence.

CAMBRIDGE.

Feb. 16.—The subjects of examination for the Chancellor's Legal Medal for the year 1862 are:—

Roman Law.—The *Jus Familiare*, as exhibited in McKelvey's *Systema Juris Romani*, Lib. III., with special reference to the original Roman sources.

English Law.—Rules of Evidence and Forensic Practice "Best on Evidence" (3rd edition), Books III. and IV. "Smith on Contracts" (last edition).

English History.—From the meeting of the Long Parliament to the death of Charles II. Hallam's *Constitutional History*, with special reference to the statutes therein cited.

State trial: Algernon Sidney. (State trials, Vol. IX.)

International Law.—Definitions, Sources, and Subjects of International Law. International Rights of States, in their Pacific Relations. Wheaton's *Elements*, Parts I. and III.

Law Students' Journal.**LAW LECTURES AT THE INCORPORATED LAW SOCIETY.**

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Monday, February 25.

Mr. FREDERICK JOHN TURNER, on Conveyancing, Friday, March 1.

Court Papers.**Court for Divorce and Matrimonial Causes.**

The sittings of the Court for Divorce and Matrimonial Causes are postponed until Monday, the 25th of February, 1861. Divorce Registry, February 20, 1861.

Births, Marriages, and Deaths.**BIRTHS.**

CROPPER—On Feb. 19, at Liverpool, the wife of Wm. Cropper, Esq., Solicitor, of a son.

INDERWICK—On Feb. 18, the wife of Frederic Andrew Inderwick, Esq., Barrister-at-law, of a daughter.

LUND—On Feb. 19, the wife of Henry Lund, Esq., of Lincoln's-inn, Barrister-at-Law, of a son.

MIDDLETON—On Feb. 17, the wife of Thomas A. Middleton, Esq., of Bridgend, Glamorganshire, Solicitor, of a son.

RUSSELL—On Feb. 19, the wife of Charles Russell, Esq., Barrister-at-Law, of a son.

MARRIAGES.

PASSMAN—CLIFT—On Feb. 11, at Warwick, H. C. Passman, Esq., Solicitor, of that borough, to Sarah, daughter of Joseph Clift, Esq., of Forebridge Villa, Stafford.

POLLOCK—BAILEY—On Feb. 21, Arthur Julius Pollock, Esq., M.D., son of the Right Hon. the Lord Chief Baron, to Ellen, daughter of the late Charles Bailey, Esq., of Lee Abbey, Lynton, North Devon.

RITCHIE—FAWNS—On Dec. 20, at Launceston, Tasmania, William Ritchie, Esq., Barrister-at-Law, to Margaret, daughter of John Fawns, Esq., J.P.

DEATHS.

GUMMER—On Feb. 16, at Chester, aged 41, Stephen Henry Gummer, Esq., Solicitor, son of the late Colonel Stephen Stone Gummer, of the Madras Army.

HALL—On Feb. 18, George Hall, Esq., of 11, New Boswell-court, Lincoln's-inn, Solicitor, aged 65.

PAWLE—On Feb. 14, Margaret, the wife of J. C. Pawle, Esq., of New-inn, and daughter of the late William Ireland Newman, Esq., of Walton-hill, Tewkesbury.

PIGEON—On Feb. 13, at Clifton Down, aged 5 months, Walter Kemball, infant son of R. W. Pigeon, Esq., Solicitor.

SECKER—On Feb. 20, at Essex-court, Temple, Isaac Onslow Secker, Esq., in his 63rd year.

TEMPLE—On Feb. 15, at Russell-square, Sarah, the wife of Christopher Temple, Esq., Q.C.

WATERS—On Feb. 16, at Hastings, Thomas Waters, Esq., clerk of the peace for the city of Worcester, aged 48.

WILTSHIRE—On Feb. 16, in her 37th year, Sarah Elizabeth, wife of Robert Wiltshire, of 36, Park-crescent, Stockwell, Solicitor.

London Gazettes.**Windings-up of Joint Stock Companies.**

LIMITED IN BANKRUPTCY.

FRIDAY, Feb. 22, 1861.

AUTRALIAN LAND AND EMIGRATION COMPANY (LIMITED).—Commissioner Gouldburn will on March 11, at 1, Basinghall-street, settle the list of contributors of this company.

MARYLEBONE GAS CONSUMERS COMPANY (LIMITED).—Creditors to prove their claims on March 8, at 1, Basinghall-street, before Commissioner Holroyd. Same time the commissioner will settle the list of contributors.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Feb. 19, 1861.

CUTYHAME, ANN, Mrs., Widow, 18, Camden-place, Bath. Gibbs, Solicitor, 4, Northumberland-buildings, Queen-square, Bath. May 1.

FIRTH, GEORGE, Iron Merchant, formerly of Leeds, lately residing at Methley, Yorkshire. Upton & Clapham, Solicitors, Leeds. April 1.

JORDAN, RICHARD PAUL, Sir, Baronet, Portland-place, Middlesex, and Bell-park, Norfolk. Stevens & Satchell, Solicitors, 6, Queen-street, Cheapside, London. April 2.

LILLEY, THOMAS, Gent., Waterloo, Liverpool. Marsden, Solicitor, 5, Old Churchyard, Liverpool. April 6.

PHILLIPS, WILLIAM, Mr., Farmer & Grazier, Radby, Northamptonshire. Burton & Son, Solicitors, Daventry. March 11.

SWINNS, RICHARD, Commercial Traveller, 10, Cavendish-road, Wande-

worth-road, Surrey. Hick, Solicitor, 13, Copthall-court, London. March 16.

SMITH, RICHARD, Gent., Witney, Oxfordshire. C. J. Witney, Wine Merchant, Executor, Witney, Oxfordshire. March 30.

TAYLOR, WILLIAM, formerly of the Home Office, Whitehall, late of 5, Lansdowne-circus, Lansdowne-road, South Lambeth, Surrey. G. Taylor, Executor, Somerset-villa, Loughborough-park, Brixton, Surrey. March 31.

TURNER, EDWARD, Victualler, South Wharf-road, Paddington, and Hercules-terrace, Holloway-road. Bartley, Southwood, & Bartley, Solicitors, 36, Somerset-street, Portman-square. March 25.

FRIDAY, Feb. 23, 1861.

ACTON, ALICE, Butcher, Liverpool. Banner, Solicitor, 24, North John street, Liverpool. May 1.

APPLEGARTH, GEORGE, Farmer, Beaumont-hill, Durham. W. & W. D. Trotter, Solicitors, Bishop Auckland, Durham. April 1.

BRIGGS, RIGHT REV. JOHN, Doctor of Divinity, York. Walker, Solicitor, York. April 8.

EVANS, WILLIAM, Oil & Colour Manufacturer, Bristol. H. Britain & Sons, Solicitors, Albion Chambers, Bristol. April 30.

FARING, ROGER, Gent., Helston, Cornwall. Rogers & Sons, Solicitors, Helston. May 1.

GOODMAN, WILLIAM, Gent., Great Brick-hill, Buckinghamshire. Willis Solicitor, Leighton Buzzard. April 6.

HALLIWELL, JOHN, Furniture Dealer, 91, London-road. Manchester. Simpson, Solicitor, 33, South King-street, Manchester. April 26.

HONES, JAMES, Miller, Furbright, Sarrey. Hockley & Russell, Solicitors, Guildford. May 31.

HOWCRAFT, MARY, Spinster, York. Walker, Solicitor, York. April 30.

NICHOLAS, ELIZABETH, Spinster, Sandgate, Kent. Harrison, Solicitor, Folkestone, Kent. April 3.

REES, MARY, Widow, George Town, Merthyr Tydfil, Glamorganshire, and of Brin Tirlon, Vaynor, Breconshire. Llewellyn, Solicitor, Newport, Monmouthshire. April 30.

SHIELDS, JAMES, Engine Driver, Canney-hill, Durham. W. & W. L. Trotter, Solicitors, Bishop Auckland, Durham. April 1.

SWED, JAMES, Cheesemonger, Sun-street, Bishopgate, London. Davies, Solicitor, Ross, Herefordshire. April 19.

STITT, JAMES, Esq., Iron Merchant, Liverpool. Jones, Solicitor, 86, Castle-street, Liverpool. May 25.

WALKER, MARY, Widow, Upper Stamford-street, Blackfriars-road, Surrey. Johnson & Coote, Solicitors, 2, Great Knight Rider-street, Doctors' Commons, and 5, Gray's-inn-square. April 10.

WALLER, ANN, Widow, King-street, Woolwich, Kent. Pearce, Solicitor, 12, Rectory-place, Woolwich. July 1.

WILLIAMS, FANNY, Widow, Leamington Priory, Warwickshire. Field, Solicitor, Leamington. April 30.

WISKE, MATTHIAS, Optician, York. Walker, Solicitor, York. April 6.

WOOD, ALEXANDER, Gent., Epsom, Surrey. Gay & Wilkinson, Solicitors, 8, Cannon-row, Westminster. March 25.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Feb. 19, 1861.

BUCKLEY, ALICE, Widow, Woodhouse, near Delph, Saddleworth, Yorkshire. Wareing v. Buckley, V. C. Stuart. March 20.

BURTON, THOMAS, Esq., Great Yarmouth, Norfolk. White v. Steward, M. R. March 11.

HANNAWAY, THOMAS, Linen Dealer, Leeds. Walls v. Foster, V. C. Kindersley. March 21.

HUTCHINSON, HENRY CLARKE, Esq., Welham, Clarbrough, Notts. Hutchinson v. Smith, V. C. Wood. March 16.

PERCIVAL, JOHN, Bull Inn, Tanner's-end, Edmonton. Fryer v. Mortimore, V. C. Wood. March 6.

(County Palatine of Lancaster).

FROST, JANE (wife of John Frost, Cotton Spinner, Manchester, county palatine of Lancaster). Registrar office, 4, Norfolk-street, Manchester. March 19.

FRIDAY, Feb. 22, 1861.

BEDFORD, HENRY, Gent., 47, Albany-street, Regent's-park, Middlesex. and of 4, Gray's-inn-square. Watkins v. Lane, V. C. Stuart. March 14.

BELL, PETER, Surgeon, M. D., Wolverhampton, Staffordshire. Bell v. Bell, M. R. April 10.

BERRINGTON, THOMAS, Gent., Croydon, Surrey. Overton v. Crittall, M. R. March 12.

CHEMSEIDE, ALEXANDER, Knight & Doctor of Medicine, Beaumont-street, Oxford. Watson v. Chemseide, V. C. Kindersley. March 20.

FITS CLARENCE, RIGHT HON. LORD FREDERICK, late Commander-in-Chief for the Bombay Army, East Indies, Etall Hall, Northumberland. Lady Augusta Fitz Clarence v. The Earl of Erroll, V. C. Stuart. June 17.

GREEN, JAMES, Gent., Leeds. Tootal v. Dickinson, V. C. Stuart. March 27.

GWYN, THOMAS GABRIEL LEONARD CAREW, Esq., 10, Thuroc-place, Brompton, Middlesex, afterwards of Jernyn-street, St. James's, Westminster, and late of Buenos Ayres, South America. De Gwyn v. Pollock, V. C. Kindersley. March 27.

LAWTON, SARAH, Spinster, Barnsley, Yorkshire. Lawton v. Owsenworth, M. R. March 18.

MARSH, EDWARD, Dealer in Watchmakers' Tools, Gloucester-street, Clerkenwell, Middlesex. Doward v. Marsh, M. R. March 13.

NORTH, JOHN, Town Carter, Brighton, Sussex. Champion v. North, V. C. Stuart. March 23.

(County Palatine of Lancaster.)

FRIDAY, Feb. 22, 1861.

HALL, JOHN, Factory Overlooker, Ashton-under-Lyne. Taylor v. Hall Registrar for District, 4, Norfolk-street, Manchester. March 19.

Assignments for Benefit of Creditors.

TUESDAY, Feb. 19, 1861.

ALLENBY, RICHARD, Fellmonger, Horncastle, Lincolnshire. Sol. Tweed Horncastle. Feb. 4.

ASHDOWN, JOHN, Miller, North-street, Hellingly, Sussex. *Sol.* Slincock, Hailsham. Jan. 23.
COLEBROOK, CHARLES CORNELIUS, Grocer, Leeds. *Sol.* Goodwin, Maidstone. Jan. 24.
COOPER, JAMES, Miller, Upper Mill, Loughborough, Leicestershire. *Sol.* Giles, Loughborough. Feb. 9.
GUNNELL, WILLIAM, & JOHN BROWNE, Biscuit Manufacturers, Portsea. *Sols.* H. & R. W. Ford, 170, Queen-street, Portsea. Feb. 6.
GUY, WILLIAM, Draper, Banwell, Somersetshire. *Sol.* Wood, Bristol. Jan. 23.
JENNINGS, JOSEPH PICKLES, & FREDERICK SARTY STOTT, Ironfounders, Bradford. *Sols.* Terry & Watson, Market-street, Bradford. Feb. 9.
LACEY, JOSEPH FREDERICK, Draper, Winchester. *Sol.* Morris, 6, Old Jewry, London. Jan. 24.
MONK, GEORGE, Outfitter, Cardiff. *Sol.* Wood, Bristol. Feb. 4.
RICHARDSON, THOMAS WILLIAM, Contractor, Kingston-upon-Hull. *Sols.* Lee & Lee, Kingston-upon-Hull. Jan. 24.
WRIGHT, GEORGE, Builder, Ingham, Kent. *Sol.* Goodwin, Maidstone. Jan. 24.
ZACHARY, GEORGE, & THOMAS WILLIAM RICHARDSON, Contractors, Kingston-upon-Hull. *Sols.* Lee & Lee, Kingston-upon-Hull. Jan. 24.

FRIDAY, Feb. 22, 1861.

BRIGGS, JOHN, Ovenman. *Sols.* Terry & Watson, Market-street, Bradford. Feb. 8.
CATLING, WILLIAM, General Dealer, Louth. *Sols.* Ingoldby & Bell, Louth. Feb. 15.
HOLLIER, OSWALD, Grocer, Wish-street, Southsea. *Sol.* Peares, Portsea. Feb. 11.
HOWELL, JOHN, Farmer and Grazier, Windy-hill, Rudbaxton, Pembroke-shire. *Sol.* Davies, Spring-gardens, Haverfordwest. Feb. 1.

Bankrupts.

TUESDAY, Feb. 19, 1861.

BROWN, WILLIAM, Butcher, Marlborough. *Com.* Hill: March 4, and April 6, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* Sedgwick, Marlborough, or Bevan, Gilling, & Press, Bristol. *Pet.* Feb. 12.
BURRELL, RICHARD, & JOSEPH BURRELL, Warehousemen & Mantle Manufacturers, 1, Old Change, London. *Com.* Evans: March 1, at 12.30, and April 4, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Jones, Slatelane. *Pet.* Feb. 11.
BUTCHER, GEORGE, Boot and Shoe Manufacturer, 27, Prior-place, East-street, Old Kent-road, Surrey. *Com.* Holroyd: March 8, at 2.30; and April 9, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Kent, 11 Cannon-street West, London. *Pet.* Feb. 16.
DARLINGTON, THOMAS, Innkeeper, Grinshill, Shrewsbury. *Com.* Sanders: March 1 & 2, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Kough, Shrewsbury, or Collis & Ure, Birmingham. *Pet.* Jan. 25.
DUNKLEY, BARTHOLOMEW FREDERICK, Grocer & Provision Dealer, Kettering, Northamptonshire. *Com.* Evans: Feb. 28, at 12.30; and March 29, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Rawlins, Market Harborough. *Pet.* Feb. 18.
FINCH, THOMAS WILLIAM, Grocer & Farmer, Braithwell, Yorkshire. *Com.* West: March 2, and April 6, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Chambers & Waterhouse, Sheffield. *Pet.* Feb. 16.
PADDO, RICHARD, Draper, 4, Amelia-place, Brompton, Middlesex. *Com.* Goulburn: March 1, and April 8, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Jones, 15, Slatelane, London. *Pet.* Feb. 15.
ROBY, MARTHA, Sauce Manufacturer, Leamington. *Com.* Sanders: March 4 & 25, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* East, Birmingham. *Pet.* Feb. 18.
SMITH, ARTHUR, Engineer, Paragon-buildings, New Kent-road, Surrey. *Com.* Goulburn: Feb. 27, at 12; and April 8, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Peck & Downing, 10, Basinghall-street, London. *Pet.* Feb. 11.
SMITH, JOHN AUGUSTUS GUSTAVUS, commonly known by the name of Augustus Smith, Auctioneer, 29, Basinghall-street, London. *Com.* Holroyd: March 5, at 3; and April 9, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Poole, 68, Bartholomew-close, London. *Pet.* March 18.
THORNLEY, JAMES, Lace Dresser, Smeinton, Nottinghamshire. *Com.* Sanders: March 7, & March 21, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Hearnshaw, Castle-gate, Nottingham. *Pet.* Feb. 16.

FRIDAY, Feb. 22, 1861.

DAVIS, WILLIAM HENRY, Farmer & Market Gardener, Manor Farm, Ash, Surrey. *Com.* Goulburn: March 4, at 12, & 25, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Vining, 7, Moorgate-street, London. *Pet.* Feb. 19.
DUTTON, JOHN, Grocer, Walsall, Staffordshire. *Com.* Sanders: March 7 & April 5, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Duignan & Ebsworth, Walsall. *Pet.* Feb. 12.
ELEY, ANDREW ROBERT, Upholsterer, 1, Chiswell street, Middlesex. *Com.* Fane: March 6, at 12.30, and April 12, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* George & Downing, 5, Slatelane, Bucklersbury. *Pet.* Feb. 21.
FOWLER, WILLIAM, & THOMAS SANDERSON, Tea Merchants, Liverpool. *Com.* Perry: March 4 & 27, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Neal & Martin, Liverpool. *Pet.* Feb. 19.
GATES, HENRY, Chemist & Druggist, Louth, Lincolnshire. *Com.* Ayrton: March 6 & April 10, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Ingolby & Bell, Louth, or Wells & Smith, Hull. *Pet.* Feb. 20.
JOHN, WILLIAM, Grocer & Draper, Pontypridd, Glamorganshire. *Com.* Hill: March 5 & April 9, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Abbot, Lucas, & Leonard, Albion-chambers, Bristol. *Pet.* Feb. 13.
JONES, THOMAS PUGH, Boot & Shoe Manufacturer, 103, Mill-street, Toxteth Park, Liverpool, and 106, Brownlow-hill, Liverpool, Lancashire. *Com.* Perry: March 4, and 27, at 11; Liverpool. *Off. Ass.* Turner. *Sols.* J. & H. Hindle, Bank-buildings, 41, Lord-street, Liverpool. *Pet.* Feb. 18.
LAVENDER, SAMUEL WILLIAM, Merchant, Cement Manufacturer, & Commission Agent, Liverpool. *Com.* Perry: March 4, at 12, and 27, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Harris, 20, North John-street, Liverpool. *Pet.* Feb. 18.
NIXON, JAMES, Painter, House Decorator, Lincoln. *Com.* Ayrton: March 6, and April 10, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Mason & Dale, Lincoln. *Pet.* Feb. 9.

PHILLIPS, DAVID, Grocer, Neath, Glamorganshire. *Com.* Hill: March 5, and April 9, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Gilling, & Press, Bristol. *Pet.* Feb. 14.
RANDLE, JOSEPH, Builder & Licensed Victualler, Coventry. *Com.* Sanders: March 7 & April 5, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham. *Pet.* Feb. 18.
SMITH, SAMUEL, Builder & Decorator, 27, Fish-street-hill, London. *Com.* Fane: March 6, at 12; and April 5, at 11.30; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Preston, 15 Broad-street-buildings. *Pet.* Feb. 20.
STANDRING, ALEXANDER PETRIE, & CHARLES PETRIE STANDRING, Iron & Brass Founders, Rochdale (A. P. Standring & Brother). *Com.* Jemmett: March 5 & 27, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Higson & Robinson, Cross-street, Manchester. *Pet.* Feb. 11.
TILLEY, RICHARD WALLINGTON, Draper, Weston-super-Mare, Somersetshire. *Com.* Hill: March 4, and April 8, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Gilling, & Press, Small-street, Bristol. *Pet.* Feb. 19.
WISS, CHARLES, Slate Merchant, Liverpool. *Com.* Perry: March 5 & 27, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Liverpool. *Pet.* Feb. 18.

MEETINGS FOR PROOF OF DEBTS

TUESDAY, Feb. 19, 1861.

ARMSTRONG, JOHN WILLIAM, Yarn Agent, Manchester. March 15, at 12; Manchester.—**CUTTS, HENRY GILBERT**, Merchant & Commission Agent, formerly of 34, Southampton-street, Strand, now residing in France. March 12, at 12.30; Basinghall-street.—**PENNY, ALFRED**, Coal Merchant & Underwriter, 2, Richmond-villas, Holloway, Middlesex, late of Wharf-road, City-road, said county, and of Lloyd's Coffee-house, London. March 12, at 12; Basinghall-street.—**RENDER, HENRY**, Oil Merchant & Stearine Manufacturer, Manchester, and Newton-leath, Lancashire. March 15, at 12; Manchester.—**STICKLEMORE, THOMAS**, Currier & Leather Seller, Gabriel's-hill, Maidstone. March 13, at 12.30; Basinghall-street.—**ZUCKER, LEWIS**, Jeweller, 222, Oxford-street, Middlesex. March 13, at 12; Middlesex.

FRIDAY, Feb. 22, 1861.

BRIDGES, CHARLES, Builder, Haslemere, Surrey, and Coal Merchant, Liphook, Hants. March 5, at 12; Basinghall-street.—**BRYANT, WILLIAM**, Tailor & Outfitter, Oxford-street, Middlesex. March 15, at 12; Basinghall-street.—**COLLINS, CHARLES, & WILLIAM FREDERICK COLLINS**, Drapers, 21, 22, & 23, Lower Sloane-street, Chelsea, Middlesex (C. & W. F. Collins). March 5, at 1; Basinghall-street.—**COTTON, JOHN**, Boot & Shoe Maker, Smethwick, Staffordshire. Mar. 13, at 11; Birmingham.—**DURRANT, ROBERT, & GEORGE BROCK**, Tallow Chandlers & Soap Manufacturers, St. Michael & Coalany, Norwich. March 15, at 1; Basinghall-st.—**HADWEN, ISAAC JAMES, & JAMES LAMONT MCGREGOR**, Merchants, Liverpool. March 15, at 11; Liverpool.—**HARRIS, THOMAS, & JOHN BURLS**, Brewers, Eagle Brewery, Hampstead-road, Middlesex. March 15, at 11; Basinghall-street.—**HEWITT, OWEN**, Baker, Windsor. March 15, at 1; Basinghall-street.—**HICKMAN, GEORGE HADEN, & ALFRED HICKMAN**, Iron Manufacturers and Iron Dealers, Bilston, Staffordshire. March 21, at 11; Birmingham.—**JULIAN, JOHN**, Wholesale Milliner and Fancy Manufacturer, 9, Noble-street, Falcon-square, London. March 18, at 2; Basinghall-street.—**MELLING, ROBERT McHAFFIE**, Merchant, Manchester. March 20, at 12; Manchester.—**MORTON, JOHN LOCKHART**, Merchant, 8, Finch-lane, London. March 19, at 12; Basinghall-street.—**MURDOCH, DAVID**, Grocer & Provision Dealer, Liverpool. March 15, at 11; Liverpool.—**ROULEDOE, SAMUEL DYER**, Huddersfield. March 19, at 11; Leeds.—**STRACHAN, JOHN**, Common Brewer, Newcastle-upon-Tyne. March 7, at 11; Newcastle-upon-Tyne.—**VERNON, JOSEPH YARDLEY**, Draper, Stourbridge, Worcestershire. March 18, at 11; Birmingham.—**WILLAM, ROBERT**, Grocer & Flour Dealer, Glouster, Derbyshire. March 21, at 12; Manchester.

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C. B. CLABON, Secretary.

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THE SOLICITORS' JOURNAL.

LONDON, MARCH 2, 1861.

CURRENT TOPICS.

In addition to the Bankruptcy Bill and Criminal Law Consolidation Bills, of which people are pretty well tired by this time, there are now before Parliament a few less pretentious measures affecting the law. One is a Bill of Lord St. Leonards', to abolish the doctrine of implied or constructive notice. The Law of Property Bill, 1859, originally contained a clause to which the present Bill bears a strong resemblance, if, indeed, it was not intended to make them substantially identical. In the former Bill a purchaser or mortgagee was not to be bound by any other than *actual* notice of a charge. While that Bill was before Parliament we discussed this clause at considerable length,* with the view of showing the insurmountable difficulties which would attend any such enactment, especially having regard to the confusion and obscurity introduced into the authorities by the uncertain term "*actual notice*," and to the doctrines of courts of equity in respect of fraud. Lord St. Leonards now proposes, in place of enacting that a purchaser or mortgagee should not be bound by any other than actual notice, to enact that no purchaser or mortgagee shall be bound by any *implied* or *constructive* notice, unless the Court shall be of opinion that his conduct amounts to fraud. We shall take an early opportunity of offering some observations on this Bill, which, to our minds, so far from being free from the objections urged by us two years ago, is exposed to them even more than its forerunner.

Mr. Hodgkinson's Fictitious Defences Bill seems also to be very much open to exception. It proposes that in every action where a plaintiff makes an affidavit that the defendant is indebted to him in the sum mentioned in the writ, no defendant shall be at liberty to enter an appearance, unless he in reply makes an affidavit that he has "a good defence," or obtains leave from a judge, upon terms. Neither plaintiffs nor defendants, where they are unscrupulous persons, would have much difficulty in making such an affidavit, especially when it came to be regarded—as it would very soon—as little more than a formality; while the cases provided for by the Bill—where a judge would have to decide whether the defendant had really a legal or equitable defence—would, in fact, involve a preliminary hearing, and thus greatly increase expense, instead of diminishing it.

The Bill to afford facilities for the better ascertainment of the law of foreign countries when pleaded in our courts, is calculated to be very useful, and seems to have been carefully considered.

The Metropolitan and Provincial Law Association has had under its consideration the changes in the new Bankruptcy Bill relating to the taxation of costs in the provinces. Taxation by the country registrars, according to the present system, has been found to work most unsatisfactorily. Some of the registrars know very little about their work, and there is nothing like uniformity in their treatment of bills of costs. It has been proposed that, in order to secure one uniform method and scale, all bills of costs in bankruptcy should be taxed in London.

This remedy, however, would be unquestionably worse than the disease. Taxation in London would involve either the presence here for that purpose of the country solicitor, or the attendance of an agent, who could not know much about the business done, and, therefore, could not give the taxing master the necessary information upon the items of the bill. We believe, that the Metropolitan and Provincial Law Association have proposed that two of the taxing masters to the court should periodically make a circuit, for the purpose of taxing bills. This appears to us to be the best plan yet suggested. What do our provincial readers think of it?

When Lord St. Leonards' Law of Property Act, 1860, was passed, a very important defect in it was pointed out in these columns. Our readers are aware that the statute does not do away with the necessity of registering judgments; while in order to give effect to them as against purchasers or mortgagees, it obliges the registration of writs of execution, which are enforceable only within three months after such registration. We desire now not to repeat the observations which we have already more than once made upon the general impolicy of this provision; but merely to call attention to the practical inconvenience of the mode prescribed for the registration of writs of execution. Judgments are registered in the names of defendants; but by Lord St. Leonards' Act of last session, it is enacted that executions are to be registered in the names of plaintiffs. Not only does a double search thus become necessary, but a double search of the widest range and most inconvenient character. A purchaser or mortgagee who desires to know whether an estate is affected under the provisions of the Act, by a judgment against John Styles, must first search the register of judgments against his name, and having thus obtained the names of all the plaintiffs who have registered judgments against him, is then compelled to search the register of executions not against the name of John Styles, but against the names of all the plaintiffs disclosed by the register of judgments. We are unable to suggest any reason for this cumbrous plan. The reasonable and obvious mode of registering executions would appear to be in the name of those parties only against whom the writs are issued. At all events, although this would not preclude the necessity of a double search for judgments and executions, it would at all events very much restrict the range of search, and make it much less expensive and bewildering than at present.

Two very important cases have been before the House of Lords, one of which has been partly heard, and the other of which has been decided, during the present week. In *Brook v. Brook* the appellants' counsel have not yet completed their somewhat hopeless attempt to upset the decision of Vice-Chancellor Stuart, assisted by Sir C. Cresswell, which was to the effect that a marriage between a man and his deceased wife's sister—both being English subjects and domiciled in England—although celebrated in a foreign country where the marriage was legal, is not valid in this country.

In the Berkeley peerage case, which has been before the House of Lords for two years past, their lordships delivered the judgment of the House on Wednesday last. It has been decided that the claimant, Sir M. F. F. Berkeley, is not entitled to the dignity of baron. The effect of the decision is, that according to the law of England there is no barony by tenure; or, in other words, no person can claim to be a peer of Parliament, and therefore to have, as of right, a writ of summons, as the tenant of any manor or hereditaments.

NISI PRIUS GLEANINGS.

If any one doubts the value of trial by jury, let him ask himself, what other tribunal could fix the compensation due for wounded feelings and disappointed hopes with the same promptitude and confidence. We suspect that the contrivance of adding together the figures named by the individual jurymen and dividing the whole by twelve must be frequently adopted; and we own that in many cases we should be at a loss to improve upon this simple method. We feel the utility of an institution which disposes without thought of difficulties, which, upon deliberation, would begin to appear insuperable. Suppose, for example, that we allowed ourselves to ask upon what principle we would proceed to assess damages for a breach of promise to marry, we should find ourselves launched on a boundless ocean without chart or compass. There have been lately five reported cases of this kind in which verdicts have been given for £25, £40, £50, £75, and £100. In four out of these five cases we can, indeed, discern the glimmering of a principle—not, however, legal, or moral, or economical, but arithmetical. The round sum of £100, or the half, quarter, or three-fourths of it, are figures with which the mind of an ordinary jurymen would be familiar. Even the abnormal £40 may be brought within the same category by the plausible conjecture that a strong party in the jury proposed £50, and an obstinate minority compelled a reduction of £10.

A foreigner visiting our courts would be equally astonished at the engagements of which he might hear the history, and at the issue of them. A courtship of five years, between Mr. Isaacs and Miss Myers, was terminated by the marriage of the former with Miss Moses. Miss Myers thereupon brought an action, and got £100 damages. At the time of the trial the plaintiff and defendant had reached the ages of 46 and 50 years. Those who cannot afford to marry not unfrequently engage themselves and wait several years until they can. This custom may be made intelligible to a foreigner, although the fullest explanation will leave him still contemplating it with surprise. But what foreigner, or, indeed, what Englishman, can understand the motive of the procrastination of a marriage seriously intended between parties of mature age, and to which circumstances offered no impediment? Mr. Isaacs possessed some property, and was in good business as a buyer of stores, and he had several children by a former wife. One would think that if there had been a serious purpose, it would have been accomplished long ago; and if there were not, the plaintiff could have no claim for damages. It was stated at the trial that the nation to which these litigants belonged do not often allow themselves to appear in such a ridiculous position. Indeed, although the case was sufficiently absurd, it wanted that usual source of laughter—the correspondence between the lovers. Perhaps Mr. Isaacs had been a dealer in stores too long to care about waste paper even in the form of love letters.

A hasty observer might conclude that the defendants in these actions must be men of irregular impulses and wayward character, whose habits of thought and action were as far as possible removed from those of sober, wary, money-getting citizens. Yet we have just parted from a Jew, who had reached middle life in an employment well adapted to sober the imagination and to fix the mind on the vanity of earthly things—that of a dealer in second-hand and worn-out articles of many kinds. The next defendant who presents himself is by nation a Scot and by trade a bagman—conditions equally unfavourable to the predominance of caprice or levity. It is, however, to be observed in both these cases, that the defendants may have acted as they did on the calculation that female society would, for the time, be pleasant, although marriage as the sequel of it might be either inconvenient or impossible. It appeared that the

Scotchman had a wife and three children living in his native country. Being an exile in the extreme West of England, and using the Temperance Hotel at Falmouth as the centre around which he circled with his pack of draperies, he might have thought that his laborious and lonely life would be brightened by the kind looks and tender cares of the landlady of the aforesaid hotel. His habit was to stay at the house once a fortnight. It does not appear whether he paid his score; but it is certain that he took walks with the landlady, and went to chapel with her, and talked of what he should do as master of the house; and when he was on his rounds he wrote to her a great number of letters, from which it may be supposed he derived a pleasure second only to that of sitting with her in the bar—if there be a bar—of the temperance hotel or in the pew at chapel. He enjoyed all these conveniences and mitigations of the misery of expatriation for five years, and as the verdict against him was only for £25, he thus got a woman's confidence and affection, and possibly some abatement in his hotel bills, at the very moderate price of £5 a year. On the whole we are inclined to think that both the Scot and the Jew supported in these transactions their national characters for shrewdness and a keen regard for self. Their conduct may probably be explained on the universal principle of taking care of number one; and therefore it may be supposed that an observant foreigner would not find himself at a loss to understand the motive of it, by the help of his own experience of human life.

There have been, however, other recent cases, which we look upon as the peculiar growth of British soil. The plaintiff in one of them was the daughter of a builder's foreman and a laundress, dwelling in Morning-lane, Homerton. The girl assisted her mother in ironing the fine things. Up to the age of fourteen years, the plaintiff and the defendant had gone to the same school. We never heard before of education upon so broad a basis as to be capable of embracing the two sexes during almost the whole period over which it would extend. As may be observed in the majority of these cases, everything is proper, not to say precise, at the beginning of the courtship. The first step was, to ask the consent of the lady's parents. Matters were thus put upon the footing on which they continued for six years. The defendant was a copious letter-writer. His prose was neither accurate nor elegant; but then he gradually developed a considerable faculty for rhyming. He had got so far in the sixth year as to be able to produce a sonnet which demanded "a cottage on some Cambrian wild," wherein to lead a contemplative life. As his only means of keeping himself and "Susie" were by wages earned as shopman to a jeweller, and as that is a business not much in request on "Cambrian wilds," the lady's parents might have been justified in demanding some definite explanation of his intentions. It is to be feared, indeed, that as the intellect developed, the moral sense grew weak. The writer of sonnets ceased to feel the obligations of common honesty. Shortly afterwards he wrote that he had seen some one he liked better, and had no desire for the plaintiff's company either on the Cambrian wilds or in Coventry-street, Haymarket. The builder's foreman and the laundress may not have been sufficiently alive to the incompatibility of an intention

"To pity man's pursuits and shun his ways"

with the maintenance of their daughter and the children who might be born to her in comfort and respectability. But the defendant's prose at any rate was not above the level of their understandings. He was called upon to fulfil his promise, and on his refusal an action was commenced and a verdict obtained for £40 damages, which we strongly suspect would have been £50, but that one of the jurymen had himself a half-developed yearning after a cottage on a Cambrian wild.

In another case tried in the same week we find not

only a poetical, but also a religious element entering largely into the correspondence. The parties dwelt on Bethnal-green. They were engaged three years and eight months, during which they spent usually five evenings of the week together, besides sitting in the same pew in chapel on the Sundays. In forming this connection, in carrying it on, and in breaking it off, the defendant appears to have supposed himself to be acting equally under Divine guidance, which he represented himself to have sought by earnest prayer. This appeal to a peculiar revelation where the ordinary teaching of man's own conscience might suffice recalls to our mind an incident in Venetian history, which may be found in a book lately published. The Pope had laid the Republic of Venice under an interdict, the effect of which was to close all the churches, and to deprive the people of all the offices of religion. The Council of Ten defied the Pope, and determined that the churches should be kept open by their own authority. On Saturday night, however, they felt very desirous to know whether the incumbent of an important church intended to obey their orders or the Pope's. An officer of the Ten accordingly waited on this incumbent to ask him whether it was his purpose to open his church for service on the Sunday morning. The incumbent cautiously answered that this would depend upon how he might be moved by the Spirit at the hour of divine service. A less astute body than the Ten might have been embarrassed by this evasion. They, however, were ready with the reply that nothing could be more proper than the determination of His Reverence to await the guidance of the Spirit in the matter of opening his church—only they thought it well to impart to him their own strong conviction that if the church were not opened the Spirit would move them to hang His Reverence from the steeple of it. We may leave our readers to apply this story to the defendant who broke his promise, and to the jury who punished him for the breach of it.

THE NEW COURTS AND OFFICES.

A pamphlet,* from the pen of a gentleman well-known to the profession, on a subject of very general interest, has just made its appearance. Every person who knows Mr. Gem regrets the retirement from the profession of one of its members so accomplished and esteemed as that gentleman; and all will gladly see each fresh proof (of what they could not doubt) that his interest in its welfare continues with him in his retirement. Mr. Gem's labours in the affairs of the law, and particularly on subjects cared for by solicitors, entitle everything proceeding from his pen to respectful attention. The masterly pamphlet he published nearly twenty years ago on the subject of Courts of Probate was the first practical move towards the abolition of those antiquated absurdities, the old Doctors Commons' Court and her sister Diocesan Courts, and of the race, half-monks half-lawyers, who had the monopoly of the probate business. His efforts in the Concentration of Courts question for nearly twenty years are also well known to all solicitors who have taken any part in that subject. But upon one point connected with this latter measure he has, while most wise and lucid on every other part, always been subject to what we consider a monomania. He is inflexibly convinced that the new courts should be placed in the garden of Lincoln's-inn-fields, and nowhere else in the world. He has always persistently advocated this view. He laid it before the late Commission. The commissioners considered his statement with full respect and attention; and reported against it. The pamphlet now under review is his rejoinder. In favour of Lincoln's-inn-fields there is,

first, the saving of cost of site. This Mr. Gem computes at a principal sum, the interest of which would increase the annual rent to be paid by the public (or suitors) for the courts and offices by something less than £5,000 a year—an amount which all who have read the evidence before the commissioners; or, without reading, have considered how many millions are annually expended in court business, will be convinced is not worth a moment's consideration, provided the Incorporated Law Society's site (between Carey-street and the Strand) has the slightest breath of advantage in point of professional convenience. What, then, are the other comparative advantages claimed for Lincoln's-inn-fields?—greater quiet, more light, and less dust, and capacity for future enlargement. Noble position, better access, and the like we think hardly worth mentioning. How far are these claims true, and what are the real advantages of the other site? First, as to the validity of these claims. Except in the article of quiet, there is not only, we think, no validity, but, to a considerable extent, the balance is the other way; and quiet could only be retained in Lincoln's-inn-fields by keeping the fields more or less the inaccessible place for carriages than they are now, and taking care that there should not be those ready and almost essential approaches to the courts there, which, if granted, would be sure to make the fields a great thoroughfare from Temple-bar to Holborn. We will first describe the block of buildings we understand to be intended to be erected for courts and offices on the Strand site. This block would have a sunk basement area all round it, closed from the general public, wide enough for carriages or carts bringing records and documents to be deposited in court, and the like. There is a fall in the level of the ground between the north-east and south-west corners of the proposed area of, we believe, nearly fifteen feet. This difference of level would enable a carriage entrance to the area from the Strand to be readily made; and also would enable the architect to place under the ground floor two stories of rooms looking into the area, if two were desired. The entire centre of the building would, we conceive, be occupied, on the basement floor, with fire-proof rooms for records, lit by gas.

Mr. Gem says that there must be a further depository outside of, and detached from, the building, for records; and on the supposition of his Lincoln's-inn-fields' scheme, he proposes the purchase for this object of a site at the back of the west side of the fields. But in the Strand scheme, a site, and a very large one, and already appropriated to this object, is in existence, and with a much greater facility of approach. Make a tunnel from the north-east corner of the area, under Chancery-lane, and you would find yourself in the basement area of the magnificent new Record Offices on the Rolls estate, and have a perfectly private and safe communication between the new courts and the new depositories, and the Rolls house and the old depositories.

So far for the area of the new block of courts. The ground-floor of the new buildings would be devoted to offices: such offices being respectively placed under the respective courts to which they especially belonged. Over the offices, on the first floor, and running to the height of say eighteen or twenty feet, would be the courts, lighted by skylights. These courts would be so placed that between them and the streets surrounding the whole block of buildings, there would be two floors of rooms, lighted from the streets and shutting off all noise whatever from the courts. The lower of such two floors would be on the level of the courts; the upper, on the level of the galleries of such courts. These two floors would afford abundant private rooms for judges, the bar, &c. &c. There would be separate well staircases between the respective courts and the offices below them, to any extent that could be needed for all public or private access. And the offices on the ground-floor would again have power of expansion

* "Strictures on the Report of her Majesty's Commissioners for the Concentration of the Law Courts and Offices, and of their Recommendations as regards Site." By Harvey Gem.

by means of well staircases dropping down into those rooms in the basement underneath, which face and are lighted from the great area surrounding the building. In the centre of the block would be one or two open yards, accessible to carriages;—for the use of the judges, &c.; and for better ventilation, and for lighting other rooms, halls or passages to be placed, flanking the yards towards the interior of the block. These open yards would be approached by bridges from the streets, over the area.

It is of the first moment, we conceive, that the courts should be so placed as that, in point of proximity and readiness of access, they could be reached in a minute or two, without check or stoppage, by a barrister coming robed from the Temple. The position of the courts on the first floor would render this essential condition easy of attainment. A covered bridge over Fleet-street, running quite into the Temple (say one from the court immediately on the west side of Middle Temple-lane, or a bridge through the room over Temple Bar, or two or three bridges, if desired), could be carried into the heart of the new block of buildings, to the very doors of the courts themselves. A similar bridge from Lincoln's-inn New-square would also give quiet and uninterrupted access to the equity courts from that Inn. Another advantage of this first-floor position of the courts is that it admits of an unlimited extension of courts in after ages; for to extend them, nothing would have to be done but to purchase block after block of houses on the opposite side of the streets surrounding the building, and without impeding the traffic of those streets, carrying on by covered bridges the *congerie* of courts in any direction which might be thought desirable. The Rolls estate might in this way be so appropriated. Nay, the very Temple itself might be penetrated by this *congerie*; and fresh court after fresh court be protruded into its precincts,—should anything so improbable ever be wished. It is this power of making the two Temples wings or riders, as it were, of the courts, which renders the Strand site so incomparably more eligible than the one Mr. Gem patronises.

Mr. Gem's pamphlet rather smacks with an ill flavour of insinuation against the Incorporated Law Society, as if their chief motive in advocating the Strand site was to have the courts near their hall. Mr. Gem could never have intended any such inuendo. He himself might be subject to a retort, as a proprietor of valuable property in Lincoln's-inn-fields; but he is a most honourable and upright man, and has been a great knight-in-armor for all great law-improving enterprises; and willing battle will we ever do with any one who throws the faintest insinuation at him. The society's hall is placed where it is, precisely for the very reason why the courts should be placed where the commissioners propose. It is so placed because its site is between Lincoln's-inn and the Temple; and therefore in the very heart and centre of legal functions. The fact that that noble institution will be *vis-à-vis* to the new courts is, moreover, a strong reason in favour of the chosen site, because the hall is very much to solicitors what the inns of court are to the bar.

If we may run near upon a Hibernicism, we will further say, in conclusion, that the best thing in Mr. Gem's pamphlet (good though it be, but in a bad cause) is one line upon the title-page. It is his motto from Bacon—a motto we cheerfully repeat, premising that usefulness, or adaptation to end, is the cardinal element of beauty. Upon its application, viz., whether it should be a warning to him or to us, we put ourselves (as the entries run) upon the country, &c.

"He that buildeth a fair house upon an ill seat committeth himself to prison."

ANDERSON'S CASE.

The obligation of England to deliver up Anderson to the United States must be decided by the treaty where its provisions are plain, and by principles of international law where the treaty is silent or doubtful.

The treaty is popularly considered as expressly declaring that the question of crime or no crime must be determined by the law of the place where the fugitive is found, as distinguished from the law of the place where the act complained of has been committed. This, to say the least, is a very extraordinary view for any reasonable man to take; for it involves the supposition that each country has stipulated for the delivery up of offenders against the laws of the other country—a stipulation which, it is plain, neither country had the slightest interest in making.

Independently of this, the construction alluded to cannot be supported.

1. Because the first part of the 10th clause of the treaty contemplates charges of crimes committed in the country demanding extradition.

2. Because what is a crime in such country can only be determined by the laws thereof, and the government of such country has no concern with offences against any other laws.

3. Because the treaty is framed for the mutual advantage of both countries, and its spirit is this:—Give us up certain offenders against *our* laws, and we will give you up similar offenders against *your* laws.

4. Because the proviso in the treaty applies in terms only to the evidence in support of the charge, and not to the criminality of the act alleged to have been committed; and that proviso is complied with by proving the law making the act complained of a crime in the country where it was committed, and by proving the commission of such act by the person accused.

5. Because to construe the proviso as applying to the question of crime or no crime is inconsistent both with the previous words of the treaty and with its general design; for such a construction leads to one of these two conclusions, viz., either, first, that the right to surrender exists wherever what is complained of is a crime (i.e., one of the specified crimes) according to the law of the place where the fugitive is found; or, second, that the right to surrender exists only where what is complained of is a crime (i.e., one of the specified crimes) both by the law of the country where the fugitive is found and also by the law of the country from which he has fled. The first conclusion proves too much; for it would render extradition obligatory, though no offence had been committed against the Government demanding extradition. The second conclusion proves too little; for it would not render extradition obligatory, even though a most heinous crime against the Government demanding extradition might have been committed. To make this clear, take the following case: Suppose that arrest for debt was lawful by the law of America, but not lawful by the law of England, and that an American subject were duly arrested in America for debt, and were to kill the officer arresting him, and were to flee to England—could it be said that because the law of England did not allow arrest for debt, therefore the American Government would not be entitled to demand the extradition of the fugitive? Such a conclusion is absurd, and demonstrates the unsoundness of the construction which leads to it.

For these reasons the question of crime or no crime cannot be decided by an appeal to the law of the place where the fugitive is found. By what law then is it to be determined? The treaty is silent on the point; and for the answer we must, therefore, appeal to the principles of international law and to the spirit and object of the treaty. Appealing to these, the question of crime or no crime must be determined by the laws of the place where the acts complained of were committed; and the only really debatable question upon the Ash-

burton treaty is this—whether it obliges each party to recognise all the laws of the other, or only such of them as may not be opposed to its own policy or interest, or to its own notions of right and wrong. Those who contend that the treaty binds each party to recognise all the laws of the other without any qualification or limitation, contend for that which, to say the least, is extremely improbable and unreasonable. Such a construction is apparently so opposed to the interests of both parties, that nothing short of the clearest expression of intention to that effect can warrant it; and were it not for the clause in the Ashburton treaty, enabling either party to determine the treaty without notice, the extensive construction alluded to could not for a moment be supported. But to infer from that clause that either party intended to abandon even for a moment the right to decline to enforce laws repugnant to its own interests and principles is to do much more than the clause warrants; such an intention, had it existed, would have been expressed in language not to be mistaken, and it cannot be fairly inferred from a provision inserted for the purpose of enabling either party to determine the treaty, in case it should think it expedient so to do. The treaty requires each party to recognise the criminal laws of the other; but in the absence of express words to that effect it cannot be fairly interpreted as requiring a more extensive recognition of penal laws than is required in the case of civil laws by what is called the comity of nations.

By the comity of nations, and in the absence of any treaty, one country is in the habit of recognizing those civil laws of another country which are not opposed to its own policy or interest, and are not abhorrent to its own notions of what is right. But the comity of nations does not go beyond that, and it necessarily leaves each country to judge for itself what laws of other countries it will recognise, and what it will not. The treaty does for a certain class of criminal laws what the comity of nations does for civil laws. Provided, then, we are bound to recognise by the comity of nations or by the treaty, the laws of the country where the act complained of has been committed, we must decide the question of crime or no crime by those laws. But if the act complained of is one which is a crime only by virtue of laws opposed to our policy and interest and to our notions of natural justice, then we are entitled to say the alleged crime is no crime, and the treaty does not apply.

Appealing, then, for the determination of Anderson's case to those laws of the United States which on general principles we can be required to recognise, we arrive at the conclusion that no case for extradition is made out; for, allowing the fullest force to the comity of nations, and to the treaty construed by its light, there is nothing to oblige us to recognise the status of slavery or those laws of other countries which treat slaves as things and not as persons. Such laws are opposed to our policy and to our notions of morality, and are abhorrent to our feelings. We hold that every person, in fact enslaved, is, whether in America or not, and whether black, white, or of any other colour, a free man detained in servitude against his will, and is entitled to gain his liberty by any means which may be necessary for that purpose. To treat Anderson as a murderer is, therefore, for us wholly impossible; and to deliver him up is more than the treaty requires us to do.

This mode of dealing with the case does no violence either to the words or to the spirit of the treaty, but gives full effect to both. The popular construction in this country is opposed both to the words of the treaty and to its spirit; and the American construction assumes that the treaty binds us to recognize all American laws, however opposed to our own policy or interest, or to our notions of right and wrong. The treaty, however, does no such thing; and assenting to the fullest extent to the general proposition that the question of crime or no crime must be decided by the laws of the place where

the acts complained of were committed, we have a right to add that if we are required to give effect to those laws they must be such as we are bound to recognise by principles of international law.

PRELIMINARY AND INTERMEDIATE LAW EXAMINATION.

Some dissatisfaction has been expressed at the delay which has taken place in carrying out the provisions of the Attorneys' Act of last session, so far as they relate to the examination of articled clerks. The Act, which came into operation on the 28th of August, 1860, enables the chief judges of the common law courts, jointly with the Master of the Rolls, to make regulations for the examination "in such branches of general knowledge as they may deem proper of all persons not having taken degrees or successfully passed university examinations . . . thereafter becoming bound under articles of clerkship;" and the same judges may require such examinations to be passed either before persons so become bound, or before their admission as attorneys. It is rumoured that a considerable number of "ten years' " clerks have, since the passing of the Act, been making a rush into articles for the purpose of avoiding any preliminary examination which may be instituted; and unless it shall be determined to have no test in the nature of matriculation, all those who have obtained their articles since the passing of the Act will have escaped an ordeal to which, according to the opinion of Parliament, as interpreted by its nominees (the judges), they ought to have been subjected.

The Incorporated Law Society, however, although it has not been very prompt in taking measures for giving effect to the statute, has not been altogether idle in this matter. We have now before us the report of a committee appointed by the Society for the purpose of considering what steps ought to be taken towards the introduction of the new system. The report recommends that—

In order to carry into effect the enactment in the 8th section,

That from and after the first day of Term, 186 , every person proposing to enter into articles of clerkship for five years, shall produce to the registrar a certificate either that he has successfully passed the junior middle-class examination established by the Universities of Oxford or Cambridge, or taken a first-class in the examinations of the College of Preceptors, or has successfully passed an examination by special examiners in London, whom the committee further recommend that the Lords Chief Justices and Chief Baron, jointly with the Master of the Rolls, be requested to appoint, and that such last-mentioned examination take place half-yearly, and consist of two parts.

PART I.

1. Reading aloud a passage from some English author.
 2. Writing from dictation.
 3. English grammar.—Analysis and parsing.
 4. Writing a short English composition, such as a description of a place; an account of some useful or natural product; or the like.
 5. Arithmetic.—A competent knowledge of the first four rules, simple and compound and vulgar fractions.
 6. Geography.—Questions on the geography of the world, but more particularly of Europe, and especially of the British Isles.
 7. History.—Questions on the outlines of English history—*eg.*, the successions of the sovereigns, the chief events, and some account of the leading men.
 8. Book-keeping.
- N.B.—The quality of the handwriting and the spelling in the several exercises throughout the examination to be taken into account.

PART II.

Papers also to be set in the following six subjects, and each candidate to be required to offer himself for examination in two subjects at least, of which Latin must be one, but no candidate to be examined in more than four.

1. Latin.—Translation of passages from *Cæsar's Commentaries de Bello Gallico* (Books I. & II.), or from *Virgil's Æneid* (I. & II.). Candidates to have liberty of choice between the two works.

2. Greek.—Translation of passages from *St. John's Gospel*, or from *Xenophon's Anabasis* (Book I.). Candidates to have liberty of choice between the two authors.

3. French.—Translation of passages from *Fénelon's Télémaque*: easy English sentences to be translated into French.

4. German.—Translation of passages from *Schiller's Revolt of the Netherlands*: easy English sentences to be translated into German.

Besides these translations in the several languages, the candidate to be required to answer questions on the grammar of each selected subject.

5. Mathematics.—Euclid, Books I. & II. Algebra, to simple equations, inclusive.

6. Physics.—The Elements of Natural Philosophy.

It will be observed that the examination here proposed is to be passed *before* entrance upon articles of clerkship, and is intended to satisfy the requirements of the statute in respect of "general knowledge" only; and so far we think that the committee has succeeded well in its task. The subjects proposed seem to us to be suitable for an entrance examination, and if any improvement can be made in this respect, no doubt a little experience will soon suggest it. But we are extremely glad to learn from the report that the committee has not hesitated to pronounce decidedly in favour of an entrance examination. The statute left that question quite open—the judges being, as we have seen, thereby empowered to fix the time of such examination in general knowledge *either* before or after admission to articles.

The 9th section of the Act provides for an examination in *legal* knowledge, pending articles; and in order to carry this into effect, the committee recommends—

That all persons under articles of clerkship executed after the passing of the Act on the 28th of August, 1860, shall be examined, either in the term next before or next after one-half of his term of service, in such elementary works of the laws of England as may be appointed by the examiners; and that the names of the books selected for examination in each year may be obtained from the Secretary of the Examiners in the month of the previous year.

That such intermediate examination shall be conducted in each term in the hall of the Incorporated Law Society, by the examiners appointed under the 6 & 7 Vict., c. 73, the orders of the Master of the Rolls of 13th January, 1844, and the rules of the Common Law Courts of Hilary Term, 1853, at such times as the examiners shall from time to time appoint.

The committee also suggests—

That in case the applicant should fail to pass such intermediate examination to the satisfaction of the examiners, he may attend the examination in the next or any subsequent term; but his examination at the expiration of the term of service under his articles shall be postponed for such length of time, or so many terms, as may intervene between his attempt to pass and his successfully passing such intermediate examination.

And that each person, on giving notice, shall pay a fee of 5s., and on receiving his certificate for such intermediate examination shall pay a fee of 15s.

We entirely agree with the committee in the suggestion that the intermediate examination should have express reference to, and, in fact, proceed upon, elementary text books; and would deprecate any attempt to anticipate the present too discursive and uncertain examination for admission into the profession. The report of the committee has intentionally not pronounced upon the exact period when such intermediate examination should take place—whether it should be before or after the expiration of one half of the term of service. Upon this point we venture to repeat a suggestion which we have already made in these columns. To our mind the best form of intermediate examination would be the professorial form, at least for those who attend lectures at the Law Institution. Every student who has attended two courses of lectures, in distinct departments of law, should

be at liberty to present himself at the conclusion, for examination by the lecturers in the subjects of the lectures; and such attendance ought, we think, to be previous to the last year of service, so that there might be some guarantee that the student had not unduly postponed his studies. Such a scheme would not impose any very heavy additional duty upon the lecturers, or much irksome labour upon those articled clerks who now attend at the Law Institution: while it would do much towards securing advantages of which it cannot be supposed that the most is now made. Some provision would, of course, have to be made for the examination of those who do not avail themselves of the lectures in the hall of the Law Society. For them there might be either a separate examination; or there appears to be no reason why they might not be allowed to present themselves for examination by the lecturers. If students who had not attended the lectures could pass the same test as those who had, they would not, perhaps, deserve less credit for so doing, but rather the contrary. What we desire to insist upon mainly is, that the intermediate examination should have distinct reference to a specific *curriculum*, or course of study, and as much as possible to particular text books; and if to those which constitute the subject of the lectures so much the better.

In reference to the question whether the intermediate examination should take place not only in London, but also in convenient central localities in the country, we agree with the committee in thinking "that there would be very great difficulty in conducting the examinations in different parts of the country, and in applying an uniform test of progress." The committee is of opinion that under proper regulations the expense or peril will not be appreciably greater of attending for two or three days in town than in any central locality in the country; but upon this subject we shall be glad to be favoured with the views of our provincial readers.

THE MARQUIS OF BUTE'S CASE.

The Court of Chancery in England, and the Court of Session in Scotland, are fiercely contesting which shall have the custody of the Marquis of Bute—a boy, we believe, about thirteen years of age, enjoying an income, it is said, of £100,000 a-year, derived from land in both countries. On the death of his father, the late marquis, in 1848, his mother was appointed guardian of his person by the Vice-Chancellor Knight Bruce. The marchioness died in the autumn of 1859. At this period the young marquis was residing in his own beautiful island of Bute. The Vice-Chancellor Stuart was applied to, and appointed Major-General Stuart and Lady Elizabeth Moore to succeed the marchioness in the guardianship. At first these two selected individuals proceeded most harmoniously. Lady Elizabeth brought the marquis to London to be delivered to her colleague, who was supposed the fittest to superintend and direct the education of the young nobleman. The major-general, it appears, intended to enter him forthwith at Eton. The Vice-Chancellor Stuart approved of this arrangement; but Lady Elizabeth Moore was of opinion that some preliminary training would be proper, as the boy was delicate and a little backward in his attainments. She had been a great friend of the late marchioness; and evidently had a very strong attachment to her charge. In these circumstances no other way occurred to her to save her own terrors and to comply, as she said, with the child's entreaties, but the obvious though bold course of starting with the marquis by a night train, and thus restoring him to the land of his birth, and as it appears of his affections. Here undoubtedly was a contempt of the Court of Chancery; a very great offence in the judgment of all at Lincoln's-inn—but perhaps a not very unnatural proceeding in the eyes of the world at

large. Once in Scotland, the marquis and Lady Elizabeth thought themselves safe. But the major-general pursued them. Foiled in his efforts to get back the child, the worthy soldier complained to the Vice-Chancellor Stuart, who, being himself a Caledonian, felt that he owed a double allegiance—to the laws of his dear native country on the one hand, and to the laws of England, which he had sworn to vindicate, on the other. Duty prevailed in the mind of this eminent magistrate; and we understand he has not failed in asserting and carrying to their full extent the principles on which his Court acts, in that important branch of its jurisdiction which embraces the care of those who cannot take care of themselves. In a word, the Vice-Chancellor discharged Lady Elizabeth Moore from the guardianship; ordered her to surrender the child to the major-general, who was continued in the guardianship; and finally directed that, if necessary, an application should be made to the courts in Scotland for assistance. Lady Elizabeth Moore refused to deliver up the child. The Court of Session was then applied to: but that Court demurred, stood on its own dignity, and doubted whether it was befitting that a supreme tribunal should "register the decree of a foreign jurisdiction" without "examining its propriety." A difficulty presented itself. The order of the Vice-Chancellor was not so authenticated as to make it necessary for a court of justice to second it without paying some attention to the circumstances of the case, and some regard also to the feelings of the young marquis. The Court of Session declined compliance with the major-general's application, the more decidedly because there was in Scotland a proper functionary duly authorized to protect the marquis's person, the "Tutor-at-law;" who had, in fact, been appointed to his office before the appointment of the English guardians, and when the pupil (so the Scotch lawyers term a boy under 14) was actually resident in Scotland. The result is that this young scion of a most ancient Scotch noble family (descended from Celtic kings) is still in Scotland. Leave has been granted to appeal to the House of Lords against the order of the Court of Session, and this appeal will soon be heard. The case of *Beattie v. Johnstone*, 10 Cl. & Finn. 42, comes very near the Bute case, and will, no doubt, influence the decision of the House of Lords in the pending appeal. Meanwhile we must content ourselves with thus noticing the issue raised, without entering upon the merits of any argument on either side.

THE DEED CLAUSES OF THE BANKRUPTCY BILL.

This Bill goes buoyantly through the troubled waters of committee. The Attorney-General is reaping the reward of the months of long-vacation labour, which, notwithstanding last year's Bill was a consolidation, and this year's is only an amendment, he informed the House that he had bestowed upon the present measure. But no amount even of the Attorney's skilful exertions in fitting the details together will avail to secure a practically successful result, unless all the main features of the new system be in harmony with the principle which has been its ground of introduction. This ground has been so well understood, and so fully recognised throughout the agitation for the reconstruction of the Bankruptcy Law, that it was scarcely necessary for the Attorney-General to tell his hearers, on moving for leave to bring in the Bill, that the principle on which he thought the law of insolvency should rest was this—that the moment a man becomes insolvent his estate belongs to his creditors, and that the creditors, as a body, should be consulted upon the mode of administering it and disposing of it. Under the old system a whole legion of officials were employed in destroying the very property which it was their sacred province and duty to respect; and this was one of the evils which it was the object of both the last and present

Bills to remove. The Attorney-General might have declared it to be the one object. The complaint is not that the bankruptcy law, as law, is badly administered, or works injustice either to the debtor or the creditor; but that in administering the law thirty-three per cent. is levied on estates for the purpose of paying compensations and supporting the expenses of the Court. Accordingly, the attempt which failed last session of throwing £20,000 a year of compensation on the Consolidated Fund has now been renewed with success against Sir H. Willoughby's opposition.

Such is one mode by which the 33 per cent. is to be lightened. But for reduction of the heavy percentage the main reliance is placed on the increased power to be given to the creditors' assignee and the creditors themselves, in administering the bankruptcy. If a majority in value at any meeting thinks that a proposal of the bankrupt should be accepted, or that no further proceedings should be taken, there is to be an adjournment; and, upon a resolution of three-fourths in value present at the adjourned meeting, the bankruptcy proceedings are to be suspended, and the estate is to be wound up as the majority shall direct. On the election of a creditors' assignee, the powers of the official assignee are to cease, and the estate is to be divested out of him, and vested in the other assignee; and the creditors at the meeting will be at liberty to appoint a manager of the estate, and determine upon his remuneration. The creditors' assignee is to realize the estate, and make the requisite payments into the bank, upon a resolution of three-fourths in value of the creditors at a meeting. He is to have a power of mortgaging and pledging the estate to pay debts owing by the bankrupt; and, after twelve months, he may sell the book debts and goodwill. Creditors will be enabled to prove by delivering, or sending by post, a statement of account to the creditors' assignee, accompanied with a declaration.

It will have struck the reader that, so far, the new system will in effect approach very nearly the state of things under a composition deed. And later in the Bill come, not unexpectedly, provisions from which the Attorney-General expects special advantage to the estate. He declared in the House that an evil of the present law is, that when once the creditors are within the walls of the court, they cannot escape until the estate is administered to the uttermost farthing. They are compelled to remain there until the whole is "ground down and administered." Accordingly, in the Bill, under a heading "As to change from bankruptcy to arrangement," are clauses by which, at the first meeting after adjudication, or any meeting called for the purpose, three-fourths in value of the creditors may resolve that the estate ought to be wound up under a composition deed, and that an application should be made to the Court to stay the bankruptcy proceedings. The registrar will report the resolution to the Court, which will have power to order accordingly, and to give directions for the interim management of the estate. During the stay of the proceedings, a deed of arrangement, signed by three-fourths in value of the creditors, will be produced in the Court, and the Court, after such a hearing and inquiry as may be necessary, will, if satisfied, direct the deed to be registered with the Chief Registrar, and, if he thinks fit, will annul the bankruptcy. The registered deed will bind all the creditors.

So far the Bill no doubt does give effect to the cardinal principle that the estate ought actually, as well as theoretically, to belong to the creditors, and, therefore, to be kept as much as possible out of the reach of the "pickers and stealers" of the legion of officials. As regards the above provisions, nothing, it is admitted, can have a more wholesome tendency. Not only would they allay the instinctive dread which creditors have of Basinghall-street and its branches, but they are also in accordance with the teaching of experience in the winding up of the estates of persons unable to meet

their engagements. Upon an examination of statistical details, in the year 1858, and for some years previously, it appears that the number of adjudications was to the number of composition deeds in a ratio of not more than one to seven. In 1858 the numbers were 660 and 8,000. This session the Attorney-General stated the proportion at 1,000 to about 10,000.

Now, inasmuch as any one creditor of a sufficient amount can drive an insolvent trader into the Court of Bankruptcy, the inevitable conclusion from these statistics is, that in at least six out of every seven cases no Bankruptcy Court or official tribunal beyond the ordinary law and equity courts is wanted at all. And when we consider how many estates, which some early circumstance in the bankruptcy forces into the court, would afterwards, if they could, come out from it to escape being "ground down and administered" there, we may fairly divide the whole number of insolvent cases into the relative numbers of one requiring official interference and nine that prefer to dispense with it. The object, therefore, of any system of administration of bankrupt estates, where the professed policy is to allow the creditors to manage the affair themselves, when they are able, ought to be to provide for the one-tenth and leave the nine-tenths free. Any interference with the nine-tenths, whether for the advantage of the one-tenth, or for the benefit of the nine-tenths, must from the nature of the case do a great deal more harm than good. Yet this Bill, when it has liberated the estate, on the execution of a composition deed, detains in the vestibule, as it were, of the court, the deed and all the persons concerned. The Court is still to have jurisdiction to entertain any application of the bankrupt, or of any party to the deed, or of any creditor or person claiming to be one, respecting the winding up of the estate, or the execution of the provisions of the deed, or the trustees' accounts, or the taxation of the costs or charges of any person employed under the deed, or generally for the decision of any question. And for these purposes the Court is to have the usual powers of summons and examination, and compelling production of books and documents. It is easy to foresee what will be the consequence of this facility of application to the court. There will be no more confidence or reliance placed in the trustees and their legal advisers than there will be responsibility felt by them. The deed instead of being regarded as a final arrangement to be worked out in its own strength, with mutual concession and forbearance, will be regarded by every disappointed, choleric, crochety, or self-interested creditor or agent as a technical introduction to a *locus standi* in the court. At present questions upon such a deed are litigated in the ordinary courts of law and equity, and doubtless, there is an occasional break down, and a heavy expense. But that such an event does not so often occur as to interfere generally with the efficacy of the arrangements made, is best proved by the great number of the cases in which such arrangements are adopted. Under the proposed system, the estate will certainly not be eaten up by any large mouthfuls; but will it not be gradually nibbled away? We are at a loss to conceive how the Attorney-General will justify these provisions for enabling the debtor or creditor or any other party involved to "pass over the boundary" (as the Attorney-General expressed it), which he has set for himself in assenting to the deed. Has it ever been heard that creditors who agree to settle their bankrupt's affairs out of court have raised or taken up the outcry against the bankruptcy law, as a law which injuriously excludes them from the jurisdiction and protection of the Court?

All, however, that has been said above, respecting change from bankruptcy to arrangement is trifling, when compared with what follows. Indeed, it might be plausibly argued that a matter once in the court ought ever after to be held with the official tether. Perhaps, too, the instances of such change are not very numerous.

The great intractation which this Bill makes of the principle of the proposed reform, and to which we would chiefly draw attention, is that the new bankruptcy Scylla will suck in the whole of the hitherto free 10,000 deeds of arrangement, apparently for no useful purpose in reality, unless to cast them up again—

"Vorat hæc raptas, revomitque carinas."

Under the trust deed clauses, every instrument between a debtor and his creditors or a trustee, relating to the debts or liabilities, and the debtor's release, and the distribution, winding up, and management of his estate, or any of such matters, must not only be left, with an affidavit of execution and a statement of the property and credits, at the chief registrar's office, for execution, and the particulars of the instrument be entered in a book, and the instrument itself be registered in the Court of Bankruptcy; but, after the registration, the instrument, and the debtor creditors and trustees will, in all matters relating to the estate and effects, be subject to the jurisdiction of the court, and be liable to all the provisions of the Act, in the same manner as if the debtor had been adjudged a bankrupt, and the creditors had proved, and the trustees had been appointed creditors' assignees under the bankruptcy. Further, the trustees and the creditors will, as between themselves, and as between themselves and the debtor, and against third persons, have the same powers, rights, and remedies as may be exercised by assignees or creditors with respect to the bankrupt or his estate in bankruptcy. Were these clauses expected to be worked according to their overt intent and meaning, the carrying out an arrangement by deed would be nothing more than a judicial bankruptcy administration under the general law, modified by and perhaps entangled with the self-imposed law of the provisions of the instrument. We will not do such injustice to the intellect of the Attorney-General as to suppose that he has committed the elaborate blunder of contemplating such a result. This is not a case of blunder, but of something else less abhorred in public affairs. The real motive for dragging trust deeds into the bankruptcy vortex is financial. The Bankruptcy Court, being itself almost bankrupt, is to be relieved in two ways—first, by the aid of the Consolidated Fund; secondly, by a tax on all insolvent estates—the last subject, one would think, capable of bearing the burden. Because it is necessary that in insolvencies where fraud, *mala fides*, or criminality is suspected, or where personal rancour or obstinacy becomes indomitable, or the magnitude of the crash is appalling, recourse should be had to a half-ruined court; therefore, to avert entire ruin, everything, however innocent, trustworthy, and facile, that has the odour of bankruptcy, must pay tribute to this court. For no instrument of arrangement is to be registered, or therefore to bind the creditors, unless, in addition to the ordinary stamp, it has a stamp computed according to the following rule—that is, £2 for an estate under £500; £5 under £2,000; £10 above £2,000. Taking the moderate average of £4, the revenue derivable to bolster up bankruptcy finance will be the nice total of £40,000 a year—no, not the total, for there will still be the official bone-picking, if any of the parties concerned are weak or wayward enough to call into play the new protecting jurisdiction.

We protest, then, against this dexterous attempt to raise out of the great majority of insolvencies, which require no official assistance, a fund to keep Basinghall-street in heart, while experiments are being tried upon its constitution for the benefit of the small minority. Not only will the proposed deed clauses of the Bill, in their administrative operation, be a flagrant breach of the sound principle of bankruptcy law, and of the avowed principle of the present measure, but in accomplishing their fiscal purpose, they will work a great injustice. The financial difficulty of the Bankruptcy Court must, if the present fees and other good things

are to be cut down, be met by the House of Commons in an honest spirit. We willingly acknowledge the Attorney-General's difficulty. He has various interests to conciliate. But nothing can justify him in promoting legislation that will bring transactions into her Majesty's Court of Bankruptcy for the purpose of swelling its income—legislation which, by its socialistic indulgence on the one hand, and its tyrannical coerciveness on the other, is no less debasing than oppressive to the subject.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

VII.

OF DOMICIL OF ORIGIN.

The chief difficulty which occurs in the divisions of the subject of domicil arises from the manner in which every part of it is mingled with the other; all that can, therefore, be done is, to make that portion of it under discussion the prominent feature, and all the others that necessarily arise in immediate connexion with it subservient and conducive only to illustrate and bring it forward. I look upon domicil of origin and birth to be identical, because no man's legal history can be carried back further than his birth; and the domicil of origin must be coeval with that period, for it is the first he has, and which he must have immediately upon his birth; for even if he happens to be born on ship-board, or on a journey, the moment he comes into existence, his father's domicil becomes his, but if his father be not then living that of his mother. Vide *Somerville v. Somerville*, 5 Ves. 750. The only real distinction is, as to the place of birth. *Reg. v. Sutton under Brailes*, 25 L. J. M. C. 57. An illegitimate child can, of course, have no father, legally speaking, and, therefore, cannot follow the domicil of its natural father; but as the mother is certain in spite of the rule, *hæres nemini* so far as his domicil of origin is concerned it would be the domicil of the mother.

The French law differs considerably from ours in this respect; for although a child may be born of a single woman, yet if she afterwards marries the natural father, it is possible to render it legitimate by certain forms to be gone through; for the law of France recognizes the possibility, or rather assumes the existence of an inchoate contract to marry the party at the time of conception. Supposing there be, then, no legal impediment to such marriage, and therefore, if the father or mother at that period be in such a condition that they cannot legally marry, the child then conceived cannot afterwards be legitimized.

It has been considered that a domicil of origin and birth may be distinct, but it is very difficult to explain wherein this distinction lies, and at all events, when events make it at last obligatory to refer to the first domicil, it matters very little what we denominate it, whether we call it domicil of origin, or domicil of birth. *Patris originem unusquisque sequitur*. Cod. lit. 10; tit. 31; l. 36. Code Civile, Art. 76.

With respect to the question of legitimacy, domicil is a very important matter in the case of individuals who acquire property in a country not that of their birth, and die intestate and unmarried seised of such property. Thus the laws of France and of Scotland legitimize individuals not born in lawful wedlock, who, according to our acceptation of the term, would be bastards or illegitimate. In the first case this is done by means of certain "acts," as they are called, and in the second by the mere fact of the parents subsequently marrying: According to the laws of these two countries, an *ante natus* is to all intents, and for all purposes rendered legitimate, and amongst the rest, of course, in

relation to the title to property, either purchased by him, or coming from him, and is in fact on the same footing as *pos' nati*, if there be any. Nay more, the laws of this country recognise the legitimacy of an *ante natus*, and he is indeed regarded as legitimate all over the world, personally, although the laws in force in England as to the transmission of real estate remain in force as much against him as against any other person born in England of English parents not in lawful wedlock. This is one of the great causes of incapacity to inherit, and no statute which has at present passed has, that I am aware of, in the least altered the general law upon the subject. Thus when a party is designated as "heir," "issue," "ancestor," or any other relation, it must be taken, I apprehend, to mean according to the law of England.

A recent case upon this subject *In re Don's Estate*, 5 W. R. 836, fully illustrates this. David Don, a bachelor and a native of and domiciled in Scotland, cohabited with Elizabeth Hogg, a spinster, and also a native of and domiciled in Scotland; and a son was born of that connexion. In the course of the next year, the parents married, whereby, according to the law of Scotland, the son, who was named David Don, was rendered legitimate. Years rolled on, and David Don the younger, having come to man's estate, left Scotland, and settled in England at Newcastle-upon-Tyne, where he purchased real estate, being land with erections upon it, and part of a street in the town, and, being so possessed, and for aught that appeared to the contrary domiciled in England, died intestate and unmarried. David Don the elder, upon the assumption that David Don the younger was his legitimate son, not only according to the law of Scotland but also of England, entered into and possessed such real estate, and continued in possession until the Corporation of Newcastle-upon-Tyne, under the powers of an Act for the improvement of the town, took the land compulsorily. Upon the investigation of the title the dates of birth and marriage of course disclosed the true state of affairs, and the important fact came out that David Don the younger was legitimized only, and, therefore, according both to the Scotch and English law, not, previously to the marriage of his parents, legitimate, although rendered so by the law of Scotland, and so far a domiciled Scotchman until he was capable of gaining a domicil of election. The only mode in which David Don the elder could make out his claim was under the modern English law of inheritance, whereby the father is heir to the son, on the ascending principle; and therefore his title rested on the ground that David Don the younger was his "issue;" but the title being thus considered very questionable, the Corporation of Newcastle paid the purchase-money into court under the provisions of the Lands Clauses Consolidation Act, and upon the usual petition by the landowner for payment out of court, (in this instance David Don the elder being petitioner) the question was fully discussed. On his behalf it was admitted that he had no title except under the Inheritance Act, 6 & 7 Wm. 4, c. 108, s. 6, but that inasmuch as that Act spoke generally of the "lineal ancestor inheriting from his issue," which David Don the younger undoubtedly was, being recognised as legitimate both by this country and by the law of Scotland, whether he was a domiciled Scotchman or not, it followed that David Don the elder could make a good title to the land. On the other hand, it was contended on behalf of the Crown, that the term "issue" meant "issue capable of inheriting according to law," and that therefore, David Don the elder could not be heir to David Don the younger, because although recognised as legitimate for general purposes, he was not so legitimate as that any one could inherit land from him, except his own issue. After a lengthened argument, and judgment reserved, Vice-Chancellor Kindersley, before whom the petition was heard, decided that the petitioner was not entitled to the money representing the land. This

learned judge, distinguished alike for the untiring patience as well as for the sound discretion which he extends to every point brought for his decision, entered most elaborately into the consideration of the analogy of the English and Scotch law, and held that, although beyond all doubt in Scotland, an *anti natus*, born of parents domiciled in Scotland, was rendered by the subsequent marriage of those parents legitimate not only in Scotland but all over the world, still he was legitimate only as to his personal *status*, and not recognised as capable of inheriting real estate in England, nor, as a necessary consequence, could the converse right of land being inherited from him hold good. This was his Honour's view of the question, irrespective of the Inheritance Act, and he was further of opinion that, under that statute the rights were not altered; and the word "issue" meant "issue capable of inheriting according to law." The domicile of all parties was assumed to be in Scotland, and it was not necessary to consider the questions that might have arisen had the domicils been different, and hence the fact of David Don the younger having acquired an English domicile (if he did so) was not discussed. The case was a perfectly new one, and, as might be supposed, every possible authority was brought to bear that could be discovered, into many of which the question of domicile largely entered, and, *inter alia*, an old brief and proceedings in a suit of *Read v. Keith* were produced which had been before his Honour when master, the present production of which caused him (as he said) considerable embarrassment. In that case, a Scotchman had emigrated to America, cohabited with a woman, by whom he had two daughters, and afterwards married her, possessed some 200 acres of land in America, where he acquired a domicile, and died there intestate. The land was claimed by the daughters as legitimized by the subsequent act of marriage; and the question being raised before the master, he had thought them entitled to the land, upon the ground that they were rendered legitimate according to the Scotch law by their parents' subsequent marriage. It did not appear that that decision had ever been called in question, and therefore, certainly, so far, it was an authority. In referring to the production of this case, his Honour said that considering it was the mere decision of a master, (more particularly when it was considered that that master was himself,) he had no hesitation in declaring that it was a wrong decision, and the circumstance of the case did not vary the principle upon which all such cases must go, namely the *lex loci rei sita*.

(To be Continued).

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

SECOND COURT.

(Sittings at Nisi Prius, at Guildhall, before Mr. Justice BLACKBURN and Special Juries.)

Feb. 26.—Special Jurors.—As soon as the judge took his seat there was a general clamour made by the special jury who had been summoned in the case of *Peyton v. Barendale*, which had been second in the list for this court on the previous day. They said they went away yesterday under the expectation that this case would have been first in the list for this court this morning, but upon coming here they found that another case was put before it; they had been in attendance several days, and it was a very great grievance that gentlemen should be brought from their homes or their business in this manner.

The JUDGE said he was very sorry for them. He had not anything to do with making out the lists, but he had no doubt there were very good reasons for the list being made out as it was. He must take the list as he found it.

The special jurors having again complained,

The JUDGE said it was matter entirely for the Legislature; the Jury Acts might be remodelled. If the special jurors would cause their grievance, if they knew what it was, to be laid before the Legislature, every one connected with the law would be pleased if they could have a remedy.

COURT OF PROBATE.

Feb. 26.—At the sitting of this court Mr. Coleridge, upon his lordship's invitation, took his seat within the bar as one of her Majesty's counsel.

SPRING ASSIZES—NORTHERN CIRCUIT.

CARLISLE.

The commission was opened in this town on the 21st ult.

NEWCASTLE.

Mr. Justice Hill and Mr. Justice Keating opened the commission in this town on the 27th ult.

HOME CIRCUIT.

HERTFORD.

The commission for this county was opened on the 28th ult. by Mr. Justice Wightman.

MIDLAND CIRCUIT.

OAKHAM.

Mr. Justice Crompton arrived in this town on the 26th ult. and opened the commission. There were only two criminal cases for trial, and there was no business on the civil side; and the Court rose about 12 o'clock on the 27th.

CENTRAL CRIMINAL COURT.

Feb. 24.—The February session of the above court commenced to-day before the Right Hon. W. Cubitt, M.P., Lord Mayor of the city of London; Mr. Russell Gurney, Q.C., the recorder; Alderman Sir F. G. Moon, Alderman Finnis, Alderman Challis, and Alderman Rose; Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Luak, and Mr. Under-Sheriff Eagleton.

The number of cases for trial were very large.

Mr. George Augustus Bragg, of Moretonhampstead, Devon, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Mr. Zachariah Mellor, of Rochdale, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Thomas Wheeler, of the Middle Temple, LL.D., has been called to the degree of a serjeant-at-law.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, Feb. 25.

CHANCERY LUNATICS.

The LORD CHANCELLOR laid on the table a Bill for the better management of lunatics under the care of the Court of Chancery. The first object of the Bill was to facilitate the disposal of the property of lunatics, and to lessen the expense attaching to the operation, which was at present considerable. Again, a lunatic had now the right of claiming a second inquisition, and the result was that he was often made the tool of persons whose object was only to multiply costs. The Bill proposed that, after the first inquisition, it should be in the discretion of the Court to grant a second inquiry.

Thursday, Feb. 28.

STATUTE LAW REVISION BILL.

This Bill was read a second time.

HOUSE OF COMMONS.

Monday, Feb. 25.

TRADING COMPANIES.

Mr. MURRAY asked the Attorney-General whether it was the intention of the Government to introduce the Bill brought from the House of Lords last session, for the incorporation, regulation, and winding up of trading companies and other associations; and whether he did not think it would be advantageous to the House to discuss it in connexion with the Bill for Amending the Law of Bankruptcy and Insolvency.

The ATTORNEY-GENERAL said he regretted very much that the Bill had not been laid on the table of the House. His right hon. friend the President of the Board of Trade was very unwilling to trust it out of his own hands, but he had no doubt that he would very shortly bring it forward.

BANKRUPTCY.

This Bill was again proceeded with, the House having reached as far as the 19th clause. Most of the clauses were agreed to with but slight amendment.

The Bill will be considered again on Monday next.

Tuesday, Feb. 26.

RECOVERY OF DEBTS.

Mr. HODGKINSON moved for leave to bring in a Bill to prevent frivolous and fictitious defences to actions for recovery of debts. The Bill was founded in some measure on the Bills of Exchange Act of 1855. He did not propose to proceed the full length of that Act, which required that a debtor should go before a judge and satisfy him that he had good ground of defence. He proposed that every debtor should be allowed to enter an appearance, provided he made an affidavit that he had a good defence to the action or some part of it.

Mr. HADFIELD seconded the motion.

The SOLICITOR-GENERAL did not oppose the introduction of the measure, but he said the procedure recommended was identical with or analogous to the procedure on bills of exchange. He thought that in practice considerable difficulties would be found in the application of the proposed improvement. He agreed in the object of the Bill and should be glad to see it carried out in a manner that would be free from objection.

Mr. MCMAHON opposed the Bill.

Leave was given to introduce the Bill.

Wednesday, Feb. 27.

LAW OF FOREIGN COUNTRIES.

This Bill passed through committee.

LAW COSTS.

Mr. DIGBY SEYMOUR obtained leave to bring in a Bill to consolidate and amend the law relating to costs in actions in the Superior Courts of Common Law.

The Bill was read a first time.

CONSTRUCTIVE NOTICE.

On the motion of Mr. Walpole this Bill brought down from the Lords was read a first time.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

Mr. WALPOLE moved the first reading of this Bill, which has passed the House of Lords.

Agreed to.

Friday, March 1.

COURT OF CHANCERY.

Mr. DISRAELI asked a question relative to the Royal commission recently appointed to inquire into the custody and management of the funds of the Court of Chancery. Adverting to the gentlemen who composed the commission, he remarked that if it were not for the name of Lord Kingsdown, the commission must be looked upon with unmodified apprehension.

The CHANCELLOR OF THE EXCHEQUER said the commission had been appointed with a view of giving the best security to suitors and to the public.

PENDING MEASURES OF LEGISLATION.

A BILL TO AFFORD FACILITIES FOR THE BETTER ASCERTAINMENT OF THE LAW OF FOREIGN COUNTRIES WHEN PLEADED IN COURTS WITHIN HER MAJESTY'S DOMINIONS.

This Bill provides that courts within her Majesty's dominions may remit a case, with queries, to a court of any foreign state with which her Majesty may have made a convention for that purpose, for ascertainment of law of such state.

And that the court in which such action depends is to apply such opinion.

And that courts in her Majesty's dominions may pronounce opinion on case remitted by a foreign court.

A BILL INTITULED AN ACT TO AMEND THE LAW REGARDING CONSTRUCTIVE NOTICE TO PURCHASERS AND MORTGAGEES.

It is proposed by this Bill to enact that no purchaser for valuable consideration or mortgagee shall be bound by any implied or constructive notice of any charge, or of any other act, matter, or thing, affecting the title to the property purchased or taken in mortgage, unless the Court shall be of opinion that the conduct of such purchaser or mortgagee amounted to fraud.

Recent Decisions.

EQUITY.

RECTIFICATION OF SETTLEMENTS.

Thompson v. Whitmore, V. C. W., 9 W. R. 297; *Elwes v. Elwes*, V. C. S., 9 W. R. 307.

The principles of equity which regulate this subject are few and simple; but the circumstances which control their application are generally intricate. Difficulties arise from what are supposed, or are maintained to be, imperfect expressions of intention; or from the absence of all definition of obligations which were understood, or are alleged to have been understood, to exist between members of a family. Evidence, also, is often scanty, after a period of years has elapsed during which the deed was unimpeached. The results of two recent suits for rectification may be worthy of attention, in both of which the Court refused its aid to the complaining parties. In the former instance, the property, which was personal and came from the wife's family, was settled upon trusts of an ordinary character for the wife for life, and for the children and husband. But the settlement contained this proviso; that "in case there should be no child of the marriage, or being such, all should die under twenty-one and unmarried in the lifetime of the wife, then, if the husband should survive the wife, the trustees should stand possessed of the sum of £4,000, in trust for the wife's brother." It happened that all the children died under twenty-one years and unmarried, but some survived the mother. She died in the husband's lifetime, and he took out administration to her estate. The wife's brother asked the Court to rectify the settlement by striking out the words italicised above, on the ground of mistake. He contended that it was the original intention of the parties, that the trusts should take effect in the event of the death of the children unmarried, either in the wife's lifetime or not. The husband opposed this claim. The Vice-Chancellor in giving judgment, ruled two preliminary points, first, that the wife's brother, though merely a volunteer under the deed, was not thereby precluded from obtaining relief; and secondly, on the evidence, that there had been a clear mistake on the part of the wife. But the actual contest lay between the brother-in-law and the husband, and the evidence seemed favourable to the case of the latter. It appeared that before the execution of the deed, which took place in 1838, the husband objected to the provision in favour of the lady's brother, but, as he was anxious to complete the marriage, he ultimately withdrew his objection. Then, when it turned out that the provision inserted in the deed was not so satisfactory to the brother-in-law as he afterwards wished it had been, and was therefore less unfavourable to the husband than was at first contemplated, there could not be said to have been such a mutual error between the two parties as the Court could rectify. The wife undoubtedly was mistaken; but the mistake was rather favourable than contrary to the husband's intention.

In the latter of the two cases, the general outline of the facts

was as follows:—By the plaintiff's marriage settlement in 1826, an estate in tail general was limited to the plaintiff, subject to his father's and his own life estates, and after estates in tail male had been limited to the first and other sons of the plaintiff. The plaintiff afterwards became involved in money difficulties, and applied to his father for assistance. The father assented to the request on the terms that the estates should be limited in the male line exclusively. The plaintiff objected to the entire exclusion of his daughters, and in 1842, the plaintiff's estate tail general was barred (subject to the preceding estates), and a re-settlement made to such uses as the father and son should jointly appoint; and subject thereto to the plaintiff's first and other sons in tail general, with remainder to his first and other daughters in tail general. The plaintiff had only one son, Valentine, who was supposed to be in delicate health; and four daughters. The father's wish to preserve the estates in the male line continued, and in 1846, a deed of joint appointment was executed by father and son, whereby the daughters' estate tail was barred, and a term of 1,500 years was created for raising £100,000 for their portions, in the case of the death of Valentine and every other son of the plaintiff without issue male. This term of years was the subject of the suit. Ten years afterwards, in 1856, the plaintiff's only son Valentine wished to marry; the grandfather having in the meantime died. On this occasion, after much negotiation, a settlement was prepared, whereby the estate tail of Valentine was barred, the term of £1,500 years was destroyed, and the estates were re-settled. Neither the disentailing deed nor the re-settlement made any express mention of the term of years. The plaintiff filed the bill to have this term for the benefit of his daughters restored to the settlement. The decision necessarily turned upon the evidence. It appeared that £100,000 was nearly one-third of the estimated value of the estates. But, what is more remarkable was, that, during the negotiations of 1856, which were carried on behalf of the plaintiff's son, Valentine, by a clergyman, an intelligent man and friend to the family, in whom all had confidence, not one word from first to last was expressed with reference to the term. It seems to have been wholly overlooked. The son, Valentine, long before 1856, was aware of the existence of the charge, but was never asked to keep it in existence. Under these circumstances the Vice-Chancellor very pertinently observed that what was really sought was, "to rectify the oversight of not making any agreement at all on the point in question. No settlement," he added, "has ever been altered or reformed on the ground that a stipulation which was wished or intended by one of the contracting parties, but never agreed to, or even mentioned or brought to the attention of the other contracting parties, has been omitted." From these two cases it may be gathered that want of mutuality in the alleged error, or the omission from the agreement of all mention of the term sought to be supplied, are fatal objections to the case of a plaintiff who seeks to have a settlement rectified.

INTEREST ON ARREARS OF AN ANNUITY.

Booth v. Coulton, V. C. S., 9 W. R. 330.

An application was made to the Court in this case that interest might be allowed on the arrears of annuities, which were given by a testator, by will, to his son, his daughter, and to a stranger. No special case of misconduct or negligence was alleged. The argument advanced was that, under the old law there existed, and that there still exists, a distinction between an annuity given by will, and an annuity granted under contract. The former was argued to be, in principle, a legacy; and upon the arrears of legacies the Court has always allowed interest. The annuity granted for value, on the other hand, was said to be analogous to a debt, and by a rule of the Court was generally treated in the same way as a debt not carrying interest. In favour of the claim, the old case of *Litton v. Litton*, before L. C. Parker, in 1719, 1 P. Wms. 541, was mainly relied upon. The Court, however, would not admit the distinction as existing at the present day. The cases of *Aylmer v. Aylmer*, 1 Moll. 87, and *Torre v. Brown*, 5 Ho. of Lds. Ca. 555, were considered to be conclusive of the proposition that, except under extraordinary circumstances, in the case of a voluntary annuity given by will, interest will not be allowed on the arrears. It is still, however, a remarkable circumstance that the question has never been argued or decided upon the simple question whether, in the distribution of assets as between legatees and annuitants, interest should be allowed to the latter; and the position of annuitants, in respect to this question seems to be so similar to that of legatees, that it is

not easy to account for the strong current of authority that has made the law what it is.

REAL PROPERTY AND CONVEYANCING.

CHARGE OF DEBTS—DIRECTION TO PAY DEBTS—IMPLIED POWER OF SALE.

Cook v. Dawson, M. R., 9 W. R. 305.

We are indebted to a correspondent for pointing out, that a portion of our remarks on this case *ante*, p. 298, is founded on what turns out to be an erroneous view of the Master of the Rolls' observations in the course of his judgment. The passage is "This rule is liable to another exception; where a will contains a devise of land to the executors, then the direction that the debts are to be paid by the executor does not affect the validity of the general charge of debts on his real estate." Whose real estate? Taking the sentence with the context, we were led to suppose that of the testator. Our correspondent points out, what, indeed, the grammatical construction of the sentence alone warrants, that the antecedent to "his," is not the testator, but the executor. It follows that all supposed discrepancy between the Master of the Rolls' judgment and the decision in *Harris v. Watkins* is removed. The reasoning of the learned judge is also found to be such as leads naturally to the conclusion in *Cook v. Dawson*, as well as to be in accordance with previous authority.

COMMON LAW.

COMMON LAW PROCEDURE ACT, 1832, s. 18—ACTION AGAINST BRITISH SUBJECT OUT OF THE JURISDICTION OF THE COURTS.

Bates v. Bates, 9 W. R., C. P., 261.

In a recent number* notice was taken of this case and of the practice under the Common Law Procedure Act, 1832, in actions taken against British subjects out of the jurisdiction. It now appears that the proceedings in that particular action have been stayed by a judge's order—obtained on what grounds the report of the fact does not enable us to state. But we are not sorry to have thus an opportunity of saying a few words more upon the power which under this Act exists, of obtaining against a defendant out of the jurisdiction, a judgment and execution which will operate upon his landed or other property in this country: as the extent of the efficacy of these proceedings acquires considerable importance in reference to the Bankruptcy Bill now passing through Parliament. In a most able and instructive letter† upon this measure, recently addressed to Sir Richard Bethell, by Mr. B. Hoskyns Abrahall, one of the registrars of the Court of Bankruptcy,—which abounds with intelligent suggestions clothed in lively and classical language far from common in disquisitions of this nature—it is asserted that no means at present exist by which the property in this country of a defendant residing abroad, can be reached through the agency of the law. The fact is otherwise in theory, at least, as is exemplified in this very case of *Bates v. Bates*; but there is little doubt that proceedings against such defendants are seldom instituted; and that, if commenced, they are still less frequently carried to a successful termination. That this is so Mr. Abrahall's statement is itself strong evidence; for taken merely as the opinion of an expert in bankruptcy, it shows conclusively that the power thus recently conferred upon the common law machine, has not yet practically added an additional weapon in defence of commercial interests. It may also be remarked that in the recent debate on the second reading of the Bill, the existence of this mode of proceeding was noticed and urged as an argument against the necessity for any change; but the Attorney-General justified his proposal to subject non-traders to the liability to become bankrupts, on the ground that under the present law, though it was true that if debtors were themselves away from England, their property here might be made available towards the satisfaction of the debt of any creditor or creditors who obtained a judgment,—it was more just, and for every reason more satisfactory, that a creditor's chance of payment should not depend upon his own individual exertions and haste in suing his debtor; but that a judgment obtained against the debtor should benefit all the creditors rateably, as would be the case under the new law.

* *Vide sup.* p. 261.

† Stevens & Son. 1861.

Correspondence.

MOSE'S CASE.

SIR,—We cannot corroborate the statement in the plaintiff's solicitor's letter to you that he applied for a sight of our clients' title deeds previous to his filing the bill in *Bailey v. Lamb*; and we subjoin a copy of the correspondence which took place between his firm and ourselves on the subject, and which is also set out in our clients' answer in the suit. The first mention of the deeds was our spontaneous offer to produce them, and the plaintiff's solicitor in no way sought their production.

If any such statement in the Rolls Court respecting the deeds as that mentioned in the plaintiff's solicitor's letter was made it was not made within the hearing either of ourselves or our counsel, and his letter in your Journal is the first information of it which has reached us; and it is, perhaps, scarcely necessary to add that, in the then stage of the suit, nearly all the expenses of it had been incurred, and the substance of the deeds had then been set out in our client's answer.

The excuses in the plaintiff's solicitor's letter in no way modify our clients' views of the vexatious character of the suit as regards themselves. Probably they were not intended to do so, but merely to endeavour to exculpate the plaintiff's solicitors themselves from any supposed breach of their own duty towards their unfortunate client, the deceased plaintiff. Our clients still feel that a grievous wrong has been inflicted on them in the recent renewal of litigation respecting a property which they had previously satisfied Mose's former advisers (by production of the title deeds) to have been *bona fide* and absolutely our clients' own, and although they were aware the case was still hawked about to a certain class of the profession, they had reposed in the assurance that no solicitor who had notice of the result of the previous production of the deeds would have been found ready to renew the hopeless litigation.

The claimant's story was on the face of it fabulous, and the plaintiff's solicitor himself in his letter to you states that there was "an absence of evidence;" and, so far as the facts had been ascertained, the case was utterly negatived, for in the answer of the Rev. William Jay to the first suit, in which he was interrogated as to Mose's parentage and history, and as to the supposed fact of his having been sent by our clients' ancestors to Mr. Jay for the purpose of being brought up in ignorance of his relations and property, Mr. Jay denied, on oath, having ever known anything of our clients' ancestors, or heard of their existence until informed by Mose's bill, and stated explicitly who and what Mose really was; yet in the new bill the old story and surmises are repeated, and the actual facts as disclosed by Mr. Jay, ignored. Again, one of our clients was charged in the old bill with being the sole devisee and legatee of a person who was alleged to have become possessed of a portion of Mose's supposed property. The fact was that such person gave his property to his wife and seven children, yet in the new bill the same unfounded allegation was repeated, although the will was proved at Doctors' Commons, and open to every one's inspection.

Our clients were put too to the expense of exceptions to their answer, upon trivial points, after their answer had set forth the substance of their title deeds and shown that the plaintiff's claim was utterly unfounded. The allegations of fraud were of such a serious nature, and at the same time our clients' title so absolutely clear and free from all suspicion, that it was unfortunately impossible for them to compromise or listen to terms; and they were left no alternative but to enter at a heavy expense upon the defence of the suit; and so decided were they as to the course which it was their duty to pursue that, although the plaintiff's solicitors proposed a compromise at £1,000, we were obliged to tell them that our clients would not give even 20s.

We are, Sir, yours very obediently,
SUDLOW, TORR, & Co.

Bedford-row,
28th February, 1861.

"38, Bedford Row, W.C. London.
"25th November, 1859.

"Mose v. Lamb.

"Dear Sirs,—Since Mose's bill was dismissed we have produced to two gentlemen who interested themselves and applied to us on his behalf, the documents in our clients' possession to satisfy them that his claim was really without foundation. They were Mr. Macaulay, M.P. and Messrs. Hodgson and

Burton, to whom we would suggest your applying before you allow any more of this misguided man's money to be wasted in useless litigation.

"We enclose for your perusal extracts from our letters to our clients communicating the result of the above-named gentlemen's investigations, the bearing of which we have no doubt you will find fully borne out by the gentlemen themselves if you will apply to them.

"We beg further to add that if you are not satisfied with these gentlemen's assurances we have our clients' permission again to produce their deeds to any competent disinterested third person whom we may mutually agree on to say whether there is any foundation whatever for your clients' supposed claim.

"We are, dear Sirs, yours truly,
"SUDLOW TORR, & Co.

"Messrs. Grane and Fesenmeyer."

"23 Bedford Row, 26th November, 1859.

"Dear Sirs,—Mose v. Lamb—We have gone very carefully through the pleadings in the old suit and are of opinion that if the facts therein stated are true, the plaintiff has a good case. We have also had a very rigid conference with him as to the evidence in support of his claim and see no ground for doubt. We do not see how any one unacquainted with the details of this most singular case can on inspection of your clients' title deeds found correct opinions as to whether or not his uncle and those claiming under him possessed themselves of property which belonged to the testator under whom our client claims as heir-at-law. We thank you for the offer of inspection, but for the reasons above stated we feel convinced that no third party can do justice to the case.

"We are, dear Sirs, yours truly,
"GRANE SON & FESENMAYER.

"Messrs. Sudlow Torr & Co. Solicitors,
"38 Bedford Row."

"38, Bedford Row, W.C. London, 28th Nov. 1859.

"Dear Sirs,—Mose v. Lamb.—We think you misunderstand the point with reference to the production of the deeds. Your client alleged that some of the property at Reading possessed by the late Mr. Lamb was the property of your clients' grandfather. An inspection of the deeds would satisfy anyone that it never did belong to such grandfather and that Mr. Lamb acquired it by purchase.

"Our object was partly to save you trouble and from being the instruments of wasting any more of the poor man's money after six previous solicitors had thought fit in turn to throw up the case.

"We are, dear Sirs, yours truly,
"SUDLOW TORR & Co.

"Messrs. Grane & Fesenmeyer."

PROFESSIONAL REMUNERATION IN THE UNITED STATES.

We have been favoured with the following extract from a letter recently received by a gentleman well known to the profession in this country from Theophilus Parsons, LL.D., Dane Professor of Cambridge University in the United States.

Cambridge, U.S., A., Feb. 5, 1861.

My dear Sir,—I have read with much interest the documents I received from you a few days since. Our practice, on the points discussed, is so entirely different from yours, that I doubt my ability to understand accurately the questions now in agitation in the profession, or the reason by which these questions must be determined. Nor have I had, for many years, much experience in matters of this kind. In 1848 I accepted the professorship I now hold, and its onerous duties took me at once from the practice of my profession, and I have never resumed.

It seems to me, however, certain that your endeavours tend to some results, which are of much importance, and, perhaps, of equal importance to solicitor and client. One is, that the remuneration for services rendered shall be so definite and ascertainable, that a man may know, within reasonable limits, how much the law expenses of a transaction will add to its cost. Another is, that this remuneration may approach in all cases, the true measure of adequate and proportionate compensation, and, therefore, be just to all parties. Another that it may be determined by rules and principles to such an extent, that the greedy and unscrupulous may not easily victimise their clients, nor the modest and cautious go without

fair play. And yet another, that these rules and principles shall not so operate, as to induce solicitors to make a transaction intricate, and in all its steps protracted, that it may be profitable for them. In this country we lawyers have very little difficulty in matters of this kind. The reasons are,—

First, the universal prevalence of the *quantum meruit* principle;

Secondly, the absence of all stringent rules; for this permits usages on these points to grow out of and depend upon mutual and satisfactory arrangement;

Thirdly, the far greater simplicity of our method of conveyance and trust; and

Fourthly, the fact that a vast proportion of the business done in England by solicitors is here wholly outside of the profession; being in the hands of bankers, brokers, land agents, loan agents, or trust institutions. And all of these quite uniformly charge a per centage on the funds in their hands.

Almost all bargains pass through the hands of parties of this kind; and come to lawyers only when the terms are concluded, and the title is to be investigated, or the authority of agents ascertained, and instruments of conveyance or trust to be drawn.

As to the per centage,—that charged by temporary trustees, as executors or administrators for example, whose duty it is to collect and distribute funds, and so terminate their trust, is usually from 2 to 5 per cent. on the capital, and varies according to amount, and circumstances of greater or less trouble or difficulty, or responsibility.

Permanent trustees, who invest and hold funds, and apply the income annually as the trust directs, usually charge about 5 per cent. on the income (estimating a fair amount on the unproductive part of the funds), and this income with us in New England may be put at about 6 per cent., which is, in the New England States, the legal rate of interest.

All charges of this kind, as indeed the whole matter of trusts, is within the powers of our courts of probate, or our equity courts, or common law courts having equity powers. They would probably not interfere of their own mere motion, unless in cases of unquestionable wrong. But our statutory provisions and usages make it very easy for any one who was injured or endangered by a trustee, to obtain a remedy, or a prevention, and usually in a cheap and summary way.

Thus, the principal trust I now hold, is of an estate left some years ago in trust for educational purposes. It amounts to rather more than 600,000 dollars, (£120,000.) The salaries paid to five trustees amount to only 2,100 dollars (£420); of which two-thirds are paid to the managing trustee, who is not a lawyer.

For some years we have been endeavouring to simplify and improve our practice. In some of the States, as in New York, the change is entire; not only special pleading, but all distinction between equity and law being abolished. In Massachusetts, the changes are important, but not so great; and in some of the States the old system remains unaltered.

COPYHOLDS.—PRIVILEGES OF STEWARDS.

A few weeks ago* a correspondent of the *Solicitors' Journal* made the inquiry whether, in cases where powers of attorney to surrender copyholds are used, it is the province of the steward of the manor to prepare them, or of the solicitor to the vendors. I have, as solicitor to the vendors, under similar circumstances, at the present time, a contention with the stewards of a manor upon the very point, and I shall be glad if any of your correspondents can refer me to any authority upon the question. The practice appears to vary exceedingly in different courts.—I am, yours obediently,

Birmingham, Feb. 28, 1861.

C. T. S.

THE BANKRUPTCY BILL.

Can anything be done to prevent the frequent habit of the commissioners to sit in private in some room one can never find? And could one or two of those very elderly gentlemen find out that it is pretty nearly time they retired? I hope the Bill will deal with these matters.

J. J. A.

* See ante, p. 263.

JURIDICAL SOCIETY.

At a meeting of the Juridical Society held on the 4th inst. the Hon. GEORGE DENMAN, M.P., read a paper on the question:—"Is the Government of the United States of America entitled under the Ashburton Treaty to claim the extradition of the fugitive Anderson?" The early part of it was devoted to an elaborate discussion of the point, whether, independent of treaty, a right to claim the extradition of criminals exists by the law of nations, which, after a full examination of the authorities, Mr. Denman resolved in the negative. After premising that all extradition treaties should be construed strictly, Mr. Denman next proceeded to contend that the effect of the proviso in the Ashburton treaty is, that the question, whether a party is liable to extradition, depends on whether the act he did is a crime by the law of the country where he is found. In the present instance the party was found in Canada; and as by the law of that country slavery cannot exist there, and the offence with which he was charged is dependent altogether on the institution of slavery, no claim for his extradition could be maintained. This construction he considered fortified by the 7 & 8 Vict. c. 76; 8 & 9 Vict. c. 120; and the Canadian Extradition Act, 22 Vict. c. 89.

Mr. COLLIER said that extradition treaties were intended solely to meet the case of persons who offended against the law of nature and of nations.

Mr. FITZJAMES STEPHEN considered that the claim to extradition in this case was well founded, so far as the treaty and statute were concerned, but did not therefore conclude that Anderson ought to be surrendered. The nation should take upon itself the responsibility of saying to America that it had made an unrighteous contract which it could not carry out, and not expect the law-courts to relieve it from the consequences of its error by perverting sound principles of interpretation.

Mr. W. M. BENT was of opinion that the word "murder" in the treaty must be construed according to the meaning of that word in, and the general principles of, international law. He referred to the rules for the interpretation of treaties, &c., laid down by Grotius (book 2, c. 16), and adopted by Wheaton (*International Law*, 355, 6th ed.) and other writers.

On opening the adjourned discussion on the 18th instant,

Mr. WESTLAKE, observed that, though the question arose on a statute, it was in fact a treaty which had to be interpreted. When a statute recited a treaty-stipulation in its preamble, proceeded to enact provisions expressly for carrying it into effect, and finished by limiting its own duration to that of the clause of the treaty in question, it was plain that Parliament meant what the negotiators and contracting parties meant. It was therefore necessary to disembarass the mind of all narrow methods of construction, such as are sometimes applied to statutes, and to remember that a treaty was a contract between parties who had in their view the established principles of international law, and who were subject to no technical rules, restricting the sources of interpretation from which light might be thrown on the import of the words they used. If, then, a principle of international law could be found which forbade the extradition of Anderson, and one too so well known that the high contracting powers could not be imagined not to have had it present to their minds, it was not necessary to show that that principle was expressly referred to in the treaty or statutes, it was enough that it was not expressly abandoned. Such a principle was this, that even in cases of extradition the criminal law of a foreign country was not recognised merely as such. Grotius, indeed, had thought otherwise. After laying down extradition as a rule, he proceeded to say, "If that of which the refugees are accused be not forbidden by the law of nature or nations, their case will have to be decided by the municipal law of the state from which they come." (II. 21, s. 6.) But this, by drawing attention to the point, had only drawn forth numerous clear opinions on the other side. Vattel gave to extradition no other foundation than the right to punish a crime committed beyond the territory of the punishing power: when such punishment may be inflicted, said Vattel, there is the alternative of extradition; but such punishment can only be inflicted on those who by their atrocity declare themselves the enemies of the human race," (b. 1, s. 233.) The same restriction on extradition was pronounced by Chancellor Kent (1 Comm. 39), who, nevertheless, is well known to have gone farther in favour of extradition independent of statute than the common law of England and America will warrant; and it is incompatible with the extradition of those who have declared themselves the enemies only of a particular foreign law not generally received by civilised men. Dr. Phillimore

too says, "there are two circumstances to be observed, which occur in these and in all other cases of extradition:—1st. That the country demanding the criminal must be the country in which the crime is committed; 2nd. That the act done on account of which his extradition is demanded, must be considered as a crime by both states." (Int. Law, v. 1, p. 413.) Also extradition treaties enumerate only grave crimes, and in that between France and Belgium a power is reserved to refuse the extradition, on assigning the reasons, even in special cases of the crimes enumerated. Grotius, in general so profuse in quotation, supports his dictum cited above by one only, and from a play of *Æschylus*; and the context shows that he regarded the opinion in question as a conclusion from the principle of recognising a foreign personal status, so that its base has long since been cut away, it being well established that even in cases far short of extradition a foreign criminal status is not recognised as a foreign civil one is. Such was the knowledge, and such the ideas, which we are obliged to presume in the parties to this treaty. Where then were the words by which the principle of not recognising a foreign criminal law merely as such was abandoned? If the proviso as to the sufficiency of the evidence which had been so much discussed, was not in favour of Anderson, certainly it was not against him: the argument of the opponents on that head was purely negative. Mr. Stephen had said, on the previous night of debate, that crime was in its nature local; that the mere mention of a murder as committed in Missouri necessarily implied murder by the law of Missouri. The truth, however, was that the authority against which a crime is committed is local, but that there was not necessarily anything local in the nature of the act. If there were, the result would be that the words describing crime could have but a local meaning, and there would be no common meaning of the word "murder" in which the parties to the treaty could be supposed to have agreed; for it was impossible to import into the treaty so many entire clauses as would be requisite to express that the word murder meant one thing when extradition was demanded by one party, and another when it was demanded by the other party. It was necessary to find a common meaning for the word in which the parties had agreed, and such was furnished by the common law, which was the inheritance of the United States as well as of this country. That this law was referred to was further shown by the fact that in our treaty with France, with which we had no system of law in common, certain articles of the French code were referred to as ascertaining the meaning of murder when committed in France. Now, by the common law, murder was "unjustifiable homicide with malice aforethought." So far we were led by legal definitions and maxims equally recognised by the contracting parties, England and the States, and which therefore fixed the sense in which they had used this word "murder," and the conclusion was consonant to the international principle of allowing extradition only in cases of atrocity—cases of crime against humanity. Beyond that, if we inquired what authority it might by the law of either country be justifiable to resist even to the extent of homicide, we reached ground no longer common. This part of the inquiry introduced the Missouri law of slavery. It might be veiled by speaking of "resistance to authority acting rightfully in the execution of the law;" but it was there; and it could never be that, when it was so well settled in our jurisprudence that we did not recognise a foreign slave-law, we should allow such a law which could not pretend to enforcement among us directly to be recognised and enforced indirectly.

Mr. Westlake, having considered the legal merits of the main case, was proceeding to consider what, in the present state of facts, should be done in it; but it was ruled by the chairman that this was beyond the scope of the notice, which was itself extensive enough to occupy the evening.

Mr. F. S. REILLY: I cannot but think that Mr. Denman's detailed examination of case-law, supposed to bear on this question, was a waste of acumen. There is surely no danger now—a days of any man's life or liberty being decided away on quaint scraps out of *Ventris*, or on vague statements by Mr. Justice Heath of what happened in Lord Loughborough's time. And this, even if there was no treaty. But when there is a treaty, I confess it seems to me clear that all the rights and all the obligations of the parties are to be found within the four corners of the written contract—that in the express stipulations of that instrument are merged all common-law doctrines, all international comity. What, then, says the treaty? Like the former treaty between the same parties it uses the term "murder," purely and simply and without a word of gloss. In an instrument framed by two contracting parties every word

must be presumed to be used in some sense intelligible to both, common to both. "Murder" must here mean that something is murder by United States law, and that is murder by English law. I cannot see any reason to look for a *tertium quid*, as Mr. Stephen thinks necessary, or to go in search, with Mr. Best, of the law of nature. Now there is no doubt the act here in question is murder by United States law. Is it murder also by English law? The chief justice in Canada holds that it is. It seemed to me that Mr. Denman did not grapple closely with the particular arguments of the Chief Justice. I understand the learned judge to say that, whatever supposed cases may be put, here you have the naked case of one man killing another who was endeavouring to arrest him in a manner lawful according to the *lex loci*, for a purpose lawful according to the *lex loci*,—the man endeavouring to effect the arrest being as fully clothed by the *lex loci* with a right to arrest the other as if he had been an officer of the law armed with an express formal warrant in that behalf,—and that such a killing is by the law of England not justifiable, is by the law of England murder. If the case rested there, I humbly conceive there would be much room for argument in support of the Chief Justice's view. It might well, I think, be contended that in cases of this kind the courts of one country are bound to take the law of another country as they find it,—that constituted as they are to administer law as it is, not to apply to the facts before them their own theories of morals, their own conception of the rights of man, they are not called upon to inquire, and would not be justified in inquiring, into the abstract lawfulness of the *lex loci*, in violation of which the killing was committed,—in short, they must decide such a case as this on the narrow but plain grounds of strict law, without going into the merits of slavery or any other "peculiar institution" of the country where the act was done. This, I submit, and much more than this, might be said, if the case rested there. But happily, as I think, it does not rest there. This is not simply, if at all, a question of technical law. It might never have come into one of the Queen's courts. The treaty can only be put in force by the Secretary of State. A court of law may release a man claimed; it has nothing to do with delivering him up. It may forbid extradition, it cannot enforce it. The matter is a matter of State, of the action of the Executive. The rules for the action of the Executive are to be found not merely in the treaty, but in the Act of Parliament. The Crown can make a treaty, in some sense binding itself and the country generally, but it cannot by treaty affect the liberty of an individual subject. The Act does not confirm the treaty, *totidem verbis*, so as to give statutory force to the provisions of the treaty. The Act (and this is a very different thing), makes provision for carrying the treaty into effect, and furnishes the machinery for that purpose. If these considerations govern the case, as it seems to me they do, then there cannot be much difficulty about the refusal of this extradition. For, first, when in the Act you find the word "murder" you can have no doubt about its meaning. There is no room here for a treble or a double sense. Here there are not two parties speaking. The language is the language of the Legislature of this kingdom. "Murder" must mean in this Act of Parliament what it would mean in any other Act of Parliament—murder according to English law. Clearly, then, the Secretary of State cannot grant extradition unless he sees there has been a murder according to English law, without having any regard whatever to the law of the demanding State. Next, the Act does not compel the Secretary of State to comply with every demand for extradition, even if technically good under the treaty. He is not bound down by the purely technical consideration which fitted a court of law. He has no need to exercise astuteness to escape from a difficult position; where he is not under a rigid rule, he may take into account all the elements of the case. He may and must look at all the political and social circumstances which surround it. I will put a case, which, though it may seem to be nearly *idem per idem*, will illustrate what I mean. Suppose the treaty provided for the extradition of persons charged with having committed the offence of adultery; and suppose Utah had been admitted into the union; would not the Secretary of State be justified, as English law and opinion respecting marriage now stand, in refusing to recognize polygamy, and therefore in declining to give up a man claimed as the paramour of the second or any subsequent woman whom a Mormon gentleman had taken to wife, leaving the first? It seems to me that he would, whatever a court of law might say on the subject. And so, if a man were claimed as having committed murder or any other of the specified offences, the Secretary of State would be entitled to refuse his extradition, if it appeared to him that the offence was in substance a

political one: and yet neither the treaty nor the Act contained any express saving for the cases of political offenders. Lastly, when you look to this as a question for the Secretary of State under the Act of Parliament, you gain this great advantage, that you can then take into account what passed in the House of Commons when the Act was made. The Attorney-General and the Government declared it was not intended that, under the treaty, slavery and its consequences should be recognised as lawful. Without this declaration it is plain the Act would not have been passed. It was passed, we may say, on that condition. This was a term imposed on the executive as plainly, almost, as if it had been embodied in the Act. Now it is needless to say that in a court of law such considerations are altogether out of place. Again, if the question arose on the treaty simply such *ex post facto* declarations by one party as to what was intended might be wholly repudiated by the other. But this bargain between the Legislature and the executive, for that is what it amounts to, is most important in the view I am submitting to you. It not only binds the Secretary of State, as between him and the people of this country, but it also justifies him towards the United States when he refuses to assume a power conferred on him—indeed, it might seem by the letter of the statute—but which there is the clearest evidence to shew was never intended to be vested in him, and an attempt to exercise which would render him liable to impeachment. On the whole, then, I would submit that the only safe course is to raise this question altogether out of the region of technical jurisprudence. It seems to me unfortunate that it was ever brought on in a court of law, and I venture to express a hope that it may never again be so. Let it be treated, as what I submit it is, a question of mixed law and politics, not of dry law. Then the minister can legitimately rely on the proved intention of the Legislature. He can appeal to the established political principles of the country in regard to slavery. He can say to the United States, such and such are the reasons why we have not bound ourselves to give this man up. We hope these reasons will satisfy you, and that you will withdraw your demand. Whether you do so or not, however, we will not give the man up; and if, after all, you insist on having him, why, then, you must come and take him.

Mr. C. H. HORWOOD, on the contrary, thought that the construction of the provisions of this treaty was for courts of justice, and not for ministers of state.

Mr. F. M. NICHOLS considered that crime must be understood with reference to the law of the country where the party is found. It is only by the comity of nations that the laws of one country are recognised in another; and this is never done when those laws are in violation of natural justice or decorum.

Mr. VERNON LUSHINGTON, Mr. A. COHEN, and Mr. C. CLARK, also took part in the discussion.

Mr. DENMAN replied, contending that his original views were correct. He stated that the society should discuss the question as jurists, not as statesmen. The proviso in the present treaty was evidently copied, word for word, from a similar treaty between the same countries in 1795. There were but few reported instances of extradition under either Act, some of those which arose in America having gone off on the by-point of whether the claim of extradition had been made by duly authorised persons. A case occurred at Bow-street, before Mr. Hall, in which America claimed a man on a charge of robbery, under circumstances that by English law only amounted to larceny by a servant; and the man was not given up.

TRADE MARKS.

Lord Campbell's Bill, which is now passing through Parliament, affords a favourable opportunity for putting an end to a practice which ought never to have been allowed—that of stamping upon electro-plated wares marks so much resembling those used at the assay offices that the most practised eye, without careful examination, cannot discern the difference. Such an evil was this considered in the last century that in 1773 a Parliamentary inquiry was instituted into the state of the several assay offices in the United Kingdom.

The undue severity of the 16 s., 24 Geo. 3, cap. 53, rendered it perfectly nugatory; for, as life or death depended upon the proof of what was, or was not, an "imitation or resemblance," in the sense of the statute, juries rarely, if ever, would convict upon evidence so subtle and evasive; and the same may be said of the more recent, but milder statute of the 7 & 8 Vict. c. 22, viz., that the difficulty, if not impossibility, of

defining "imitations and resemblances" to the satisfaction of juries, has rendered this attempt at legislation, as it will all others of the kind, perfectly abortive.

The obvious course is to abolish marks altogether upon base metals, confining them only to the precious metals; but, if any marks are to be used, let them be so decidedly "distinctive" that there shall be no possibility of quibbling upon words.

However, there can be no question, if a Parliamentary inquiry were now to be made in the present state of the assay offices, many important facts respecting marks on metals would be elicited. The Government have as much right to claim protection for their "marks on wrought plate" as any manufacturers or commercial firms have for those by which they distinguish their wares; and, if this cannot be effected in any other way than by restricting the application of any marks to wares made of the precious metals only, the sooner it is done the better.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The Committee of Selection have made the following classification of Railway Bills into committees to meet on the 5th inst. :—

ALCESTER.
ANCHOLME.
BARNSELY COAL.
BRADFORD.
BRADFORD AND HALIFAX JUNCTION.
DEWSBURY AND BATLEY.
GREAT NORTHERN (Doncaster to Wakefield).
GRIMSBY.
HULL AND DONCASTER.
LANCASHIRE AND YORKSHIRE.
LEEDS.
MIDLAND (four Bills).
RAMSEY.
SOUTH YORKSHIRE.
STRATFORD-ON-AVON.
TRENT.
WAKEFIELD AND LEEDS.
WORKSOP AND STAVELEY.

To meet on the 6th instant :—

BLACKPOOL AND LYTHAM.
GARSTON AND LIVERPOOL.
LANCASHIRE AND YORKSHIRE (Wigan and Settle).
LONDON AND NORTH WESTERN (Eccles and Liverpool).
WALTON AND EDGEHILL JUNCTION.

To meet on the 7th instant :—

BIRKENHEAD.
BISHOP'S CASTLE.
CHESHIRE MIDLAND.
ELLESMERE AND WHITCHURCH.
LONDON AND NORTH WESTERN (Cheshire lines).
OSWESTRY.
OSWESTRY AND ELLESMERE.
OSWESTRY AND NEWTOWN.
SHREWSBURY.
SHREWSBURY AND WELCHPOOL.
STOCKPORT.
TIMPERLEY AND ALTRINCHAM JUNCTION.
WEST CHESHIRE.

The standing orders have been dispensed with in the following cases :—

DEVON CENTRAL.
LLANELLY.
MERIONETHSHIRE.
MID WALES.

The following Bills have been referred to the select committee :—

BOGNOR.
BOGNOR AND BRIGHTON.
CHICHESTER AND MIDHURST.
HORSHAM AND GUILDFORD DIRECT.

MARGATE (Ramsgate Extension).
SITTINGBOURNE AND SHEERNESS.
UCKFIELD AND TUNBRIDGE.

REPORTS AND MEETINGS.

BIDEFORD EXTENSION RAILWAY.

At the half-yearly meeting of this company, held on the 27th ult., a dividend at the rate of £3 per cent. per annum for the half-year ending December 31 was declared.

CONISTON RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., by agreement with the Furness Company the shareholders of this company are entitled to receive one-third of the dividend declared upon the ordinary stock of the Furness Company. The dividend declared by the latter company for the last half-year is at the rate of £8 per cent. The proportion of this company for the same period, therefore, is at the rate of £2 13s. 4d. per cent. per annum.

FURNESS RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend at the rate of 8 per cent. for the half-year ending the 31st of December was declared.

GREAT NORTHERN RAILWAY.

The half-yearly meeting of this company was held on the 23rd ult. Resolutions were passed declaring the dividends on the 5 per cent. and 4½ per cent. preference stocks, and also at the rate of £3 3s. 9d. per cent. on the original stock, at the rate of 3 per cent. on the B stock, and at the rate of £3 7s. 6d. per cent. on the A stock for the past half-year. The dividends became payable on the 1st inst.

LEOMINSTER AND KINGTON RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend at the rate of 4½ per cent. on the preference shares was declared.

MID KENT (Bromley and St. Mary Cray) RAILWAY.

The directors, by their report, recommend a dividend at the rate of £3 per cent. per annum, free of income-tax, to be declared for the next half-year.

MONKLAND RAILWAY.

At the half-yearly meeting of this company, held on the 21st ult., resolutions declaring a dividend at the rate of 6½ per cent. per annum, and converting the 6,138 shares of £25 each into stock, were unanimously agreed to.

NORFOLK RAILWAY.

At the half-yearly general meeting of this company, held on the 26th ult., a dividend of £1 17s. 6d. per cent. for the last half-year was declared, payable on the 15th inst.

NORTH DEVON RAILWAY.

At the half-yearly meeting of this company, held on the 27th ult., a dividend at the rate of 17s. 6d. per cent. was declared on the ordinary stock, and of £1 15s. per cent. on the B stock, payable on the 6th inst.

NORTH LONDON RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend of £2 15s. per cent. was declared for the last half-year on the ordinary stock of the company.

NORTH AND SOUTH WESTERN JUNCTION RAILWAY.

At the half-yearly meeting of this company, held on the 25th ult., a dividend at the rate of 5½ per cent. per annum was declared for the last half-year.

NORTH WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 25th ult., a dividend of 4s. per share, being at the rate of £2 per cent. per annum, was declared, payable on the 5th inst.

NOTTINGHAM AND GRANTHAM RAILWAY.

At the half-yearly meeting of this company, held on the 25th ult., a dividend of 3s. 6d. per share was declared, payable on the 7th inst.

SOUTH EASTERN RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend was declared of 18s. per £30 stock, payable on the 7th inst.

SOUTH WALES RAILWAY.

At the half-yearly meeting of this company, held on the 22nd ult., the dividend of £3 10s. per cent. per annum, recommended

by the directors' report, was declared, and the retiring directors and auditors re-elected.

VALE OF CLWYD RAILWAY.

The directors, by their report, recommend a dividend at the rate of £3 per cent. per annum to be declared for the last half-year, and to be payable on the 15th inst., leaving a balance of £293 to be carried forward.

VALE OF NEATH RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., dividends of 5 per cent. on the preference stock and of 2½ per cent. on the ordinary stock were declared.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. GEORGE WIRGMAN HEMMING, on Equity, Monday, March 4.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Friday, March 8.

Court Papers.

VACATION BUSINESS AT THE COMMON LAW JUDGES' CHAMBERS.

1st March, 1861.

The following regulations for transacting business at these chambers will be strictly observed till further notice.

Acknowledgments of deeds taken at 10 o'clock.

Original summonses only to be placed on the file.

Summonses adjourned by the judge will be heard at half past 10 o'clock precisely, according to their numbers on the adjournment file, and those not on that file previous to the numbers of the day being called will be placed at the bottom of the general file.

Summonses of the day will be called and numbered at a quarter to 11 o'clock, and heard consecutively.

The parties on two summonses only will be allowed in the judge's room at the same time.

Counsel at 1 o'clock. The names of the causes to be put on the counsel file, and the causes heard according to number.

Affidavits in support of *ex parte* applications for judge's orders (except those to hold to bail), to be left the day before the orders are to be applied for, except under special circumstances, such affidavits to be properly endorsed with the names of the parties, and of the attorneys, and also with the nature of the application, and a reference to the statute under which any application is made, the party applying being prepared to produce the same.

All affidavits read or referred to before the judge must be endorsed and filed.

Further time to plead will not be given as a matter of course.

THE 29TH CANON OF THE CHURCH.—At the meeting of the Houses of Convocation, on the 26th ult., the Bishop of Oxford moved a resolution that the 29th Canon of the Church, which provided that for each child brought for holy baptism there should be three sponsors—the parents who brought the child for baptism not being allowed to act in that capacity—should be so altered as to allow the parents of the child to act as sponsors, together with one friend in whom they had confidence, thus making the three sponsors required by the rubric of the Church. The resolution was carried without a dissent.

MISSIONARY BISHOPS.—The Queen's Advocate, the Attorney-General, and the Solicitor-General have, upon a case submitted to them by the Archbishop of Canterbury; stated their opinion to be that missionary bishops appointed to exercise episcopal functions beyond the limits of her Majesty's dominions can be lawfully consecrated in this country, but that bishops so consecrated must not assume the status, style, dignity of bishops while in her Majesty's dominions. At the same time they thought that such consecration in this country ought to be discouraged and deprecated.

THE DISPUTED GUARDIANSHIP OF THE MARQUIS OF BUTE.—In consequence of the injunction granted by Vice-Chancellor Stuart against Colonel Stuart, restraining him from prosecuting any further proceedings in Scotland relative to the Marquis of Bute, Lady Elizabeth Moore presented a petition to the Court of Session, praying that court to appoint a tutor *ad litem* to represent and protect the interests of the pupil in so far as they are affected by proceedings under the petition of General Stuart. The petition stated that this step was the more called for as notices of appeal to the House of Lords had been given by parties both in the Court of Chancery and Court of Session. On receiving Lady E. Moore's petition, the Court of Session appointed Colonel Stuart, tutor-at-law, to lodge a minute; and a minute was accordingly lodged, in which Colonel Stuart stated that he had been advised that he was not prevented by the injunction of the Vice-Chancellor from appearing in the House of Lords, and defending there the judgments of the Court of Session, and that it was his intention to carry the judgment of the Vice-Chancellor by appeal to the House of Lords. In these circumstances the Court of Session on Tuesday refused the motion of Lady Elizabeth Moore, in respect of the statement the tutor-at-law had made.

INTERNATIONAL COPYRIGHT.—A convention with Sardinia, signed on the 30th of November, and of which the ratifications were exchanged on the 4th of January, has been laid before Parliament. It provides for an international copyright in works of literature or art published in either country—terms which are to comprise publications of books, of dramatic works, of musical compositions, of drawing, of painting, of sculpture, of engraving, of lithography, and of any other works whatsoever of literature and of the fine arts. Besides original works, a translator is to be protected in respect of his own translation. The author of a work is to have for five years the exclusive right of translation, if exercised within a certain period. These stipulations are to apply also to the representation of dramatic works and the performance of musical compositions; but fair imitations or adaptations of dramatic works to the stage of the respective countries are not prohibited, but only piratical translations. Articles from newspapers or periodicals may be published or translated in the newspapers or periodicals of the other country, provided the source is acknowledged, unless (the article not being one of political discussion) the author in a conspicuous manner forbids the republication. Each country retains its right to prohibit, by measures of legislation or police, the circulation or exhibition of any work it may deem it expedient so to prohibit.

PROPERTY AND INCOME TAX.—In England and Wales the property assessed in 1852, under the various schedules, amounted to £234,743,377, and in 1860 it had increased to £282,718,649.

Births, Marriage, and Deaths.

BIRTHS.

FRANCE—On Feb. 23, the wife of William S. France, Esq., Solicitor, Wigan, of a daughter.

LORD—On Feb. 23, the wife of James Lord, Esq., of the Inner Temple, Barrister-at-Law, of a son.

SHIPTON—On Feb. 18, at Clifton, the wife of F. Shipton, Esq., Solicitor, of a son.

SMITH—On Feb. 25, the wife of C. Manley Smith, Esq., of the Inner Temple, Barrister-at-Law, of a daughter.

MARRIAGE.

FINCHAM—ADAMS—On Dec. 20, at Hongkong, Alfred Fincham, Esq., of Canton, to Ann Maria, daughter of the Hon. W. H. Adams, Chief Justice of Hongkong.

DEATHS.

BRADLEY—On Feb. 27, aged 20, Henry, son of Henry Bradley, Esq., of Harcourt-buildings, Temple.

GALBRAITH—On Feb. 24, at Stirling, in his 70th year, William Galbraith, Esq., Town Clerk of Stirling.

JENNINGS—On Feb. 23, Charles Thomas, son of E. B. Jennings, Esq., Solicitor, Burton-on-Trent, aged two years.

WILTON—On Feb. 3, aged 71, Henry Wilton, Esq., Solicitor, formerly of Gloucester.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore hanging in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BENNETT, CHARLOTTE, Spinster, Hanley-on-Thames, since wife of Robert

Giles, Gent., Burton-street, Burton-crescent, £25 Reduced 3 per Cents. Claimed by **CHARLOTTE BARNES** (formerly Giles, spinster), wife of Thomas John Barnes, the administratrix of the said Charlotte Giles, formerly Bennett, spinster.

CUST, MARGARET FRANCES AMY, Spinster, Leasome Castle, County of Chester, £280 Gs. 4d. Consols.—Claimed by **MARGARET FRANCES AMY EGGERTON**, wife of Captain Charles Randle Eggerton, formerly Margaret Frances Amy Cust, Spinster.

FLETCHER, JOSEPH, Ship-builder, Shadwell-dock, **HENRY WATSON, Esq.**, Beckingham, Notts, and **GERVAS KING HOLMES, Esq.**, East Retford, Notts, £2,205 Consols.—Claimed by **HENRY WATSON** and **GERVAS KING HOLMES**, the survivors.

GILBERT, JOHN, Gent., Ringwood, Hants, £148 9s. 1d. New 3 per Cents. Claimed by **GEORGE VINCENT FORDE**, the administrator de bonis non.

NEWTON, JOHN, Gent., Stone, parish of Bridestow, Devonshire, £2,100 New 4 per Cents.—Claimed by **JOHN GUBBINS NEWTON**, administrator de bonis non of the said John Newton.

PHIPPS, HON. AUGUSTUS, late of the Exchequer Office, £2,800 New 4 per Cents.—Claimed by **COLONEL EDWARD FITZ-GERALD**, the surviving executor of Sir Robert Greenhill Russell, Bart., who was the surviving executor of the said Augustus Phipps.

Heirs at Law and Next of Kin.

Advertised for in the London Gazette and elsewhere.

BULL, WILLIAM, who was the brother of James Bull, late of Market Deeping, in the county of Lincoln. Next of kin to apply to Messrs. Sharpe and Son, Solicitors, Market Deeping.

WAKELEY, ELIZABETH (formerly Elizabeth Russell), who was some years since living at Grantham, or her next of kin to apply to Messrs. Thos. G. Morley, Solicitor, Thurland-street, Nottingham.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	239	Shrn. Stock Ditto A. Stock	99
3 per Cent. Red. Ann.	91	Stock Ditto B. Stock	123
3 per Cent. Cons. Ann.	91	Stock Great Western	67
New 3 per Cent. Ann.	91	Stock Lancash. & Yorkshire ..	109
New 2½ per Cent. Ann.	91	Stock London and Blackwall.	61
Consols for account	91	Stock Lon. Brighton & S. Coast ..	114
India Debentures, 1858. ....	..	2½ Lon. Chatham & Dover ..	47
Ditto 1859. ....	..	Stock London and N.-Westm.	96
India Stock .....	..	Stock London & S.-Westm.	91
India 5 per Cent. 1859. ....	..	Stock Man. Sheff. & Lincoln.	43
India Bonds (£1000) ....	..	Stock Midland	126
Do. (under £1000) ....	..	Stock Ditto Birin. & Derby ..	100
Exch. Bills (£1000)	par.	Stock Norfolk	34
Ditto (£500)	dis.	Stock North British	63
Ditto (Small) ..	dis.	Stock North-Eastn. (Brwek.)	99
RAILWAY STOCK.		Stock Ditto Leeds	56
Stock Bir. Lan. & Ch. June.	82	Stock Ditto York	87
Stock Bristol and Exeter	101	Stock North London	101
Stock Cornwall	64	Stock Oxford, Worcester, & Wolverhampton ..	..
Stock East Anglian	16	Stock Shropshire Union	51
Stock Eastern Counties	48	Stock South Devon	41
Stock Eastern Union A. Stock ..	39	Stock South-Eastern	45
Stock Ditto B. Stock	28	Stock South Wales	52
Stock Great Northern	108	Stock S. Yorkshire & R. Dun ..	95
		25 Stockton & Darlington ..	40
		Stock Vale of Neath	68

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, Feb. 26, 1861.

PARKER, ROBERT TUCKER, & RICHARD PARKER, Solicitors & Attorneys, Axburgh, Somersetshire, by mutual consent. Feb. 11.

SNOWDON, HENRY, & WILLIAM H. EMMET, Attorneys & Solicitors, Leeds, by mutual consent (Snowdon & Emmet). Feb. 22.

TEMPLE, WILLIAM WOODS, & WILLIAM WINDSOR, Attorneys & Solicitors, 4, Blomfield-street, London, by mutual consent (Temple & Windsor). Feb. 23.

FRIDAY, March 1, 1861.

HICFIELD, JOHNSON ATKINSON, GEORGE GLADSTONE MACTURK, & WILLIAM BUSFIELD, Attorneys & Solicitors, Bradford (Busfild, Macturk, & Busfield), by mutual consent, so far as relates to George Gladstone Macturk. Feb. 24.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, Feb. 26, 1861.

LLANTYFACH SILVER LEAD MINING COMPANY, LIMITED.—Petition to wind up, presented Feb. 18, will be heard before Commissioner Goulburn.

Basinghall-street, on March 7, at 1.30. Walker, Wolverhampton, Solicitor; Hawkstord, 37, Essex-street, Strand, Agent.

UNION DISCOUNT COMPANY (LIMITED).—Order to wind up on Feb. 12, before Commissioner Holroyd, Basinghall-street. Same day W. Bell, Coleman-street-buildings, London, was appointed official liquidator. Creditors to prove their debts.

FRIDAY, March 1, 1861.

MEXICAN & SOUTH AMERICAN COMPANY.—The Master of the Rolls will, on March 12, at 2, proceed to make a call for £11 6s. per share on the several contributories upon whom no call has hitherto been made.

LIMITED IN BANKRUPTCY.

FRIDAY, March 1, 1861.

GENERAL STEAM PRINTING AND PUBLISHING COMPANY (LIMITED).—Creditors to prove their claims on March 22, at 11, Basinghall-street, before Commissioner Holroyd.

LITTLE DOWN AND EBBW ROCKS MINERAL AND MINING COMPANY (LIMITED).—Commissioner Holroyd has peremptorily ordered that a call of 17s. 6d. per share be made on the several contributories of the company, to be paid to Mr. Charles Lee, Official Liquidator, 20, Aldermanbury.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Feb. 26, 1861.

ANGERSTEIN, JOHN, Esq., Weeting Hall, Norfolk, and of Woodlands, Blackheath, Kent. Stuart & Baly, Solicitors, 6, Gray's Inn-square, London. May 31.

BREAR, JOSEPH, Maltster, Wakefield. Janson & Banks, Solicitors, Barston-square, Wakefield. May 1.

CANDLER, JOHN, Ironmonger, Scarborough. Hesp & Moody, Solicitors, Scarborough. April 5.

CARTER, GEORGE, Upholsterer, 10, Marylebone-street, Regent-street, Middlesex. R. & C. H. Hodgson, Solicitors, 10, Salisbury-street, Strand. May 30.

CONCANN, SARAH, Widow, 19, Cross-street, Islington, Middlesex. Carew, Solicitor, 45, Bloomsbury-square, London. March 22.

GOLLING, THOMAS, Gent., Nottingham. Morley, Solicitor, Thurland-street, Nottingham. April 10.

GROVE, PHOEBE, Widow, Spread Eng'g, Lower Kennington-lane, Lambeth, Surrey. Kempster, Solicitor, 1, Portsmouth-place, Lower Kennington-lane, Lambeth. April 2.

HARTLEY, CATHERINE ELIZABETH, Widow, Pendle-place, Deptford. Kinsey, Solicitor, 9, Bloomsbury-square, London. April 25.

HOGGARTH, DANDY, Farmer, Eberston, Yorkshire. Hesp & Moody, Solicitors, Scarborough. April 5.

HUNT, ANN, Widow, Bearley, Warwickshire. Hobbes & Slater, Solicitors, Stratford-upon-Avon. April 2.

MARKLAND, RALPH, Cornfactor, Brunswick-place, Leeds. Markland, Solicitor, Albion-street, Leeds. May 1.

McVIE, JOHN, Engineer, 86, Aughton-street, Everton, near Liverpool. Jones, Solicitor, 56, Castle-street, Liverpool. June 1.

PERRY, JAMES BRACEY, Merchant, Birmingham, and of Lea Hall, Handsworth, Staffordshire. Tyndall, Son, & Johnson, Solicitors, 64, Little Charles-street, Birmingham. April 28.

ROGERS, HORNY, Esq., Foxgill, near Ambleside, Westmoreland. G. & W. Hartley, Solicitors, Settle, Yorkshire. April 2.

WOODLEY, THOMAS STAMFORD, Gent., Grocer and Tea Dealer, formerly of Cambridge, and late of Lawn-villa, Brixton, Surrey. Taylor, Solicitor, Bishop Stortford, Herts. April 6.

FRIDAY, March 1, 1861.

BANWATTE, GEORGE AUGUSTUS, Esq., Bathford, Somersetshire. F. & E. Dowling & Burne, Solicitors, 15, Vine-yards, Bath. April 25.

BENJAMIN, CHARLES, Mr., Coal Merchant, Bath. Stone, Chamberlayne, & King, Solicitors, 13, Queen-street, Bath. May 27.

BROOKE, ROBERT ARTHUR, Esq., Lieutenant in the 11th Hussars, 4, Royal-crescent, Bath, and 34, Upper Harley-street, London. H. U. & N. Conlthurst, Solicitors, 13, New-inn, London. May 30.

BYRON, Right Hon. Anne Isabella Baroness NOEL, St. George's-terrace, Middlesex. Wharton & Fords, Solicitors, 8, Lincoln's-inn-fields. April 20.

CHAPMAN, CHARLOTTE CAROLINE, 13, Craven place, Old Kent-road, Surrey (but formerly of Knockholt, Kent) J. & W. Butler, Solicitors, 191, Tooley-street, London-bridge. April 20.

FENWICK, JAMES FOSTER, Merchant, Cardiff. Ingledew & Daggett, Solicitors, 2, Powell-place, Bute street, Cardiff. June 1.

FINCH, ANN, Widow, Harlow, Essex. Merriman, Solicitor, 25, Austin-friars, London. April 10.

HARRISON, JOHN, Horsebreaker, Cottingham, Yorkshire. Gresham, Solicitor, 17, Parliament-street, Kingston-upon-Hull. May 1.

HAYES, ANN, 22, Sharp's-alley, Cow-cross, Middlesex. Berkeley, Solicitor, 13, Gray's-inn-square. March 23.

HIBBONS, JOHN, Carpenter, 10, Salisbury-street, Agar-town, Camden-town, Middlesex. Berkeley, Solicitor, 13, Gray's-inn-square. March 23.

JUDKINS, JOSEPH RICHARD, Gent., formerly of Bishopgate Without, London, then of 28B, Devonshire-street, Portland-place, Middlesex, afterwards of Towcester, Northampton, and late of St. Thomas's-square, Blackney, Middlesex. Harris & Men, Solicitor, Bishopgate Church-yard, London. April 5.

LANE, GRACE, Spinster, formerly of Phoenix-row, Blackfriars'-road, afterwards of 187, Blackfriars-road, same county. Boulton, Solicitor, 17, Berners-street, Oxford-street. March 19.

MACDONALD, FRANCES MARIA, Widow, Cheltenham. Braikemridge & Sons, Solicitors, 16, Bartlett's-buildings, London.

MASON, RICHARD, Agent, York-place, Wakefield. Whitham, Solicitor, Wakefield. July 1.

MEAGOE, HENRY, Tailor, 9A, Lower Brook-street, Grosvenor-square, Middlesex. Dobinson & Geare, Solicitors, 57, Lincoln's-inn-fields, Middlesex. April 15.

MORRIS, EVANS, Gent., Manchester. Gibson, Solicitor, 41, John Dalton-street, Manchester. April 26.

USHER, THOMAS DIXON, Esq., formerly of Suffolk-street, Pall Mall East, but late of Southend House, Bury St. Edmunds, Suffolk. Harrison, Beal, & Harrison, Solicitors, 19, Bedford-row, London. April 23.

WELSH, GENERAL JAMES, 10, North-parade, Bath. F. & E. Dowling & Burne, Solicitors, 15, Vineyards, Bath. April 25.

YOUNG, HENRY, Spinster, 15, Bayham-street, Camden-town, Middlesex. Tanqueray, Willaume, & Hanbury, Solicitors, 34, New Broad-street, London. April 12.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Feb. 26, 1861.

BEDBOROUGH, JAMES THOMAS, Gent., New Windsor, Berks. Bedborough v. Bedborough, M. R. April 10.

CAUSTON, ANNE THEODOSIA, Spinster, formerly of Bournemouth, Hants, and late of Charlton, Gloucestershire. Elwes v. Causton, M. R. April 10.

GREENOUGH, RALPH, Esq., late of Southport, Lancaster, but formerly of Wigan, Lancashire. Turner v. Greenough, M. R. March 27.

HARVEY, CLEMENTINA PICKET, otherwise ISHERWOOD, Spinster, Tetbury, Gloucestershire. Bailey v. Thompson, M. R. March 15.

MARSH, BARTHOLOMEW, Merchant, Thaxet-place, Middlesex. Wilkinson v. Marsh and Lowe v. Pothill, M. R. March 31.

RIDDALL, WILLIAM, Lighterman, 1, Old King-street, St. Paul, Deptford, Kent. Anderson v. Riddall, M. R. April 10.

FRIDAY, March 1, 1861.

ALLISON, JOSEPH, Seaman in Her Majesty's Navy, 7, Haberdasher's-walk, Hoxton, Middlesex. Allison v. Allison, V.C. Wood. March 22.

CURWEN, HENRY, Esq., Workington-hall, Cumberland. Dobinson v. Curwen, M. R. April 10.

JACKSON, THOMAS, Cheesemonger, 8, Albion-place, Hyde Park-square. Jackson v. Hollis, V.C. Stuart. March 15.

JARVIS, SAMUEL, Farmer, Meppershall, Bedfordshire. Hewes v. Jarvis, V.C. Stuart. March 18.

OXLEY, JOHN, Farmer, Orgreave, Rotherham, Yorkshire. Gould v. Oxley, V.C. Stuart. March 23.

PERRIER, JAMES, Esq., Maida-hill West, Middlesex. Fulman v. Archer, V.C. Stuart. March 27.

SUPPER, LEWIS, Licensed Victualler, Gloucester Arms, Gloucester-crescent, Hyde-park, Middlesex. Pugh v. Nicholson, V.C. Stuart. April 9.

WOOD, CHARLES, Esq., Chorley, Lancashire. Warburton v. Wood, V.C. Stuart. April 8.

Assignments for Benefit of Creditors

TUESDAY, Feb. 26, 1861.

BARBER, GEORGE, Ironmonger, Eye, Suffolk. Sol. Druce & Sons, 10, Bull-litter-square, London. Feb. 4.

BENNETT, WILLIAM, Grocer & Baker, Burnham, Bucks. Sol. Woolls, Uxbridge. Feb. 1.

CLARK, WILLIAM, Jun., Timber Merchant, Southwark Bridge-road, Surrey. Sol. Wootton & Son, 10, Tokenhouse-yard. Feb. 16.

GOODMAN, THOMAS, Boot & Shoe Maker, 194, Commercial-road, Landport Portico, Southampton. Sol. T. Cousins, Jun., Portico. Feb. 19.

HANDS, GEORGE TAYLOR, & HENRY WELCH, Printers & Stationers, Camel-ford, Cornwall. Sol. King, Camelford. Feb. 14.

HUGHES, THOMAS, Grocer & Flour Dealer, Swansea, Glamorganshire. Sol. Esbery, Swansea. Feb. 12.

HUGO, RICHARD, Mine Share Dealer, Cambourne, Cornwall. Sol. Downling, Redruth, Cornwall. Feb. 19.

JAMISON, ROBERT, & THOMAS FORKITT, Tailors & Drapers, New Bond-street, Middlesex. Sol. Mason, Sturt, & Mason, 7, Gresham-street, London. Feb. 19.

LYNN, JAMES ROBERT, & HENRY FRANCIS GOUGH, Printers, 310, Strand, Middlesex, and St. Mary's terrace, Camberwell, Surrey. Sol. Jones, 6, New Inn, Strand, London. Jan. 31.

NEVINS, JOHN, Currier, Newcastle-upon-Tyne. Sol. Joel, Newcastle-upon-Tyne. Feb. 2.

ROBINSON, THOMAS RICHARD, Silk Mercer & Draper, Wetherby, Yorkshire. Sol. Lumley, Tadcaster. Feb. 15.

ROUTLY, JAMES, Blacksmith & Farmer, Sutcombe, Devonshire. Sol. Kingdon, Holsworthy, Devonshire. Jan. 26.

SENTON, JAMES, Draper, Wigan. Sol. Halton & Brett, 47, New Bailey-street, Salford. Jan. 31.

SMITH, GEORGE, Ironmonger, Commercial-road, Landport, Portsea, Hants. Sol. Jones, 5, New-inn, Strand, London. Jan. 29.

WAIT, GEORGE JOHN, Paper Merchant, Gloucester. *Sol.* Prideaux, Albion Chambers, Bristol. Feb. 5.

WELLS, THOMAS, Watchmaker and Jeweller and Dealer in Cigars, 7, Market-street, Cambridge. *Sol.* Harris, 344, Moorgate-street, London. Feb. 7.

FRIDAY, March 1, 1861.

BEILBY, CHARLES HENRY, & HENRY MOTTRAM, Seed Crushers, Kingston-upon-Hull (Beilby & Co.). *Sols.* Holden & Sons, 2, Parliament-street, Kingston-upon-Hull. Feb. 23.

COPLAND, JAMES BENJAMIN, Wine and Spirit Merchant, Manchester. *Sol.* Richardson, 22, Dickenson-street, Manchester. Feb. 22.

DAVIES, DAVID HENRY, Hosier, 6, George-street, Plymouth, Devonshire. *Sol.* Smith, 1, Frederick's-place, Old Jewry, London. Feb. 5.

GRAY, WILLIAM, Grocer, Kirby-within-the-Token, Essex. *Sol.* Nash, Ipswich. Feb. 2.

HALL, WILLIAM, Grocer, Kingston-upon-Hull. *Sol.* Gale, Kingston-upon-Hull. Feb. 4.

JACKSON, JAMES, Auctioneer, Shipbroker, & Insurance Agent, Whitehaven, Cumberland. *Sols.* Lumb & Howson, 142, Queen-street, Whitehaven. Feb. 23.

KNOTS, WILLIAM, Tailor, Edward-street, Portman-square, Middlesex. *Sols.* Huxon & Parker, 4, King-street, Cheapside, London. Feb. 5.

OSBORNE, THOMAS, Brickmaker, Mapperley, Notts. *Sols.* Cowley & Everall, St. Peter's-church-walk, Nottingham. Feb. 6.

POOSCH, CHARLES THOMAS, Miller, Badbrook Mills, Stroud, Gloucestershire. *Sol.* Kearney, Stroud. Feb. 11.

ROW, MATTHEW, Painter & Gilder, Redruth, Cornwall. *Sol.* Downing, Redruth. Feb. 23.

SUMMERS, ELIZABETH, Widow, Long Eaton, Derbyshire. *Sol.* Shaw, Derby. Feb. 11.

WARRINGTON, JOHN, Farmer, Doncaster. *Sol.* Wright, 6, St. George's-gate, Doncaster. Feb. 20.

Bankrupts.

TUESDAY, Feb. 26, 1861.

BARNESLEY, JOSHUA, Hay Dealer, & Cattle Dealer, South Wingfield, Derbyshire. *Com.* West: March 9, and April 13, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Stone, Wirksworth; or Smith & Burdekin, Sheffield. *Pet.* Feb. 16.

BELLINGHAM, WILLIAM TRALE, Auctioneer, 27, Gresham-street, London. *Com.* Holroyd: March 8, and April 9, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Morris, 11, Beaufort-buildings, Strand. *Pet.* Feb. 23.

BOTTING, EDWIN, Grocer, Brighton, Sussex. *Com.* Fonblanque: March 13, at 1; and April 10, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Smith, 13, Lawrence-lane, London. *Pet.* Feb. 20.

BROTHERTON, FRANCIS, Innkeeper, Middlesborough, Yorkshire. *Com.* Ayrton: March 11, and April 15, at 11; Leeds. *Off. Ass.* Hope. *Sol.* Simpson, Yarm; or Cariss & Cudworth, Leeds. *Pet.* Feb. 25.

CAREY, JAMES, Boot & Shoe Maker, High-street, Tombridge-wells, Kent. *Com.* Goulburn: March 8, and April 10, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Baynes, Carey-street, Lincoln's-inn, London; or Andrew, Tombridge-wells. *Pet.* Jan. 25.

FRENCH, ISAAC, Cheese Factor & Provision Merchant, Smithfield Market, Shudehill, Manchester. *Com.* Jemmett: March 13, and April 9, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Leigh, 30, Brown-street, Manchester. *Pet.* Feb. 20.

GRIFFIN, WILLIAM, Anchor Maker & Smith, Cradley Heath, Rowley Regis, Staffordshire. *Com.* Sanders: March 11, and April 8, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Wright, Birmingham; or Homer, Brierley Hill. *Pet.* Feb. 21.

HUTT, JOHN BLUNSON, Printseller, Stationer, Painter, Frame Maker, & Gilder, Cambridge. *Com.* Fonblanque: March 13, at 1.30; and April 10, at 1; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Tarrant, 2, Bond-court, Walbrook, London; or Whitehead & French, Cambridge. *Pet.* Feb. 25.

MOORE, THOMAS, Licensed Victualler and Dealer in Rags and Furniture, Antelope, George-street, St. Alban's, Hertford. *Com.* Holroyd: March 13, at 2.30; and April 13, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Angell, 23, King-street, Guildhall, London. *Pet.* Feb. 22.

SIMPSON, WILLIAM DAVID, Brickmaker, Crayford, Kent. *Com.* Fane: March 8, at 12.30; and April 11, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Bruton, 27, Basinghall-street. *Pet.* Feb. 18.

WESTBURY, JAMES, Innkeeper & Publican, Gloucester. *Com.* Hill: March 11, and April 8, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Smallbridge, Gloucester; or Bevan, Girling, and Press, Small-street, Bristol. *Pet.* Feb. 23.

WHITTAKER, JOHN SMITH, Cooper, Great Grimsby, Lincolnshire. *Com.* Ayrton: March 20, and April 10, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Toynbee, Lincoln. *Pet.* Feb. 21.

FRIDAY, March 1, 1861.

ALLOOCK, JOSEPH, jun., Miller, Rford, Essex. *Com.* Evans: March 13 & April 4, at 1; Basinghall-street. *Off. Ass.* Bell. *Sols.* Mason, Sturt, & Mason, Gresham-street, or Longmore, Sworder, & Longmore, Hertford. *Pet.* Feb. 27.

BODDINGTON, CARTER, Worsted, Silk, & Cotton Dealer, 84, St. Martin's-lane, Westminster, Middlesex. *Com.* Fane: March 14, at 1, & April 12, at 11.30; Basinghall-street. *Off. Ass.* Canuan. *Sols.* De Jersey & Micklem, 13a, Gresham-street West. *Pet.* Feb. 26.

DUTTON, JOSEPH, Drysalter & Wholesale Grocer, Manchester. *Com.* Jemmett: March 19 & April 9, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Bellhouse & Bond, Princes-street, Manchester. *Pet.* Feb. 21.

CAIL, BENJAMIN, Cowkeeper, late of Pavilion-place, Battersea, now Land Agent, Maidenhead, Berks. *Com.* Goulburn: March 11, at 11.30, & April 15, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Peckham, 40, Ludgate-street, London. *Pet.* Feb. 25.

COPESTAKE, JOHN, Engineer & Machinist, Derby. *Com.* Sanders: March 14, and April 4, at 11; Nottingham. *Off. Ass.* Harris. *Sols.* Middleton, Derby; or Cox, Derby. *Pet.* Feb. 23.

FELL, JAMES, Tea Merchant, Liverpool. *Com.* Perry: March 8, and April 5, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Pemberton, Liverpool. *Pet.* Feb. 14.

HUNT, EDWARD, Hop Merchant, 6, Three Crown-square, Southwark, Surrey. *Com.* Fonblanque: March 13, and April 10, at 12.30; Basinghall-street. *Off. Ass.* Graham. *Sol.* King, 23, College-hill, Cannon-street West, London. *Pet.* Feb. 26.

LOCK, JOHN, Builder, 20, Barnsbury-grove, Islington, Middlesex. *Com.* Goulburn: March 13, at 1; and April 15, at 12.30; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Paterson, 3, Winchester-buildings, London. *Pet.* Feb. 27.

LLOYD, WILLIAM TOMMY, Miller, Llanguiddor, Breconshire. *Com.* Hill: March 12, and April 9, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Greenway & Bytheway, Pontypool; or Bevan, Girling, & Press, Bristol. *Pet.* Feb. 14.

NIXON, ALFRED, Merchant & Commission Agent, Liverpool. *Com.* Perry: March 11, at 12; and April 5, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Yates, jun., Liverpool. *Pet.* Feb. 26.

OXLEY, ROBERT, Maltster & Corn Dealer, Chippenham, Wiltshire. *Com.* Hill: March 11, and April 8, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Wilson, Salisbury; or Abbot, Lucas, & Leonard, Bristol. *Pet.* Feb. 20.

ROPER, GEORGE, Builder, Bincombe, Dorsetshire. *Com.* Andrews: March 13, and April 11, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Tizard, Weymouth; or Turner & Hirtzel, Exeter. *Pet.* Feb. 28.

SMITH, WILLIAM, Mercer & Draper, Stoke-upon-Trent. *Com.* Sanders: March 15, and April 5, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Flint, Uttoxeter; or James & Knight, Birmingham. *Pet.* Feb. 26.

WOOD, STANLEY JAMES, Cement Manufacturer, Millwall, Middlesex. *Com.* Fonblanque: March 13, and April 10, at 2; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Abrahams, 17, Gresham-street, London. *Pet.* Feb. 26.

BANKRUPTCY ANNULLED.

TUESDAY, Feb. 26, 1861.

NICHOLSON, JOHN MULCASTER, and GEORGE PLUMMER, Cabinet Makers and Upholsterers, Manchester (John Nicholson & Co.) Feb. 21.

FRIDAY, March 1, 1861.

PIKE, ROBERT GEORGE, Grocer, Week-street, Maidstone, Kent. Jan. 16.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Feb. 26, 1861.

DURRANT, ROBERT, & GEORGE BROCK, Tallow Chandlers & Soap Manufacturers, St. Michael, at Coslany, Norwich. March 21, at 11.30; Basinghall-street.—FENTON, THOMAS JOSHUA, Wine Merchant, 46, Lime-street, London, and 24, St. Mary-le-Strand-place, Old Kent-road, Surrey. March 19, at 11.30; Basinghall-street.—HART, JOHN, Boot & Shoe Manufacturer, 8, Crown-street, Finsbury, Middlesex. March 21, at 12; Basinghall-street.—HOOD, CHRISTOPHER, & JOHN NIXON, Elastic Web Manufacturers, Nuneston, Warwickshire. March 13, at 11; Birmingham.—LENG, JOHN, Licensed Victualler, Maltster, & Common Brewer, Bridlington Quay, East Riding, Yorkshire. March 20, at 12; Kingston-upon-Hull.—READ, JOHN, Licensed Victualler, Tavern Keeper, & Dealer in Foreign Wines & Spirituous Liquors, 31, Hart-street, Bloomsbury. March 19, at 11; Basinghall-st.—SYKES, THOMAS, Tailor & Draper, Liverpool. March 23, at 11; Liverpool.—WELSH, WILLIAM JAMES, Coach Builder, Nantwich, Chester. March 23, at 11; Liverpool.—WIODAHL, ANDREW, Ship and Insurance Broker, 73, Lower Thames-street, London. March 19, at 1; Basinghall-street.

FRIDAY, March 1, 1861.

BEALE, MILES, Iron & Brass Founder & Engineer, Saint Leonard's Iron works, Gray-street, Poplar, Middlesex. March 23, at 1; Basinghall-street.—BLACKMORE, JAMES, Builder, Wellington, Somerset. March 27, at 11; Exeter.—BOOKER, THOMAS, sen., and THOMAS BOOKER, jun., Merchants, Mark-lane, London. March 23, at 12; Basinghall-street.—BOUCHER, JOHN, Dealer in Timber, Blackwell, Derby. March 23, at 10; Sheffield.—DAWSON, EDWIN, Music Seller, Sheffield. March 23, at 10.—EVANS, WILLIAM NATHANIEL, & ROBERT BUNCOMBE EVANS, Tanners, Colyton, Devon. March 27, at 11; Exeter; Joint estate. Same time, separate estate of Robert Buncombe Evans.—GOREEY, THOMAS, Iron & Steel Merchant, Sheffield. March 23, at 10; Sheffield.—GROVE, WILLIAM, Licensed Victualler and Cab Proprietor, Spread Eagle Tavern, Kingsland-road, Middlesex. March 13, at 12; Basinghall-street.—HAYLOCK, HENRY, CROPLEY, Apothecary, Chemist, & Druggist, High-street, Linton, Cambridge. March 27, at 12.30; Basinghall-street.—JACQUEMOT, JEAN MAR, FRANCOIS, Silk & General Merchant, 38, New Broad-street, London. March 23, at 12; Basinghall-street.—JONES, THOMAS, Victualler, 3, Mare Fair, Northampton. March 23, at 1; Basinghall-street.—LORD, JOHN, SIDNEY AQUILA BUTTERWORTH, & HORATIO BUTTERWORTH, Dyers, Shelf, near Halifax, York. March 23, at 11; Leeds.—MARE, GEORGE, Miller, Newcastle-under-Lyme, Stafford. March 23, at 11; Birmingham.—MARTIN, JOHN, Innkeeper & Provision Dealer, Daisy Bank, Sedgley, Stafford. March 23, at 11; Birmingham.—PALMER, THOMAS & SAMUEL PALMER, Drapers, 30, Old Town-street, Plymouth. March 23, at 12.30; Plymouth.—PARRIS, HENRY, Machine Maker, Bridport. March 14, at 12; Exeter.—ROLLS, JOHN JAMES, Grocer & Ironmonger, Cerne Abbas, Dorset. March 27, at 11; Exeter.—ROSE, JOHN, Draper, Truro, Cornwall. March 27, at 11; Exeter.—SYKES, MORRIS ROBERTS, JAMES WALKER, & DANIEL BACKHOUSE STEWART. March 25, at 11.30; Basinghall-street.—WHITTAKER, JOHN CAOTRENTON, Card & Pasteboard Maker, 13 & 14, Little Britain, London. March 22, at 12; Basinghall-street.

We cannot notice any communication unless accompanied by the name and address of the writer.

** * Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 9, 1861.

CURRENT TOPICS.

On Thursday evening there was an animated discussion in the House of Lords upon the intentions of the Government in appointing commissioners to inquire into the constitution of the Accountant-General's department of the Court of Chancery, and the provisions for the custody and management of the funds of the court. Elsewhere in our columns will be found as good a report as the conversational tone in which the discussion was carried on permitted. A notion appears to have got abroad that the commission is designed to prepare the way for the appropriation of the Suits' Fee Fund for the New Palace of Justice. But it seems clear enough if the scope of the commission is at all indicated by its title that this notion must be erroneous. The Government, no doubt, considers that the report of the concentration of courts commissioners is amply sufficient to justify the introduction to Parliament of a measure to carry out their urgent recommendations; and we hope there will be as little delay as possible in introducing the Bill for this purpose. The new commission, however, as we understand its object, is simply confined to inquiries as to the banking and financial arrangements of the Court of Chancery. But we hope that either the general scope of the commission will be extended so as to embrace at least the superior courts at common law, or that a new commission may before long be appointed to enter upon the entire subject of legal taxation and of the financial arrangements of all our tribunals, not excluding county and local courts.

The Lord Chancellor's Bill to extend the jurisdiction and to improve the practice of the Court of Admiralty has been read a second time in the House of Lords. The business of the Court has of late increased so much that it has certainly become desirable to adapt the practice to its modern exigencies. Lord Campbell's Bill proposes to extend the jurisdiction of the Court in respect of claims for building, equipping, or repairing ships; for necessities; for damage to cargo imported, and by any ship or barge; for salvage of life; and for wages and disbursements. It is also proposed that the Court shall have jurisdiction over any claim in respect of any mortgage registered under the Merchant Shipping Act 1854, whether the ship is under arrest of the Court or not; and that the Court shall have the same powers as are conferred upon the Court of Chancery by that Act. Several of the provisions of the Common Law Procedure Act 1852 are also incorporated in the Bill. When the measure was discussed in the House of Lords upon the second reading, it appeared to be generally conceded that it was not desirable to introduce a jury in place of the Trinity Brethren into the trial of Admiralty causes; but a lively debate arose upon the question of appeal. The Bill contains a clause giving a power of appeal in interlocutory matters, and another clause disallowing any appeal except upon a question of law. The general opinion of the law lords, however, seemed to be that the latter clauses should be struck out, inasmuch as there would frequently be considerable difficulty in separating questions of law. The Lord Chancellor, therefore, expressed his intention of moving in committee that the clause in question be struck out.

We learn from a recent Jamaica paper that a Bill has been introduced into the House of Assembly for the purpose of extending the provisions of the West India Incumbered Estates Act to that important colony. The measure it is said is likely to pass without serious opposition.

On Wednesday last the Inns of Court Volunteers, at a meeting of their body in Lincoln's-inn Hall, presented their commander, Lieutenant Colonel Brewster, with a valuable piece of plate in testimony of their appreciation of his generous devotion to his work and gentlemanly conduct as their commanding officer.

THE YELVERTON CASE.

Public interest in this extraordinary case seems to have been pretty evenly divided between the evidence of the defendant and the speech of the plaintiff's counsel in reply. One of the greatest efforts of forensic eloquence, and one of the most offensive pictures of licentious conduct, commanded for the newspapers which respectively reported them an equal and almost illimitable sale. The whole series of these records may be obtained without any difficulty, except the highest flight of intellect and the basest descent of wickedness which they comprise. It seems that the aristocratic readers of the *Morning Post*, and the humble students of the penny papers, have confessed during the past week the power of that nature which makes the whole world kin. In the upper classes, however, Mr. Whiteside's speech and Major Yelverton's examination have been perused with equal eagerness, while the taste of lower life is thought by experienced judges to be best consulted by compressing the flow of oratory, and giving full space to the correspondence and to the description of the alleged scene on board the steamer in the Black Sea.

The advisers of Mrs. Yelverton have done well to lay the scene of the late legal drama beyond the Channel. The impressive Irish nation was peculiarly well adapted to feel and to excite sympathy with this lady's wrongs, and to declare the vindication of her character in tones which will resound throughout the world and to the end of time. Perhaps a more difficult and painful duty was never imposed upon an advocate than that of cross-examining Mrs. Yelverton, and of contending against the sympathy in her behalf, which probably possessed the adverse counsel quite as strongly as the spectators of the crowd outside the court. Upon the view of the defendant's conduct which was necessary to support a verdict in his favour, he abused the hospitality of a distinguished officer; he committed deliberate seduction; and he profaned a sacrament of the Roman Catholic Church. Further, he had written a letter which it was quite impossible to explain in any other way than as an attempt to persuade the victim of his lust to destroy the life of the child with which she was then pregnant. The most able and determined counsel might well feel overweighed with the burden which was thus imposed upon him; whereas the admitted facts on the other side were such as men at least are disposed to treat with tenderness. The most severe moralist of the male sex would scarcely say that flirtation on board steamboats leads by any necessary course of consequences to perjury. On the plaintiff's side there was, indeed, abundant room for the employment of all the skill of advocacy, but Mrs. Yelverton's character was not—like the defendant's—damaged by her own admissions beyond the possibility of effectual repair.

The questions of fact which had to be decided in this ten days' trial were really only two. The first was, whether a Scotch marriage took place in April, 1857. If that question were answered in the affirmative the case would be at an end. If it were answered in the

negative, a further question would arise as to the validity of the Irish marriage in the month of July following. The fact of a marriage ceremony having taken place in Ireland was not disputed; but its efficacy depended upon the question what religion the defendant professed at the time of its celebration, and this, therefore, was the second important question in the cause. The voluminous correspondence, the conduct of the parties in England, in the Mediterranean, and in the Crimea, and even those portions of the case which have created such an insatiable demand for newspapers, were only material to the main issue in the cause in so far as they could assist the jury in determining to which side they would impute the guilt of perjury. The statute of Geo. 2, which affected the validity of the Irish ceremony, enacts that every marriage celebrated by a Roman Catholic priest between a Papist and any person who is a Protestant, or who professes himself to be such within twelve months before the marriage, shall be null and void. It may be thought that the religion of such a person as Major Yelverton—taking him according to his own description of his conduct—would be impalpable. He had attended Protestant worship with his regiment, and he had accompanied the lady who claimed to be his wife to mass. If he told the priest who read the service, as he swore he did, that he was a Protestant Catholic, we are inclined to think that, for once, he made a statement which may be accepted as an approach to truth. He was, probably, just as much, or as little, of one as of the other; and it seems rather absurd to institute an inquiry into the religion of a man who avowedly trampled on honour and morality. And yet some force must be given to the statute. If Major Yelverton is to be taken to be a Catholic because he submitted to be married by a Catholic priest, the statute becomes a dead letter. But how, it may be asked, can a man of full age and irregular life profess himself to be a Protestant? Of course, if he be an Irishman at home, he may keep the anniversary of the Boyne. But an officer serving with his regiment would be under the necessity of repressing such manifestations of religious feeling, even if he happened to be disposed to indulge in them. So long as a youth resides with his parents, he may be taken, in the absence of evidence to the contrary, to be of their religion; and even after he has been emancipated, it would probably be the safest, if not the only obvious course, to follow the same rule. But the family of Major Yelverton are notoriously Protestant, because one of his ancestors sat upon the Irish Bench at a time when it was accessible only to professors of the dominant faith. The Chief Justice told the jury that "if the defendant took this woman to be his wife, and represented to her and to the priest that he was a Catholic, it would be strong evidence indeed that such was his religion." As we have not heard the thrilling tones of Mrs. Yelverton's voice, nor witnessed her fascinating deportment, we find it possible to entertain a doubt whether this direction is satisfactory. There surely cannot be any force in the first condition stated by the learned judge—"if the defendant took this woman to be his wife;" nor, indeed, does it appear to have any particular meaning, unless it be this, "if the defendant married a Catholic;" whereas, if the lady were not a Catholic, the statute would have no application to the case. The second condition—"if he represented to the priest that he was a Catholic"—may be sufficient to satisfy reasonable minds; but does it satisfy the statute? Supposing the evidence which went to prove such a representation to have been sufficient, it was quite consistent with it that Major Yelverton may have professed himself a Protestant within twelve months. Indeed, it is quite possible that the framers of this statute may have had in view the case of an ardent lover, a son of a noble Protestant house, who might be persuaded by some clever, accomplished, artful woman, of inferior birth and Romish faith, to renounce the

religion of his family for the sake of a speedy union with her fascinating self. Of course, we do not say that it is expedient to enact such laws, but while such laws exist it is the duty of courts of justice to give effect to them, even after gazing upon Mrs. Yelverton and listening to Mr. Whiteside. The importance of the difficulty we have suggested is, however, very much lessened, if not got rid of altogether, by the previous finding of the jury, that there was a good Scotch marriage. It may be taken as established by sufficient evidence that the parties read together the marriage service out of a Prayer-Book, and that this proceeding, although there were no witnesses of it, constitutes by the law of Scotland a valid marriage. Still it must be owned that the dissatisfaction felt by Mrs. Yelverton with this ceremony does not seem wholly groundless; and the remark is obvious, at least to those who are not infected by the excitement of an Irish court, that two invalid marriages are not equal to a single valid one.

We think there can be no doubt where the substantial justice of this case lies, and we should learn with regret that there was any sound legal objection to the verdict which has been received with universal acclamation. Of the talents of the advocate and of the client, as displayed in Mr. Whiteside's reply, and in the letters on which he commented, it is impossible to speak in terms of exaggerated praise. We are beyond the enchantment of the lady's look and manner, but that of her style is undeniable. A woman so gifted would have been thrown away, even if she had been quietly married to Major Yelverton. How much more lamentable is the sacrifice which has been made of spirit, of talent, and of the capacity for conferring and receiving happiness through the disastrous issue of an imprudent and misplaced love! Never was there a case better adapted to excite sympathy; and seldom has an opportunity been used to better advantage than by Mr. Whiteside.

CHANCERY PRACTICE.—APPEARANCES TO AMENDED BILLS.

The practice regulating the entry of appearances to amended bills is frequently very perplexing to the practitioner, and involves, we think, unnecessary expense. We refer to the entry of appearances to amended bills by parties who have previously appeared in the cause. The requirements of the practice are correctly stated in "Braithwaite's Record and Writ Practice," p. 329; and it appears from that work that the entry of an appearance to an amended bill by such parties is required in the following cases, viz.:—

1. Where a defendant, although having appeared to and answered the original bill, is required to answer the amended bill.
2. Where a defendant who was not required to answer the original bill, and whether he has voluntarily answered such bill or not, is required to answer the amended bill.
3. Where, after a demurrer has been allowed, the plaintiff amends the bill, and requires an answer to it.
4. Where a defendant is required to answer exceptions and amendments at the same time, and the plaintiff files a new set of interrogatories for the examination of the defendant in answer to such amendments.

Such being the practice it frequently happens that a defendant is required to enter several formal appearances in the same cause, and that instead of serving one stamped copy only of an amended bill upon each solicitor in the cause—as in the case where no answer is required to the amendments—the plaintiff is required to serve a stamped copy for each defendant. We think that an appearance might, in the cases mentioned, be advantageously dispensed with, and that one formal appearance only need be required from a defendant in any cause. There are, however, other points of practice

closely connected with the point in question, and which must not be overlooked.

But first we remark that the entry of a formal appearance is required chiefly to signify the defendant's submission to the jurisdiction of the Court, and that the name and address of the defendant's solicitor, or of the defendant himself, if he appear in person, may be recorded, thereby facilitating the service of notices and other proceedings in the cause. But would not these purposes be sufficiently answered by the entry of *one* formal appearance, and of any change of solicitor or of address which may have occurred subsequently thereto?

There were good reasons for requiring the entry of an appearance to an amended bill under the practice which obtained previously to Michaelmas Term, 1852. Under that practice the defendant's time for answering could be limited only by the entry of an appearance, and his appearance could be enforced only by service of a subpoena. But the like reasons do not now exist, because the defendant's time for answering is now computed from the date of the delivery to him or to his solicitor of a copy of the interrogatories which may have been filed for his examination.

The provisions of the practice with which the point in question is connected, and which at present lead to the requirement of the entry of more than one formal appearance by a party to a suit, are those which regulate the time for filing interrogatories, and for delivering copies thereof, for filing voluntary answers, and for demurring alone to a bill. The time upon the expiration of which a defendant, not required to answer, may obtain an order for the plaintiff to make his election in which court he will proceed, may also be included, especially if rule 7 of Order 42, of the Consolidated General Orders, p. 151, be applicable as well to amended as to original bills. By rule 2 of Order 11 of the Consolidated General Orders, p. 46, a plaintiff desiring an answer from a defendant is required to file interrogatories for that purpose within eight days after the time limited for the defendant's appearance (and such time can only be limited by serving an endorsed copy of the bill); and after that time, under rule 3 of the same Order, special leave of the Court must be applied for. By rules 4 and 5 of Order 11, p. 47, the time within which the plaintiff is required to deliver a copy of the interrogatories is regulated by the entry of an appearance by the defendant. The time within which voluntary answers to bills are to be filed is regulated by rules 5 and 7 of Order 37, pp. 120 and 121, in combination with rules 4 and 5 of Order 11 before referred to, and can only be determined, under the last-mentioned rules, by the entry of an appearance*—the time for demurring alone to a bill is, under rule 3 of Order 37, p. 120, computed from the date of the entry of an appearance,—and the time upon the expiration of which a defendant, not required to answer, may obtain an order for the plaintiff to make his election in which court he will proceed is regulated by rule 7 of Order 42, p. 151, which rule is dependent, in its construction, upon rules 4 and 5 of Order 11.

It may be observed that the foregoing provisions of the practice are applied alike to original and amended and supplemental bills; and the question is, how can our suggestion be adopted, and the harmony of the practice be preserved? Our proposal is, that a plaintiff desiring an answer from a defendant to any bill—whether an original, or amended, or supplemental, or other bill—be required to file the interrogatories within a limited time after filing or amending the bill, and, after that time, by special leave of the Court—and that he be required to deliver a copy of the interrogatories to the defendant, or to his solicitor, within a limited time after service of the bill—and that a defendant voluntarily answering, or demurring alone to a

bill, or obtaining an order for the plaintiff to make his election in which court he will proceed (in cases where such order is obtainable by a defendant not required to answer), be required to file such answer or demurrer, or obtain such order, within a limited time after service of a copy of the bill. If this proposal be adopted, rules 2, 3, 4, and 5, of Order 11, rules 5 and 7 of Order 37, rule 3 of Order 37, and rule 7 of Order 42, may be abrogated; and thenceforth only *one* formal appearance need be entered, either by or for a defendant in any cause, and only *one* stamped (*unendorsed*) copy of an amended bill need be served upon each *solicitor* acting for the defendants in the cause.

With respect to suits commenced by special case, it may be remarked that the entry of appearances by the defendants (who are not under disability) being required merely to bind them to the statements agreed upon, and to signify their submission to the jurisdiction of the Court, we think that such purposes would be as adequately answered by one formal appearance as by several formal appearances. The remark is, however, almost superfluous, inasmuch as the proposed alteration with respect to suits commenced or carried on by bill, would, if adopted, operate, as a matter of course, in suits commenced by special case. For by sections 10 & 11 of the Act 13 & 14 Vict. c. 35, it is provided that parties named as defendants to a special case, shall appear thereto "in like manner as defendants appear to bills." See also section 32 of the same Act.

The principle involved in our suggestion has, indeed, been already recognised, and the practice established—though to a limited and imperfect extent only. In *Ward v. Cartwright*, 10 Hare App. 73, the Vice-Chancellor Wood, after conferring with some of the other judges, decided—and the decision has hitherto regulated the practice—that an appearance need not be entered to an order to revive, or supplemental order for any defendant who has already appeared in the cause—and this, notwithstanding that the following words occur in the 52nd section of the Act, 15 & 16 Vict. c. 86, under which such orders are obtainable—"and such party or parties (the party or parties against whom the order to revive or supplemental order shall have been obtained) shall thenceforth become a party or parties to the suit, and shall be bound to enter an appearance thereto in the office of the Clerk of Records and Writs, within such time, and in like manner, as if he or they had been duly served with process to appear to a bill of revivor, or supplemental bill filed against him." The former practice always required that parties named as defendants to a bill of revivor or supplemental bill should enter appearances thereto, whether such defendants had previously appeared in the cause or not. But it seems to us that the decision, in the case referred to, is manifestly to the effect that an appearance is necessary only from persons who, by any such order, *become* parties to the suit—thus, as we have said, recognising the principle that only one formal appearance need be entered by or for a defendant in any cause.

EXONERATION OF MORTGAGED ESTATES.— THE ACT 17 & 18 VICT. c. 113.

The effect of the Act 17 & 18 Vict. c. 113 (Mr. Locke King's Act), upon mortgaged estates which have descended or been devised since the passing of the Act, is not so generally understood as it ought to be. A misconception has arisen from the use of the words "deed or document," which occur in the second proviso to the Act. The preamble of the Act shows that it was intended only to apply to cases of administration, and not to transactions *inter vivos*; and the changes which the enacting part of the Act introduces into the previous condition of the law are confined to a single and very simple point. Prior to the 1st of January 1855, the heir or devisee of a mortgaged estate was en-

* For a more full consideration of these rules see *ante*, p. 254.

titled to have the mortgage paid off out of the testator's personal estate, if such existed. The principle of this rule of law was based on the assumption that the personality of the deceased owner was the portion of his property that was enhanced by the sum borrowed; and, therefore, the law considered that the personality should be the fund primarily liable to the repayment of the loan. This assumption was, doubtless, as a general rule, warranted by the actual fact, although a mortgage was not unfrequently incurred in order to procure purchase-money for the identical estate which was bought. But whether the old rule of law was correct in its assumption of the generality of the facts upon which it was based or not, it was, at all events, very potent in defeating the most probable intentions of the mortgagor as to the distribution of his property after his death, as between his real and personal representatives.

Mr. Locke King's Act was to bring the law into harmony with the general intention of mortgagor-proprietors, without compelling them to defeat the old rule of law by express provisos in their wills, which, indeed, might be framed in ignorance of the existing law of the marshalling of assets. All legislation approaches perfection in the degree in which it reconciles law to the common understanding of men, consistently with the certainty and other essential requisites of general rules. Mr. Locke King's Act aims at the former desideratum, but fails to realize its full merit in this respect by reason of a proviso which, as appears from the numerous communications which we have published on the subject, has occasioned difficulty as to a right view of the precise scope of the Act. While the preamble, then, confines the scope of the Act to cases of administration, the enacting clause is equally simple. It merely alters the rule of law that we have stated, and declares that the heir or devisee of a mortgaged estate shall, in future, hold it charged as the primary fund for payment, instead of the personality, which can only be resorted to by the mortgagee, if the mortgaged estate prove insufficient to liquidate the amount of the mortgage. As between the heir or devisee, and the personal representative of the mortgagor, the heir or devisee can in no case claim exoneration from the latter, unless the ancestor or testator has signified an intention to that effect by "will, deed, or other document."

The Act contains two provisos, the first of which declares that the rights of the mortgagee against both the real and personal estate of the mortgagor remain untouched by the Act, which merely inverts the previous rule of marshalling, and enables the personality to be indemnified, if necessary, out of the mortgaged estate, but not *converso*, as was the previous rule.

The last proviso exempts from the purview of the Act the rights of any person claiming under or by virtue of any deed, will, or document made before the 1st of January 1855. This section must refer to deeds, &c., claimed under immediately, and not after a descent; for if it applied to deeds, &c., claimed under prior to the Act, it would deprive the Act of all operation whatever. The deeds &c., then referred to, are deeds, &c., made by the ancestor or testator, in which he declared his intention that the personality should be the fund primarily liable to the mortgage debt, or are deeds &c. executed under powers contained in wills. In the former class of cases the declaration that the personality of the mortgagor is to be the fund primarily liable to the mortgagee, is to be construed in connection with the subsequent will of the mortgagor, and is, therefore, *pro tanto* of a testamentary nature itself. Nothing can be more clear than that the Act refers only to claims under wills or to appointments under powers contained in wills, or to cases of descent. It does not apply to deeds or documents *inter vivos*, unless these be, as regards the purposes of the Act, of a testamentary nature.

THE MEDICAL ACT.

It appears from recent decisions that this Act requires amendment. One object of the Legislature in passing it was to prevent unduly qualified persons from holding themselves out to the public as regular practitioners in medicine and surgery. But its provisions upon this point have been found to be practically inoperative. The fortieth section enacts that "any person who shall wilfully and falsely pretend to be, or take or use the name or title of physician, surgeon, &c., or any name, title or description, implying that he is registered under this title, &c., shall, upon a summary conviction for any such offence, pay a sum not exceeding twenty pounds." And it is enacted by the 27th section, "that the absence of the name of any person from 'The Medical Register' shall be evidence until the contrary be made to appear that such person is not registered according to the provisions of this Act." Under these sections a medical practitioner in the county of Suffolk was convicted by three justices of the peace, in October, 1859, for that he wilfully and falsely pretended to be a surgeon contrary to the form of the above-mentioned Act.

Upon this conviction a case was stated for the opinion of the Court of Common Pleas, under the 20 & 21 Vict., c. 43, when the facts appeared to be as follows: At the hearing before the justices the Medical Register for the year in question, compiled in the terms of the Act, was produced, and it did not contain the name of the defendant. It was further proved that the defendant had his name engraved on a plate affixed to the door of his house, and that on this plate he was designated "surgeon, accoucheur, &c." Under these circumstances the justices held that he had wilfully and falsely pretended to be a surgeon within the meaning of the Medical Act; and they convicted him accordingly. When the case was argued for the appellant an objection was taken to the validity of the Medical Register which had been produced before the justices. But this was overruled; and the question at issue was finally decided by a reference to the two sections of the Act which we have given above. The Court held that these had been misinterpreted by the justices, and that the conviction must be quashed. Chief Justice Erle, in delivering judgment, said: "There is nothing in the case to show that the appellant was not in practice as a surgeon before the Act passed; there is nothing to show that he did not possess a diploma from some one of the various learned bodies who are entitled to confer it. The only facts are that he called himself a surgeon, and was not registered. I do not think that that is enough; for it cannot be maintained that every person who calls himself a surgeon without being registered is liable to be convicted."*

As the Act stands, therefore, it does not seem to afford any guarantee to the public against unduly qualified persons from holding themselves out as regular practitioners. The fact of non-registration has been held to prove nothing. Whether or not the name of a medical man is entered in the register is immaterial in so far as regards the public. But as regards the interests of the medical profession, the Act is a very important piece of legislation. By the 32nd section it is provided that no person shall be entitled to recover any charge in a court of law for medical or surgical attendance unless he shall prove at the trial that he is registered under the Act. By the 35th section all persons registered are exempted from serving upon juries, and also from serving in the militia; and by the 36th section persons registered are alone eligible for Government appointments and for a variety of other offices therein specified.

But perhaps the most important provision in the Act, so far as the medical profession is concerned, is one by means of which physicians are now enabled to maintain

* *Podgrift v. Chevalier*, 29 L. J., 237.

an action for their fees. The 31st section enacts that all persons registered under the Act without distinction shall be entitled to recover reasonable charges for professional aid, with full costs of suit, &c. But a very material condition is added, as follows:—

“Provided always, that it shall be lawful for any college of physicians to pass a by-law to the effect that no one of their fellows or members shall be entitled to sue in manner aforesaid in any court of law; and thereupon such by-law may be pleaded in bar to any action for the purposes aforesaid, commenced by any fellow or member of such college.”

This section effects an important alteration in the law; for before the passing of the Medical Act it was clearly settled that a physician, like a barrister, could not maintain an action for his fees. The principle was laid down by Lord Kenyon, in *Chorley v. Bolcot* (4 T. R. 318) as follows:—“It has been understood in this country that the fees of a physician are honorary, and not demandable of right; and it is much more for the credit and rank of that honourable body, and perhaps for their benefit also, that they should be so considered.”

We presume that when Lord Kenyon suggested that the rule of law was beneficial to the medical profession he meant that, as on the one hand physicians could not maintain an action for their fees, so on the other an action would not lie against them for negligence or want of skill. The Act now leaves it to the different colleges of physicians throughout the kingdom to determine whether the members of their body shall have the same privileges as surgeons, or whether they shall maintain the old rule of the profession, and regard their fees as an honorary reward for their services. We are not aware whether any of the learned bodies in question have come to any decision upon the subject. It is one, however, which materially affects the interests of the medical profession, in a purely legal point of view. For if a physician can maintain an action for his fees, it must follow, as a necessary consequence, that an action is maintainable against him for negligence or want of skill. If he assumes the privileges of a surgeon or apothecary, he must also incur their liabilities.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

VII. (Continued.)

OF DOMICIL OF ORIGIN.

Before concluding this chapter, I may perhaps be permitted to say a few words respecting birth of children at sea, which has given rise to considerable controversy. Vattel, in speaking of this subject says, at page 102, s. 216: “As to children born at sea, if they are born in those parts of it possessed by their nation, they are born in that country. If in the open sea, there is no reason to make a distinction between them and those who are born in that country; for, naturally, it is our *extraction*, not the place of our birth that gives us rights; and if children are born in a vessel belonging to that nation, they may be reputed as born in its territories, especially when they sail upon a free sea, since the State retains its jurisdiction over those vessels; and as, according to the commonly received custom, this jurisdiction is preserved over those vessels even in parts of the sea subject to a foreign dominion, all the children born in those vessels are considered as born in its territory. For the same reason, those born in a foreign vessel are reputed born in a foreign country, unless their birth take place in a port belonging to their own nation, for the port is more particularly a part of the territory, and the mother, though at the moment on board a foreign vessel, is not on that account

out of the country; supposing that she and her husband had not quitted their native country to settle elsewhere.” Out of this naturally arises the question what parts of the sea can be said to belong to a country; and the law seems upon that point to be this. There can be no prescriptive right to the open sea. Treaties may affect the rights of certain countries, or there may be rights acquired by tacit agreement, but the only legal right in the sea which any country has is within cannon shot of the coast, no doubt arising out of this consideration, that it is necessary for the purpose of safety that no stranger or foreigner should be allowed to come within that distance. Vattel, s. 289, p. 128. Questions might be made, how far modern improvements in the use of cannon may vary this rule; but still, I imagine the principle would fix it to whatever range the cannon of that country were able to throw a shot. As I have incidentally touched upon the law of France with regard to legitimacy, it will not be out of place here to mention a case bearing strongly upon this point which came before Vice-Chancellor Wood.

In *re Wright's Trust*, 2 Kay & Johns. 595; 4 W. R. p. 541; 20 Jur. 465. The facts were as follows:—William Wright, in 1821, took the name of Browne, and went to France in 1823 to avoid his creditors; lived with a French woman, and attempted to marry her at St. Omer, but failed in consequence of not bearing his real name, but was married by the minister of the English church there in March 1824. In December of the same year a daughter was born. The marriage was admitted to be ineffectual by the laws of England and France. In 1830, William Wright was called to serve in the National Guard, and got exemption on the ground of being an Englishman. From 1830 till 1854, when he died, he lived in Paris, and never returned to England after 1823 when he left it. In 1836, having paid his creditors he resumed his own name. In August, 1841, married the same person according to the rites of the English church; and in November, 1846, at the *Mairie* according to the French law, when the daughter was acknowledged and legitimized. William Wright, at his death at 1854, left two daughters by a first marriage in England, and the one in France who petitioned for payment to her of half of her father's personality. The opinions of French *avocats* were taken, but they were conflicting; and Vice-Chancellor Wood held that the domicil of the child followed that of the father. The French law of legitimization went on the assumption of a contract at the time of conception, and that the country in which a child is born does not affect the case, it is the domicil of the parents.

I may advert to one more case, bearing upon this point, which occurred in the highest tribunal in this country; I mean the case of *Rose v. Ross*, 4 Wils. & Shaw, 289. The facts were these:—A Scotchman by birth, heir of entail in possession, and proprietor of estates in Scotland, early in life settled in England, making occasional visits to Scotland. By an illicit connexion with an English woman, he had a son, born in England; and afterwards went to Scotland with the child and its mother, and fifteen days after his arrival in that country he married her. They remained in Scotland two months; visited his estate, and returned to England with the child, where they remained until the death of the father. Upon the question of legitimacy, the Court of Session held, that the child was legitimate; but upon appeal to the House of Lords in this country that decision was reversed, on the ground that the domicil of the father was English (*vid. p. 292 of the report where the Lord Chancellor concludes his judgment.*) The case of *Strathmore v. Bowes*, in the appendix of the same volume, p. 89, decides in effect the same point; for there it was assumed that, where a Scotchman has a Scotch domicil, acts done by him in England, which, if done in Scotland would constitute a legal marriage, do make such

marriage legal. The question there was as to the legitimacy of a child to inherit a title; and in this, of course, the law of England materially differs, because in Scotland an *ante natus* is legitimized for all purposes, but such legitimization is only recognised in England as to his personal status, and supposing the domicile of the parents English, not recognised at all. Now, I apprehend, that a title stands very much on the footing of real estate, for it is transmitted to a man's heirs, and a man could not be his father's heir, and therefore, entitled to real estate, unless he was legitimate for all purposes according to our law. A very singular case is reported in the "Decisions of the Court of Session," vol. 16, page 6, of *M'Dowall v. Dalhousie*, the facts of which were as follows:—A Scotchman, proprietor of land in Scotland, and domiciled there, formed an illicit connexion with B, a Scotchwoman, also domiciled in Scotland; she became pregnant, and in about three months thereafter he was ordered into England on military duty, and she accompanied him and was delivered of a son in October 1796. He remained for several years resident in England on military duty, but never lost his Scotch domicile, and returned there to reside in 1800; placing B. in a house at Penrith, where he maintained and frequently visited her. Several children were born of B. by A. during his residence in England, and in 1808 a formal contract was signed by A. & B. acknowledging themselves husband and wife, and he took her home to his house in Scotland where they cohabited together as husband and wife, and were universally *habit* and *repute* married persons until her death in 1834. The son born in October, 1796, raised declaration of legitimacy (as is the Scotch term) and of his right to succeed to landed estates in Scotland as heir substitute of entail. Held, first, that a valid marriage had been contracted by the parents in 1808 according to the law of Scotland. Secondly, that as the husband was a domiciled Scotchman, and the marriage was a proper Scotch marriage, it had the effect of legitimizing the son, though the place of the son's birth was England, and the principle of legitimizing *per subsequens matrimonium* was repudiated by the law of England; and thirdly, that it was not made out that the mother had lost her Scotch domicile, either before or after the birth of the son; but that whether she did so or not, the legitimacy of the son was equally established. To the judgment in this case a note was attached in which the following passage from Voet. lib. 25, t. 7, s. 6, was quoted; "*Quia nuptia per jus finguntur retro cum concubiam contracta eo tempore quo illa prius in concubinam assumpta fecit atque ita filius quoque retro legitimus fingitur.*" It will be seen that in this case the difference between the English and Scotch law as to legitimizing of children is even more strongly exhibited than in the case of Don's estate recently referred to; for there the son was born in Scotland, but in this case the decision was founded upon two other propositions, in which the laws of the two countries are identical, namely, that the domicile of the son and wife follow that of the father, and further that being only resident in England for the purposes of military duty, no abandonment of his Scotch domicile had taken place, although certainly in his case the fact was rendered beyond doubt by his return and settling eventually in Scotland. There is, however, one peculiarity in the third ground of the decision, that the effect of the subsequent contract or acknowledgment of marriage was to legitimize the *ante natus*, even supposing her domicile were not Scotch, which, as it appears to me, assumes one or both of two things, that the domicile of the father was sufficient to make the son legitimate as being Scotch, or that the acknowledgment of the marriage had such a retrospective effect as to make the domicile of B. follow that of A. even although she was not married to him at the time of the birth of the son. The case was carried on appeal to the House of Lords, and is reported under the

title of *Countess Dalhousie v. M'Dowall*, 7 Cl. & Fin. 817, and it was held that the child of a Scotchman, though born in England, becomes legitimate for all civil purposes in Scotland by the subsequent marriage of the parents in England if the domicile of the father was and continued then to be Scotch; and that neither the place of the marriage, nor the birth of the child, will, under such circumstances, affect the status of the child. In the case of *The Commissioners of Inland Revenue v. Gordon's executors*, 12 Dec. of Court of Sessions, 2 Ser. 657, Lord Fullerton makes the observation on the general subject of domicile of origin, that though there are *dicta* in some of the cases to the general effect that after the domicile of origin is effaced by a domicile of choice, the latter must be held to remain till a new and different domicile shall be acquired; there is certainly great difficulty in holding that where a domicile of mere choice, which is entirely dependent on the will of the party, is destroyed by a permanent and total removal, such domicile can revive or subsist to any effect whatever, whereas the domicile of origin involves an element which is independent of the mere will of the party, and may be held to subsist unless some other has been selected, and continuously preserved till the death of the party.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before the LORDS JUSTICES OF APPEAL.)

Feb. 28.—*In re Williams* (a solicitor).—This was an appeal from a decision of the Master of the Rolls refusing to make an order for the discharge of Mr. Williams from custody. It appears that an order was made for the delivery up of all deeds and documents in the custody or power of Mr. Williams, belonging to Mr. Cass, his client. Mr. Williams offered to deliver those which were in his own custody, but some briefs were detained by counsel for non-payment of fees, and others were detained by another counsel for a similar reason, and were, therefore, not in the power of Mr. Williams. The Master of the Rolls was of opinion that this was no answer to the fact of disobedience to the order, and refused to order Mr. Williams's discharge.

LORD JUSTICE KNIGHT BRUCE.—This gentleman is in prison for not having obeyed an order of the court directing him to deliver up all papers and documents in his possession or power. In my opinion there is evidence before us that he has delivered all such papers and documents, and there is no evidence that he retains any of them. He must, therefore, be released, and he is, I think, entitled to the costs of the application here.

LORD JUSTICE TURNER.—I am entirely of the same opinion; and I desire to say nothing more upon this case than that I am of that opinion.

(Before Vice-Chancellor Sir W. P. WOOD.)

Bonnardet v. Taylor.—This case came before the court upon an interlocutory application by the plaintiffs, that under the common order made upon the defendants for production of documents for inspection "by the plaintiffs, their solicitors and agents," such inspection might be made by a public accountant of Liverpool, as agent employed by the plaintiffs, or some other professional accountant unconnected with the parties to the suit.

For the plaintiff it was contended that a professional accountant was an "agent" within the terms of the common order, and that it was impossible for a solicitor or his clerk, persons not versed in mercantile matters, properly to investigate these books. For the defendant it was contended, on the other hand, that the common order for inspection did not justify the plaintiffs in employing a professional accountant, who was in no sense a *bona fide* agent.

The VICE-CHANCELLOR held that although he did not recognise an accountant as coming within the term "agent" in the common order, the special circumstances of this case justified him in granting the application, and directing that

the gentleman named by the plaintiffs be at liberty to inspect the books, &c., of the defendants at Newcastle.

COURT OF DIVORCE & MATRIMONIAL CAUSES.

(Before the JUDGE ORDINARY.)

March 1.—Brodie v. Brodie.—The facts of this case raised an important question as to the jurisdiction of the court.

The JUDGE ORDINARY said he should probably desire to hear the case argued on both sides. It was a very grave question whether, after a husband and wife had cohabited for a long series of years in a foreign country and had there separated by mutual consent, and the husband subsequently changed his domicile to England, he should be allowed to take advantage of the process of this court to get a divorce. He understood from the public papers that the Lord Chancellor was about to move for a select committee to consider the whole subject of jurisdiction.

The case was allowed to stand over for further evidence and for argument.

HOME CIRCUIT.—CHELMSFORD.

The commission for the county of Essex was opened in this town on Tuesday. Only 7 causes were entered for trial.

MIDLAND CIRCUIT.—NORTHAMPTON.

Mr. Justice Crompton opened the commission in this town on the 28th ult.

NOTTINGHAM.

Mr. Justice Crompton opened the commission in this town on the 7th inst.

LEICESTER.

Mr. Justice Crompton opened the commission in this town on the 4th inst. Only 4 causes were entered for trial.

NORFOLK CIRCUIT.—ATLESBURY.

The commission for Bucks was opened by Mr. Serjeant Tozer on the 4th inst. 5 causes were entered for trial. Two common and three special jury cases.

NORTHERN CIRCUIT.—NEWCASTLE.

The commission was opened in this town on the 28th ult. by Mr. Justice Keating and Mr. Justice Hill.

DURHAM.

Mr. Justice Hill and Mr. Justice Keating arrived in this town on Saturday. 15 causes were entered for trial.

OXFORD CIRCUIT.—READING.

The commission was opened in this town on the 28th ult. by Mr. Justice Blackburn and Mr. Baron Wilde.

OXFORD.

Mr. Justice Blackburn opened the commission in this town on the 4th inst. There were 3 causes only entered for trial.

WESTERN CIRCUIT.—WINCHESTER.

The commission was opened in this town on the 28th ult. by Mr. Justice Willes.

DORCHESTER.

The commission for the county was opened in this town on the 6th inst. by Mr. Justice Willes. There were only 3 causes entered for trial.

MIDDLESEX SESSIONS.

March 4.—The March General Sessions of the Peace for the county of Middlesex commenced this morning at Clerkenwell, before the Assistant-Judge; Mr. Payne, deputy; Mr. Pownall, chairman of the bench; and a large number of magistrates.

The ASSISTANT-JUDGE, in his charge to the grand jury, adverted to the Grand Jury Bill now before the Legislature, and hoped that soon, gentlemen who were at present called upon to discharge the duties of grand jurors would be relieved of that liability, except on certain cases.

Edmund Humphrey Woolrych, Esq., has been appointed a

magistrate at the Thames Police court, in the place of Mr. Yardley, who succeeds the late Mr. Secker at Marylebone.

Slingsby Bethell, Esq., has been appointed Gentleman of the Chamber to the Lord Chancellor, in the place of the Hon. W. C. Spring Rice, appointed Secretary to the Commissioners in Lunacy.

Mr. Edward W. Cox of the Western Circuit, and recorder of Falmouth, Penryn, and Helston, is a candidate for the representation of Bodmin, vacant by the retirement of the Hon. E. F. L. Gower.

Mr. Henry Potter, of Farnham, Surrey, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, March 4.

TRADE MARKS.

This Bill was read a second time.

Tuesday, March 5.

ADMIRALTY COURT JURISDICTION BILL.

This Bill was read a second time, it being understood that the clause taking away the right of appeal should be struck out in committee.

Thursday, March 7

THE ACCOUNTANT GENERAL'S OFFICE.

THE NEW COMMISSION.

Lord ST. LEONARDS said it would be in the recollection of their lordships that last week he had brought under their consideration the appointment of the commission to inquire into the expediency of bringing together the courts of law and equity upon one site; and the means by which that object might be obtained. In their report the commissioners came to the conclusion that such concentration of the courts would be expedient; and also that it would be desirable and quite right to take some £1,400,000 for this purpose from funds of the suitors in the Court of Chancery. He had endeavoured to show to their lordships how unjust and impolitic it would be to touch those funds at all. He had understood his noble and learned friend on the woolsack to say that he also approved of what he (Lord St. Leonards) must call a misappropriation of the money of the suitors. He also thought his noble and learned friend had told the House that a Bill was prepared in order to carry out the recommendations of the commission. He (Lord St. Leonards) had heard of no such Bill, but he had heard with surprise of a new commission to be appointed for the purpose of enquiring into the office of the Accountant-General of the Court of Chancery. He never remembered to have heard of anything like this. Here was a great public officer, who for nearly a century and a half had administered a fund, which now amounted to nearly £49,000,000 sterling, with the utmost regularity, so that not a shilling had ever been lost to the fund; and without any charge being brought against him in either House of Parliament, without any explanation, he was to be dragged before a commissioner. There must either be some mystery, or some misconduct, or her Majesty's Government wished by this means to overhaul the fund in order to see whether they could not appropriate any part of it in furtherance of the scheme they had in view. He wished to know whether that was so or not. He knew that the present Accountant-General was indefatigable and able in the discharge of his duties. Had any complaint been made against him? If the funds belonging to the suitors were to be meddled with, the advice he should give to any man would be, either: "Get your money out of court as quickly as you possibly can;" or, "Do anything in the world rather than put your money into the Court of Chancery." The object of the commission, he suspected, was not a direct, but an indirect one—to see what was the state of the fund. Then who were the commissioners? He never was more astonished than when he saw their names. In the late commission two of the members were judges, and one of these learned persons dissented from the proposed appropriation of the fund in a paper with every word of which he (Lord St. Leonards) agreed. A similar arrangement might have led to a little confidence, but upon this commission there was not a single equity judge, nor a single equity barrister. The object was to inquire into the

constitution of the Accountant-General's office, and the management of the funds of that office. He desired to abstain from saying a single word against the personal qualifications of any of the commissioners; but there were two gentlemen upon whose appointments he felt bound to make some observation. One was Mr. Rogers, a registrar of the Court of Chancery, who came forward as a very willing witness upon the last occasion. He was entirely in favour of the scheme for the concentration of the courts and of appropriating the money of the suitors for that purpose. At the late inquiry a solicitor, also of great eminence and experience, was examined. That gentleman, Mr. Field, was also on this commission. Now, Mr. Field was examined as a witness upon the former occasion. He begged their lordships' attention to what was stated by that gentleman. He said that the Accountant-General's office ought to be abolished, for, in his opinion, it was an utterly useless office; and he proposed that the clerks should all be turned over to the Bank of England, who would, thereupon, shut up their own present Chancery office and establish a new branch in Chancery-lane, or in the new consolidated building. That was the gentleman whom his noble and learned friend on the woolsack had agreed to put into this commission. Was it right, he (Lord St. Leonards) asked, that a gentleman who had so far committed himself to an opinion should be put upon a commission of inquiry? This gentleman was put into this position in consequence of what he had said on the former occasion. If this were a proper object, let it be done in a proper way. It was disrespectful to the Court, of which his noble and learned friend was the head; highly dishonourable to the Accountant-General, and alarming to the suitors, who would find out now, for the first time, that the money hitherto supposed to be under the sanction and protection of the law was liable to be appropriated to other objects than the benefit of the suitors themselves. He asserted that the suitors had always a right to demand that their funds be kept in hand. The present income of the Court of Chancery from fees amounted to £100,000 a year. With a little care an amount of £50,000 might be struck off from this charge. But his noble and learned friend, when he moved for the commission, said he did not consider it his duty to propose any reduction in the fees. Surely those fees ought to be reduced if Parliament were to allow any encroachments upon the Suitors' Fund. He thought there was great cause for alarm on the part of the suitors of the Court at the way in which the Government were dealing with these funds.

The LORD CHANCELLOR said there was not the slightest objection in acceding to the motion; but his noble and learned friend was in a state of most unnecessary alarm. There never was a better officer in the service of the Crown than the present Accountant-General. He was most honourable, intelligent, and industrious in business, and the offices over which he presided had been conducted most admirably and satisfactorily. There was no imputation against any officer of the Court whomsoever. All had conducted themselves with the utmost propriety, and in a manner consistent with their public duties. But it was imagined that, for the benefit of the suitors, there might be an improvement in the manner in which the funds were invested. As to any plan to rob the suitors of the Court of Chancery, it was preposterous. He should have thought any fear of that sort would have been quieted when, amongst the list of commissioners, was read the name of Lord Kingsdown. He thought that would be a security that the objects of the commission were legitimate, and that its labours would be efficiently discharged. Suggestions had been made that some improvement might be made in the system pursued in the Accountant-General's office. Part of the funds were invested in the Three per Cents, and part remained in cash, to every shilling of which the suitors were entitled in fixed sums. It had been supposed that there might be a means devised of putting this sum of cash out at interest upon security. Persons more experienced than he (Lord Campbell) was in financial considerations, thought that a system might be established which might ensure this benefit to the suitor. Could there be any objection to this inquiry being made? Then, again, it appeared that upon every occasion when the Accountant-General, on behalf of the suitors, bought in and sold out, a commission was paid; and though that commission was extremely small, it was felt to be a hardship upon the suitors which might be remedied for their benefit. His noble and learned friend had commented upon the names of the commissioners. He thought that the name he had mentioned would be a guarantee that the fund was safe at least. But there were other names which he (Lord Campbell) could equally well defend; though

they were not so distinguished in the legal profession as that of his noble friend (Lord Kingsdown). There was Earl Grey; there was a governor of the Bank; there was Mr. Rogers, who was a most meritorious officer of the Court of Chancery; there was Mr. Anderson, who was especially versed in the financial part of the inquiry; there were two solicitors, most intelligent and most honourable men, Mr. Cookson and Mr. Field. He ventured to say no persons in the legal profession were more worthy of the confidence of the public than these gentlemen. Finally it was thought right that a member of her Majesty's Government should be placed upon the commission as a still further guarantee for the interests of the suitors, the objects of the inquiry being intended to be more for their benefit, than on any other public ground.

LORD DENMAN said he was not surprised at the jealousy felt by the noble lord (Lord St. Leonards); because one of the main results arrived at by the late report was this—that unless a certain fund, called fund (B.), could with justice be applied to the rebuilding of the courts, the whole scheme must fall to the ground. He (Lord Denman) had read the whole report with great interest. The Attorney-General seemed to be a leading personage in the proposal for consolidation; and his wish appeared to be to make the Middle Temple as useful to the Court of Chancery as Lincoln's-inn had been. Part of the plan was to pull down Temple-bar, and to build a bridge over Fleet-street. Underground tunnels were also part of the scheme, which was to take seven years for its completion, and to cost £1,400,000. Considering the inconveniences which would arise, he thought the retention of the courts at Westminster highly desirable.

LORD KINGSDOWN said he knew no more of the proposal for this commission than he gathered from the contents of a letter which had been addressed to him by a Secretary of State, asking him to serve on the commission. He had seen in a legal publication articles from which it appeared that sums to the extent of £20,000 or £30,000 might be saved to the fund by a different system of management. Whether or not that were the case he was totally ignorant, but the Government seemed to think that something might be gained; and he thought it would not be consistent with his duty to refuse to serve, when the proposal came from a Government to which he could hardly say he was an opponent. There was nothing political in the matter; and he thought there was no possibility of the most profligate and rapacious commission getting their hands into the "till," as it might be called, of the Court of Chancery. The whole and sole principle of the commission was this: to inquire whether any saving could be made by investing in any security or otherwise of the funds which have been invested on behalf of the suitors to the extent, at present, of £49,000,000. The cash standing in court amounted to a great deal more. Whatever commissioners were appointed, it was to be remembered that nothing could be done except under the authority of Parliament. Nobody could interfere with or misappropriate one shilling of the fund. He believed there was nothing in the terms of the commission which would authorise the commissioners to give any opinion upon the point whether the funds or any part of them should be appropriated to the building of new courts. He believed his noble and learned friend (Lord St. Leonards) to be most properly anxious for the safety of this fund, and that he had done more than most Chancellors who had held the great seal before him to improve its condition; but his noble and learned friend seemed to be under the impression that his speech of the other night had failed to produce the effect which perhaps it ought to have produced. He thought some secret and dangerous scheme was on foot for effecting a purpose that could not be gained directly. As far as he (Lord Kingsdown) was concerned, nothing would be more agreeable to him than that the commission should be superseded. He had seen enough to know that all who engaged in them incurred the hostility of those who were affected by the changes required, and very often of the public themselves who were the gainers by those changes. ("Hear hear," and a laugh.)

The motion was then agreed to.

STATUTE LAW REVISION BILL.

On the motion for going into committee on this Bill,

LORD CHELMSFORD urged that it should be remitted to a select committee.

The LORD CHANCELLOR replied that sending the Bill to a select committee would involve great delay and produce no benefit.

The Bill then passed through committee without amendment.

Friday, March 8.

THE STATUTE OF MORTMAIN.

Lord CREANWORTH introduced a Bill to amend the Statute of Mortmain.

The Bill was read a first time.

TRADE MARKS BILL.

This Bill passed through committee.

THE STATUTE LAW REVISION.

This Bill was read a third time and passed.

HOUSE OF COMMONS.

Friday, March 1.

LAW OF FOREIGN COUNTRIES BILL.

This Bill was read a third time and passed.

Tuesday, March 5.

ERRONEOUS VERDICTS.

Mr. BUTT obtained leave to bring in a Bill to make more effectual provision for the setting aside erroneous verdicts and granting new trials in criminal cases.

PENDING MEASURES OF LEGISLATION.

A BILL TO PREVENT FRIVOLOUS OR FICTITIOUS DEFENCES TO ACTIONS FOR RECOVERY OF DEBTS.

1. The provisions of this Act shall come into operation on the tenth day of August in the year of our Lord one thousand eight hundred and sixty-one.

2. If the plaintiff, or one of the plaintiffs if more than one, in any action which shall be commenced in any of Her Majesty's superior courts of common law at Westminster for recovery of a debt or liquidated demand in money, of the particulars of which a special endorsement may be made on the writ, pursuant to "the Common Law Procedure Act, 1852," shall, together with the precepts on which such writ shall be issued, file or deliver an affidavit in form No. 1, set forth in the schedule to this Act, or to the like effect, no defendant in such action shall be at liberty to enter an appearance, unless he shall with the memorandum of appearance deliver to the proper officer an affidavit in the form No. 2, set forth in the schedule to this Act, or to the like effect, or unless he shall obtain leave from a judge of any of the said courts to appear to such writ, on paying into court the sum endorsed on the writ, or upon an affidavit or affidavits, satisfactory to the judge, which disclose a legal or equitable defence to the action, or such facts as the judge may deem sufficient to support the application, and on such terms as to security or otherwise as to the judge may seem fit.

3. Endorsement on writ to be according to form in schedule.

4. Plaintiff may sign judgment for undisputed part of a debt.

5. In case any defendant shall before appearance obtain an order from a judge for further or better particulars of the plaintiff's demand, such defendant shall be allowed the same time for entering an appearance after delivery of such particulars which he had at the return of the summons on which such order was made, unless otherwise provided for in such order.

6. Act to be called "The Fictitious Defences Act, 1861."

Recent Decisions.

EQUITY.

EQUITABLE ASSIGNMENT OF FUTURE CHATTELS.

Holroyd v. Marshall, 6 Jur. N. S. 931, L. C., 9 W. R., 303.

This case deserves consideration as an example of the conditions which must be observed in order that an equitable interest in chattels may be made available against a legal title. The circumstances out of which the question arose may be briefly stated thus:—One Taylor had been employed by the plaintiffs to manufacture for them damask goods, previously to his bankruptcy. The machinery of his mill having been put up for sale by the assignees, was purchased by the plaintiffs. By an indenture made between the plaintiffs of the first part, Taylor of the second part, and a trustee of the third

part, after reciting that Taylor was tenant of a mill and other buildings, and that the machinery specified in the schedule thereto was placed on the premises and belonged to the plaintiffs, and that Taylor had agreed for the purchase thereof for £5,000, but, being unable to pay the purchase-money, it had been agreed that the same should be secured, it was witnessed that the plaintiffs assigned to the trustee all the machinery, &c., upon trust for Taylor until demand of payment, and if he should pay the £5,000 for Taylor absolutely; but in case of default in payment, upon trust to sell and apply the proceeds in satisfaction of the plaintiffs' claim. The deed contained a proviso that all machinery which, during the continuance of the security, should be placed on the premises in addition to, or substitution for, the machinery specified in the schedule, should be subject to the trusts thereby declared; and that Taylor would do all acts for assuring such added or substituted machinery accordingly. This deed was registered as a bill of sale. The plaintiffs becoming dissatisfied with Taylor's conduct, demanded payment, and on default took, or attempted to take, possession of the machinery. It was alleged by the principal defendant, who was an execution creditor of Taylor, that at the time of this attempt the sheriff was already in possession under a *f. fa.* issued by himself. The plaintiffs, however, assumed to act as if they had effectually taken possession of the machinery, and proceeded to a sale by auction. Their right to the machinery on the premises at the date of the deed was not disputed; but during the sale the sheriff took forcible possession of the machinery which had been added and substituted by Taylor, and carried it away. The bill was filed against the sheriff and the execution creditor, to restrain proceedings under the *f. fa.*; and the question was as to the plaintiffs' right to this added and substituted machinery.

The attempt to prove that the plaintiffs took possession before the sheriff failed. But Vice-Chancellor Stuart decided in the plaintiffs' favour, upon the ground that Taylor had been in possession as their agent from the date of the deed. He admitted that an assignment of chattels to be subsequently acquired is void at law, unless some act be done to give effect to it after the chattels have come into the possession of the assignor. It has been said that such an assignment may operate as a license to seize the after-acquired goods; and if the assignee does seize them under such implied licence, he will be justified in so doing, and his title will thereby become complete. The law upon this subject is founded on Lord Bacon's maxim, *Licet dispositio de interesse futuro sit inutilis, tamen fieri potest declaratio precedens qua sortitur effectum, interveniente novo actu*. In the present case there was *declaratio precedens*—viz., the proviso in the deed that added or substituted machinery should be subject to the trusts thereof, but where was the *novus actus* necessary to give effect to it? The Vice-Chancellor found it in the possession of Taylor as the plaintiffs' agent, that is to say, in the continuance without any change of the state of things created by the deed, except so far as a change was operated by bringing on the premises fresh machinery as Taylor purchased it. He said, "It is not disputed that as to all the machinery in the mill existing at the date of the security, Taylor the assignor was properly in possession at the time of the seizure, that he was in possession as agent of the plaintiffs. During that possession he purchased the additional articles in question. They were placed in the mill, and made an integral part of the machinery used for the working of the mill. They are in his possession as agent of the plaintiffs, and what more is required?" The defendant had contended that the deed could not operate to pass machinery acquired subsequently to its date, unless it were re-registered under the Bills of Sale Act. The Vice-Chancellor answered this argument by observing that the language of the deed clearly showed an intention that after-acquired property should be subject to its operation; and, therefore, he held that the requirement of the Act was sufficiently complied with by the original registration. In support of this view he relied on the concluding words of the schedule, "And all other the machinery, &c., in or about the premises." But even if it were possible to give to these words the proposed construction, the observation occurs that the object of the clause in the deed to which the Vice-Chancellor referred, was to assign chattels belonging to the plaintiffs to a trustee, upon trusts to permit Taylor under certain conditions to hold possession thereof; and, therefore, that clause could not by any possibility operate as a bill of sale from Taylor to the plaintiffs either of existing or of after-acquired property. Both the argument and the judgment upon this point appear to have proceeded upon a confusion between the former part of the deed, by which the plaintiffs assigned existing machinery to the trustee, and the

latter part of it, which was in effect an assignment by Taylor of machinery to be afterwards acquired to the same trustee.

On appeal to the Lord Chancellor this decision was reversed, and the law applicable to the case was distinctly stated. If possession had been taken by an agent of the plaintiffs before the sheriff entered, the decree appealed from would have been right. But the possession relied upon by the Vice-Chancellor seemed wholly insufficient, "for it was the possession of Taylor the assignor, who cannot be considered the agent of the assignees for this purpose." An attempt was made to support the decree by contending that, irrespective of whether possession had or had not been taken by the plaintiffs, they, under their equitable title, must be preferred to the judgment creditor. But in *Mogg v. Baker* (3 M. & W. 193), Mr. Baron Parke said he had the highest authority for stating that the opposite doctrine prevailed in equity as well as at law, and this statement was adopted by the Lord Chancellor in the present case.

The limits within which courts of equity will give effect to these assignments will, however, be better understood by reference to the case of *Langton v. Horton* (1 Hare 549). In that case there had been an assignment by way of mortgage of a whale ship, then upon her voyage, and of all oil, head-matter, and other cargo, which might be caught or brought home in the ship. The assignment, therefore, purported to comprise the produce of fish then swimming in the sea, and a clearer case of dealing with chattels having only a possible future existence could not be conceived. Sir James Wigram laid down distinctly that non-existing property may be the subject of valid equitable assignment. But he added that, in the case before him, the mortgagee, having a good foundation for his title, had completed it by obtaining actual possession before the appearance of a rival claimant. When the ship arrived in port, he produced the assignment to the captain, who, in the absence of the owner, took upon himself to deliver possession to the mortgagee. The sheriff's officer, who came on a subsequent day to seize the cargo, found the mortgagee already in possession of it; and this is the important difference between this case and the recent one which has suggested these remarks. The only point on which it can be thought that *Langton v. Horton* goes beyond the decisions at common law is, that possession was yielded to the mortgagee by the captain of the ship, whom the Court did not consider as having authority from the owner for that purpose. It may be doubted whether this was a sufficient *novus actus* to satisfy Lord Bacon's rule, which appears to require some act to be done by the mortgagor. But it has been held even at law that if there be a power given by the deed to take possession of after-acquired property, and if the mortgagee act upon that power by taking possession, even without the consent of the mortgagor, his title thus becomes complete. Then, did the deed of assignment in *Langton v. Horton* contain an express power to take possession, or might such power be implied from the very fact of the assignment? If either of these questions were to be answered in the affirmative, Sir James Wigram's decision would be strictly in accordance with the current of authority at common law.

REAL PROPERTY AND CONVEYANCING.

SEVERANCE OF DEMESNE LANDS OF A MANOR.

In re the London and South-Western Railway (Exeter Extension) Act, 1856; Ex parte Lord Henley & another, M. R., 9 W. R. 350.

The point which has been ruled in this case is thus introduced to the reader by Mr. Serjeant Scriven, in the Treatise on Copyholds:—"When demesne lands are separated from a manor, so that the custom is destroyed, they are no longer demisable by copy, and can never re-unite; as if lands are forfeited, or escheat, or otherwise come to the hands of the lord of the manor, and he make a lease for life, or for years, or for one year, or half a year, or other certain time, by deed, or even by parol." . . . "By a separation of the demesne the author conceives is meant a separation produced by the act of the person having the fee simple of the manor; though in *Lee v. Boothby*, Cro. Car. 521, it is said that a lord *pro tempore* leasing a copyhold is a severance; but the dictum in that case is in complete opposition to several authorities, which have established that a lease by the lord, being tenant in tail, or for life or years only, will not destroy the custom as to the reversioner or remainder-man." 1 Scriv. Cop. 14, 15. The decision before us is only another instance in which the dictum in *Lee v. Boothby* has been judicially disapproved.

The lord farmer of a manor, holding under the Bishop of Salisbury, the lessor of the manor, by a lease for a term of 21

years, during the continuance of the term, leased the lands by parol to a tenant from year to year. According to the custom of the manor, the lands were grantable by the lessee for one life in possession and three in reversion. The lord farmer, being afterwards desirous of mortgaging his interest, surrendered the lease of the manor, obtained a new lease for 21 years from the bishop, and by an indenture dated the following day assigned the new lease to a mortgagee for the residue of the term, as a security. The question then arose, what were the respective rights of the lessor and lessee in the manor. The lord farmer asserted, and the reversioner denied, that the former still had, notwithstanding and after his grant by parol of the demesne lands, a right to re-grant the same according to the custom of the manor. In order to try the right, the lessee proceeded to exercise his alleged power. He held a court, granted the lands, and a tenant was admitted, whose interest was purchased by a railway company, and the money paid into court. It was now claimed by the lord farmer and his customary tenant. The Bishop resisted the claim on the ground that the grant by the lord farmer was bad, the lands having lost their demisable quality, at least during the subsistence of the lease, and that the money belonged to him as lessor.

The Master of the Rolls considered it to be beyond doubt that if the lands had been granted by the owner in fee of the manor in the way mentioned, the demisable quality of the lands would have been destroyed. But he also held, in opposition to the dictum in *Lee v. Boothby*, that a separation of demesne lands by a lord with a limited interest could not bind the right of the remainder-man or reversioner. It followed that the new lease granted by the Bishop of Salisbury conferred on the lessee exactly the same powers as it would have done if it had been granted to him for the first time or to a stranger. All defects, therefore, and severances, arising from the previous acts of the lord farmer, were cured by that new lease; and his right to grant the lands, according to the custom, by copy of court roll, was restored to him.

It then appeared that since the granting of the new lease the lord farmer had continued to let the lands by parol to holders from year to year, at a rack rent; and it was argued that these acts, occurring since the grant of a new lease, though they might not create a permanent severance of the demesne lands, must have the effect of causing a severance during the continuance of the lease. The Court held that, inasmuch as the legal estate was no longer in the lessee, but in his mortgagee, these acts of parol demise by the lord farmer could not be valid as against the mortgagee. The agreement with these tenants was that of a stranger; they were liable to be ejected at any moment by the mortgagee; they were, in fact, tenants at will, and it is established law, that if the lord of a manor let the demesne at will, no severance of the demesne lands will be effected.

COMMON LAW.

LAW OF ARREST—DETAINEES—CONFLICT OF OPINION BETWEEN THE COURT OF CHANCERY AND THE QUEEN'S BENCH.

Ochford v. Freston, 9 W. R. Exch. 315; *Chapman v. Same*, ib.; *Bateman v. Same*, ib. Q. B. 311; *Ex parte Same*, ib. Chanc. 321.

By the 257th section of the Bankrupt Consolidation Act, 1849 (12 & 13 Vict. c. 106), it is, among other things, in effect provided that the Court, on the application of the assignees or of any creditor of a bankrupt whose certificate has been refused or suspended, or to whom any further protection has been refused, shall grant a certificate to that effect operating as a common law judgment; on which the body of the bankrupt may be taken and detained in execution. Upon the proper construction of this provision (taken in connection with s. 112), an important question has been discussed in the Court of Chancery, and also in the Courts of Exchequer and Queen's Bench; and as these tribunals disagree, it will be well to explain shortly the precise point at issue between them.

The 112th section above referred to protects a bankrupt not in prison at the date of his adjudication from imprisonment until the expiration allowed him for finishing his examination, and for such time afterwards as shall be from time to time enforced by the court on the bankrupt summons until the allowance of his certificate; and, inasmuch as in the first of the above three cases, the commissioner had given the certificate under s. 257 (upon which an execution writ of *ca. sa.* issued), before the time allowed for the bankrupt to finish his examination had expired, the Barons

of the Exchequer were unanimously of opinion that on such writ of execution the bankrupt was entitled to his discharge—because the certificate had been given by the commissioner prematurely. And so far as this point was concerned, it may be here remarked that the Queen's Bench appear to be of the same mind as the Exchequer, though in the particular application before the former court, it was not necessary to decide the question. But it so happened that after the expiration of the period for finishing his examination, and at a time, therefore, when the commissioner could legally give the certificate referred to in section 257, two other creditors applied for and obtained certificates in respect of their respective claims; and under each of these the bankrupt, already in custody under the first *ca. sa.* (which it will be remembered issued upon the certificate prematurely given) was detained. In the first of these subsequent cases, the process of execution issued out of the Court of Exchequer, and in the other out of the Queen's Bench; and, in each case, the defendant (or bankrupt) applied for his discharge, though with different results. The Court of Exchequer held (Martin, B., however, *dubitante*) that he was entitled to his discharge, by reason of the decision of the House of Lords in the case of *Hooper v. Lane* (6 Ho. of Lds. Cases, 443). They considered that case to establish this principle, viz. that if a man be illegally in custody at the time when a detainer is supposed to operate upon him, he shall be free from the custody under the detainer; in other words, if he is only illegally in custody, he must be set at large before he can be legally arrested. And they did not think that this principle ought to be qualified by making the liability to be detained upon the primary illegal arrest, depend upon the further question whether the sheriff was or was not liable to proceedings for taking, under such previous writ, the person detained. It was urged upon the court that their discharging the bankrupt upon the ground that his original arrest was illegal—the certificate under sect. 257 having been given prematurely—would throw discredit upon a part of bankruptcy practice as now usually administered, viz., upon the “protection” usually endorsed on the bankrupt summons—for, if the bankrupt could not legally be arrested during his examination time, no such protection was needed. But the Court of Exchequer did not feel themselves pressed with this argument, because the most that it tended to show was that such endorsement was surplusage, and in practice—as preventing illegal arrests—it was convenient. As to this part of the case it was not referred to in the application to the Court of Queen's Bench for a discharge from the process which had issued out of that court; but upon the main question they differed altogether from the Court of Exchequer, and refused to order the person to be discharged. They mainly relied upon the law as established in *Barrett v. Price* (9 Bing. 566); which they held not to be affected by the decision of the House of Lords in *Hooper v. Lane*; because in the case last mentioned, the sheriff himself was a wrongdoer in making the primary arrest, which in the case of *Freston* he was not—being justified by the writ, however invalid the certificate of the commissioner on which that writ issued may have been. And in accordance, therefore, with *Barrett v. Price*, the Queen's Bench conceive the law as to detainer to be that it is valid if an original arrest by the detaining party would have been valid,—unless, indeed, the primary arrest was wrongful on the part of the sheriff; or, unless there was collusion between the arresting and the detaining creditor, or between the arresting creditor and the sheriff.

The Court of Queen's Bench, therefore, having on these grounds refused to interfere, and to make a rule for setting aside the detainer (which was the mode in which the application for a discharge shaped itself in that court), the bankrupt then resorted to the Court of Chancery, availing himself of his writ of *habeas corpus*, which issues out of all the superior courts, both at law and equity. In disposing of this writ the Court of Chancery sat, therefore, in effect as a court of appeal from the courts of law; and they have reversed the judgment of the Queen's Bench, adhering to the opinion (and very much upon the same ground) of the Barons of the Exchequer. Assuming that the arrest in the first of the above cases was illegal, as having been upon a premature certificate, the Court came “to the question on which the Court of Queen's Bench and the Court of Exchequer have deliberately differed”—viz., whether, on such illegal arrest, it was possible for the bankrupt to be legally detained? and they answered that question in the negative. They held that during the time of privilege, no foundation for a subsequent seizure could be laid; and though the case depended rather upon this general principle (which, it was remarked, had been consistently observed by

Lord Eldon) rather than on *Barrett v. Price*, or *Hooper v. Lane*; neither of which authorities really applied to the present case. *Eggington's case* (2 Ell. & Bl. 717) appeared to the Court of Chancery more closely in point. There it was held by the Queen's Bench (Lord Campbell presiding) that a man in custody under an illegal arrest issued at the suit of A., might be detained under a *ca. sa.* issued without collusion at the suit of B. But in the present case the Lord Chancellor distinguished his previous decision, by explaining that in *Eggington's case* the original arrest was illegal, not because it invaded a *personal* privilege, but because it had been made on a Sunday; which he considered made the whole difference. The bankrupt was accordingly discharged from custody.

Correspondence.

LAW EXAMINATIONS.

I cannot help thinking that the proposed examinations may be advantageously carried, at least a step farther than is at present proposed; and that some sort of bridge may be thrown across the gulf which must otherwise separate the one class of clerks (*viz.*, those whose articles happen to bear a date prior to 28 August, 1860) from the other. The course which most obviously suggests itself (and was, I believe, successfully carried out in the Civil Service) is this.—Let every member of the class I have first named have the *option* of submitting himself to either or both the examinations, and obtain (if he can) a certificate of his success. Depend upon it, the certificate will be none the less valued, either by its possessor or the public, from the fact that it was sought and won, not by compulsion, but by choice.

Indeed, Sir, it seems to me that however unfair it may be on the part of the committee to attempt to make these examinations compulsory in the class I have named, it is far more unfair to exclude from them altogether those who voluntarily offer to undergo the test. Some persons, I know, sneer and pooh-pooh the examination movement; but we can no more check the advancing waves by sneering and pooh-poohism than hope by such means to stay the progress of a great movement daily advancing in importance and popularity. We cannot afford to make light of it, if we would. The old, short, easy, royal roads to success are well nigh blocked up; the old weapons of wealth, patronage, and the like, to which every foe was expected to succumb, are fast losing their power. We live in a practical, matter of fact age, where other weapons are required, where it is insisted that the square men, and the square men only, shall fill the square holes, where, in other words, credit is given only for what is indisputably proved, and every man must establish his right to occupy the position he seeks. Every manly heart rejoices that it is so, and therefore, Sir, I would earnestly appeal to the committee, through your columns, not to shut out from the proposed examinations a single clerk who has the desire to add alike to his own honour, and that of the profession to which he aspires.

A CLERK ARTICLED PRIOR TO 28th AUG. 1860.

PRELIMINARY EXAMINATION.

I observe in your article in last Saturday's number that you give credit to the existence of a “rumour” that a considerable number of “ten years' clerks” have rushed into articles to avoid a preliminary examination. I have no knowledge whether or not such an insinuation has been set afloat, but I would suggest that if a considerable number of clerks who were deserving, in the eye of the Legislature, of the privilege granted to them have, since the passing of the Act, availed themselves of their opportunities of obtaining their articles, it only proves their appreciation of the benefit conferred by the Act.

But, even admitting the rumour to be correct, before passing what appears to me to be a slur upon the ten years' clerks for endeavouring to shrink from an examination such as the preliminary one suggested by the committee, I would ask you to consider who the ten years' clerks are. The greater proportion of them will be found to be men whose time is fully occupied by their duties; they are practical men of business, and many of them good lawyers and could easily pass an examination on points of their profession, but in my opinion it would be hardly fair to place them on a footing with youths just leaving

school, in what might be properly termed a school examination. How many solicitors there are who now occupy the most eminent and honourable positions who would find it difficult to pass a creditable examination either on the last four subjects of the first part of the preliminary examination, or in any two subjects of the second part? At sixteen years of age they could have done so, no doubt; but their time having been for years past devoted to the work of their profession where the subjects referred to but seldom come before them, the majority of them would be found wanting. 'The ten years' clerks are many of them similarly circumstanced. Probably some of them could have passed the examination years back; but to train again and read up for such an examination would be to them so much time wasted and useless labour. To come within the 4th section of the Act they must have been efficient for the profession for ten years. However, as I read the recommendation of the committee the preliminary examination is only intended for those who have not by other means proved their fitness; and, in my humble opinion, this is carrying into effect the intention of the framers of the Act—the object of the preliminary examination being simply to ascertain whether the applicant is fit and competent to enter the profession. A. B.

THE COUNTRY SOLICITORS' UNION.

Can any of your readers tell me what has become of this gigantic scheme to do away with the London agents, once the subject of an admirable article in your columns? If I mistake not, the office was on a first floor in Warwick-court in the same room and employing the same secretary as the Royal Commission as to Evidence in Chancery. I recollect wishing at the time that the Lord Chancellor, Lords Lyndhurst, Brougham, &c. &c. &c., were aware of the alliance.

P. S. A.

THE EQUITY JUDGES.

At the commencement of the present sittings after Term the V. C. Stuart had 83 causes for hearing in his paper. Several of them, of course, were not ripe for hearing; but that in which a poor friend of mine is greatly interested was so and had been from the 11th January; and since that day to the present time many weary weeks have passed over, and the cause is not yet heard. My poor friend complains that as the Master of the Rolls had applied to the Vice-Chancellor for a transfer of some of the business before him, that learned judge might have spared some of it, and thus have enabled the Master of the Rolls to have put my poor friend out of his misery. A MANAGING CLERK.

NEW BANKRUPTCY BILL AND REGISTRARSHIPS.

I hope the Incorporated Law Society or the Metropolitan and Provincial Law Association, will, ere it be too late, take care that provision is made in the present Bill that future vacancies in the registrarships of the London and County Courts shall be filled by barristers or solicitors only:—as the barristers have the monopoly of the commissionerships, perhaps the solicitors ought to have that of the registrarships, especially as a very important part of a country registrar's duty is that of taxing bills of costs, of which, generally, barristers know little or nothing practically.

By the 5 & 6 Vic. c. 122, under which the district bankruptcy courts and consequent registrarships were created, no provision is made for the qualification of the registrars, and the consequence is that this most important office, which ought to be filled by a first-rate lawyer (for the registrar, when sitting as deputy for the commissioner, can do every thing the commissioner himself can, except commit, grant bankrupts' certificates, and hear disputed adjudications), may be and was in a country district with which I am acquainted, filled by a layman not possessing the slightest knowledge beforehand of his duties, or having had an hour's legal education. Even county court registrarships, which are of a much inferior character, require to be filled by practising solicitors, and I therefore hope one of the bodies above named will do their fraternity the justice of endeavouring to secure the insertion of a clause in the new Bill to remedy the matter I have pointed out.

I would suggest that only practising solicitors of ten years standing should be eligible for the office.

A COUNTRY SOLICITOR.

Reviews.

A Manual of Equity Jurisprudence, founded on the Works of Story and Spence, and comprising in a small compass the points of Equity usually occurring in Chancery and Conveyancing, and in the General Practice of a Solicitor. By JOSIAH W. SMITH, B.C.L. 6th Edition. Stevens and Sons. 1861.

This little work has now reached a sixth edition, and although it has from time to time received considerable additions in the shape of new cases, it is still remarkable for its moderate dimensions and the simplicity of its arrangements. It is yet the only book which can fairly pretend to be a manual of equity jurisprudence. Originally it was little more than an attempt to condense the larger works on the same subject of Mr. Justice Story and of Mr. Spence. But since its first edition Mr. Smith has judiciously noted up a number of recent authorities relating to the points explained in the original work. Although this proceeding appears to be, and is, in fact, somewhat opposed to the proper scheme of the work, students will nevertheless find it very convenient to be directed, by so learned and competent a teacher, to the latest cases affecting any particular doctrine of the Court. The difficulty is, not to mislead a young reader in stating a long-established doctrine in broad general terms, and then tacking on to such statement one or two recent modifications or extensions of it, but omitting altogether a very numerous class of cases, having as much relevancy to the doctrine as those which are cited—their citation depending merely upon the accident of their recent decision. It is, of course, impossible, in a very small elementary work, to do more in effect and with precision than to disclose the proper elements of the subject under consideration; and any attempt to deal with specific details can hardly be satisfactory in such a book. Thus the law of equitable liens is disposed of by Mr. Smith in a page and a half—certainly the smallest possible compass in which the first principles of the doctrine could be stated even in the most general terms; but in truth, Mr. Smith does not affect to aim at any generalization under this head. He is content with stating one proposition from Story as to the usual way of enforcing a lien in equity, and four others from Spence as to the liens of a solicitor, of joint tenants, of trustees and of annuitants; and as to the lien of a solicitor he cites four recent cases, and states the effect of a decision in one. We have taken the section upon equitable liens, because it affords us an opportunity of giving an easy example of one objection to which all books such as this manual are exposed. The true notion of a legal manual of doctrine appears to us to be a book in which principles only are stated, cases being cited merely for the purpose of illustration. It is impossible otherwise to attain even the semblance of completeness within so small an area. It is not enough that the division and enumeration of topics should be accurate; if under many of the heads nothing more is stated than the special ruling in a few isolated cases, which have no more right to be singled out for that honour than scores or hundreds of others which might properly be included under the same head. But although Mr. Smith appears not to have been very anxious about the scientific completeness of his book, he has evidently bestowed considerable pains in making it of practical use. Any diligent student who traces out for himself the sources of information indicated in this little manual need never to be at a loss for information as to the doctrines of courts of equity; and we know of no work which is so well suited for a young beginner in the study of equitable jurisprudence. The fact that it has gone through five editions shows how well it has been appreciated; and we can confidently say that the sixth edition is far the best which has yet appeared.

The Indian Penal Code (Act XLV. of 1860), with notes. By W. MORGAN, and A. G. MACPHERSON, Esq., Barristers-at-Law. G. C. Hay, & Co.: Calcutta. 1861.

It is now many years since the notion of codifying Indian law was first conceived. There have of course been numerous reports and blue books on the subject. It is more than twenty years since the Indian Law Commissioners, of whom the late Lord Macaulay was president, laid before the Governor-General the draft of an Indian penal code. It was not, however, until last year that the recommendations made in 1837 were carried into effect. The penal code, which was very much, if not altogether, the work of Mr. Macaulay, was then enacted with few alterations by the Legislative Council; and the

volume now before us is a very admirable edition of the Act as passed by the Council. Mr. Walter Morgan, one of the authors of this edition, is the Master in Equity of the Supreme Court of Calcutta, and was formerly clerk to the Legislative Council. It is not many years since he practised at the English bar, where he was regarded by his brethren as an accomplished and promising lawyer. We are, therefore, not surprised to find that he has proved quite a model editor of a code. The enactments, as well as the editors' notes, are incorporated in the text, but in different types, and in an extremely convenient manner. The notes exhibit considerable learning and aptitude for such work as the editors have undertaken. Indeed, we hardly know any English Act of Parliament which has been so well and skilfully edited. Messrs. Morgan and Macpherson not merely explain the text of the enactments by a judicious commentary, but they supply abundant and useful illustration of the probable operation of particular enactments; and altogether they have done their work in a manner not less creditable to the bar of Calcutta than it is to themselves.

The Act itself is highly interesting to English lawyers at the present time, now that they are at length making a serious attempt at something like an English Criminal Code. But we must postpone for the present any minute examination of this great work, comprising, as it does, so large a department of jurisprudence. We may observe, however, for the purpose of shewing the advanced character of the Indian code, that it makes certain breaches of trust criminal, and renders the party guilty liable to severe punishment. Dishonest "misappropriation" of property is also made a punishable crime, and so is the dishonest removal or concealment of property; and the dishonest execution of a deed of transfer, containing a false statement of consideration. A new technical term of crime, and one of extensive application in this code, is "mischief;" and we cannot omit noticing at the present moment—now that the Lord Chancellor has a Bill before the House of Lords to make the forging of a trade mark a misdemeanour—that there are very careful provisions on the same subject in the Indian Penal Code. We are glad to see that the illogical and absurd distinctions indicated by our English terms felony and misdemeanour, and the words themselves, are nowhere to be found in the penal code of India.

Obituary.

THE LATE SIR JOHN OWEN, BART., M.P.

It is not perhaps generally known, that this venerable baronet (who sat in Parliament uninterruptedly for the unusually lengthened period of 55 years) was the only surviving member of the bar who held briefs as junior counsel with the celebrated Lord Erskine when in the zenith of his professional fame.

Sir John was born in 1776, and was the eldest son of Joseph Lord, Esq., by Corbetta, daughter of Lieutenant-General Owen, and granddaughter of Sir Arthur Owen, Bart. His father not being a man of very ample means, and Sir John having early exhibited considerable talent, it was determined that he should seek his fortune in professional life at the bar; and he was accordingly sent to Oxford, where he graduated B.A., at Christ Church, and in 1800 was called to the bar at the Inner Temple. He immediately took chambers at No. 26, Arundel-street, in the Strand, and attended the Gloucester and the Carmarthen Sessions, and also rode the Oxford Circuit. His practice soon increased, and in 1802 he removed to chambers No. 10, New-square, Lincoln's-inn, (and in 1809, to No. 3), and became much engaged as junior counsel at the Nisi Prius sittings of the common law courts both at Westminster and at Guildhall. On one occasion he was retained in an important cause as junior counsel for the plaintiff with Mr. (afterwards Lord) Erskine; and when it became the duty of that eminent advocate to reply, it was found that he was then addressing a jury elsewhere; and the judge called on Mr. Lord to proceed, refusing to delay the cause until Mr. Erskine could be present. Mr. Lord readily availed himself (like the "silver-tongued" Mr. Murray, afterwards Lord Mansfield, on a similar occasion) of this most opportune circumstance, and addressed the jury with so much eloquence and power that he not only obtained a verdict, but Mr. Erskine, who had entered the court during his speech, turned round and congratulated him, saying at the same time "If you persevere in this course Mr. Lord, you will not only be 'Lord,' by name, but in due time 'Lord' by title."

Sir John in after life mentioned this fact with much gratification to the writer of this brief sketch; but his career at the bar was suddenly stayed by the death of Sir Hugh Owen, sixth baronet, to whose large estates and property he succeeded by devise. He then assumed the name and arms of Owen, and, the title being extinct, was himself in 1813 created a baronet. He often, however, mentioned how much more brilliant would have been his career, in all human probability, had he remained at the bar. In 1806, he entered Parliament as member for Pembrokeshire, and continued uninterruptedly to represent that county until 1841, when age and increasing infirmities induced him to desire a smaller constituency, and he was elected for Pembroke, which borough until his death he represented without intermission. With the single exception of another venerable Baronet (Sir Charles Burrell, who entered Parliament the same year, but rather earlier in the year), he was the oldest member of the House of Commons.

In 1802, he married Charlotte, daughter of Rev. J. L. Philips (who was the mother of the present baronet), and after her death in 1829, he married in 1830 as his second wife Frances, third daughter of E. Stephenson, Esq., of Farley Hill, Berks, who survives him. Sir John was governor of Milford Haven, and Lord Lieutenant of Pembrokeshire, and he was also patron of six livings. He died on 15th ult. at his seat, Taynton House, Newent, Gloucestershire, in his 86th year, and is succeeded in his title and estates by his eldest son, now Sir Hugh Owen, Bart., born in 1803, who married in 1825 Angelina Cecilia daughter of Sir C. G. Morgan, Bart., deceased, and who after having been recently defeated in a contested election for the county has now succeeded his father as member for Pembroke borough.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

At a recent meeting of this society, Mr. EDGAR read a paper "On some Proposed Amendments in the Law relating to Procedure and Evidence on Criminal Trials."

During the last session several measures relating to procedure and evidence on criminal trials were brought before Parliament, which this Society was unable to consider from its attention being occupied with other questions. None of the measures to which I allude received the sanction of the Legislature; but as they are all of a more or less important character, and are likely to be introduced again in the next session of Parliament, I have thought it advisable to bring them to the notice of the Society on the present occasion.

The Bills to which I refer are—Lord Chelmsford's "Indictable Offences" (Metropolitan District) Bill," Lord Brougham's "Plea on Indictments Bill," Mr. Denman's "Felony and Misdemeanour Bill," and Lord Brougham's "Law of Evidence Further Amendment Bill."

In addition to these Bills there are some other amendments in the law relating to procedure and evidence on criminal trials, which have been suggested during the last few years, to which I am anxious to call the attention of the Society. Of course, it will be impossible for us to discuss on this evening all the questions which arise on the Bills and schemes to which I refer; but on some of them an opinion may be now expressed, whilst others may be considered at a future meeting or referred to a committee. At all events, it is right that an opportunity should be afforded to this Society of pronouncing an opinion, if deemed advisable, on measures involving considerable changes in our criminal procedure.

The Bill of Lord Chelmsford provided that charges were not to be tried at the Central Criminal Court, or at any quarter session in the city of London or the metropolitan police district, without previous investigation by a magistrate; and that after a person had been committed to take his trial by a metropolitan police magistrate, or the Lord Mayor, or an alderman of the city of London, sitting at the Mansion House or the Guildhall, or by any two justices of the peace sitting publicly in any part of the metropolitan district, except in the divisions assigned to police courts, an information, to have the effect of the finding of a grand jury, should be filed in lieu of an indictment. The Bill also provided that where the magistrate dismissed the charge, the prosecutor might prefer an indictment; and there was a proviso that nothing therein contained should apply to any charge of treason, or any offence against the State, or to any charge of nuisance. These are the principal provisions of the Bill which it is necessary to mention at present, and, in my apprehension, they involve a change of a most judicious and

beneficial character. It is impossible to maintain any institution at the present day which is entirely useless; but the effect of the evidence before the Select Committee of the House of Commons in 1849 was, that grand juries in the metropolis are not only unnecessary, but in many cases positively mischievous. As Lord Chelmsford very justly said in moving the second reading of the Bill last session—"If the grand jury found a true bill, they merely repeated the decision of the magistrate who sent the prisoner for trial; and if they threw out the bill, they might be committing a grave error in the administration of justice. That was the view which the late Lord Denman took, and on which he contended that the institution was superfluous. It was not to be wondered at that it frequently happened that bills sent before grand juries at the Central Criminal Court were ignored, to the surprise of the judges who had the depositions before them, of the magistrates who committed the prisoner for trial, of the prosecutors who knew the facts, and even of the prisoners themselves. The grand jury, in fact, had been called the hope of the London thief."

The great object of a grand jury is to afford a security that no man shall be put on his trial for any charge unless there be a *prima facie* case against him, amounting to something more than a bare suspicion; and there can be no reason in the nature of things why, after the accused has been committed for trial by a police magistrate, after a careful and public investigation of the charge in the presence of the accused, with full opportunity to him to avail himself of professional assistance, an *ex parte* inquiry should take place before a secret tribunal, in the absence of the prisoner, and of any one to represent him. With regard to offences of a political character, where, for obvious reasons, a grand jury is a great safeguard, these were excluded from the operation of the Bill; and none of the arguments which have been brought forward against the present system apply to such cases. Again, whatever advantages may arise from country gentlemen taking a part as grand jurors in the administration of public justice, this consideration, it is obvious, can have no application to the metropolitan district, where, amongst the members of the mercantile community, the frequent attendance required of them as jurors operates as a most serious inconvenience. Looking to the state of feeling on this subject throughout the metropolitan district, I have no doubt that the passing of Lord Chelmsford's Bill would be considered as a great boon and as a triumph of common sense over common law.

The "Plea on Indictments Bill," brought in by Lord Brougham, provided, that when a person was arraigned upon an indictment, he should not be asked whether he was guilty or not guilty, but whether he desired to be tried, or plead guilty; and that in case he answered that he desired to be tried, this answer should have the same effect as a plea of not guilty. With regard to this proposed amendment in our criminal procedure, it may be very true that in the great majority of cases no difficulty is felt by prisoners, and that the plea of not guilty has only reference to the legal proof of the charge; still instances frequently arise where prisoners believe that they are required to utter a falsehood as the condition of having a fair trial according to law, and are thereby induced to plead guilty. There are few cases, indeed, of a serious character in which such a plea is satisfactory, and the judge in such cases generally urges the prisoner who has so pleaded to change his plea. A criminal is not always able to determine the kind or degree of his legal guilt; and numerous instances have occurred where, after a prisoner has retracted his plea of guilty and pleaded not guilty, he has either been entirely acquitted of the charge, or found guilty only of the minor offence. By substituting a declaration on the part of the prisoner that he wishes to be tried for the plea of not guilty, the real meaning of that plea would be expressly stated, and what operates as an impediment in many cases to the proper administration of justice, removed. I am not aware that the supporters of this amendment have any thing to contend with, except the attachment to ancient forms which influences so powerfully many minds. This, though on the whole a laudable feeling where the matter is one of entire indifference, can scarcely be considered as a sufficient ground for resisting a useful and legitimate and practical change.

Mr. Denman's "Felony and Misdemeanour Bill" provided that upon every trial for felony or misdemeanour, where the prisoner or defendant was defended by counsel, and such counsel at the close of the prosecutor's case did not announce his intention to adduce evidence, the counsel for the prosecution should be allowed to sum up the evidence; and that on every trial for felony or misdemeanour, the prisoner or defendant, or his counsel, should in every case where he has adduced evidence,

be allowed to sum up such evidence. The practice which the Bill sought to introduce into criminal trials, has been found to work extremely well in the trial of civil causes, into which it was introduced by the Common Law Procedure Act, 1854. To quote from Mr. Denman's speech on moving the second reading of the Bill:—"That practice had been adopted for the last six years in the trial of civil actions, and it had been found to afford great facilities for the discovery of truth; a great deal of time had also been saved by it through the prevention of much fruitless cross-examination of witnesses, as well as of those lengthened anticipatory observations which counsel, not having the right of reply, were obliged to address to the jury, in order to meet every conceivable turn which the case was likely to take. From not being allowed to sum up the evidence at the close, the prisoner's counsel were frequently deterred from calling important witnesses, merely because they could not tell what would be the effect on the jury if these witnesses were shaken in some immaterial part of their testimony."

These and other arguments of Mr. Denman were not met at the time, or in any subsequent discussion on the Bill either in the House of Commons or the House of Lords. If the practice of allowing counsel to sum up be desirable in civil trials, the same rule should prevail in criminal proceedings. It is one great peculiarity of our judicial system that the rules with regard to the admission of evidence, and the mode in which it is presented to the jury, apply equally to both; and it is difficult to see on what ground any exception to this principle can be maintained.

There are some other provisions with regard to evidence in civil actions in the Common Law Procedure Act, 1854, which might also be introduced into criminal proceedings. I allude to the allowing of an affirmation instead of an oath, where the witness has conscientious objections to be sworn, and the provisions with regard to a party discrediting his own witness, cross-examination as to previous statements in writing, the proof of conviction of a witness, the proof of attested instruments to the validity of which attestation is not necessary, and the comparison of a disputed writing with a writing proved to be genuine. Whatever tends to the discovery of truth in civil proceedings, must be equally advantageous in criminal; and there can be no sufficient reason why it should not be adopted in the latter, where it would equally operate in favour of the accused and of the prosecutor.

Although I would propose the extension of the provisions of the Common Law Procedure Act, 1854, with regard to allowing an affirmation in certain cases instead of an oath to criminal proceedings, I should by no means regard this as a final settlement of the question. The whole subject of oaths requires to be considered with reference to modern ideas and feelings. The practice of solemnly appealing to the Supreme Being can only be vindicated on the ground of necessity, and such necessity cannot be shown to exist by any arguments of a satisfactory character. No appeal of this nature can render the obligation to speak the truth stronger than it is felt to be by every honest and upright man who appears as a witness with simple reference to the ends of justice; and where this obligation is not felt, I have little faith in mere superstitious feeling, the nature of which is to be conveniently elastic. Let there be a simple declaration that the witness will speak the truth, and let wilfully false evidence be punished in the same manner that perjury now is; and no evil, I firmly believe, would be found to have arisen from dispensing with a most objectionable formality.

There were several proposals made by Mr. Pitt Taylor, a few years ago, for amending the law touching procedure and evidence, which were embodied in a Bill introduced by Sir F. Kelly in 1856. Some of these have special reference to criminal proceedings; and I would particularly call attention to a proposal for abolishing the rule which excludes from the consideration of the jury material statements made by a prisoner, because the prosecutor or a policeman may have suggested to him that it would be better for him to tell the truth or the like. It is impossible to read the cases on this subject without seeing how much important evidence has been excluded by this rule. Such evidence would, no doubt, always be liable to observation, and in some cases, it might, perhaps, be shown to be worthless; but this can be no reason why admissions bearing directly on the issue to be tried, should not be brought before the jury. The object of all the amendments in the law of evidence in modern times has been to make the jury the judges of the value of whatever tends to throw light on the matter in issue, instead of excluding it from their consideration on a presumption of its inferior worth. The English law of evidence is certainly based on sound and substantial principles, and is without doubt one

of the noblest achievements of the human intellect in the history of jurisprudence. The distinctions which it draws between what is admissible and what is not, have in general some foundation more or less solid; but its error has lain in excluding what was of inferior value, instead of admitting it, and estimating it at what it was worth. The latter is the principle of all recent amendments in the law of evidence, and I think it would be desirable to introduce it with reference to the matter to which I have now alluded.

Lord Brougham's "Law of Evidence Further Amendment Bill" provided that any person on trial for felony or misdemeanour might offer himself as a witness in his own behalf, subject to cross-examination like any other witness called in behalf of such person. The provision applied also to the wife or husband of such person. Although I approve strongly of the principle of this measure, yet, as the subject will be shortly brought before the Society by the committee who have been considering it, I do not think it advisable to enter into the question at present.

A committee of this Society, appointed in 1858 to consider the rule requiring unanimity of juries, reported, as to juries in criminal cases, "that the rule which requires their unanimous verdict ought not to be altered, the rule being grounded on the principle, that before any man is convicted of crime, such evidence should be adduced as will satisfy the minds of twelve jurors." When the report was discussed, the general feeling seemed to be very strongly in favour of this view of the committee; but as considerable difference of opinion existed as to the unanimity of juries in civil trials, it was finally resolved simply to receive the report of the committee. I should not certainly be inclined to propose any change in the rule with regard to juries in criminal cases, but I would strongly recommend that one restriction relating to juries should be abolished, viz. the denial of meat, drink, and fire to juries who have retired to consider their verdicts, a restriction opposed to all humane feeling and all enlightened reason. Another improvement which might be safely adopted, would be to provide that, after deliberation for a certain number of hours, the jury, if at the end of that they had not agreed on their verdict, should be discharged, where a majority so requested. I would also suggest, that the rule which requires juries, where a trial for felony is adjourned, to be taken charge of by the sheriff, and kept together by him, should be abolished. There can be no valid reason for adopting a proceeding in trials for felony, which is not considered necessary in trials for misdemeanour and in civil trials; and I cannot believe that any evil would arise from the juries being allowed to go to their own homes, which would at all justify a system productive of great inconvenience and hardship to men who are called on to discharge a public duty.

The subject of an appeal in criminal cases on the facts, has excited considerable public attention during the last few years. Although the importance of the subject has been felt by many members of this society, yet the difficulties which environ the question have prevented its being taken up here, and the feeling amongst members generally, as far as I have learned is, that it is better for us to wait until a satisfactory scheme is proposed, than to attempt to bring forward any plan which might be liable to great objections. The Bill of Mr. McMahon provided that the Court of Queen's Bench might grant a *certiorari* after the trial of any indictment with a view to a new trial. But the difficulties connected with such a plan are very great; and they seem to have been felt so strongly by the House of Commons, that the Bill was thrown out last session on the second reading. After Mr. McMahon's measure was negatived, Sir Fitzroy Kelly gave notice of a Bill on the same subject, but as this appeared to be against one of the rules of the House, no further step was taken by him in the matter. It is expected that Sir F. Kelly will bring forward his measure during next session, and it is greatly to be hoped that it may prove to be of a satisfactory character. The system followed at the Home Office is certainly objectionable, the Home Secretary has no means of confronting witnesses, and testing the truth of their evidence in the manner which is considered satisfactory in all judicial proceedings. Subject, however, to any change in my opinion on this question which may be produced by the measure of Sir F. Kelly, should it be brought forward during the next session, I cannot but think that the plan suggested by Lord Brougham is the best that could be adopted. His suggestion was, that a Committee of the Privy Council should be appointed, in the same manner as the Judicial Committee, to whom it should be lawful for her Majesty to refer any question that might arise as to whether any sentence should be executed, and that such committee should investigate the facts alleged and report thereon to her Majesty. A committee, admirably qualified for considering

such questions, might be formed of ex-judges; and under any circumstances, the expense of conducting the investigation would be much smaller and the delay less, than would be possible under any scheme which proposed a new trial, as the means of correcting an improper verdict.

There is another matter connected with criminal procedure on which I am anxious to say a few words before concluding. I refer to the consolidation of the statute law on this subject. A Bill of this nature was prepared by Mr. T. Chandlee, junior, and myself in the year 1836, for the statute law commission; but nothing has been since done with this Bill, as far as I am aware, except its being laid on the table of the House of Lords at the end of the session of 1856 by the then Lord Chancellor, although its importance in a practical point of view is certainly not less than that of the Criminal Law Consolidation Bills which were brought in during last session, and which it was understood the Government were anxious to press forward.

The Bill to which I refer consolidated forty-two Acts and parts of Acts relating to procedure on the trial of indictable offences. The statutes on this subject commence with the 6th year of Henry VI., and the different provisions are scattered over the statute book in a manner sufficiently perplexing to any one who is not content to rely on the authority of the text-books. The Bill contained 139 clauses, and combined the different provisions according to an arrangement which was deemed the most convenient. That arrangement may perhaps be liable to objection; but at all events, the Bill brought together the whole of the statutes on the subject of criminal procedure, and exhibited them in a manner which would have been highly useful for practical purposes. But whatever may be thought of the Bill to which I refer, there can be no doubt that a consolidation of the statute law relating to criminal procedure is highly desirable, and ought speedily to be accomplished.

HINTS TO ARTICLED CLERKS.

No. II.

THE ARTICLED CLERK'S CONDUCT IN THE OFFICE.

(Continued from p. 286).

During the first few months that the clerk is in the office, he will probably find his thoughts sufficiently occupied by learning just what any law stationer must know—the differences between rough drafts and fair copy drafts; between foolscap and brief paper; and a hundred other minutiae which seem unimportant enough, but are, nevertheless, necessary to be known. We remember hearing a shrewd old solicitor, who did the conveyancing for half a county, attribute part of his success to the fact that he never allowed a dirty-looking draft, or a badly engrossed deed, to go out of his office. No unprofessional man, said he, can tell whether a deed is properly drawn, but everybody knows at once whether it is well written. Unless during his clerkship the attorney has paid some attention even to such matters as the proper engrossment of deeds, he will not be able to exercise that amount of supervision over his clerks which will ensure their turning out their work in the most approved fashion; and while he is putting forth all his skill and learning to draw effectual assurances in the law, he may be losing a client merely because his clerk has sent home to him a shabby-looking engrossment. However, when the articulated clerk has acquired some knowledge of the more mechanical part of his work, he should begin seriously to endeavour to learn its scope and meaning. It is necessary that he should perform many of the duties of the copying clerk; but he must not be a mere copying clerk. While his pen is busy, his brain should not be at rest. For example, let us suppose that he is copying an abstract of title. He may do this intelligently or unintelligently. He will do it unintelligently if he is content merely to make a neat copy, and to hand it in to his principal, knowing as much about it as if he had copied so many pages from a book in an unknown tongue. He will do it intelligently if, as he proceeds, he notices the successive links in the chain of title, any breaks which may occur in that chain, and asks himself how they may best be supplied. The dullest man, however, can hardly suppose that he will learn much from merely copying, unless he thinks about his work; but he may be deceived greatly as to the valuable results to be derived from drawing instruments. It is not an uncommon thing for the principal to place in the clerk's hands instructions for a conveyance or mortgage, and for the clerk to fill up the outline

thus presented to him by culling a selection of forms from *Jarman* or *Davidson*. Now, this clearly requires more thought than simple copying, and yet the clerk who does it may fail to derive much benefit from it. The instructions placed before him are generally so precise and definite, as not to leave much room for mistake; and wherever this is the case, drawing does not, of itself, convey much more instruction than copying. Where such instructions are given, the clerk, not satisfied with merely following them, should look at the abstract, and at the contract of sale, in order to ascertain how it is that such and such persons are to be made parties, and that such and such covenants and provisos are to be inserted. If, indeed, his principal should hand to him the abstract and the contract, merely telling him to draw such a conveyance as he thinks is required, then he must look into the matter for himself, and it would be well, perhaps, if this course was more frequently followed, as it would compel the clerk to fall back upon his own resources. Generally speaking, however, our readers will find that they may, if they like, walk in leading strings during the whole of their clerkship. We wish to impress it upon them that they ought not to be content to do so. They must walk alone when once they have been admitted, and they will not find it a very easy task unless they have accustomed themselves to it during their clerkship.

Wherever it is practicable the clerk should endeavour to see the whole course of the matters before him, from their commencement to their conclusion. Thus, to revert to conveyancing, from which we have already drawn an illustration, he should, when he knows that a sale by auction of real property is about to be conducted by his principals, peruse the advertisement and particulars and conditions, attend the sale, go through the abstract, see what requisitions are made upon it, and how they are complied with, and finally criticise the draft conveyance prepared by the purchaser's solicitor. In the same way he should watch actions and suits from the beginning to the end of the chapter, not forgetting that most important finale to all legal business—the bill of costs. It will, of course, frequently happen that the clerk will not have the opportunity of seeing all the steps which are taken in the progress of conveyancing and contentious business; but he will always be able to see the bills made out against clients for work done, and in them he will, if they are properly drawn, find a complete history of the transaction. Viewed in this light, it will be seen that hardly any documents in the office are more deserving of the clerk's study and attention, answering the same purpose as charts and maps to the traveller or navigator.

Much benefit will be derived from a frequent attendance at courts of all kinds, from those in Westminster-hall down to petty sessions. We are inclined to think, from our own experience, that many articulated clerks are too prone to neglect this very interesting mode of self-improvement, and that they consequently lose some golden opportunities of success. When a young man commences his career as an attorney, it is of the highest importance to him that he should not only be learned in his profession, but that he should be able to show that he is so. Now it is not very easy to demonstrate to a client that his conveyance or mortgage is drawn upon the most scientific principles, and displays a profound acquaintance with real property law, but a client can very easily judge whether his attorney has or has not conducted his case well before justices or before a county court. He cannot, it is true, pronounce any opinion worth having upon the soundness of his advocate's law, but he is quite competent to form a judgment as to his coolness, his self-possession, his tact, and his fluency or otherwise of his speech. A man who is not familiar with the routine of courts soon shows his defects to the most inexperienced observer; whereas one who has diligently frequented them not only acquires a great deal of real knowledge but also the valuable art of concealing his ignorance. In the office the articulated clerk may learn a great deal of law, but in courts he learns how men and facts are to be dealt with—a knowledge by which many men whose law might almost be represented by a cypher, have attained to name and fortune. And indeed, there is one head of law which, for all useful and practical purposes must be studied in court, and that is the law of evidence. We do not mean that the student ought not to read *Taylor* or *Best*, or whatever treatise on the subject he may prefer; but this reading will be of very little service to him unless he assiduously complements it by observing how evidence is adduced in actual trials; what objections are made to its admissibility and how those objections are met. And here we think it desirable to caution the student against a mistake into which he is not unlikely to fall if he is articulated in an office where the business mainly, if not altogether,

consists of conveyancing. There are many such offices and, owing to the rank they hold, parents are very naturally disposed to select them as the avenues through which their sons are to be introduced into the profession. The clerk, however, whose lot is cast in such an office while attending diligently to the very valuable instruction he may receive there in real property law, must remember that conveyancing is only one branch of the profession, and that he ought assiduously to embrace every opportunity of acquiring a knowledge of the other branches. There is a disposition in conveyancers, how it arises we know not, rather to look down upon advocates and common law practitioners. The young attorney, however, will not generally find that his earliest clients are vendors and purchasers, mortgagors and mortgagees, but rather debtors and creditors, plaintiffs and defendants, prosecutors and prisoners. If during his clerkship he has addicted himself entirely to the study of conveyancing, he will probably find himself outstripped in the race for success by men of much less ability and learning; but who have directed their attention to that class of business which is usually confided to junior practitioners. We have known men of great personal respectability, and possessing a thorough knowledge of conveyancing, who have failed in the profession, because they had neither the connection nor the capital to command that business with which they were acquainted, while they knew nothing of advocacy or common law. On the other hand, a fluent tongue, a clear head, a respectable, although by no means a profound knowledge of the law of contracts, of evidence, and of the routine of courts, have proved invaluable to their possessors as the foundation of professional reputation. We do not care how often we seem to repeat ourselves if we can only impress upon the clerk that however desirable it may be, and undoubtedly is, that he should be a sound lawyer, it is equally necessary that he should possess tact, knowledge of actual business, of men, and of the world. Such knowledge is not to be acquired from books, or even at the desk, but is to be picked up now by a chat with an old managing clerk, now in an auction room, now in courts, and in a hundred different ways which will readily suggest themselves to an intelligent young man. We think it right to warn our readers against a practice by which we wasted much of our own time, and by which they may perhaps be tempted to waste much of theirs, and that is the copying of precedents. We have in our possession a large volume of manuscript common forms, which during nine years of practice we never used, and from the copying of which we learned almost nothing. There are now so many valuable printed collections of precedents that it is mere labour in vain to make a collection for one's self with a view to future practice, while the time spent in copying would be much more usefully employed in studying principles or in attending to actual office business. During the first year of his clerkship, the student who will meet with many words and terms of art which are utterly unknown to him will find it very advantageous to have lying on his desk Mr. Wharton's Law Lexicon, to which he may refer for information. When the course of his reading has become a little more extended, he will be able to refer to the ordinary treatises and text books, because he will then have learned where subjects can be best looked up; but in the meantime he will find Mr. Wharton's dictionary arrangement invaluable. We may now conclude these hints with regard to the conduct in the office, by impressing upon the mind of the articulated clerk the fact that he will find it to his interest, as it is his duty, to make himself useful to his principal. If he does so he will be gradually intrusted with business entailing more of responsibility and requiring more of care and thought in its transaction. Thus his opportunities of learning will be vastly increased, and not only so, for he will build up for himself a character which upon his entrance into professional life will be of the utmost advantage to him.

(To be continued)

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The standing orders have been dispensed with in the following case:—

RHYL HARBOUR BRIDGE AND RAILWAY.

The preambles of the following Bills have passed the committees:—

ASCHURCH TO EVESHAM.
BLACKPOOL AND LYTHAM.
TIBSHLEIF TO TEVERSALL.
WHITACRE TO NUNEATON.

The following Bills are unopposed:—

CLEATON AND EGREMONT.
BRISTOL AND SOUTH WALES UNION.
NORTH EASTERN (Castleton and Grosimont Branch).
WHITEHAVEN.
WITNEY.

The following Bills have been referred to committees:—

ALRESFORD AND WINCHESTER JUNCTION.
ALTON.
ANDOVER AND REDBRIDGE.
BISHOP'S STORTFORD.
CHARD AND TAUNTON.
COLNE VALLEY AND HALSTAD.
DEVON CENTRAL.
DUNMOW AND BRAINTREE.
EXETER AND EXMOUTH.
HADHAM AND BUNTINGFORD.
HENLEY-IN-ARDEN.
LONDON, BUCKS, AND WEST MIDLAND.
LONDON AND BURY ST. EDMUNDS.
LYNN AND HUNSTANTON.
MARLBOROUGH.
MARTON AND HARBURY.
MID DEVON AND CORNWALL.
MID EASTERN AND GREAT NORTHERN JUNCTION.
NORTH SOMERSET.
PETERSFIELD (Southampton Extension).
POOLE AND DORSET JUNCTION.
RYDE APPROACHES.
SALISBURY.
SHERBORNE.
SHIRLEY, SOUTHAMPTON, AND NETLEY.
SOMERSET CENTRAL.
UXBRIDGE AND RICKMANSWORTH.
WARE.
WITNEY.
WYCOMBE EXTENSION.

REPORTS AND MEETINGS.

BLTYHE AND TYNE RAILWAY.

At the half-yearly meeting of this company, held on the 4th inst., the following dividends were declared, viz.:—10 per cent. on original preference shares; 9½ per cent. on ordinary and extension shares; and 5 per cent. on the A & B preference shares, leaving £1,215 to be carried to the reserve fund.

BOSTON, SLEAFORD, AND MIDLAND COUNTIES RAILWAY.

At the half-yearly meeting of this company held on the 26th ult. a dividend of 2s. 6d. per share was declared.

BRADFORD, WAKEFIELD, AND LEEDS RAILWAY.

At the half-yearly meeting of this company held on the 5th inst. a dividend of 6 per cent. per annum was declared, payable on the 11th inst. This leaves a balance of £4,625 to be carried forward. The dividend paid for the past three years has averaged £5 1s. 8d. per cent. per annum.

BRISTOL AND EXETER.

At the half-yearly general meeting of this company held on the 28th ult. a dividend at the rate of 5½ per cent. per annum for the last half-year was declared.

CALEDONIAN RAILWAY.

The directors by their report recommend a dividend of 5½ per cent. on the ordinary stock for the last half-year.

EASTERN UNION RAILWAY.

The directors recommend that a dividend at the rate of £2 10s. per cent. per annum on the A stock and of £1 13s. 4d. per cent. per annum on the B stock should be declared for the past half-year.

GLASGOW AND SOUTH WESTERN RAILWAY.

At the half-yearly meeting of this company held on Wednesday, a dividend at the rate of 5½ per cent. on the ordinary stock was agreed to.

HEREFORD, ROSS, AND GLOUCESTER RAILWAY.

At the half-yearly meeting, held on the 28th ult., a dividend of 5 per cent. per annum on the preference shares, and of 4s. per share on the ordinary shares, were declared.

LEEDS, BRADFORD, AND HALIFAX JUNCTION RAILWAY.

The directors by their report recommend that a dividend be declared at the rate of 6 per cent. per annum. This will leave a balance of £1,742 to be carried to the reserve fund, which will then amount to £6,242.

MIDLAND GREAT WESTERN RAILWAY.

The directors will recommend at the half-yearly meeting on the 21st inst. a dividend at the rate of 5 per cent. per annum free of income tax, for the last half-year.

SCOTTISH NORTH EASTERN RAILWAY.

The directors propose that a dividend at the rate of 10s. per cent. per annum on the Aberdeen ordinary stock and a dividend of 4½ per cent. per annum on the Scottish Midland ordinary stock of this company be declared for the half-year ending 31 January.

SHREWSBURY AND HEREFORD RAILWAY.

At the half-yearly meeting of this company held on the 25th ult. the guaranteed dividend of 4½ per cent. per annum was declared.

SOUTH STAFFORDSHIRE RAILWAY.

At the half-yearly meeting of this company held on the 28th ult. a dividend of 5s. 2d. per share was declared.

SOUTH YORKSHIRE RAILWAY.

At the half-yearly general meeting of this company held on the 27th ult. a dividend on the guaranteed shares at the rate of 4½ per cent. and on the ordinary stock at the rate of 4½ per cent. per annum less income tax were declared.

STOCKPORT, DISLEY, AND WHALEYBRIDGE RAILWAY.

At the half-yearly meeting of this company held on the 28th ult. a dividend at the rate of 2½ per cent. per annum was declared.

WHITEHAVEN JUNCTION RAILWAY.

The directors by their report recommend that a dividend on original shares of 8 per cent. per annum be declared for the last half-year.

WHITEHAVEN AND FURNESS JUNCTION RAILWAY.

The directors recommend that a dividend of 8s. per share, being at the rate of 4 per cent. per annum, be declared upon the original shares of the company.

Sheriffs, Under-Sheriffs, Deputies, and Agents, for 1861.

Countries, &c.	Sheriffs.	Under-Sheriffs.	Deputies and Town Agents
BEDFORDSHIRE	J. Tucker, Esq., Pavenham, Bedford.	T. Wesley, Esq., Bedford.	Shum & Crossman, 3, King's-road, W.C.
BERKSHIRE	H. L. Hunter, Esq., Beech-hill, Reading	J. J. Blandy, Esq., High-grove, Reading	Gregory, Skirrow, & Co., 1, Bedford-row,
BERWICK-UPON-TWEED	J. M. Meggison, Esq., Berw-on-Tweed.	S. Sanderson, Esq., Berwick.	Geo. Knox, 3, Bloomsbury-square, W.C.
BRISTOL	Joshua Saunders, Esq., Bristol.	W. Ody Hare, Esq., Bristol.	Bridges & Son, Red Lion-square, W.C.
BUCKINGHAMSHIRE	Sir A. Rothschild, Ashton Clinton.	J. James, Esq., Aylesbury.	Meyrick & Gedge, 4, Storey's-gate.
CAMBRIDGE & HUNTS	E. Hicks, Esq., Wilbraham Temple.	Clement Francis, Esq., Cambridge.	J & C. Cole, 36, Essex-street, Strand
CANTERBURY	Herbert T. Sankey, Esq., Canterbury.	Sankey & Son, Canterbury.	Kingsford & Dorman, 23, Essex-st., W.C.
CHEESHIRE	Edward H. Glegg, Esq., Blackford-hall.	John Hostage, Esq., Chester.	G. F. Hudson, 23, Bucklersbury, E.C.
CHESTER (City)	James Rowe, Esq., Chester.	John Hostage, Esq., Chester.	Chester & Toulmin, 11, Staple-inn, W.C.
CORNWALL	John F. Bassett, Esq., Tehidy, Redruth.	P. P. Smith, Esq., Truro, Cornwall.	Gregory, Skirrow, & Co., 1, Bedford-row.
CUMBERLAND	T. Ainsworth, Esq., The Floss, Carlisle.	George Gill Mounsey, Esq., Carlisle.	Gray & Moansey, 9, Staple-inn, W.C.
DERBYSHIRE	William T. Cox, Esq., Spendon-hall.	G. H. R. Cox, Esq., Market-pl., Derby.	W. & H. P. Sharp, 92, Gresham-house.
DEVONSHIRE	Sir J. T. B. Duckworth, Weare.	Thomas E. Drake, Esq., Exeter.	G. F. Cooke, 35, Southampton-buildg.,
DORSETSHIRE	R. H. O. Swaffield, Esq., Westdown-lodge, Weymouth.	Thomas Coombs, Esq., Dorchester.	Richards & Walker, 29, Lincoln's-inn-fields, W. C.
DURHAM	R. L. Pemberton, Esq., Barnes.	Wm. Emerson Wooler, Esq., Durham.	J. Crowdy, 17, Serjeant's-inn, Fleet-st.
ESSEX	G. A. Lowndes, Esq., Barrington-hall.	Thos. Morgan Gepp, Esq., Chelmsford.	Hawkins, Bloxam, & Hawkins, 2, New
EXETER	H. Sparkes Bowden, Esq., Exeter.	(A. U., Gepp & Veley, Chelmsford.)	Boswell-court, W.C.
GLOUCESTERSHIRE	J. Waddingham, Esq., Winchcombe.	Kingland Snelgrove, Esq., Exeter.	Mead & Daubeny, 2, King's-bench-walk.
		J. Burrup, Esq., Berkeley-st., Gloucester.	White & Sons, 11, Bedford-row, W.C.

Counties, &c.	Sheriffs.	Under-Sheriffs.	Deputies and Town Agents.
GLOUCESTER	W. Nicks, Esq., Gloucester.	William Matthews, Esq., Gloucester.	W. C. Smith, 31, Lincoln's-inn-fields.
HAMPSHIRE	W. H. Deverell, Esq., Purbrook-park, near Cosham.	T. B. Woodham, Esq., Winchester.	Ridsdale & Craddock, 5, Gray's-inn-sq.
HEREFORDSHIRE	R. H. Lee Warner, Esq., Tiberton-ct.	N. Lanworne, Esq., Hereford.	G. F. Cooke, 35, Southampton-buildg.
HERTFORDSHIRE	W. Jones Loyd, Esq., Abbots Langley.	Philip Longmore, Esq., Hertford (A.U. Longmore & Sworder, Hertford).	Hawkins, Bloxam, & Hawkins, 2, New Boswell-court, W.C.
HUNTINGDON & CAMB.	E. Hicks, Esq., Wilbraham Temple.	Clement Francis, Esq., Cambridge.	J. & C. Cole, 36, Essex street, W.C.
KENT	A. Kandall, Esq., Foley-bo., Maidstone.	F. Scudamore, Esq., Maidstone.	Palmer, Palmer, & Bull, 91, Bedford-row
KINGSTON-UPON-HULL	Edward Dannatt, Esq., Kingston.	J. Thomas Tenney, Esq., Kingston.	No town agent to be appointed.
LANCASHIRE	Sir H. de Trafford, Bart., Trafford-pk.	T. Darwell, Esq., Manchester (A.U., Wilson, Deacon, & Wilson, Preston).	Ridsdale & Craddock, 5, Gray's-inn-sq.
LEICESTERSHIRE	Richard Sutton, Esq., Skeffington.	John Wooley, Esq., Loughborough.	Williamson, Hill, & Co., 10, St. James-st.
LICHFIELD	T. Arthur Griffith, Esq., Lichfield.	J. Philip Dyott, Esq., Lichfield.	S. B. Somerville, 48, Lincoln's-inn-fields.
LINCOLN	John Norton, Jun., Esq., Lincoln.	Thurston George Dale, Esq., Lincoln.	Taylor & Co., 28, Gt. James-st., W.C.
LINCOLNSHIRE	W. Cracroft Amcotts, Esq., Kettlethorpe	F. W. Tweed, Esq., Horncastle (A.U., Henry Williams, Esq., Lincoln).	Taylor & Co., 28, Great James-street, Bedford-row, W.C.
LONDON (Plural)	James Abbiss, Esq., Gracechurch-street.	O. C. T. Eggleton, Esq., 84, Newgate-st. (A.U., W. Burchell, Esq., 24, Red Lion-square).	Mr. Secondary Potter, 5, Basinghall-street.
MIDDLESEX (Singular)	Andrew Lusk, Esq., Fenchurch-street.	W. E. Toye, Esq., Chepstow.	Burchell & Hall, 24, Red Lion-sq., W.C.
MONMOUTHSHIRE	J. P. Carruthers, Esq., Chepstow.	G. W. Hodge, Esq., Newcastle-upon-Tyne.	White & Sons, 11, Bedford-row, W.C.
NEWCASTLE-UPON-TYNE ..	T. Hedley, Esq., Newcastle-upon-Tyne.	Herbert Jarret Johnson, Esq., Cromer, (A.U., C. Taylor, Esq., Norwich).	Torr, Janeway, & Tagart, 38, Bedford-row, W.C.
NORFOLK	John Thomas Mott, Esq., Barningham Hanworth.	Arthur Weston, Esq., Brackley.	J. W. & W. Flower, 17, Gracechurch-street, City, E.C.
NORTHAMPTONSHIRE	John E. Severne, Esq., Thonford-house.	Benjamin Woodman, Esq., Morpeth.	Torr, Janeway, & Tagart, 38, Bedford-row, W.C.
NORTHUMBRLAND	William John Pawson, Esq., Shawdon.	Francis G. Foster, Esq., Norwich.	J. Crosby, 3, Church-court, Old Jewry.
NORWICH	Donald Dalrymple, Esq., Norwich.	Christopher Swann, Esq., Nottingham.	Sharpe, Jackson, & Parker, 41, Bedford-row, W.C.
NOTTINGHAM	William Lambert, Esq., Nottingham.	John Brewster, Esq., Nottingham.	Loftus & Young, 10, New-inn, W.C.
NOTTINGHAMSHIRE	Henry Savile, Esq., Rufford Abbey.	John Marriott Davenport, Esq., Oxford.	Taylor & Co., 28, Great James-street.
OXFORDSHIRE	Henry Birch Reynardson, Esq., Adwell.	William Parr, Esq., Poole.	Davies, Son, Campbell, & Davies, 17, Warwick-street, W.
POOLE	Charles Augustus Lewin, Esq., Poole.	Benjamin Adam, Esq., Oakham.	William Mardon, 99, Newgate-st., E.C.
RUTLANDSHIRE	Genl. W. Pludyer, Ayston, Uppingham.	Geo. Potts, Esq., Broseley, Shropshire (A.U., J. J. Peole, Esq., Shrewsbury).	Beil, Brodrick, & Bell, Bow-churchyard
SHROPSHIRE	Geo. Pritchard, Esq., Broseley, Shropshire.	J. Nicholletts, Esq., South Petherton.	H. B. Jones, 22, Austin-frars, E.C.
SOMERSETSHIRE	F. W. Newton, Esq., Barton Grange.	W. Hickman, Esq., Southampton.	W. & E. Dyne & Harvey, 61 Lincoln's-inn-fields, W.C.
SOUTHAMPTON	John Carter, Esq., Southampton.	Robert William Hand, Esq., Stafford.	Abbott, Jenkins & Abbott, 8, New-inn.
STAFFORDSHIRE	John W. Phillips, Esq., Heybridge.	C. Cheston, Esq., Gt. Winchester-st. (A. U., J. Sparks, Esq., Bury St. Edmunds).	White & Sons, 11, Bedford-row, W.C.
SUFFOLK	E. R. S. Benec, Esq., Kentwell-hall.	W. H. Smallpiece, Esq., Guildford.	Field & Roscoe, 36, Lincoln's-inn-fields.
SURREY	Samuel Gurney, Esq., Carshalton.	G. P. Clarkson, Esq., Tunbridge Wells.	Abbott, Jenkins & Abbott, 8, New-inn.
SUSSEX	G. Gatty, Felbridge-pk., E. Grinstead.	Thomas Heath, Esq., Warwick.	Palmer, Palmer and Bull, 24, Bedford-row, W.C.
WARWICKSHIRE	R. Greaves, Esq., The Cliff, Warwick.	John Heelin, Esq., Appleby.	Taylor & Co., 28, Gt. James-street.
WILTSHIRE	W. Hopes, Esq., Brampton Crofts, Appleby.	West Awdry, Esq., Chippenham, Wilts.	Gray & Mooney, 2, Staple-inn, W.C.
WILTSHIRE	Charles Penruddocke, Esq., Compton Chamberlaine.	Robert Tomkins Rea, Esq., Worcester.	Lewis, Wood & Street, 6, Raymond-buildings, Grays-inn, W.C.
WORCESTER	Joseph Firkins, Esq., Worcester.	Arthur Ryland, Esq., Birmingham. (A. U., Gillam & Sons, Worcester).	Hall & Hunt, 11, New Boswell-court.
WORCESTERSHIRE	James Moilliet, Esq., Abberley-hall, Worcester.	Henry Wood, Esq., Pavement, York.	Sharpe, Jackson & Parker, 41, Bedford-row, W.C.
YORK	T. Cabry, Esq., Holdgate-villa, York.	William Gray, Esq., York.	No Town Agent to be appointed.
YORKSHIRE	Sir G. Orby Wombwell, Newburgh-pk., York.		Bell, Brodrick & Bell, Bow Churchyard
NORTH WALES.			
ANGLESEY	W. Bulkeley Hughes, Esq., Plas Cŵch.	John Williams, Esq., Beaumaris.	Abbott, Jenkins, & Abbott, 8, New-inn.
CARNARVONSHIRE	Henry McKellar, Esq., Sygunfawr.	Edward Breese, Esq., Portmadoc.	J. D. Finney, 6, Furnival's-inn, Holborn, W.C.
DENBIGHSHIRE	C. J. Tottenham, Esq., Plas Berwyn, Llangollen.	John C. Lethbridge, Esq., Westminster (A.U., M. Louis, Esq., Ruthin).	Simpson, Roberts, & Simpson, 63, Moor-gate-street, E.C.
FLINTSHIRE	Robert Howard, Esq., Broughton-hall.	A. T. Roberts, Esq., Mold, Flintshire.	M'Leod & Cann, 51, Lincoln's-inn-flds.
MERIONETHSHIRE	David Williams, Esq., Dendraeth Castle.	Edward Breese, Esq., Portmadoc.	Gregory & Skirrow, 1, Bedford-row.
MONTGOMERISHIRE	J. Heyward Heyward, Esq., Crosswood.	W. D. Harrison, Esq., Welchpool.	
SOUTH WALES.			
BRECONSHIRE	J. W. Fredericks, Esq., Pontneath Vaughan.	Henry Maybery, Esq., Brecon.	Gregory, Son, & Clark, 12, Clement's-inn, W.C.
CARDIGANSHIRE	Pryse Loveden, Esq., Gogerddan.	Thomas Davies, Esq., Cardigan.	Robinson & Preston, 35, Line-inn-flds.
CARMARTHENSHIRE	A. H. S. Davies, Esq., Pentre.	Thomas Jones, Esq., Llandovery.	Gregory, Son, & Clark, 12, Clement's-inn, W.C.
CARMARTHEN	T. Isaac, Esq., King-st., Carmarthen.	W. T. Thomas, Jun., Esq., Carmarthen	Chilton & Burton, 23, Chancery-lane.
GLANORGANSHIRE	Edward R. Wood, Esq., Stouthall.	Thomas Masters Dalton, Esq., Cardiff.	Loftus & Young, 10, New-inn, Strand.
HAVERFORDWEST	William Lewis, Esq., Haverfordwest.	William Davies, Esq., Haverfordwest.	T. H. Smith, 1, Frederick's-pl., Old Jewry
PENBROOKSHIRE	Edward Wilson, Esq., Hean Castle.	William Davies, Esq., Haverfordwest.	T. H. Smith, 1, Frederick's-pl., Old Jewry
PENBROOKSHIRE	George Greenwood, Esq., Aberant.	Evan Vaughan, Esq., Builth.	White & Sons, 11, Bedford-row, E.C.

Court Papers.

Court for Divorce and Matrimonial Causes.

The Right Honourable the Judge Ordinary will proceed with the causes for dissolution of marriage to be heard before himself *without juries* on Monday, the 18th day of March, 1861, in the event of the causes to be tried by *special juries* being disposed of.

Divorce Registry, March 1, 1861.

Births, Marriage, and Deaths.

BIRTHS.

DRAITHWAITE—On March 5, the wife of Joseph Bevan Draithwaite, Esq., Barrister-at-Law, of a son.
FOSTER—On Feb. 24, the wife of Thomas Gregory Foster, Esq., Barrister-at-Law, of a daughter.
SOLOMON—On March 1, the wife of Saul Solomon, Esq., Solicitor, of a son.
STEPHEN—On Feb. 27, the wife of J. F. Stephen, Esq., Barrister-at-Law, of a daughter.

MARRIAGE.

STURGESS—WILKINS—On Feb. 28, at Bath, Charles William Sturges, Esq., Hull, to Lucy Sarah, daughter of Martin J. Wilkins, Esq., late Solicitor-General of Nova Scotia.

DEATHS.

BATHURST—On Feb. 28, aged 49, Mary Anne, daughter of the late Bathurst, Esq., formerly Solicitor, of Rochford, Essex.
HALL—On March 4, Mary Alice, daughter of Henry Hall, Esq., Solicitor, Ashton-under-Lyne, aged 7 years.
HULME—On March 1, in the 57th year of his age, John Walton Hulme, Esq., late Her Majesty's Chief Justice of the Supreme Court, Hong-kong.
LLEWELLIN—On March 6, Henry Llewellyn, Esq., Solicitor, in his 55th year.
MOCKLER—On Feb. 24, at Dublin, William Mockler, Esq., Barrister-at-Law, aged 46.
MYERS—On Feb. 2, at Linstead, near Spanish-town, Jamaica, the Rev. John Monson Myers, B.A., Oxon, Head Master of the Jamaica Free School, Walton, St. Anne's, and youngest son of the late William Myers, Esq., Crown Solicitor for the Island of Jamaica.
PATRICK—On Feb. 28, at Edinburgh, William Patrick, Esq., of Roughwood, Writer to the Signet, in his 92nd year.
REEVE—On Feb. 24, Fanny, widow of Andrews Plumsted Reeve, Esq., late of Red Lion-square, Solicitor.

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, March 8, 1861.

WILLIAMS, JOHN CHARLES, & HENRY KIMBER, Solicitors & Attorneys, 3, Lancaster-place, London (Goodwin, Williams, & Kimber); by mutual consent. March 6.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, March 5, 1861.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (Registered). Order to wind up, V. C. Wood. Feb. 23.

FRIDAY, March 8, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (REGISTERED).—V. C. Wood will, on March 21, at 12.30, appoint an official manager or official managers of this company. Creditors to prove their debts before V.C. Wood.

ERA ASSURANCE SOCIETY.—V.C. Wood will, on March 26, at 3, proceed to make a call on all the contributories of the society of 30s. per share. MEXICAN AND SOUTH AMERICAN COMPANY.—The Master of the Rolls will, on March 13, at 2, proceed to make a call for £11 5s. per share on the several contributories upon whom no call has hitherto been made.

LIMITED IN BANKRUPTCY.

LITTLE DOWN AND ENNER ROCKS MINERAL AND MINING COMPANY (Limited).—Com. Holroyd has peremptorily ordered a call of seventeen shillings and sixpence per share be made on the several contributories of the said company, to be paid to Mr. Charles Lee, Official Liquidator, 20, Aldermanbury, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, March 5, 1861.

ANNANDALE, WILLIAM, Esq., formerly of Foley-place, St. Marylebone, Middlesex. Stephenson, Solicitor, 7, Great Queen-street, St. James's-park, Westminster. April 17.

DAVIS, BENJAMIN, Gent., 15, Church-street, Chelsea, Middlesex. Wrentham & Son, Solicitors, 43, Lincoln's-inn-fields, London. April 30.

ENBELS, ROBERT, formerly of Wolverhampton, and afterwards of Dawlish, Devonshire. Janson, Cobb, & Pearson, Solicitors, 4, Basinghall-street, London. March 31.

GOODSON, WILLIAM, Esq., Surgeon, R.N., Devonshire-street, Portland-place, Middlesex. Oriel, Solicitor, 26, Alfred-place, Bedford-square, Middlesex. March 30.

RUSSELL, JAMES, Sunderland. Bramwell, Solicitor, 50, West Sunnyside, Sunderland. May 22.

VABLO, LOUISA, Spinster, formerly of Norwich, and late of Portsmouth. Lewis, Wood, & Street, Solicitors, 6, Raymond-buildings, Gray's-inn. April 10.

WEBB, WILLIAM, Plasterer, Coventry. Troughton, Lea, & Kirby, Solicitors, 16, Little Park-street, Coventry. April 15.

FRIDAY, March 8, 1861.

BOURDIEU, EMILY, Spinster, 2, Cadogan-road, Surbiton, Kingston-upon-Thames. Lewis, Wood, & Street, Solicitors, 6, Raymond-buildings, Gray's-inn, London. April 13.

CHARLTON, GEORGE, Tea Dealer & Grocer, 48, Charing-cross, Middlesex and 6, Acre-lane, Brixton. Hussey, Solicitor, 20, Great Knight Rider-street, Doctors'-commons. April 12.

COATES, ROBERT, Gent., Lowther-street, York. I. J. P., & H. Wood, Solicitors, York. May 1.

COSTER, JOHN, Farmer, Bradwell-next-the-sea, Essex. Clarke & Morice, Solicitors, 29, Coleman-street, London. April 30.

COX, THOMAS, Tipton, Staffordshire. Caddick, New-street, West Bromwich. April 1.

MAYO, REV. CHARLES, Clerk, Colesgrove, Chesunt, Herts. Ware & West-hall, Solicitors, 1, Copthall-court, London. May 1.

RITCH, GEORGE, Wheelwright & Farmer, Langton-en-le-Morthen, Yorkshire. Marsh & Edwards, Solicitors, Rotherham, Yorkshire. April 12.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, March 5, 1861.

BAKER, MARY, Widow, Bromley-common, Kent. Harris v. Webb. M. R. April 12.

BROUGHTON, FREDERICK, Gent., High-street, Camden-town, Middlesex. Broughton v. Oswald, V. C. Kindersley. April 12.

BROUGHTON, CHARLOTTE, Spinster, 8, Belmont-place, Wandsworth-road, Surrey. Broughton v. Oswald, V. C. Kindersley. April 10.

GROGHEGAN, THOMAS, Tailor, 94, Jermyn-street, St. James's, Middlesex. London v. Fallon, V. C. Stuart. March 19.

PALMER, GEORGE, Farmer, East Harling, Norfolk. Wilkinson v. Palmer, M. R. March 27.

SMITH, LEVI, Blacksmith, Commonsidge, Kingswinford, Staffordshire. Baynton v. Smith, M. R. March 27.

WOOD, JACOB, Headingley, Leeds. Wood v. Dingley, V. C. Stuart. April 8.

YOUNG, HENRY, Farmer, Twyford, Southampton. Cordery v. Young, M. R. April 12.

FRIDAY, March 8, 1861.

COATES, BENJAMIN, Coachmaker, North End, Fulham, and Park-lane, St. George, Hanover-square, Middlesex. Coates v. Coates, M. R. April 10.

HANCOCK, HANNAH, Spinster, 2, Westmoreland-place, Baywater, Middlesex, and 17, Oxendon-street, Haymarket, Middlesex. Hancock v. Hancock, M. R. April 8.

LITTLE, ROBERT, Gent., 1, Nelson-street, Mile End Old Town, Middlesex. Ratcliff v. Ratcliff, V. C. Stuart. April 10.

MATTHEWS, JOHN, Kew, Surrey. Ward v. Mather, M. R. April 8.

MERRAY, CHARLES, Jun., Accountant, Burton-upon-Trent, Staffordshire. Mosley v. Merrey, M. R. April 8.

Assignments for Benefit of Creditors

FRIDAY, March 8, 1861.

BODGER, WILLIAM, Builder, Newcastle-upon-Tyne. Sol. Mather & Cockcroft, 14, Gray-street Newcastle-upon-Tyne. Feb. 25.

BOFFET, SAMUEL, Farmer, New Springs, Talk-on-the-Hill, Staffordshire. Sol. Sherratt, Talk-on-the-Hill. Feb. 12.

COGHAN, JOSEPH, Stuff Merchant, Bradford. Sol. Terry & Watson, Market-street, Bradford. Feb. 27.

COTTON, MATTHEW, & WILLIAM WOOD, Joiners & Builders, Kidsgrove, Staffordshire. Sol. Sherratt, Talk-on-the-Hill. Feb. 18.

GARFORTH, EDWARD, & RAUBEN GARFORTH, Manufacturers, Earlsheaton, Dewsbury, Yorkshire. Sols. Scholes & Son, Dewsbury. Feb. 23.

GIBBINGS, WILLIAM, Innkeeper, Stonehouse, Devonshire. Sol. Fowler, Plymouth. Feb. 27.

GILBERT, JOHN, Agricultural Implement Maker & Farmer, Brilles, Warwick. Sol. Hancock & Hiron, Shipston-on-Stour. Feb. 27.

HORSFALL, WILLIAM, Tinner & Ironmonger, Huddersfield. Sol. Drake, Huddersfield. Feb. 21.

KENT, WILLIAM, Farmer, Thetford, Hertfordshire. Sol. Freeland, Saffron Walden. Feb. 25.

MASERLY, GEORGE FREDERICK, & WILLIAM HENRY MASERLY, Coach-makers, Lambourne, Berks. Sol. Astley, Hungerford. March 1.

SMITH, STEPHEN WEST, Miller, Laceby, Lincolnshire. Sols. Ingoldby & Bell, Louth. Feb. 27.

THIRLWALL, THOMAS, Enginewright, Gateshead, Durham. Sols. Haris & Co., 9, Butcher-bank, Newcastle-upon-Tyne. Feb. 25.

FRIDAY, March 8, 1861.

CHAMBERS, JAMES, Grocer, Cheltenham, Gloucestershire. Feb. 8. Sol. Pruett, Cheltenham.

COXON, JOSEPH, Farmer, Eastern, Ham, Staffordshire, and of Morley, Derbyshire. March 1. Sol. Baker, Derbyshire.

DOUGLAS, WILLIAM, Dyer, Old Garratt Dye Works, Manchester. Feb. 19. Sols. Sale, Worthington, Shipman, & Seddon, Manchester.

GANE, ROBERT, Licensed Victualler, Wootton Bassett, Wiltshire. Feb. 25. Sol. Pratt, Wootton Bassett.

GILL, WILLIAM, Currier & Leather Cutter, Doncaster. March 2. Sol. Palmer, Doncaster.

GROVES, JOHN, CHARLES GROVES, and EPHRAIM CHETWYN, Glove Manufacturers, Sodbury, and King-street, Worcester (Groves & Chetwyn). Feb. 20. Sol. Rea, 34, Foregate-street, Worcester.

HARDING, EDWARD, Draper, Liverpool. Feb. 28. Sols. Arison & Radcliffe, 18, Cook-street, Liverpool.

LEWTHWAITE, ROBERT, Joiner & Builder, Bury, Lancashire. March 6. Sols. T. A. & J. Grundy & Co., 14, Union-street, Bury.

M'KAY, WILLIAM, Dyer & Finisher, Cullyhurst, Lancashire. Feb. 13. Sols. Sale, Worthington, Shipman, & Seddon, Manchester.

NICHOLAS, DAVID, Grocer & Draper, Garndiffaith, Trevaethin, Monmouthshire. Feb. 8. Sol. Lloyd, Pontypool.

ROBERTS, HENRY, Upholsterer, London-road, Saint Leonard's-on-Sea, Sussex. March 4. Sols. J. & S. Langham, Hastings.

SMITH, JOHN, Grocer & Cheesemonger, Staines, Middlesex. Feb. 13. Sols. Nickols & Clark, 9, Cook's-court, Lincoln's-inn.

WEBSTER, PHILIP, Draper, King-street, Thetford, Norfolk. Feb. 16. Sol. Davidson, Bradbury, & Hardwick, Weavers'-hall, 23, Basinghall-street.

Bankrupts.

TUESDAY, March 5, 1861.

DAWES, CATHERINE, & CHARLES FIDDIAN, JUN., Coffin Furniture & Malleable Nail Manufacturers, Birmingham. Com. Sanders: March 10, and April 8, at 11; Birmingham. Off. Ass. Whitmore. Sol. Webb, Birmingham. Pet. March 4.

EVANS, JOHN, Cattle Dealer, Lampeter, Cardiganshire. Com. Hill: March 19, and April 16, at 11; Bristol. Off. Ass. Miller. Sols. Lloyd, Lampeter; or Abbot, Lucas, & Leonard, Bristol. Pet. Feb. 18.

FRENCH, SIDNEY JOSEPH GEORGE, Chemist & Druggist, 18, Norton Folgate, Middlesex. Com. Evans: March 19, at 1.30; and April 18, at 12; Basinghall-street. Off. Ass. Bell. Sols. Hare & Whitfield, 1, Mitre-court, Temple. Pet. Feb. 28.

GUNNELL, WILLIAM, & JOHN BROWNE, Biscuit Manufacturers, Landport, Hants (Gunnell, Browne, & Co.) Com. Goulburn: March 15, and April 17, at 1; Basinghall-street. Off. Ass. Pennell. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London. Pet. Feb. 26.

HABIBETZ, GEORGE, Skein Silk Dyer, 11, Weaver-street, Bethnal-green, Middlesex. Com. Holroyd: March 15, at 2; and April 16, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Porter, 37, Skinner-street, Snow-hill, London. Pet. March 2.

HECK, JAMES, Butcher & Fishmonger, Lincoln. Com. Ayrton: March 20, and April 17, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sol. Dale, Lincoln. Pet. March 1.

JOHNSON, THOMAS GEORGE, JUN., Wine & Spirit Merchant, Coventry. Com. Sanders: March 18, and April 8, at 11; Birmingham. Off. Ass. Kinnear. Sols. Minster & Son, Coventry; or Reece, Birmingham. Pet. March 4.

OWEN, ANNA MARIA, Dealer in China & India Goods, 95, New Bond-street, Middlesex. Com. Goulburn: March 15, at 12.30; and April 15, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Harrison & Lewis, 6, Old Jewry, London. Pet. Jan. 23.

POWELL, CHARLES, Grocer & Cheesemonger, 2, Overy-street, Dartford, Kent. Com. Goulburn: March 15, at 2; and April 15, at 1.30; Basinghall-street. Off. Ass. Pennell. Sol. Venn, 3, New-inn, Strand, London. Pet. March 2.

WALKER, GEORGE EDWARD, Victualler, Woodborough-road, Nottingham. Com. Sanders: March 21, and April 4, at 11.30; Nottingham. Off. Ass. Harris. Sol. Lees, Nottingham. Pet. March 1.

WEIL, ERNEST, Merchant, 6, Bank-chambers, Lothbury, London. Com. Holroyd: March 15, at 2.30; and April 16, at 2; Basinghall-street. Off. Ass. Edwards. Sol. Lloyd, 1, Wood-street, Cheap-side, London. Pet. Feb. 21.

FRIDAY, March 8, 1861.

BARNESLEY, ELIZ, Gas Tube Manufacturer, Old Hill, Rowley Regis, Staffordshire. Com. Sanders: March 18, and April 15, at 11; Birmingham. Off. Ass. Whitmore. Sol. E. & H. Wright, Birmingham. Pet. March 7.

BENNETT, WILLIAM, Linen Draper, Nether Stowey, Somersetshire. Com. Andrews: March 20, and April 17, at 1; Exeter. Off. Ass. Hirtzel. Sols. Sole, Turner, & Turner, 68, Aldermanbury, London, or Fryer, St. Thomas, Exeter. Pet. Feb. 26.

BENNETT, WILLIAM, Licensed Victualler, Coal Exchange Tavern, St. Mary-at-Hill, London. Com. Evans: March 21, at 12.30; and April 18, at 2; Basinghall-street. Off. Ass. Bell. Sols. Harrison & Lewis, Old Jewry. Pet. March 7.

ELLISON, THOMAS, Baker & Flour Dealer, Liverpool. Com. Perry: March 18, and April 11, at 11; Liverpool. Off. Ass. Bird. Sol. Brabner, Clarence-buildings, 40, North John-street, Liverpool. Pet. March 6.

FARRAR, JOSEPH, Grocer & Tea Dealer, Bolton-street, and Fleet-street,

Bury. Com. Jemmett: March 19 & April 9, at 12; Manchester. Off. As. Fraser. Sol. Anderton, Bury. Pet. March 5.

HEALE, WILLIAM, Jun., Nursery & Seedsman, Potterne-road, St. James, Bishops Canning, Wilts. Com. Hill: March 19 & April 16, at 11; Bristol. Off. As. Acraman. Sols. Wittey, Devizes, or Abbot, Lucas, & Leonard, Albiol-chambers, Bristol. Pet. March 5.

LEVER, GEORGE, Watch Maker & Jeweller, 43, Warwick-street, Belgrave-road, Fimlico, Middlesex. Com. Fonblanque: March 19, at 11, & April 17, at 12; Basinghall-street. Off. As. Stansfeld. Sols. Lawrence, Plews, & Boyer, 14, Old Jewry-chambers, London. Pet. March 6.

LEWTHWAITE, EDWIN, Watch Maker & Jeweller, Halifax. Com. West: March 22 & April 26, at 11; Leeds. Off. As. Young. Sols. Bond & Barwick, Leeds. Pet. March 6.

LOCK, FRANCIS, Miller & Corn Dealer, West Bower Mills, Bridgwater, Somersetshire. Com. Andrews: March 20 & April 17, at 1; Exeter. Off. As. Hirtzel. Sols. Pain, Bridgwater, or Laidman, Exeter. Pet. Feb. 20.

MOORE, GEORGE, Market Gardener, Perry Barr, Staffordshire. Com. Sanders: March 22 & April 12; Birmingham. Off. As. Whitmore. Sol. Marshall, Birmingham. Pet. March 1.

NOLTEY, HENRY, Hotel-keeper, 7, Sparrow-corner, Minorics, London, and 30, Fieldgate-street, Whitechapel, Middlesex. Com. Fane: March 21, and April 19, at 1; Basinghall-street. Off. As. Whitmore. Sol. Barron, 96, Guildford-street, Russell-square. Pet. March 5.

RICHARDS, SAMUEL WANNERTON, Hatter, Birmingham. Com. Sanders: March 22, and April 12, at 11; Birmingham. Off. As. Kinnear. Sols. Beal & Marigold, Birmingham. Pet. March 7.

SCHERMAN, ADOLPHUS, Merchant, 13, George-street, Minorics, London, and late of Cape Town, Cape of Good Hope, and of Melbourne, Australia. Com. Holroyd: March 19, at 2; and April 23, at 1; Basinghall-street. Off. As. Edwards. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London. Pet. March 7.

TIDMARSH, HENRY THOMAS, Draper & Clothier, Stratford-upon-Avon, Warwickshire. Com. Sanders: March 22, and April 12, at 11; Birmingham. Off. As. Whitmore. Sols. Warden, Stratford-upon-Avon; or James & Knight, Birmingham. Pet. March 4.

WADE, JOHN, Ironmonger, Blackburn. Com. Jemmett: March 21, and April 11, at 12; Manchester. Off. As. Pitt. Sols. Hayes, Wolverhampton; or Cobbett & Wheeler, Brown-street, Manchester. Pet. Feb. 23.

BANKRUPTCY ANNULLED.

TUESDAY, March 5, 1861.

PADDT, RICHARD, Draper, 4, Amelia-place, Brompton, Middlesex. Mar. 1.

FRIDAY, March 8, 1861.

HARMAN, WILLIAM, otherwise WILLIAM FREDERICK HARMAN, Outfitter, Emmett-street, Poplar, Middlesex. March 5.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, March 5, 1861.

BOWDEN, MARK, Flint Glass and Looking Glass Manufacturer & Glass Cutter, Bristol (Mark Bowden & Co.). March 28, at 11; Bristol.—CULLEY, SAMUEL UTTING, Wine and General Merchant, 4, Coleman-street, London, 2, Priory-grove West, Brompton, Middlesex. March 15, at 1; Basinghall-street.—FASTON, WILLIAM ANTONY, Ironmaster & General Shopkeeper, Maesteg, Glamorganshire, and Attorney-at-Law, Stroud, Gloucestershire. March 18, at 11; Bristol.—GOODMAN, DAVID, Watchmaker, & Jeweller, Cardiff. March 19, at 11; Bristol.—JACKSON, GEORGE, Decorative Designer & Ornamental Composition Manufacturer, 17, Brazenose street, Manchester. March 27, at 12; Manchester.—KIRKHAM, THEOPHILUS, East India Merchant, 28, Leadenhall-street, London. March 28, at 12.30; Basinghall-street.—MOULTON, GEORGE CANNING, Dealer in India Rubber and other Goods, 4, Gresham-street London, and late of 24, Brunswick-square, Bloomsbury. March 15, at 1.30; Basinghall-street.—POWELL, WILLIAM, Linen Draper, Newport, Monmouthshire. March 28, at 11; Bristol.—REES, RICHARD, Cabinet Maker, Llanelly, Carmarthenshire. March 28, at 11; Bristol.—ROBERTSON, CHARLES, Baker & Flour Dealer, Liverpool. March 27, at 11; Liverpool.—THOMAS, EDWARD, Ironmaster, Walsall, Staffordshire. April 12, at 11; Birmingham.—THOMAS, CHARLES JONES, Bonded Store Merchant, Newport, Monmouthshire. March 28, at 11; Bristol.

FRIDAY, March 8, 1861.

DWYLEY, CHARLES, Wheelwright, 64, Clarendon-terrace, Bow-road, Middlesex. April 4, at 11.30; Basinghall-street.—NOBLE, JOHN, Rope Maker, Carlisle. March 19, at 12; Newcastle-upon-Tyne.—POOLEY, JOHN, Contractor & Builder, Liverpool and Peterborough. April 5, at 11; Liverpool.—RICHARDSON, GEORGE, & GEORGE TOMLINSON FRANCES, Cloth Merchants, Huddersfield. April 16, at 11; Leeds.—TAYLOR, JAMES THOMAS, Grocer, 72, New Church-street, Marylebone, Middlesex. March 20, at 2.30; Basinghall-street.—WISMAN, JOHN, Printer, Bookseller, & Stationer, Luton, Bedfordshire. March 19, at 1.30; Basinghall-street.

ON 5TH APRIL NEXT, the Original Scheme (Class A.) of the Life Association of Scotland will be Closed for the 22nd Annual Balance; and Entrants will secure Special Advantages.

Those who desire to avail themselves of Life Assurance at the smallest outlay consistent with due security, are invited to examine into this Scheme, and its results to the Policy-holders. Prospectuses will be furnished on application. Assurances can be effected in any part of the kingdom.

A medical officer in attendance daily, at half-past 12 o'clock.

Applications should be lodged on or before 5th April.

THOS. FRASER, Res. Secy.

London, 20, King William-street, E.C.

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Annuities, Immediate, Deferred, and Contingent, and also Endowments granted on favourable terms.

Prospectuses and Forms of Proposal, and all further information, may be had at the Office.
C. B. CLABON, Secretary.

BRITISH MUTUAL INVESTMENT, LOAN
and DISCOUNT COMPANY (Limited),
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Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to
JOSEPH K. JACKSON, Secretary.

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TIMEKEEPERS.—These ingenious and simple timekeepers are the most remarkable scientific novelties of the day. They indicate time by the gradual descent of a column of mercury, in a glass tube, which, when descended, or nearly so, the clock merely requires to be reversed. In appearance they resemble the thermometer. Prices 4s. 6d., 5s., 10s. 6d., 12s. 6d., 15s., and upwards. The Guinea Clock with Silver Dial makes an elegant present. They are adapted for all climates, never get out of repair, nor require cleaning. For India and the colonies they are very suitable. Orders, accompanied with a remittance or post-office order, payable to C. LANGSTON, Atmospheric Clock Company, 73, Fleet-street, E.C., will meet with prompt attention. Export orders shipped direct to any part of the world, and commissions for other goods at the same time executed on the best terms. Wholesale, Retail, and Export Depot of the Atmospheric Clock Company, 73, Fleet-street, E.C. Orders received for CLEGG'S PATENT VICTORIA GARDEN PUMPS, and for CLEGG'S PATENT CARRIAGE TELEGRAPH, or DRIVER'S GUIDE, which will entirely supersede the ordinary check-string.

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TWELVE HOURS TRANSCENDENTLY BRILLIANT LIGHT AT THE COST OF ONE PENNY. This incomparable household boon is obtained by the use of the New Lamp, sold at the Stella Lamp Depot. Light equivalent to three candles. Larger light, equivalent to a pound of dips, and superior to gas, at the cost of about Five Farthings per night. Cost of Lamp, 2s. to 5 Guineas.
STELLA LAMP DEPOT, No. 11, Oxford-street, adjoining the Star Brewery.

COALS.—THE KING'S-CROSS COAL DEPART-

MENT, ESTABLISHED 1846. Best Walls End, Hettons, Stewarts, or Lambtons, free from small and slates, 26s. per Ton. Why pay more? Richmond 24s., Best Silkstone 24s., Claycross 24s., South Yorkshire 22s., Barnsley 20., large for kitchen use 19s. Terms cash. To test the economy of purchasing coals at this establishment, sample half-tons will be sent of any particular quality required. A trial is solicited.

Address, James M. Rees, 2, Wharf-road, King's-cross, N.

CHEAP FRAMES.—NEAT GOLD FRAMES,

GLASS and BACKS, complete, 9in. by 13, 16s. per dozen. The Art Union of London, "Life at the Sea Side," beautifully framed, 15s. complete. The trade and country dealers supplied with gilt and fancy wood mouldings of every description. Ten thousand yards of room moulding kept in stock. Any sets of the coloured pictures given with the "Illustrated London News," framed in neat gold moulding, complete, 3s. 6d., at GEORGE REES'S, 57, Drury-lane, four doors from the theatre. Established 1800. Advertising frames 20 per cent. cheaper than any other house.

FOR SALE.

LANDED ESTATE and suitable HOUSE PROPERTY in NORFOLK, comprising 117 Acres of Mixed Soil Land. Of 104 Acres possession may be had at Michaelmas next. Principally freehold, and near a railway. Two-thirds of the purchase money may remain on mortgage at 4 per cent.

For particulars apply to Messrs. GOODCHAP, TYLER, & Co., Accountants, 13, Gresham-street, City, London.

PURSUANT to an Order of the High Court of

Chancery, made in the matter of the estate of Henry Bedford, late of No. 47, Albany-street, Regent's-park, in the county of Middlesex, and of No. 4, Gray's-inn-square, in the said county, gentleman, deceased, and between Thomas Powell Watkins, plaintiff, and Elizabeth Lane, defendant, the creditors of the said Henry Bedford, who died in or about the month of October, 1859, are by their solicitors, on or before the 14th day of March, 1861, to come in and prove their claims at the chambers of the Vice-Chancellor Sir John Stuart, at No. 12, Old-square, Lincoln's-inn, in the said county of Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Thursday, the 21st day of March, 1861, at one o'clock in the afternoon, is appointed for hearing and adjudicating upon the said claims.

Dated this 21st day of February, 1861.

ALFRED HALL, Chief Clerk.

JOHN THOMAS TREHERNE, 17, Gresham-street, E.C.

Solicitor for the said Plaintiff.

Now ready, price 7s. 6d.,

THE PRACTICE OF THE SHERIFFS COURT
OF THE CITY OF LONDON, with the Forms of Proceedings to be used by Suitors, and an Appendix of Statutes and Orders of the Court.
By O. B. C. HARRISON, M.A., Barrister-at-Law, of the Inner Temple,
H. SWART, 3, Chancery-lane, Fleet-street.

We cannot notice any communication unless accompanied by the name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 16, 1861.

CURRENT TOPICS.

Elsewhere in our columns will be found, at length, the return which the Accountant-General of the Court of Chancery has presented to Parliament, shewing the state of the Suits' Fund and Suits' Fee Fund when the balances were last struck. The Suits' Fund account is made up to the 1st of October last, and the Suits' Fee Fund account to the 25th of November. There appears to be no reason why these two accounts should include different periods. It would seem to be a more convenient course to balance both upon the same day. We have given all the items and figures in detail, in order that our readers may be fully in possession of much important information touching some of the subjects now about to be investigated by the Chancery Commission, which has just been appointed. Next week we shall give an abstract of these accounts, so as to present a more general view of them. In round numbers the fees levied on the suits in the Court of Chancery during the year ending 25th November, 1860, are a little short of £100,000, while the entire disbursements are considerably over £200,000. The difference is more than made up by the income arising from the large funds of the court. The annual expenditure for compensations is about two-thirds of the amount required to pay all the acting officers of the court. The pensions to retired officers, amounting to over £12,000 a year, are not included in these compensations. These figures will suffice to shew that the new commissioners have some real work to do even though, as report says, they are confined by the terms of their commission to inquiries into the constitution of the Accountant-General's department, and the provisions for the custody and management of the funds of the court.

A return has been made to Parliament, on the motion of Mr. Malins, of the statistics of the Probate and Divorce Courts, of the latter of which we have elsewhere given an analysis. The *Times* has an article based upon this parliamentary paper in favour of the appointment of another judge who might attend to the business of the Probate Court alone. We cannot help thinking, however, that the return in question would not be a sufficient justification for so important and expensive a proceeding. Although the Court has been three years in existence, a considerable proportion of the causes now coming before it would unquestionably have been disposed of years before if there had been jurisdiction to try them. It is not fair then to draw any conclusion from the statistics which have been recently furnished to Parliament; and from the experience which has been gained since 1858 there is little reason to doubt that after a short time the probate and divorce business together will not be more than sufficient to give full employment to one judge.

The appellants in the case of All Souls' College, Oxford, have succeeded on the most important points; and in future the Foundation Fellowships of that College will probably be given to successful candidates in competitive examinations in the subjects of jurisprudence and modern history—some regard, of course, being had to moral fitness.

The office of Legal Adviser to the Metropolitan Board of Works has become vacant upon the appointment of Mr. Woolrych as a magistrate at the Thames Police Court. We believe the appointment rests with the Board, and that the salary is £1,000 a-year, together with certain fees of no inconsiderable amount.

LORD ST. LEONARDS' BILL ON CONSTRUCTIVE NOTICE.

We have so frequently adverted to Lord St. Leonards' repeated attempts to abolish the equitable doctrine of constructive notice, that we should not now allude to this topic at any length, if it were not that the Bill at present before Parliament, which embodies his lordship's views, is likely to become law without receiving any discussion in either House. The Bill proposes that no purchaser for value or mortgagee shall be bound by any implied or constructive notice, unless the Court shall be of opinion that his conduct "amounted to fraud, or to such wilful neglect as amounted to fraud." We do not pause here to offer any lengthened criticism upon the awkwardness and inaptness of the language which we have just quoted. It may be observed, however, that upon the principle that things which are equal to the same, are equal to one another, the term last introduced into the proposed enactment is unnecessary and illogical. No object appears to be gained by adding to the exception "unless the Court shall be of opinion that the conduct of such purchaser or mortgagee amounted to fraud," the further exception "or to such wilful neglect as amounted to fraud." The latter exception appears to be even in terms included in the former, and to be, therefore, simply supererogatory and embarrassing. It is not to be supposed, however, that so learned and great a lawyer as Lord St. Leonards (assuming the addition in question to have been made by him), has used these words without meaning. The truth is, they are a forcible proof of the extreme embarrassment which must attend any attempt of the Legislature to meddle with this most comprehensive and complicated head of equity. The immense difficulty of the whole subject may be inferred from the fact that no English lawyer has ever yet had the courage to grapple with it in its entirety. Amongst the multitudinous treatises which issue from our legal press, not one has ever appeared upon the subject of constructive notice, although the applications of the doctrine are infinite, and the reported cases relating to it innumerable. The reason of this is probably not less on account of the conflict and obscurity which characterise judicial decisions involving the doctrine of notice, than because of its almost purely metaphysical character, and therefore the absence of such objective coherence as is desirable in any branch of law which is intended for the subject of a separate work. Another reason unquestionably is the almost insuperable difficulty arising out of the uncertain use of terms where so much depends upon accurate definition.

It would not be difficult, if our space permitted, to point out numerous examples where actual, express, direct, or immediate notice has been in terms confounded with constructive, implied, or imputed notice. There have been numerous attempts to define and explain in general terms the cases coming within these two general classes; but out of all these judicial definitions no text writer or judge has yet been able to construct any intelligible system. Efforts have been made from time to time, both in courts of common law and courts of equity, to define notice simply as knowledge; and as applied to a person, either that he knows or ought to know the fact or circumstances in question. But, however desirable for their simplicity these definitions might be, they have been found practically insufficient and unsuitable for the purposes of jurispru-

dence; and even though they were not so, the distinctions thus laid down are not coincident with the divisions of actual and constructive notice. The first step, therefore, which Lord St. Leonards has to take, is attended with the utmost embarrassment. The very terms which he is compelled to use are indefinite beyond all others in English law. Every lawyer can lay his hand upon conflicting judicial dicta as to the meaning of the term "constructive" or "implied" notice when it is used for the purpose of being distinguished from express or actual notice. Indeed, in a very large class of cases the term "constructive notice" stands for nothing more than actual (considered as including potential) knowledge. It is said that a person knowing so much ought to have known more; as where one knows the contents of a deed, and ought, therefore, to have acquainted himself with some facts therein revealed which affect his title. Although the term constructive-notice has been generally applied to this class of cases, some judges have with reason preferred to include them in the category of actual notice. There is another class of cases which have been commonly treated as coming under the head of constructive notice, but in reference to which similar observations may be made. Thus, a man buys an estate, some portion of which may be, (unknown to him) in the possession of a tenant; and the purchaser will be held to have constructive notice of whatever rights may be in the tenant, inasmuch as the purchaser must be held to have been aware of the possession of the tenant, although in fact it was otherwise. But although such a case as this might be fairly classed under the head of constructive notice, there appears to be no more reason why the possession of the tenant under such circumstances should not be deemed actual notice than in the case of a bill of exchange, where a formal notice of dishonour (than which nothing can be more express or direct) by some accident or miscarriage fails to reach the person for whom it is intended. The same kind of remark applies to the case of statutory notices by railway companies, carriers and others; they are in themselves unquestionably express and direct; but, nevertheless, they fail frequently to convey actual knowledge to the parties who are to be thereby affected; so that they may be said to have only constructive notice of what is so notified. Yet it has always been the custom to treat this large class of cases as governed by the doctrine of actual notice. Unnumbered decided cases would enable us to mention many other illustrations of the great difficulty of attempting any definition of implied or constructive notice, as distinguished from what is express or actual. We must content ourselves, however, with merely suggesting one or two others. Thus, a public Act of Parliament has been held to be notice; but is it express or constructive? Registration of deeds is not of itself notice, except it can be shown that the party to be affected, or his agent, has searched the register; but is such notice actual or constructive? The most important question to be settled will be that of agency for the purpose of notice. The old formula was that actual notice to an agent was constructive notice to the principal; and perhaps inasmuch as notice is said to operate by affecting the conscience, where fraud is imputed, the principal cannot be held to have, if in fact he has not, actual knowledge. Yet it has been expressly laid down (*Tunstall v. Trappes*, 3 Sim. 301,) that actual notice to the agent is actual notice to the principal. Supposing, however, the old enunciation of the doctrine to be correct, is it possible that according to Lord St. Leonards' Bill a principal shall ever be affected where the notice to his agent is only constructive, even admitting that the conduct of the agent "amounted to fraud?"

The original foundation of the entire doctrine of notice, whether actual or constructive, in courts of equity, and to some extent also at common law, was fraud or *mala fides*. In equity, fraud and notice have

always been considered theoretically coincident. As notice was sometimes constructive, so also was fraud. Mere negligence to inquire, unless it were *crassa negligentia*, or so gross as to be evidence of fraud, has never involved in courts of equity the penalty of implied notice. The whole doctrine proceeds upon the notion that without it men might, by merely shutting their eyes, defraud their neighbours. There is no conclusive rule, either in equity or at law, that because a person has the means of knowledge he should therefore be taken to have acquired it. In equity, at least, it is always implied that there has been a fraudulent intention in not acquiring it; or that public policy requires that if such fraudulent intention does not, in fact, appear to exist, it is necessary, nevertheless, to assume its existence. If this be so, is there not some reason to anticipate that Lord St. Leonards' Bill, should it become law, must be altogether nugatory? If already notice is implied only when there is fraud, actual or constructive, is not the law the same now as it will be after the passing of the Act? No doubt, a substantive enactment may affect the rules of pleading, and certain doctrines, such as those relating to acquiescence, mistake, laches, waiver, puisne purchasers, solicitor and client, principal and agent, and many other collateral topics; but such is evidently not the intention of the noble framer of the Bill, nor can it be supposed that there would be any advantage from these indirect effects of an enactment which failed in its immediate object.

Almost every Chancellor for the last thirty years has expressed his dislike of any further extension of the doctrine of constructive notice; and yet from time to time it has been pushed very much beyond its true ground and original foundation. The question is whether the doctrine can be most effectually confined to its just limits by such a measure as that which is now before Parliament? We think that we have stated enough to raise a suspicion at least that Lord St. Leonards' Bill will be ineffectual, and to suggest that the subject is one more suited for judicial than legislative settlement.

THE LAWS OF MARRIAGE AND DIVORCE.

The case of *Thelwall v. Yelverton*, recently determined in the Irish Court of Common Pleas, and upon which we offered some general comments in last week's *Journal*, promises to be the pivot of a thorough reformation in the marriage code of the United Kingdom. The facts of that case it is unnecessary to detail. They are now sufficiently known, and furnish abundant material for a seven-act play. The action was brought to recover a sum of money for necessities supplied to the wife of the defendant. The defence was a denial that the person to whom the necessities were supplied was the wife of the defendant. Two marriages were relied on by the plaintiff, one of which was alleged to have occurred in Scotland; the other was admitted to have been performed in Ireland. The Scotch marriage consisted of the joint reading of the Church of England marriage service by the then happy pair, in Edinburgh, in the year 1857. The defendant, Major Yelverton, informed Miss Teresa Longworth that the law of Scotland required merely mutual assent and promises to constitute a marriage, and that the intervention of a priest and witnesses was unnecessary. Miss Longworth, however, it is said, refused to live with the defendant until the ceremony should be duly performed according to the rites of the Roman Catholic religion, which she professes. Accordingly, in August of the same year, they were married by the priest of Rostrevor. A verdict has been found for the plaintiff upon the issues raised as to both marriages, and two exceptions, founded upon the alleged infirmity of each marriage, have been taken to the charge of Lord Chief Justice Monaghan.

The first exception is based upon the fact disclosed in Mrs. Yelverton's evidence that she did not regard the Scotch marriage as "final, absolute, and unconditional," but contemplated a further ceremony according to the Roman Catholic ritual. This the exception assumes to be an incomplete marriage according to the law of Scotland. The second exception is based upon the Irish Act 26 Geo. 2, c. 33, which invalidates marriages celebrated by a Roman Catholic priest, unless both parties shall have professed the Roman Catholic religion for the preceding twelvemonth; while it subjects the priest who contravenes its provisions to the penalties of felony. The weight of moral as well as of legal evidence appears to incline towards proof of the Scotch marriage. Its actual occurrence, indeed, may admit of some doubt; but, as Major Yelverton recognised Mrs. Yelverton as his lawful wife upon several occasions subsequent to the period at which this marriage is sworn by Mrs. Yelverton to have occurred, the requirements of the Scotch law appear to have been sufficiently complied with.

With regard to the facility with which a marriage can be contracted in Scotland, we really must congratulate our unmarried metropolitan readers upon the several degrees of latitude which intervene between their domiciles and the land of cakes. How Malthus would have gnashed his teeth had he known how facile the Scotch law is to those who seek the matrimonial tie! The Irish law, however, appears to be strict enough in all conscience as to mixed marriages. These, if celebrated by a Roman Catholic priest, are altogether null, and the priest is made liable to the penalties of felony. The Lord Chancellor, in moving, on the 12th inst., for a select committee to consider the law respecting the parties entitled to sue in the Divorce Court in England and in the Court of Session in Scotland, stated that the Scotch judges consider that they have jurisdiction to dissolve the marriage of parties who happen to have sojourned for forty days within the realm of Scotland, as also over all native Scotchmen in whatever country they may have become domiciled. We venture again to congratulate our readers and ourselves that we are not all within the grasp of the Scotch judges, and hope that the telegraph wires do not place us in constructive contact with their ambitious tribunals. The Yelverton case appears to have suggested not only the appointment of this select committee, but also the Bill regarding mixed marriages in Ireland, just introduced by Lord Campbell, inasmuch as Mrs. Yelverton sued some time ago, in the Divorce Court in London, for a restitution of conjugal rights, but necessarily failed, as the jurisdiction of the Court is confined to England.

As the public law of Europe holds a marriage that is valid in the country in which it has been celebrated valid in all other countries, it is manifest that uniformity of the laws of marriage in the different states of Europe, should be sought by all governments to be realized as approximately as possible. Such a uniformity, however, cannot be enforced by any one or more states, and can only be the work of time and of a discreet diplomacy. But that the laws of marriage should be uniform and homogeneous in the United Kingdom, which is governed by a single Legislature, is as feasible as it is desirable, and is, we hope, upon the point of being accomplished. It may not be uninteresting very briefly to detail the causes and stages of the discrepancies in the marriage laws of the British Isles. Our readers are, of course, aware that the ecclesiastical law of England is based upon the canon, and not upon the common, law, if, indeed, there ever existed any common law on the subject. Our ecclesiastical law still conforms to the canon law in all cases to which special legislation has not been applied. Prior to the Reformation, the ecclesiastical law of the United Kingdom, and, indeed, of all Europe, was almost one and the same. Dispensations could then be obtained for the class of disabilities termed canonical in

special cases, and the present codes of European States vary only to the extent in which they render such disabilities conclusive and permanent impediments to marriage. As to civil disabilities, European law, except in Turkey, presents hardly any variety. Prior to the Council of Trent, the intervention of a priest was not necessary to constitute a valid marriage according to the canon law. The general maxim of the canonists was "*Consensus non concubitus facit nuptias.*" Cohabitation was only necessary when the original contract consisted merely of a promise to marry in *futuro*. A valid contract to marry was thus completed either by a present agreement, or by a promise followed by cohabitation, *aut per verba de presenti aut per verba de futuro cum copulâ*. The Scotch law strictly corresponds with these rules. The adherence of Scotland to these principles of the old canon law is perhaps to be attributed not only to the preponderance of the canon and civil laws over the common law throughout its entire jurisprudence, but also to the dislike for liturgy and ceremonial indigenous to a Presbyterian creed. The English law, prior to the Marriage Act of George II., did not differ much from the ante-Tridentine canon law. Prior to that Act, a promise to be performed in *futuro* could be enforced by a specific performance in *facie ecclesie*. This Act altered the law in this respect, and also rendered necessary the publication of banns or a licence, the consent of a parent or guardian in cases of minors, and the intervention of a celebrant in holy orders. The Marriage Act, 4th Geo. 4, c. 76, confirmed these provisions, but introduced no new principle. The 6 & 7 Will. 4, c. 85, has secularized the solemnity, and rendered the intervention of a clergyman no longer indispensable. His function may be performed by the registrar, a three weeks' notice to the latter being substituted for publication of banns. An English marriage may, therefore, now be celebrated according to the requirements prescribed by either of these statutes, or partly according to each, the superintendent registrar's certificate being equivalent to a publication of the banns, if a party prefer it to the latter, and desire a celebration in a church.

We entirely concur with the judicious observations of *The Times* of the 12th inst., upon the absurdity of the allegation that Irish and Scotch marriages concern only Irishmen and Scotchmen. Not only is this assertion unfounded and erroneous, but, owing to the rule of international law which we have mentioned, each State in Europe is interested in the marriage codes of all the rest in proportion to the degree of its intercourse with them. The rule, indeed, itself cannot be altered; for, if it were different, a man might have a wife in several States, and not be liable to punishment for bigamy in any. Every State should, therefore, endeavour to render the marriage laws of all other States conformable to the Divine law, and assimilated to its own. If, indeed, a foreign code admit of marriages which our law deems morally wrong, these will be invalid in England. But the boundaries of moral right and wrong should not be left to judicial discretion in cases involving the most important social interests. The case of *Brook & Brook*, now before the House of Lords, illustrates this view. Vice-Chancellor Stuart, assisted by Sir C. Cresswell, had decided in this case that marriage with a deceased wife's sister contracted in Denmark and valid there was invalid in this country, both parties being British subjects and domiciled in England. Yet, until the Act of Will. IV: such a marriage could not be invalidated in this country after the death of either of the parties. It was not, therefore, considered prior to that Act to have been a violation of essential morality. But in the Vice-Chancellor's decision such an assumption seems to be implied; as otherwise the general rule of public law would have prevailed with him. But though the conflict of foreign laws with our own cannot be averted at our discretion, we should take care that no such conflict could occur within the British

Isles. So far, however, is the law of the three kingdoms from being uniform in this the most important class of contracts, that a marriage may be contracted in Scotland by any promise to that effect, if plausible evidence can be offered to show that it was deliberate and unconditional, *vid. Dalrymple v. Dalrymple* (A.D. 1811). But a condition sometimes exists and admits of dispute. In the Yelverton case, the desire of Mrs. Yelverton for a Roman Catholic celebration of her marriage does not appear to be in any way connected with the Scotch marriage as a condition attached to it. It was a condition in itself null, not recognised by the law, *dehors* the Scotch agreement, and was intended to have preceded, not the Scotch marriage, but cohabitation. Now, cohabitation is not necessary to perfect a marriage by the law of Scotland when that marriage is contracted, as in the Yelverton case, *per verba de presenti*. In *Beamish v. Beamish*, now before the House of Lords, the question is, whether a Protestant clergyman can by the law of Ireland celebrate his own marriage. In the case of the *Queen v. Solly*, an Englishman procured in Scotland a divorce from an English marriage, and having subsequently married again in England was convicted of bigamy. Yet a second marriage by Solly in Scotland would have been lawful there. In *Tollemache v. Tollemache* the wife, after a divorce, married again in Scotland. But the husband not being a domiciled Scotchman, had also to apply for a divorce in England. A wife may obtain in Scotland a divorce upon the ground of the husband's adultery, which alone, without the aggravating circumstances of cruelty or desertion, &c., gives ground in England only for a judicial separation. The Lord Chancellor proposes to give the respective courts of the three kingdoms jurisdiction in cases where the parties have resided in the country for a year or two previous to the application. It would appear more consonant to the general rules of law to make jurisdiction in divorce cases to depend upon the law of the country in which the marriage has been contracted, and not upon the domicile of the applicants. *Nihil est majus conveniens naturali equitati quam unum quodque ligamen eo dissolvi quo ligatum est*. As to the British Isles, common sense suggests that no question should be capable of arising, either as to the *lex loci contractus*, or the domicile of the parties, but that there should be one uniform code of matrimonial law for the three kingdoms. Religious ceremonies need not be interfered with by any measure, however comprehensive.

We are sorry to find that the Lord Chancellor is disposed to sanction partial legislation upon this subject. As his Bill is not yet printed, he may be induced to withdraw it; and instead thereof to move for a committee to inquire into the marriage laws of the United Kingdom, with a view to their assimilation. As the fruit of mature deliberation, we should have for the British Isles, if not for the whole empire, a uniform code of the laws relating to marriage and divorce.

LIABILITIES BY SPECIALTY AND BY SIMPLE CONTRACT. — ALLEGED ESSENTIAL DIFFERENCES BETWEEN THESE CLASSES OF CONTRACTS.—PROPOSED AMENDMENT.

III.

Pending the revision of the statutes, and the completion of those other sweeping reforms which are much more easily contemplated than realized, we think that the legal public ought not wholly to abandon the less attractive, but not less solid amendments which have been long mooted, and involve no radical experiment. The Real Property Acts of the late and present reigns exemplify the utility of even partial reforms

which harmonize with the more fundamental principles of law. The abolition of the present law of specialties is a desideratum so great in the law of personal property, that it appears to us to deserve especial attention even at the present time, when the whole system of our law is promised a restoration to its ancient simplicity. We have shown, in our first paper on this subject,* that sealed documents have had a wholly technical as well as an ignoble origin. The offspring of ignorance was naturally subject to error, and productive of various inconveniences. These we endeavoured to detail and exemplify in our second paper.† We shall now briefly consider the alleged essential distinctions between sealed and parol contracts. But little attention is requisite to show that these distinctions are unreal, and are as technical as any of the best cherished fictions of our law.

The chief argument in favour of the existing distinction between contracts is founded on the assumption that the ceremony of sealing the document of contract tends to induce caution and deliberation in the contracting party. Let us consider for a moment the truth of the assertion, as also its value, even if the fact were proven. We consider that sealing is a mere formality as distinguished from a ceremony. It is as facititious and unconnected with the actual transaction as the stamp which is sometimes affixed for merely fiscal purposes. The covenantor scarcely ever, in fact, seals the deed himself. This is done by the attorney; and we need hardly say that a party does not include sealing in his directions for drafting the deed. How, then, can that induce forethought and deliberation which is not present to the mind? Let us contrast with this almost unperceived rite the very different effects produced upon the mind of a party by the act of signing his name. He knows the effect of doing this in the case of a bill of exchange. It is more forcible in its suggestions, and less vague in its direct import, than sealing and delivery, even though the latter were accompanied with a ceremonious formula which, however, is by no means indispensable. In short, it is the signature to a deed which constitutes the solemnity of the transaction, in point of fact, although it is inoperative in law. Any one upon consulting his own experience will find, that if he ever felt an unusual degree of responsibility upon executing a deed, that feeling arose from two causes—the value of the interest affected by the instrument, and the act of subscribing his name thereto; but he will not remember that the seal made any impression (if the pun be excusable) whatever upon him. Even if deeds had the alleged advantage just inquired into, over unsealed documents, nevertheless, we do not consider that their frequent use should be encouraged, as it is at present, by their monopoly of rights. A deed is too cumbersome and tedious a form of instrument for the common uses of commerce, which disdains wings even of gold and silver for its currency, and will disport readily only by the aid of paper, even though this should be sometimes of an unreal character. The sealing of contracts is manifestly not aerial enough for the purposes of daily commercial life. Let us consider the case of receipt stamps. They are doubtless an impediment to the brisk circulation so vital to trade, and are a tax of inconvenience, independently of their pecuniary amount, upon the inhabitants of remote and thinly peopled districts who may not find them always easily obtainable. Now, if all contracts were required by law to be stamped and sealed, we would consider such a restriction intolerable. We may thus readily infer that the use of specialties is wholly unsuited to the interests of trade.

It may possibly be alleged by those who love fanciful analogies, that a variety of forms of contract facilitates that division of rights *in fieri*, which is found necessary as to interests *in esse*, and that, as the right of property may amount either to full or partial dominion and ownership, so also different species of contracts may, according to circumstances, stipulate for different degrees of interest in the subject matter of the

* See ante, p. 215.

† See ante, p. 275.

contract. But a fallacy lurks in this comparison. It is not the fact that any person desires to purchase an uncertain interest in property for as high a price as he would give for an indefeasible title to the same. This analogy, then, involves a confusion of ideas, and compares what is uncertain but not partial or limited in contracts with actual interests in property that are partial and limited, but not uncertain. A simple contract debt, in short, does not bear the same relation to a debt by specialty that a rent charge or a life estate does to the fee, but is rather to be compared with an estate of any kind that is defective in title. A bad law makes a good one in the same statute-book appear to the greater advantage from such companionship; but it would be a profitable sacrifice of the charms of variety if all laws were equally good. Specialty debts appear to be thus enhanced by the factitious unsoundness of simple contract debts, and not by any intrinsic merits of their own. The phrase "bills, bonds, and notes," indicates a general impression that these securities are to the non-professional mind of co-ordinate effect. But nine-tenths of the general public look upon bonds as eligible securities, not so much on account of their operation as deeds, and their consequent priority to simple contract debts in the administration of assets, as because they abridge process.

We have shown in our first paper* that the origin of sealed documents in the East was owing to a desire of keeping secret the contents of the instrument, and that the seal was afterwards transferred from the exterior of the document, its natural place, to the interior, and affixed there as a solemn mode of signature. We next recounted the history of deeds in our own law, and showed that the introduction of the ceremony into England was not owing to any of the advantages alleged to flow from it, but was the result of the ignorance of the Norman nobility, who resorted to the device of sealing, merely because they were not sufficiently literate to sign documents. The custom once introduced followed the usual tendencies of customs to perpetuate themselves, and so it survived the causes to which it owed its establishment. A custom, however, although technical in its origin, should not after the lapse of time be inconsiderately disregarded, just as if it had never existed. It may possibly have been found to subserve some useful purpose, or may have become so interwoven with the general fabric of the law, as not to admit of being easily separated from the adjacent materials. Nothing appears at first view more absurd than the obstinacy with which our law required that the tenant to the *præcipe* in a recovery should have the legal estate, in order to bar a legal remainder, yet the Act which abolished fines and recoveries, the 3 & 4 Will. 4, c. 74, copies in its Protectorship of the Settlement the very machinery which had been found so technical and intricate. Our second paper was intended to show that sealed documents had not been found to subserve, however indirectly, any useful purpose whatever. No prolific mould had grown over this stratum of feudal *débris*. On the contrary, it impedes all scientific harmony in the laws of contracts, and has been very effective in producing complications of its own. We endeavoured to show the extent to which the law of sealed documents has operated in this respect, and stated, with an effort towards minute and full detail, the various inconveniences which it has produced both in contracts *inter vivos*, as also in the administration of assets. Even if these inconveniences never existed, we might doubt the expediency of such technical intricacies, and ask *cui bono*? But we may take firmer ground, and consider their abolition not only desirable on account of their inherent inutility, but also necessary for the adjustment of the laws of contracts. The existing remedies for the inconveniences we have recounted are, first, the rule of construction which tends to limit the force of covenants to their express terms; thus, cutting down to the rank of simple contract debts many species of

liabilities arising under deeds. As examples of these useful anomalies we instanced cases of *devastavit*. Breaches of trust are also, though less felicitously, exceptions to the general rule. The next compensation for the mischief is to be found in the rule of equity which pays specialty and simple contract debts *pari passu* so far as the assets are equitable, and, sometimes even in the case of legal assets, accomplishes the same purpose indirectly by means of the rule of marshalling. Parliament has not been unmindful of the necessity of obviating the effects of this common law grievance by express provisions in various statutes, as examples of which we cited the Bankrupt and Winding-up Acts (1848, 1849), as also the 14 & 15 Vict. c. 25, s. 1. But these are merely exceptions to the general priority of specialty over simple contract debts, and can be hardly said to have obviated to any appreciable extent the general confusion which the law of specialties has caused. The remedy which alone is complete and efficacious is the abolition of the distinctive prerogatives of contracts under seal. We have in these papers treated of sealed documents only in respect of their application to contracts which rest in *feri*. As to actual conveyances and charges which create a specific lien upon the property to which they attach and enable the incumbrancer or mortgagee to follow the property after a sale to a purchaser, we do not seek to have the present law altered in respect to such transactions. These are infrequent as compared with general engagements, and effect a conveyance of an interest in the specific property, without coming into collision with the other debts of the mortgagor. Indeed, a mortgage creates a general liability as well as a specific charge, but that liability is only a simple contract debt. Our observations apply only to contracts, properly so called, which rest in *feri*, and create no specific charge upon any part of the real or personal property of the debtor. As to general contracts, we think we have conclusively shown that no distinction between them should exist. We do not, however, seek to render the customary evidence of contracts indistinct, or to dispense with any real safeguard against surprise or fraud. Such a protection, we think, is to be found not in sealing and delivery, but in the reduction of the terms of a contract to writing. Writing induces deliberation, caution, and accuracy, and is also valuable as insuring proper evidence of the transaction, *littera scripta manet*. We therefore consider that contracts should be classified as written or unwritten, and not as sealed or parol. These two classes of contracts do not admit of a confusion of boundaries. Every creditor will know whether he can produce written evidence of the debt due to him, or not. In the present state of the law, equal certainty cannot be obtained by a contract under seal. It may amount to a liability by specialty, or it may not. A contract under seal is, indeed, indispensable, except in cases of rent, to create a debt of such a class. But such a contract without a superadded covenant may be found inadequate to this end. Much technical sagacity is required to determine whether the debt is a specialty or not. Of this we have given abundant proofs. But whether written evidence of a contract be forthcoming or not, is a matter that cannot admit of much doubt. Written documents, then, afford all the advantages supposed to be inherent in sealed ones, and in addition are not liable to the ambiguities at present attaching to the latter. Our proposition, then, is twofold;—the abolition of specialty contracts, and the substitution in their stead of written ones, with, perhaps, the privileges and priority over simple contracts at present incident only to liabilities under seal. The latter point, however, is a question from the discussion of which we have purposely abstained.

We regret to find that Mr. Malins has not given notice this session to introduce again to Parliament his Bill for the abolition of the distinction between special and simple contract debts. His Infants Settlement Act has proved to be a very judicious and useful measure of law reform; and we hope that the credit which Mr. Malins has obtained by the passing of this

Act will be an encouragement to him to carry out the important reform in the law of contracts which we have endeavoured to advocate in these papers.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
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VIII.

REVERTER OF THE DOMICIL OF ORIGIN.

This branch of the law of domicil has always been, and is now to a certain extent, a *texata questio*, the various cases that have occurred, generally speaking, rendering it unnecessary from some of their circumstances to decide that question, inasmuch as there has usually been discovered some ground for holding that there has not been an abandonment of an acquired domicil, but that a dying either *in itinere* or *in transitu* was sufficient to prevent such abandonment taking effect, although in other respects it was a perfect and absolute abandonment. One of the earlier notices taken of this subject is referred to in the case of *Munroe v. Douglas*, 5 Madd. 379, where the case of *Ommaney v. Bingham* is adverted to in a note, and it is cited to bring forward the dictum that "Birth might turn the scale if all the other circumstances were in *equilibrio*;" and Lord Thurlow in *Sir Charles Douglas's* case is said to have expressed an opinion that it must be presumed when a man abandons an acquired domicil, he intends to resume his native domicil; but the question then naturally arises, what is the value of such a presumption? and whether it comes within the rule now clearly laid down, that an intention is not sufficient, but that there must be an *acting* upon such intention to acquire a new domicil. Still, however, in the absence of any direct decision on the point, it is necessary to discover, if possible, how the law stands in respect to it.

I have before observed the assumed necessity of abandonment before a new acquirement would seem to take it for granted that a man cannot have two domicils; but the present opinion of the courts appears to be this: although such a thing is or might be imagined to be possible, yet, so slight a circumstance would turn the scale that the possibility is almost *ipso facto* converted into an impossibility; and the observations of the Master of the Rolls in the case of *Somerville v. Somerville*, 5 Ves. 750, go to this, and it is assumed by Vice-Chancellor Wood in the case of *Forbes v. Forbes*, 1 Kay 341; 2 Weekly Reporter, 253 (where the case is most excellently reported), that (so far as personal property is concerned) a man cannot have two domicils. If this be so, therefore, the question of *reverter* occurs, which might not be if it were probable that a domicil of origin and an acquired domicil could subsist at the same time. In the case of *Munroe v. Douglas* above referred to this question was very much argued, and the doctrine of *reverter* insisted on, and it may be useful to analyse those arguments. Dr. Munroe was born in Scotland, went to Calcutta, and was appointed assistant surgeon in a company's regiment. Nearly thirty years after he married in India, and having resided there for forty-four years he came to England with an intention, as was said, of spending the remainder of his days in Scotland, and evidence was adduced to prove such intention; but Sir John Leach thought it insufficient. Dr. Munroe then visited Scotland, and died during such visit, and as his wife (the plaintiff) would obtain a larger share of his property by proving a Scotch domicil than an English or Indian one, a Scotch domicil was the one sought to be established on the ground that the acquired domicil in India having been abandoned, the domicil of birth, that is the *forum originis*, revived.

In support of that proposition, numerous cases were referred to. The first was the case of *Bruce v. Bruce*, 7 Bro. Parl. Cases, 230; and 2 Bos. & Pull. 230, where Mr. Bruce died in the service of the East India Company; but it was argued that there was a distinction between this which imposed of necessity a local residence, and the case of an officer in the service of the Crown, which it was contended did not constitute a domicil; and a quotation was made from *Vattel* to the effect that "an intention to remain constituted a domicil, whereas, if a man go to a foreign country, *sine animo remanendi*, but merely to raise a fortune, it was not so, it being assumed that there was an intention to return to his original home," *Orde v. Orde*, 8 Dec. "Court of Sessions," p. 49. *Vattel*, liv. 1, c. 19, s. 218. With reference to the present state of the law, I apprehend that this is true only so far as a professedly temporary residence is concerned, and cannot apply to the case of carrying on a business or trade; indeed, the very contrary was decided in one of the latest, if not the latest case which has occurred upon this point. The case I refer to is that of *Lyall v. Paton*, 4 Weekly Reporter, 798, which, with the preceding case in the same volume, establishes the proposition that a residence and trading constitutes a domicil; for although the trading is not actually referred to, it appears to be assumed, and indeed it is difficult to suppose that a successful trade would not necessarily involve a length of residence sufficient to acquire a new domicil; although, as I have elsewhere observed length of time is a very indefinite expression, having regard to the decisions on the subject. Another case is *Colville v. Lauder*, *Dictionary of Decisions*, 33—34 vols. appendix 9, tit. succession. In that case, a carpenter being a Scotchman by birth, went to the Island of St. Vincent leaving his wife and family at Leith. Four years after, from ill-health, he went to New York, and was drowned in Canada the year after, having written to his father, remitting a sum of money, and stating his intention to return to his native country; and it was held that he must be considered at the time of his death as *in transitu* to Scotland, and therefore, supposing this as a recognised case, it would in effect support the doctrine of *reverter*; but this seems quite at variance with the present view taken by the courts, which certainly is, that an acquired domicil is not lost by mere abandonment, and that in such a case the acquired domicil would prevail, and, indeed, Sir John Leach in the case now under consideration so decided, and therefore, I presume, had the case *Colville v. Lauder* now come before the court, the decision would have been in favour of a domicil in the Island of St. Vincent, and it was admitted that such would have been the case had he died there; it being also admitted that he had acquired a domicil there. The case of *Macdonald v. Laing* was next cited from the same book ("Dict. of Dec."), p. 4627, which merely went to the point of being in the King's service, not constituting a domicil, a proposition which has never been questioned. The last case upon this point is that of *Cockrell v. Cockrell*, 4 W. R. 730; where Mr. Cockrell, the testator in the cause, had amassed a large fortune in India during many years residence, but had retained his half pay during the whole time, and that was decided on the *probabiles conjecturae*, or probable presumptions, that the great gain by the business would have prevailed against the forfeiture of the half pay. In continuing the consideration of the case of *Munroe v. Douglas*, the next authority cited which I will refer to was the case of *Somerville v. Somerville*, where it was decided that the mere place of birth or death does not constitute a domicil; the domicil of origin which arises from birth or succession remains until clearly abandoned, and another taken. In that case, there were two acknowledged domicils, the family seat in Scotland, and a leasehold house in London, but under the circumstances the former was held to prevail.

In support of the doctrine of reverter the following passage was cited: *Origine propria neminem posse voluntate, sua eximi manifestum est.* Cod. Lib. 10, tit. 38, s. 4, p. 422, of the Elsevir edition, 5 Mad. 391; but this appears rather to apply to the case of a necessary domicile, or if not, to assume, that if there is such a thing as reverter, the operation is *ipso facto*, and without the intervention of the party himself. Voet also is quoted, and the passage there cited clearly refers to a necessary domicile of birth, and goes to show that the domicile of origin would prevail in a doubtful case, which is not at all, I think, in dispute, upon the principle, which is also conceded, that an acknowledged fact remains until the contrary is proved. Comm. ad Pand. lib. 5, tit. 1, pl. 92 at the end. Pothier is likewise referred to in support of the same proposition. See *Introduction Générale aux Coutumes*, chap. 1, s. 7, although in the conclusion of the quoted passage, it is distinctly laid down that a change of domicile must be *justifié*, that is, "proved" and carried out by some act before a new one can be acquired. So far, in fact, being a contradiction to the idea of the reverter of a domicile of origin *ipso facto*. The case of *La Virginie*, 5 Robinson's Admiralty Reports, 99, was put forward for the purpose of showing the opinion of Lord Stowell (then Sir William Scott) that a reverter was easier to prove than a constitution of a new domicile; but this merely decides that there being in one case a certain substratum to build upon, it would prevail in a doubtful case. An unreported case was then cited of *Chiens v. Sykes* before Sir William Grant, and the reason why it was unreported is obvious, namely, that no decision (except an order being made) was come to upon it. The case was that of a native of Scotland having become a seaman, and although he married at Philadelphia, afterwards coming back to Crail, in Scotland, his native place; and jointly with his brother purchased property there and died. Evidence was gone into before the master on a reference to inquire as to his domicile, and the finding being that it was in Scotland, and, it must be supposed, no exceptions taken, a decree was made accordingly, and that case must have proceeded on the footing that there being no other domicile, the domicile of origin still subsisted, and therefore this was no decision of a reverter. In opposition to the argument that the *forum originis* revived, many cases and text books were produced, not bearing, however, much on the question of reverter, but chiefly that a domicile was not created by death at a place, or intention merely; and the following passage was read from Denisart, *Art. Domicile*, 513: "*Deux choses sont nécessaires pour constituer le domicile; 1^{re}. L'habitation réelle; 2^{de}. La volonté de la fixer au lieu que l'on habite;*" and, therefore, so far a negative argument; and in consonance with what I apprehend to be the present state of the law, it was likewise submitted that an acquired or an original domicile could not be entirely abandoned until another was actually acquired, and that it was not the law that the instant an acquired domicile was quitted the domicile of origin reverted.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

VICE-CHANCELLOR'S COURT.

(Before Vice-Chancellor Sir R. T. KINDERSLEY.)

March 14.—*In Re The Northumberland and Durham District Banking Company*.—An application was made in this case that a portion of the estates of the company might be sold by auction, notwithstanding that the same property had been sold by private contract.

It was stated in the course of the discussion that counsel had advised that this was a question which ought to have been

brought personally before the judge in chambers, but that the chief clerk had refused to adjourn it for that purpose.

The Vice-CHANCELLOR said that he had, over and over again, stated that any party had a right to require that any point should be discussed before the judge in chambers personally; that had always at least been his practice. In the present instance, without imputing anything to the gentlemen who had made the statement as to the refusal, they must have misapprehended what took place, for, having sent to the chief clerk, he had received a written answer saying that he expected it would have been brought before him (the Vice-Chancellor) personally, but no application had been made for that purpose. His Honour was quite sure that neither of his chief clerks had the least idea that they had a right to refuse to have a matter brought before him personally. The motion must stand over until the next seal, in order that the official liquidators might make a substantive motion.

HOME CIRCUIT.—MAIDSTONE.

The commission was opened in this town on Monday. The cause list contained 26 causes, 12 of which were to be tried by special juries.

MIDLAND CIRCUIT.—LINCOLN.

The commission was opened in this town on the 12th inst. The cause list contained 14 entries, 4 of which were marked for special juries.

NORTHERN CIRCUIT.—YORK.

Mr. Justice Hill and Mr. Justice Keating opened the commission in this town on the 7th inst. The cause list was heavy; the West Riding list containing an entry of 38 causes, of which 16 were marked for special juries. The East and North Riding list contained an entry of 22 causes, 4 being marked for special juries.

OXFORD CIRCUIT.—BLACKBURN.

Mr. Justice Blackburn opened the commission in this town on the 7th inst. The cause list contained only two causes.

STAFFORD.

The commission was opened in this town on the 11th inst. There were 24 causes entered, 9 being marked special.

SOUTH WALES CIRCUIT.—SWANSEA.

The commission was opened in this town on the 8th inst. The cause list contained an entry of 16 causes.

WESTERN CIRCUIT.—DORCHESTER.

CROWN COURT.—(Before Mr. Justice WILLES.)

March 8.—When the grand jury were about to be discharged they handed in the following memorial:—

"We, the grand jury of the county of Dorset, desire to express to her Majesty's judges of assize our opinion that the present scale of allowances to prosecutors and witnesses is so low that in many cases a dislike to become prosecutors and a reluctance to give evidence is induced, and in many instances there is a failure of justice from parties refusing or neglecting to bring cases forward, under the apprehension of their doing so entailing the necessity of appearance at the assizes or sessions. The present scale is wholly inadequate to cover the ordinary and necessary expense of any witness at the assize town whose station is above that of the labouring class. The uniformity of allowance to all grades is improper and unfair, since it is manifest that the accommodation which that allowance would furnish is not such as clergymen and professional men and the higher class of tradesmen or their families are entitled to claim, while at the same time there are many instances among those classes where the position of the individuals renders any call for increased expenditure a serious obstacle to their coming forward to assist the public in the suppression of crime and the due punishment of offenders. The grand jury, therefore, hope that your lordships will represent this matter to the proper authorities, that their attention may be directed to such alteration as will remove the cause of complaint which now exists.

"JOHN FLOYER, Foreman of the Grand Jury."

The learned JUDGE said of course, on his part, it was not his duty to express any opinion upon the matter, of which they

were much more competent to form an opinion than he was; but he would forward their statement immediately to the proper authorities, who, no doubt, would receive it with the attention to which it was entitled.

EXETER.

The commission was opened in this town on the 9th inst. by Mr. Justice Willea. There were 15 causes entered for trial.

Mr. John Luskey Coad, of Liskeard, Cornwall, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Mr. James Radford, of Gateshead, has been appointed a perpetual commissioner for taking the acknowledgments of deeds to be executed by married women in and for the county of Durham.

Mr. Robert Lowe Grant Vassall, of Bristol, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, March 11.

THE LAW OF DIVORCE.

The LORD CHANCELLOR moved for a select committee to consider the law respecting the parties who are or ought to be entitled to sue in the Divorce Court in England, and in the Court of Session in Scotland for a dissolution of marriage. His lordship stated that great difficulties were experienced by Irish protestants and English residents in India in obtaining a divorce. It had been ruled that the Divorce Court in England had no jurisdiction in such cases, as those parties had not an English domicile. His lordship remarked upon the conflict of laws on the subject between England and Scotland, and the serious results produced thereby.

LORD CRANWORTH thought there would be much opposition to any interference with the marriage laws of Scotland. He saw no reason why all her Majesty's subjects should not be enabled to proceed in the present Divorce Court, and considered the jurisdiction of that Court ought to be extended.

The motion was agreed to.

Tuesday, March 12.

ADMIRALTY JURISDICTION BILL.

This Bill passed through committee with amendments.

TRADE MARKS BILL.

The amendments to this Bill, which were merely verbal, were reported and agreed to.

Thursday, March 14.

LODGEMENTS OF APPEALS.

The LORD CHANCELLOR said he had to propose the repeal of the standing order of the 13th of July, 1678, the object of which was to regulate the periods during the session at which appeals might be entered, and which had been found in practice productive of great inconvenience.

LORD CHELMSFORD expressed his approval of the proposed alteration; and,

After a few words from Lord CRANWORTH, the House directed that the standing order should be vacated.

ADMIRALTY COURTS JURISDICTION BILL.

The report of amendments in this Bill were agreed to.

TRADE MARKS BILL.

This Bill was read a third time and passed

HOUSE OF COMMONS.

Tuesday, March 12.

DISGAVELLING OF LANDS.

Mr. LYON laid on the table a Bill for the voluntary disgavelling of lands, but reserved the explanation of its provisions till the second reading.

The Bill was read a first time.

PENDING MEASURES OF LEGISLATION.

ADMIRALTY COURT JURISDICTION BILL.

A Bill to extend the jurisdiction and improve the practice of the High Court of Admiralty has passed the second reading in the House of Lords, and gone into committee. It contains the following provisions:—

Sect. 1. Act to be called "The Admiralty Court Act, 1861."

Sect. 2 describes the meaning of the word "Ship."

Sect. 3. Act to commence on day of 1861.

Sect. 4 relates to claims for the building, equipping, or repairing of ships.

Sect. 5 relates to claims for necessaries.

Sect. 6 relates to claims for damage to cargo imported.

Sect. 7 relates to claims for damage by any ship or barge.

Sect. 8 relates to claims for salvage of life from on board British and foreign ships or boats; extending 17 & 18 Vict. c. 104, ss. 458—460.

Sect. 9 relates to claims for wages and for disbursements by master of a ship; amending 17 & 18 Vict. c. 104, s. 191.

Sect. 10 extends 3 & 4 Vict. c. 65, s. 3, in regard to mortgages.

Sect. 11 extends 17 & 18 Vict. c. 104, ss. 62—65, and 514 to Court of Admiralty.

Sect. 12 extends the ninth part of the Merchant Shipping Act, 1854, to the Court of Admiralty.

Sect. 13. Court of Admiralty to be a court of record.

Sect. 14. Decrees and Orders of Court of Admiralty to have effect of judgments at common law. 1 & 2 Vict. c. 110, s. 18. Common Law Procedure Act, 1854, ss. 60—67.

Sect. 15 makes provision for claims as to goods taken in execution.

Sect. 16 extends the Common Law Procedure Act, 1854 ss. 50, 51 to Court of Admiralty.

Sect. 17 extends the Common Law Procedure Act 1854, s. 58, to Court of Admiralty.

Sect. 18 relates to admission of documents. Common Law Procedure Act, 1852, s. 117.

Sect. 19 extends the Common Law Procedure Act, 1852, s. 17, to Court of Admiralty.

Sect. 20. Service of subpoena out of England and Wales, to be effectual.

Sect. 21 gives power to issue new writs or other process.

Sect. 22. Judge and registrar to have same power as to arbitration as judges and masters at common law.

Sect. 23 extends 17 & 18 Vict. c. 104, s. 15, to registrar of Court of Admiralty.

Sect. 24. Registrar may exercise same power as surrogate and deputy or assistant registrar may exercise same power as registrar.

Sect. 25. False oath or affirmation to be perjury.

Sect. 26. Barrister, attorney, &c., may be appointed registrar and deputy or assistant registrar.

Sect. 27. Barrister, attorney, &c., may be appointed examiner of the court.

Sect. 28. Stamp duty not to be payable on second admission of proctor or solicitor.

Sect. 29. Proctor may act as agent of solicitors; 55 Geo. 3, c. 160.

Sect. 30. 2 Hen. 4, c. 11, repealed.

Sect. 31. Power of appeal given in interlocutory matters.

Sect. 32. No appeal to be allowed except upon a question of law. [This clause will be withdrawn in committee.]

Sect. 33. Jurisdiction of the Court may be by proceedings *in rem* or *in personam*.

TRADE MARKS.

A Bill to amend the law relating to the fraudulent marking of merchandise has passed the House of Lords with slight amendment. It contains the following provisions:—

Sect. 1. Interpretation: "person;" "trade mark;"

Sect. 2. Any person forging or imitating a trade mark, with intent to defraud, to be guilty of a misdemeanour.

Sect. 3. Any person selling, &c., with forged trade mark, with intent to defraud, to be guilty of a misdemeanour.

Sect. 4. Describing marks as trade marks to be sufficient for purposes of indictment.

Sect. 5. Marking goods, &c., with false indication of quantity, &c. with intent to defraud, to be a misdemeanour.

Sect. 6. Any person selling, &c., with false indication of quantity, &c., with intent to defraud, to be guilty of a misdemeanour.

Sect. 7. Forging, imitating, or falsely applying the names and marks of artists, with intent to defraud, to be a misdemeanour.

Sect. 8. Intent to defraud, &c., any particular person need not be alleged or proved.

Sect. 9. Punishment for misdemeanour under this Act to be by imprisonment for two years, with or without hard labour, or by fine.

Sect. 10. Conviction not to affect civil remedy, either at law or in equity.

Recent Decisions.

EQUITY.

EFFECT OF DEATH, BY OWN HAND, ON LIFE ASSURANCE.

Horn v. The Anglo Australian Assurance Company.

V. C. W., 9 W. R. 359.

In this case a life policy had been effected containing no provision as to the death of the assured by his own hand. The assured afterwards destroyed himself; and a coroner's jury found that he had done so while in a state of mental derangement. It was held by Vice Chancellor Wood that the representatives of the deceased were entitled to recover on the policy. There was another policy on the same life containing a proviso that in case the assured should die "by his own hands" within three years from the date of the assurance the policy should be void. The death occurred in the fourth year; and thus no question arose upon this proviso. If the death had happened a year earlier there seems no doubt that the policy would have become void. The phrase "die by his own hands" may perhaps be thought to be equivalent to "commit suicide," and yet it has probably been adopted in life policies in order to avoid the question which arose in the case of *Clift v. Schwabe*, 3 C. B. 437. In that case the proviso contained the words "commit suicide," and in an action on the policy, the judge directed the jury that in order to find for the defendants, they must be satisfied that the deceased died by his own voluntary act, being then able to distinguish between right and wrong, and to appreciate the nature and quality of the act that he was then doing, so as to be a responsible moral agent. The defendants excepted to this direction, and after argument before seven judges in the Exchequer Chamber, it was held by a majority of the Court to be erroneous, for that the terms of the condition included all acts of voluntary self-destruction, and, therefore, it was immaterial whether, at the time he killed himself, the deceased was a responsible moral agent. The opinion that the words "commit suicide" pointed to a legal crime was, however, maintained by two out of the seven judges as well as by the judge who tried the case. The effect of the words "die by his own hands" had been tested in the previous case of *Borradaile v. Hunter* (5 M. & G. 639), where it was held that these words included all acts of voluntary self-destruction and were not to be limited to acts of felonious suicide. This decision was arrived at against the authority of Chief Justice Tindal, who was of opinion that "a felonious killing of himself," and no other, was intended to be excepted from the policy.

It thus appears that some of the judges have been inclined to restrict both the words "commit suicide," and also those "die by his own hands," to the case of felonious suicide; but that this inclination has been overruled. We apprehend that as against the representatives of the assured a policy would become void upon felonious suicide without any proviso at all, and, therefore, unless such a clause were taken to provide for something beyond felonious suicide it would amount to nothing. In *The Amicable Society v. Bolland* (2 Dow. & Cl. 1), it was decided that in the absence of any proviso a policy on the life of the forger Fauntleroy, which had become vested in his assignees in bankruptcy, was by necessary inference vacated when the assured had died by the hand of justice. This decision of the House of Lords was rested on the ground that by the general policy of the law the assurance became void in consequence of the death of the assured being occasioned by his own criminal act. The Lord Chancellor said that an express assurance against the event of death by the hand of justice would undoubtedly be void, and an assurance which, by force of circumstances, amounted to the same thing, must be void also. It is to be observed that the reasoning in this case is equally or even more applicable to that of felonious suicide, where the death of the assured is occasioned by his own criminal act in a more direct sense than where the hangman interferes. Accord-

ingly, in the case before us, Vice Chancellor Wood appears to admit that a policy would be avoided by the act of a *felo de se*. But in that case the deceased was found by a jury to have been of unsound mind, and, therefore, he had committed no legal offence. "There was no principle of public policy which prevented an assurance against insanity and its consequences." It should be observed that assurance offices may and often do bind themselves to pay the sum assured or part of it to an assignee for value, notwithstanding the suicide of the assured. The legality of such a contract was expressly declared by the Court of Queen's Bench in the case of *Moore v. Woolsey* (4 Ell. & Bl. 243). In answer to the argument that policies so framed tended to encourage suicide, Lord Campbell remarked that the practice of granting beneficial leases for lives might also be said to tend to encourage murder by the lessor.

REAL PROPERTY AND CONVEYANCING.

ALLEGED DIFFERENCE IN RULE AS TO TACKING MORTGAGES ON FORECLOSURE AND ON REDEMPTION.

Selby v. Pomfret, V. C. W., 9 W. R. 398.

Unless this case be successfully appealed from, it may be considered as finally setting at rest the question whether there is any difference in the mortgagee's right to tack according as he seeks to foreclose, or the mortgagor seeks to redeem, the mortgages. The question is usually stated in these terms, but it was put much better by Sir J. L. Knight Bruce in a case in bankruptcy to which we shall presently refer, where he said that the substance of the objection to the mortgagee's claim was that he could only tack when he was passive, and not when he was active. This statement of the supposed rule makes it wide enough to embrace such a case as that now before us, in which there was no foreclosure, but an exercise of the mortgagee's power of sale.

The rule is stated as an existing one in "Jarman's Conveyancing," 3rd ed. vol. 5, p. 438, the date of this volume being 1839; and it is added on the authority of *Ex parte Bignold*, *Re Newton*, 2 Dea. 66, that a mortgagee applying for a sale in bankruptcy of distinct estates mortgaged to him for distinct debts, cannot have the surplus of one estate applied to make good the deficiency of another. This was a decision of the Court of Review in Bankruptcy given in 1836. The same general rule is also stated in the text of "Powell on Mortgages;" but in a note to the 6th edition by Coventry, vol. 2, p. 1019, the existence of the supposed distinction is controverted. These seem to have been the principal authorities in support of the notion which has been partially entertained down to recent times. They were followed by Sir James Wigram in *Holmes v. Turner*, 7 Hare 367 n., a case which occurred in 1843; and by Sir George Turner in *Sneathman v. Bray*, 15 Jur. 1051, who treated the last cited case as a decisive authority upon the question. This was in 1851.

On the other hand, we find in 1843, a decision of Sir J. L. Knight Bruce in Bankruptcy in the case of *Ex parte Berridge*, *Re Loosemore*, 3 M. D. & De. G. 464. The petitioners in that case claimed to be equitable mortgagees of one freehold estate of the bankrupt, and legal mortgagees of another; and they asked for a sale of the premises comprised in both mortgages, and for the application of the proceeds as one fund in payment of both debts. It will be observed that the petitioners had a right to a conveyance of the legal estate in the property in which they had an equitable estate, and they had a right to bring an ejectment in respect of the property in which they already had the legal estate. They might, therefore, obtain possession of the latter estate; and if they did so, and if the equity of redemption was of any value, it would be the duty of the assignees to take proceedings to redeem that estate, that is, to place themselves in such a position that the petitioners would become entitled to be redeemed as to the whole amount of both their debts. Upon the one security the mortgagees must have taken some active step in equity, while on the other they need only proceed at law in order to shift the onus of the initiative in equity upon the assignees. It would seem from this example that the application of the supposed rule to a particular case would be liable to depend on accidental circumstances, so that different cases would be decided differently without any substantial reason for the difference. This observation is suggested by the judgment of Sir J. L. Knight Bruce, and no doubt it was present to his mind, but he did not found his decision on it. As the petitioners submitted, and the assignees were subject, to his jurisdiction, he took the course which seemed most for the benefit of the estate; and instead of leaving the petitioners to enforce their legal right on

the one mortgage, and thus to compel the assignees to redeem both mortgages, he ordered redemption of both in the first instance. This case, therefore, is not a conclusive authority against the existence of the alleged distinction, but it shows very strongly that a rule founded on it is incapable of general practical application.

We come now to the case of *Watts v. Symes*, 1 D. M. & G. 244; in which these conflicting views were brought in the year 1851 under the cognizance of superior authority. In that case there was an assignment by way of mortgage to the plaintiff of a reversionary interest in personality. The form of this assignment was upon trust for sale and for payment of the residue to the mortgagor after satisfying the mortgage money and interest. When this mortgage was made to the plaintiff he was already mortgagee of other property which the same mortgagor had conveyed to him to secure another debt. The plaintiff now sought to foreclose the mortgagor in default of payment of all that was due on both of his securities. Vice-Chancellor Shadwell had decided against this claim; but on appeal to the Lords Justices that view was adopted for which one of them (Sir J. L. Knight Bruce) had indicated a preference, as we have seen above. Lord Cranworth said, "I thought it quite settled that, whether the suit was for foreclosure or redemption, the mortgagee was equally entitled to say to the mortgagor, you must redeem entirely or not at all." He added, in answer to the respondent's argument, that the form of the security in that case made no difference, and of course the nature of the property on which the security was taken was equally immaterial.

In *Selby v. Pomsfret*, the question arose between a mortgagee and the assignees of the mortgagor who had become bankrupt. The mortgagee held securities upon two different estates, one of which had been sold for more, and the other for less, than the amount secured upon it. The mortgagee, of course, claimed to tack, while the assignees insisted that each property ought only to bear the amount charged upon it, according to the above-stated decision of the Court of Review in Bankruptcy in *Ex parte Bignold*. The bill was by the assignees, but, as the mortgagee had exercised his power of sale, we apprehend, nevertheless, that it was a case in which he had been "active;" and, therefore, according to the supposed rule he ought not to have been allowed to tack. However, Vice-Chancellor Wood considered that, after the case of *Watts v. Symes*, all further doubt was at an end, and accordingly he dismissed the bill. It is to be observed that the mortgagee got the more productive of the two securities into his hands by assignment from the original mortgagee thereof after the bankruptcy of the mortgagor. The Vice-Chancellor disposed of the plaintiffs' argument founded upon this circumstance by saying that "any one might seize the plank."

COMMON LAW.

INSPECTION OF DOCUMENTS AND OF PROPERTY—14 & 15 Vict. c. 99, s. 6, 17 & 18 Vict. c. 125, ss. 50 & 58.

Daniel v. Bond, C. P., 9 W. R. 313; *Bennett v. Griffiths*, Q. B., 9 W. R. 332.

There are two cases upon the law of inspection as remodelled by recent Acts and decisions. The rules as to inspection at common law were singularly narrow and insufficient for the ease of litigant parties. The power of compelling the opposite party to allow the other to inspect and copy, if he pleased, any document relating to the matter in difference, was indeed exercised by the Courts in virtue of an authority which they alleged to be inherent to their constitution, but it was not exerted except under stringent limitations. These were chiefly, 1. That the order for inspection would only be made between the parties to the action. 2. That the applicant must be, in fact or interest, a party to the instrument; and, 3. That the adverse party must be under a trust, express or implied, to produce the document when necessary. These inconvenient restrictions were the occasion of the provision on this subject which was contained in the Evidence Amendment Act, 1851, from which, however, the courts deduced certain rules of a disabling character—namely, that inspection would only be ordered under it.—1. Where there was some legal proceeding pending. 2. Where the document related to such proceeding and was in the custody or control of the adverse party; and 3. Where the applicant would have been able before the Act of 1851 to have obtained relief in equity by a bill of discovery (see *Hunt v. Hewitt*, 7 Exch. 236). Since this provision, however, the law as to inspection, generally, has been again

improved by the Legislature in the Common Law Procedure Act, 1854; which (in addition to a certain provision with regard to *discovery*, of which we will speak more presently), gave power to the courts of law to order an inspection of real or personal property, a jurisdiction which had previously belonged only to the Court of Chancery.

Such being the course of legislation on this subject, we may now observe with respect to the two cases above named, that the first was an application for a rule requiring the defendant to grant the plaintiff leave to "inspect" certain documents in the possession of the defendant, and which were required as evidence to support the plaintiff's case. It appears by the report that the application was made under the 50th section of the Common Law Procedure Act, 1854; but it is apprehended that it was rather under the Evidence Amendment Act, 1851 (14 & 15 Vict. c. 99). For by the 6th section of that Act the opposite party in an action may be compelled by rule or order to allow the other party to the proceedings to inspect documents in the custody or under the control of such opposite party relating to the action; while the object and effect of the 17 & 18 Vict. c. 125, s. 50, is rather to compel the opposite party to *discover* to the party making the application what documents, &c., relating to the matter in dispute may be in his possession and power. In the present case there seems to have been no necessity for any discovery, as the documents in question were known to the party making the application, and all he required was leave and opportunity to inspect them; and his application was granted by the Court, who took occasion to remark that they might and would compel all documents which have either a direct or proximate bearing upon a cause to be tried, to be produced when called for, if in the power of the adverse party.

The other case (*Bennett v. Griffiths*) affords a useful reading upon the other provision in the Common Law Procedure Act, 1854, bearing upon the subject of inspection—namely, the 58th—which authorises a rule or order for an inspection—either by the applicant (being one of the parties to an action), or by the jury or by his witnesses—of any *real or personal property*, the inspection of which may be material to the proper determination of the question in dispute; and the provision concludes with the following words, upon the proper scope of which the case substantially turned; "and it shall be lawful for the court or judge, if they or he think fit, to make such rule or orders upon such terms as to costs and otherwise as such court or judge may direct." Now it is obvious that there may often happen cases in which it will be of no avail to order an inspection unless there be engrafted therein an order or authority to do what may be required to render inspection possible; and the question in *Bennett v. Griffiths* (where this difficulty actually arose) was whether an order framed upon this principle, is within the meaning of sect. 58.

As to the circumstances of the particular case, they may be very briefly dismissed, as they do not affect the principle of construction. It is sufficient to say that the order in question was made in an action for taking coal from the plaintiff's mine (the plaintiff and defendant being the owners of adjacent mines) and that it was to the effect that the plaintiff might inspect the defendant's mine, and for that purpose *make a hole through a fence which obstructed the entrance to the mine*.

It was mentioned above that this jurisdiction, prior to the year 1854, belonged exclusively to the courts of equity. In those courts wherever the inspection decreed has been obstructed, the removal of the obstruction has been ordered (see *The Earl of Lonsdale v. Curwen*, and *Walker v. Fletcher*, cited in the notes 3 Bligh. O.S., 153, 168). And in the present case, the Court of Queen's Bench formally assumed a jurisdiction equally large—not (as they observed) that the jurisdiction given to the courts of law must of necessity be regulated by that exercised in the courts of equity—but because the existence of the practice in those courts of removing obstructions to an inspection ordered, was a cogent argument in favour of such a jurisdiction being auxiliary also to that power of compelling an inspection, which the legislature had now given to the courts of law.

Correspondence.

LAW EXAMINATIONS.

I have received a circular requesting my opinion, as a member of the Incorporated Law Society, upon the report of the committee appointed to consider the examinations in general knowledge and intermediate examinations in legal knowledge

directed by the Attorneys' Act of last session. Upon the general scope of that report I have no remark to make, except to express my admiration of the spirit in which the committee have sought to carry out the intentions of the Legislature. There is, however, one additional subject of examination which I wish to submit to the Council as of the highest importance; so important, in truth, that I would respectfully urge that it be added to Part I of the preliminary examination, or even required from all candidates (including those who have obtained a degree or passed an examination other than that by the special examiners,) at the intermediate legal examination. I allude to the principles of social economy. In conducting the education of his son, a parent should not only seek to obtain for him such instruction as will lead to the general cultivation of his faculties, and draw out his intelligence into activity, but should also consider if there be any subject to which, having regard to his future career, special prominence should be given. If the occupation for which he is destined be that of an engineer, mathematics will probably form a chief part of his early studies. If he be intended for a merchant, foreign languages will be carefully attended to. If for a farmer, then chemistry will occupy the foremost place. So, with the view of directing early studies, the preliminary examinations of youths about to enter the service of the State are specially directed to those subjects which are most important in reference to the particular branch to which they may be seeking admission. I am glad to see that the committee have, to some extent at least, recognized these principles by the insertion of book-keeping in the list of indispensable subjects in the preliminary examination. But to require that the studies of a boy about to enter into articles should include book-keeping, while the principles of social economy are not mentioned, is as if in educating him to become a farmer one should have him carefully taught how to keep a complete set of farming books, but leave him wholly ignorant of the chemical constituents of the ground which he is learning to till. Universally important as is an early grounding in the principles which govern social life, and by which every person, of whatever occupation, should regulate his conduct, to the lawyer, who has to guide himself and his clients also, it is of far more vital consequence. In the present day, the solicitor has become, much more than formerly, the confidential friend and adviser of his clients in their more important transactions and negotiations. His occupation is not merely the prosecution or defence of their actions or suits, the sale of their estates, or the carrying into effect their agreements. He is consulted as to the arrangements to be made by will or otherwise in providing for their families. If a client contemplates entering into a partnership or making any other large or unusual investment of his capital, he will ask his lawyer's advice before concluding the negotiation; and a solicitor whose mind has been well trained in the principles which regulate social relations, will often be able, by his sound and practised judgment, to avert loss and disaster. Again, the boards of most public companies are regularly attended by their solicitors; and the advice of the latter is asked upon every important transaction, whether strictly within the province of a legal adviser or no. I need hardly say more upon the importance to lawyers of a sound education in the principles of social economy. But it is possible that objections may be urged to my proposal, such as that boyhood is too early in life for such a study to be profitably pursued, or that knowledge of the social relations is improving in this country, and may be left to itself for further development. I wish I could believe that social knowledge is really in a satisfactory state; but it is my conviction that no branch of education is less attended to and yet of more vital importance to all classes. The operation of industry, skill, and economy upon the well being of society; the principles which regulate the division of labour and the exchange of different classes of commodities; the relation to each other of rent, interest, and profits; and, above all, the laws which govern the use of credit, the disregard of which inevitably produces ruin and misery, are subjects upon which it is of the deepest importance that clear notions should be widely diffused. Yet there are very few of our profession who understand them. And in answer to the objection, that this study cannot be profitably pursued in youth, and, therefore, should not be added to a preliminary examination, I would urge that a general knowledge of the principles of social economy is peculiarly required as an introduction to the more minute study of the rules of law by which the action of those principles is protected, and their free play secured. It will be admitted, too, that the groundwork of any science is more easily inculcated in youth than in later life, and that truths which have been thoroughly acquired

in boyhood rarely fail to produce a lasting and beneficial effect on the future career. Moreover, such instruction imparts a method and arrangement, nay, even an interest, to the subsequent legal studies which enable a far greater benefit to be derived from the latter. The importance of this branch of education, not for lawyers alone, but for all classes, is now beginning to be more widely felt. Professorships of this subject have been founded at King's College and University College. A class of economic science has been recently established in University College School, under the able conduct of Mr. W. A. Shields, in which the text-book adopted is a valuable little treatise called "Lessons on the Phenomena of Industrial Life," edited by the Dean of Hereford. The Committee of Privy Council on Education have also turned their attention to it, and, under their express authority, a course of lectures on the subject was last year delivered by Mr. W. Ellis, at the South Kensington Museum. An association of schoolmasters has been recently formed in London, called the Schoolmasters Social Science Association, of which the first and principal object, as stated in their rules, is

"The study of Social Science and how to teach it, as a means of raising the intellectual and professional status of teachers, of rendering them more efficient in the teaching and the training of the young, and, thereby, of more beneficially influencing society."

And this branch of education has even been extended to the schools for the poorer classes. It now forms part of the system of instruction in many of the schools under the superintendence of the National, the British and Foreign, and other school societies of the valuable class of schools known as the Birkbeck schools and others. The boys who receive that education are mostly under the age of fifteen; yet I do not think that any one who has observed the practical working of the schools will hesitate to bear witness to the great value of the instruction conveyed.

I appeal, then, to the Council of the Incorporated Law Society not to let pass the present opportunity of introducing this subject into the course of studies of the actual or intending law student. It is not necessary to impose any other than an elementary examination; in fact, it would be unadvisable to do so. But, if the attention of parents be directed to the importance of a knowledge of the principles of social economy, and if some preliminary study of that subject be required to precede or form part of a solicitor's education, a benefit of the highest value will have been conferred on the legal profession, and, through it, on the whole community.

10, St. Swithin's-lane, E.C.

EDMD. K. BLYTH.

Permit me to make a few observations upon one of the recommendations of the committee of the Incorporated Law Society on examinations in general knowledge to be instituted under the Attorneys' Act, 1860, ss. 5, 8.

This recommendation is shortly: that every person who shall have passed the senior middle class examination established by the universities of Oxford and Cambridge may be articulated for the term of four years.

I was London secretary for the Cambridge middle class examinations in 1858, and am a member of the London committee for regulating these examinations: I have thus acquired some knowledge of their nature, of the standards of excellence adopted in them, and of the class of boys who undergo them. This knowledge has convinced me that the adoption of the above recommendation of the committee will be unwise, and detrimental to the interests of our profession. In the hope that the council will pause before they carry this recommendation into effect, I submit the following remarks to their consideration.

1. It is the duty of the council and the examiners to take care that all gentlemen, to whom they give a certificate of fitness to enter our profession, be qualified to practise without injury to their clients.

2. The experience of our examiners and of nearly all practitioners who have taken young men into their offices immediately after their examination, teaches that the general period of five years is not a day too long for the acquisition of the necessary legal knowledge and practical experience. Indeed, many young men after their term of service go for a few months to a conveyancer's chambers before they feel themselves competent to undertake the active duties of their profession.

3. Therefore it is not right to shorten this term of service in the case of any gentlemen unless they possess some peculiar qualification either of age or knowledge which compensates for the loss of service.

4. Graduates of the universities are believed to possess such

a qualification (a) in their greater age; (b) in their superior education; (c) in the knowledge of men and manners which they have acquired at college; and (d) in some cases in superior station in life.

5. But even a well-read graduate must be articled in an office presenting unusual facilities for learning his profession, and must work with rare diligence all his time, to be at the end of it qualified to practise on his own account.

6. It is now proposed to take off one year's service in the case of young gentlemen who have passed the Oxford or Cambridge senior middle class examination. Therefore, before this is done it should be proved to demonstration that they who have passed these examinations are much better prepared for service under articles than the young gentlemen who have hitherto been articled for 5 years; and this superiority should arise from one or more of the four heads mentioned in paragraph 4.

7. Let us take them in order.

(a) Age. A boy must not be more than 18 at the time of passing the examination, he may be 15, 16, or 17: clearly, then, no superior qualification arises from this source.

(b) Superior education. I am able to state from my own knowledge of these examinations that the standard for a pass is by no means high, and I should be most sorry to pay the members of our profession generally (and still less the members of the council) so bad a compliment as to admit for an instant that nearly all of them could not have passed these examinations with ease before they were articled.

The candidates are allowed to select their own subjects (with but slight exceptions), so as to pass upon a knowledge of chemistry and drawing.

(c) No argument is required to shew that passing these examinations neither gives nor proves any acquaintance with the world. In fact, the point next considered will shew that these boys have this qualification in a less degree than they who now form the staple of our articled clerks.

(d) These are emphatically "middle-class examinations." The candidates come with few exceptions from middle-class schools. The great public schools will not leave their usual modes of education for the sake of their few boys who might wish to undergo these examinations; consequently, while I must speak in the highest terms of the respectability and good behaviour of the candidates, I am bound to say that few are sons of gentlemen, and very few indeed, if any, are of the higher classes. Thus, so far from the 4th ground of superiority existing in this case, the effect of the change will be to tempt into the profession young men of a lower class than heretofore by giving them a great privilege on easy terms.

At present our profession deservedly ranks amongst the "liberal professions," and its members are for the most part "gentlemen" by birth, breeding, and education, as well as by law. But every admission of an articled clerk of a lower grade will tend to keep out one of the higher classes, and I regret to see a tendency in recent legislation to this lamentable result.

Lastly, I must observe that these examinations have not yet been so long established as to form with propriety the basis for a change in our regulations. This is only their fourth year, and many thoughtful men in each university (including some of their original promoters) and many schoolmasters of note throughout the country entertain grave doubts as to the effects of these examinations and the wisdom of continuing them. At any rate, many changes must be made in their nature, and it will be years before their standards of knowledge are fixed. When they are it will be time enough (if ever) to give privileges to the boys who attain unto them.

For these reasons, as I desire neither to lower my profession nor to cast a slur upon its existing members by giving out to the world that we consider that we shall raise the class from which they spring by tempting into it boys whose sole merit is that they have passed the middle class examinations, I respectfully but earnestly implore the council to disregard this recommendation of their committee; and I hope that the judges will make no order for the adoption of so objectionable a proposal.

SYDNEY GEDOE, M.A.

4, Storey's-gate, Great George-street,
Westminster, S.W., 12th March.

POLICE CONSTABLES AS ADVOCATES.

The magistrates at a petty session lately held at Holmfirth, allowed a superintendent of police to act as an advocate and examine and cross-examine witnesses on the hearing of an information laid by a subordinate constable against some parties

for an assault committed upon him whilst in the execution of his duty, although a barrister who attended for the defendants protested against it. Do you consider such practice ought to be submitted to? Is it not a violation of the law, and calculated to lower the position of the legal profession? The clerk to the magistrates is a solicitor, and he acquiesced in the proceeding.

March 9th.

SCRUTATOR.

[We believe that even in the metropolitan police courts, policemen are much employed in discharging the proper functions of lawyers. The Metropolitan Board of Works employs superintendents of police, not only to "get up" cases against owners and occupiers of unsafe buildings, and to serve the statutory notices, &c., but even to conduct the cases before the magistrate. We have heard some curious anecdotes touching the opening speeches of these would-be advocates. The subject to which "Scrutator" calls attention is one of considerable importance, and ought not to be overlooked. Nothing can be more absurd, or more damaging to the administration of justice, than thus to assign to uneducated policemen duties which properly belong to professional men. ED. S.J.]

NEW LAW COURTS AND OFFICES.

Sir,—On reading your kindly criticism, I was fain to lay down my arms at once and to surrender at discretion, fairly overcome by the generosity of my friendly foe; for in spite of some uncomfortable thoughts upon the fate of good Mrs. Bond's ducks, and an uneasy memory touching the victims of that most joyous and affectionate of executioners, master Petit André, I had an honest faith in your good dispositions towards me which I still retain and am duly thankful for.

But permit me to disclaim the merit you impute to me. My pamphlet on the Ecclesiastical Courts was nothing more than the putting in form of the reasonings of a committee, of which, though composed of many able men, Mr. Field, that most original, energetic, and rapid of the law reforming intellects of the present day, was the life and soul. The immediate result, however, was no more than to throw out an obnoxious Bill of Sir John Nicholl's. But in the present cause, the Courts Removal, I claim to have struck the first blow in a pamphlet in 1840, thereby originating Serjeant Wilde's committee of that year, the evidence before which decided the principle of the removal finally and beyond dispute. It was before that committee that the Law Society's council and Sir C. Barry declared Lincoln's-inn-fields to be the best site. The former alone withdrew from that opinion, and it is for my greater consistency that you, Mr. Editor, deem me to be a monomaniac.

Now, it is the character of a mind so afflicted to leave out of sight all large considerations and to fix its enamoured view on one point of a matter only, nay upon a fractional part of a point; and by this test I am willing to inquire whether you or I deserve that appellation.

I will enumerate, then, the weighty considerations which you treat with silence, or deem "hardly worthy of mention":—

1. You are silent upon the comparison, in regard to public health, between the diffusion under the Fields' plan of the great and only requisites, fresh air, pure water, and free sewerage over an area of fifteen acres; and the less efficient amelioration under the Strand scheme of only six acres.

2. Upon the gardens to be opened to the public, where Lord Shaftesbury thinks it no trivial matter that children "may handle their hoops," whilst the mothers enjoy the summer shade of the trees, pleasures now denied to them, and otherwise not to be obtained, unless by indemnifying the freeholders for the large cost of originally forming and since maintaining the present garden.

3. Upon the unspeakable value of the new streets, both as air-channels and traffic-thoroughfares.

4. You deem "hardly worth mentioning" the "noble position" for the new building; and the great opportunity that now occurs of adding to the architectural character of the metropolis.

5. The same of the "facility of access;" though the Fields' plan affords this to carriages and foot passengers in the utmost perfection; and the Strand site precludes it to both.

6. The same, I presume, (under your words "and the like") of all other the greater comforts and advantages attaching to courts in a broad and open space, and not girdled and hemmed in by public thoroughfares.

7. Though appreciating, as a great merit, the quietude of the Fields, you doubt the power to preserve it, thinking that improved

accesses may invite the general traffic. But when the new parallel streets outside, west and south, made partly for the very diversion of this traffic afford an equally convenient course, there will be no need that any through traffic should invade the quiet of the courts; two or more gates may legitimately defend the exposed points, and a fine, if needful, may deter the wanton breach of a public regulation. Here, then, the quietude you feel important may be attained; in the Strand, not; for your explanation of the intended plan exhibits all the outside rooms on *three* fronts as assailed by noise. Many of these will be audience chambers; and though I deny not but that the officers and quasi-judges occupying them may in time, like the miller, become patient of the disturbance, they will suffer unconsciously from an attrition and fretting of their nerves, very mischievous in the long run to health of mind and body; whilst the attending public, not similarly enured, must undergo the annoyance to the end of time in full force.

8. You seem to me sensible, Mr. Editor, of the inadequacy of the Strand site to the extension of the principle of concentration in after times to future legal structures; and not insensible, I would infer, to the singular capability of Lincoln's-inn-fields to become the grand centre of the public edifices of the law. To escape from this fatal defect in the Strand site, an ingenuity is exerted which cannot be too much admired. I have, however, read something like it in the "Marine Zoology" of Mr. Gosse, or in Professor Kingsley's "Glaucus." In consequence of the extreme awkwardness of the ground, the mother-court-building is in the progression of time to be surrounded by a progeny of affiliated offsets, "protruded," as you express it, from her own body, and united in a "congeries" by umbilical cords, thus overgrowing the neighbourhood of Temple-bar; whilst beneath these monster Siamese cords, which it seems may be multiplied at discretion, carts and carriages will be seen to move at ease. The whole will present the appearance of some great zoophyte, and will highly gratify the then representatives of Mr. Ruskin's views by bringing natural history into the service of architecture. Doubtless the House of Commons will augur well of a site which so taxes the wit of its defenders to make it answer its desired end.

The consideration of an undue economy, I disclaim. I have ever said the best site must be had at whatever cost. Parsimony ill becomes a great nation. Still, I have a satisfaction in hearing that the Rolls' estate will exempt the Fields' plan from the purchase of a site for the Wills Depository, making it the cheaper scheme altogether by a quarter of a million, or, in your mode of computation, by £8,000 a year. I do not enter into the device of a gas-lit tunnel; I apprehend a close van could conveniently carry the records to their final resting place, and the distance from the Fields' Courts to the Rolls is a mere step.

I have tried to show that the considerations which you disregard or put aside are such as to common apprehensions deserve a first place; and, regarded from the point of view you claim as your own, they include every element of adaptation to the specific end, except indeed a fractional consideration of small amount.

For on what do you rest the merit of your site? On the general convenience of professional men? Not so, but on a minute fraction of this only. Lincoln's-inn and Gray's-inn and their neighbourhoods lie as well or better for Lincoln's-inn-fields, and there are few solicitors in the Temple. Hence, you rightly and necessarily rest your whole case on the convenience of the Temple barrister alone. You insist that he who hitherto has been subject to the distance of Westminster "must reach the courts without check or stoppage in a minute or two, robed, from the Temple." The viaduct we propose from the Temple to Lincoln's-inn would enable him to do this in just double the number of minutes which the Strand courts would take; if two, then four, or more probably three and six; and thus the difference is surely trivial, and will be inappreciable. The barrister need not be all day on the move to and fro between chambers and the courts, and the extra minutes will be of no account. If circumstances were equal, it were better to save him even these; but for this insignificant fraction of a fractional convenience to call upon us to submit to noisy, inaccessible, and ill-circumstanced courts (qualities made palpable by the forced ingenuity they evoke) when courts perfect in every attribute are within our power, and to a sacrifice of all architectural and metropolitan considerations, is to my mind a miscalculation, an extravagance, and a monomania.

Should the article, to which I thus ask your leave to reply, have had its origin with the Law Society, as by its exact information it might seem to have done, to the society let this

answer be addressed; and whilst I again thank the writer for his kindly tone towards myself, I trust I have here said nothing to forfeit his friendly dispositions.—Your obedient servant,

Wolverley, 11th March.

HARVEY GEM.

PROMOTION AT THE BAR.

Sir,—I write to inform you that on Saturday a petition to the Crown praying inquiry into the effect of the present system of promotion at the Bar, was left at the Home-Office for presentation.

The petition alleges in effect that the exercise of the prerogative in appointing Queen's Counsel is of no real service to the Crown, is injurious to the suitor, and operates with much injustice to other barristers.

It is presented on public grounds only.

I am, Sir,

Your obedient servant,

EDWARD WEBSTER.

9, Old-square, Lincoln's Inn, 14th March, 1861.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

At a recent meeting of this society, Mr. J. PITT TAYLOR read the following paper "On the Expediency of passing an Act to permit Defendants in Criminal Courts, and their Wives or Husbands, to testify on Oath."

The rules of law which preclude a man, when charged with the commission of a crime, from giving his own testimony on oath, or from calling his wife as a witness, have, in consequence of two remarkable trials, been recently much canvassed by the public. Both questions are difficult and interesting; and as they obviously have an important bearing on the due administration of justice, a discussion on their merits by the members of the Law Amendment Society cannot fail to be productive of great advantage. With the view of raising this discussion, and, if possible, of leading the society to what I conceive to be a right conclusion, I have prepared a summary of the arguments which, after much thought, have convinced me that the existing law on both points is unsound in principle and injurious in practice.

And first, as to the rule which rejects the sworn testimony of defendants in criminal courts. In discussing this rule, as in discussing every subject connected with the laws of evidence, we must keep steadfastly in mind the two following legal axioms:—1st, in all judicial investigations the object to be attained is the *discovery of truth*, and no species of evidence ought to be excluded which can materially aid in that discovery; 2nd, the rules of evidence ought, so far as it is practicable, to be the same in civil and in criminal proceedings.

Now, since the law under discussion is in direct conflict with both these axioms, the burden of proof is shifted on its supporters, who can hardly rest satisfied with the presumption, which usually favours existing institutions, but who must be prepared to show that the continuance of what is confessedly an exceptional state of the law is founded on sound reasons. Then, what are the reasons which justify this law? As far as I can ascertain, they seem to range under one or other of the following heads. It is contended, first, that the admission of the testimony of defendants in criminal trials would mislead juries; next, that it would increase the crime of perjury; and, lastly, that it would expose the accused to unfair and oppressive examination. To refute the first reason is no difficult matter. It has been urged without success on every occasion when the strict rule of the common law, rejecting the testimony of interested witnesses, has been relaxed; and it is based on an assumption of incapacity on the part of juries, which is proved by daily experience to be wholly unfounded. In investigating questions of fact, men are far more likely to err by being forced to grope their way to a conclusion in the twilight or in the dark, than by having their mental vision dazzled by excess of light. Moreover, as the motive of a prisoner to deceive is at least as obvious as it is strong, any statement he might make would be received with suspicion, and be weighed with more than ordinary care.

The objection that perjury would become more prevalent, if parties accused of crimes were allowed to be sworn, is scarcely less futile than the one just answered. This was the grand argument put forward in 1851, when the Bill for admitting the testimony of parties to civil suits was before Parliament. It

inherent weakness was then exposed by the promoters of that measure, and the Legislature, putting a proper estimate on its value, set it at naught. The Act was passed, and after having been nine years in operation, it is now admitted by universal consent to have worked a most salutary change. Some plaintiffs and defendants have of course committed perjury, and possibly that crime may have increased in a slight degree; but assuming such to be the case, the evil arising from the increase cannot be regarded as very alarming, since only thirty-five persons were convicted of perjury last year, and it really sinks into insignificance when contrasted with the benefits that have resulted to the cause of truth and justice, from enabling juries to hear the statements of those who were best acquainted with the facts in dispute. I do not contend that a defendant in a civil action is as strongly tempted as a person charged with crime to commit perjury; for as a man will make greater efforts to preserve his life, his liberty, or even his character, than his property, I admit that a law which would allow criminals to give evidence on oath in their own favour, would have a greater tendency than the Act of 1851 had to increase the crime of perjury. Still, I cannot discover on what sound principle of jurisprudence an innocent man can be deprived of the natural right of asserting his innocence in the most solemn manner, merely because a guilty man may be induced to tell a falsehood on oath. To reject the use of a valuable instrument simply in consequence of its possible abuse is scarcely in accordance with real philosophy. Moreover, in considering this question, we must remember that municipal law has to deal with perjury, not as a sin, but as a crime; not as an offence against the Majesty of the Allwise, but as an offence against society. We punish perjury, not as the avengers of the Deity, but because we know that it may afford the means of defeating justice, of wrongly benefiting some individuals and injuring others. These are the practical evils against which we have to guard; and if perjury were *never* successful, the perjurer, so far as human laws and interests are concerned, might remain unpunished, and be left to rank with the fool who said in his heart There was no God. Then, if this be so, we have no cause for alarm, even though a few criminals should be tempted to perjure themselves. False statements coming from so questionable a source would have little chance, as I have before shown, of imposing on the intelligence of juries, and, when sifted by means of cross-examination, they would almost inevitably be detected. In fact, the only effect of examining a guilty man would, in ninety-nine cases out of every hundred, be to render his guilt more transparently clear, and thus to relieve the jury from all anxiety respecting the justice of their verdict.

I pass on now to the third objection which is urged against the proposed change in the law, namely, that which rests on the assumption that defendants would be exposed to unfair and oppressive examination. It is said that if we once allow a criminal to give evidence in his own behalf, we shall put him to moral torture, we shall drive him to tell lies in his own defence, we shall exasperate the severity of our penal law, we shall sanction a species of compulsory self-crimination, and we shall adopt, what has been denounced as "the atrocious cruelty of the French system." (See per Lord Campbell and Lord Chelmsford, *Hans. Parl. Deb.*, 3rd ser. vol. clii. pp. 762—765.) I confess that, to my mind, these conclusions do not seem to be very logically drawn. If it were proposed to extend to our criminal courts in its entirety the Act of 1851, and to render the accused not only *competent* to testify on his own behalf, but *compellable* to give evidence against himself, some of the assertions just cited would be entitled to consideration. But this is not the system which is sought to be adopted, nor anything like the system. The change which it is proposed to introduce is, that—instead of a defendant asserting his innocence as at present, and making his statement, calling God to witness that it is true, and hoping that he may die on the spot if it is false, in which case no questions are asked on cross-examination, and the statement, if submitted to the jury at all, is left to them with an observation from the judge, that it is entitled to no weight, as coming from a party who has been neither cross-examined nor sworn—he shall be allowed, if he thinks fit, to testify on oath, but on condition that he shall be subjected, like an ordinary witness, to cross-examination. The very essence of the plan is, that the examination of the defendant shall be *permissive* and not *compulsory*; and it is difficult to imagine how, in the teeth of the legal maxim, "*violenti non fit injuria*," such an examination can be described as an engine of oppression, or be held to resemble in any one essential particular the brow-beating examinations to which prisoners must submit in the French Courts. In France, the accused is forced to answer

every question put to him. In the plan proposed, he is not forced to answer one. In France, his examination throughout is conducted as a cross-examination, its object being to establish his guilt, rather than his innocence; and if Lord Chelmsford is an authority on these matters, "the judge endeavours, with all the practised dexterity at his command, to extort an acknowledgment of guilt." (*Hans. Parl. Deb.*, 3rd ser. vol. clii. p. 764.) Here, it is intended that the accused should be at liberty to tell his own story without interruption, and in such a way as may best prove his innocence, and that the cross-examination shall be simply employed as a test of the truth of his statement. Again, in France, the prisoner is not sworn, and consequently whatever statements he may make in his own favour, they have not the weight which is attached to testimony on oath. Here, the proposal is, that the defendant, if examined at all, must first be sworn. In the face of these marked discrepancies, what possible analogy can fairly be drawn between the two systems?

Although, for the reasons stated above, the proposed change in the law would not expose prisoners to an oppressive examination, in one respect it would place them collectively in a worse position than they now occupy. At present, if "not guilty" be pleaded, the prosecutor has to make out his case independent of the accused, who cannot be examined either for or against himself. But once allow the defendant to testify on oath, and he will occasionally find himself in this dilemma:—Either he must attempt to deceive the jury by falsehood, in which case he will run an imminent risk of detection and additional punishment, or he must decline to be sworn, when his silence will very possibly be interpreted as presumptive evidence of his guilt. Lord Campbell asserts that this system would cause grievous hardship, because "prisoners would frequently be convicted on their own evidence;" (*Hans. Parl. Deb.*, 3rd ser. vol. clii. p. 763.) and Lord Chelmsford is of the same opinion, because "it has ever been the boast of our law to exhibit towards the accused) the greatest forbearance, and to give them the benefit of every reasonable doubt." (*Hans. Parl. Deb.*, 3rd ser. vol. clii. p. 765.) I have cited these assertions, not because I consider them arguments which have deserved refutation, but because, being advanced by great men, they may have an importance attached to them very different from what they intrinsically merit. Surely Lord Campbell forgot, when he used the reasoning just referred to, that the existing law permits prisoners to plead guilty, or in other words, "to be convicted on their own evidence," even without any corroborative proof. How then, on this ground, can he object to a law which merely gives the prisoner the option of being examined, and empowers the jury to convict him on his own testimony, when coupled with the other corroborative evidence which may be furnished by the prosecutor? Lord Chelmsford's reasoning is still more unsatisfactory, for it is based on an utter misconception of the doctrine which "is the boast of our law," and which induces caution lest an innocent man should be wrongfully convicted; "the doubt" of which the prisoner is to have the benefit, is a doubt as to whether he be really guilty. The law does not *favour* the prisoner as a criminal, but as a person who may *not* be a criminal. As I once before took occasion to observe, "If a criminal were tried, as a fox is hunted, for the diversion of sportsmen, and it were an object to counsel, as it is to the huntsman, to keep up the breed in order to show sport, it might then be advisable to allow due weight to the doctrine of 'forbearance,' in order to give the valuable prisoner a fair chance of escape; but if crime is really to be suppressed, let the conviction of the criminal be as certain as the law can make it. To borrow a sporting phrase, it was not by giving law that King Edgar extirpated the wolves from England." (*Law Mag.*, xxviii, No. 57, p. 6)

" 'Though space and law the stag we lend,
Ere bound we slip, or bow we bend,
Who ever reck'd how, where, or when,
The prowling wolf was trapp'd and slain? "

(To be continued).

Reviews.

Handy Book for Executors and Administrators. By THOMAS SIRRELL PRITCHARD, M.A., Barrister-at-Law. Amer: 1861.

A Handy Book on the Law of Principal and Surety. By EDWARD LAWRENCE, Jun., Attorney-at-Law and Member of the Incorporated Law Society. Effingham Wilson: 1861.

Here are two new contributions to the light literature of the profession, albeit the subject of which they treat are of a

nature that rather repels than invites the authors of Handy Books. The law of Executors and Administrators is of very large extent, as is known to every body who has ever turned over the leaves of the ponderous book of Mr. Justice Williams; and in addition to this extensive branch of law there is also the very wide field—to some extent still almost unworked—which the Probate Court claims for its own. But Mr. Pritchard boldly undertakes to present “at a glance, if possible,” the whole body of law and procedure touching the character, functions, duties, and liabilities of executors and administrators. A reader's glance, however, must be sufficient to take in 176 pages—not very large, to be sure—and to note a very considerable number of chapters and subdivisions embracing a great variety of topics; but yet we can say for this little work, what unfortunately cannot often be said of any of our legal manuals, that it does not consist of an unskilful collection of ill-assorted scraps, taken with or without acknowledgment from some standard work, but that it is the result of the careful attempt of a competent writer to give in the smallest compass a plain and reliable account, for the use of unprofessional persons, of an extensive and complicated head of law. The plan of the book is original, and is well calculated not less for the instruction of young students of law than it is for laymen. No cases are cited, and there is an entire absence of that kind of affectation which exhibits itself in frequent reference to useless authorities. Altogether we can recommend Mr. Pritchard's brochure for, what it professes to be, a handy book on a subject of very general interest.

Mr. Lawrance's little work is intended to supply young practitioners as well as mercantile men and those who feel a special interest in the subject, with a brief summary of the law of principal and surety. He has, in fact, sketched a regular treatise on the entire subject, and has filled in as much of it as is most likely to be valuable for practical purposes. We have no doubt that the work will be found extremely useful by those for whom it is intended. It is the production of one who is well acquainted not only with the theory but the actual practice of law upon the subject of which he treats. We especially commend Mr. Lawrance's book to persons engaged in business, to whom so simple and practical an account of the doctrine of principal and surety will, no doubt, be very acceptable.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Metropolitan Railway Bills have been referred to a Select Committee of the House of Lords with reference to the displacement of the poor:—

CHARING CROSS (City terminus).
 FINSBURY CIRCUS STATION.
 HAMMERSMITH, PADDINGTON, AND CITY JUNCTION.
 KENSINGTON STATION AND NORTH AND SOUTH LONDON JUNCTION.
 METROPOLITAN (Finsbury Circus Extension).
 METROPOLITAN (Improvement).
 NORTH LONDON (Widening and Extension).
 NORTH LONDON (City branch).
 VICTORIA STATION AND PIMLICO RAILWAY.
 WEST LONDON EXTENSION.

The preambles of the following Bills have been proved in committee in the House of Lords:—

CHARING CROSS (City terminus).
 DARTMOUTH AND TORBAY.
 EDGWARE, HIGHGATE, AND LONDON.
 HAMMERSMITH, PADDINGTON, AND CITY JUNCTION.
 NORTH LONDON RAILWAY (City Extension).
 WEST LONDON EXTENSION.

The following Bills have passed through committee in the House of Commons:—

LANCASHIRE AND YORKSHIRE (Extension to Settle).
 LONDON AND NORTH WESTERN (Eccles to Tydesley and Wigan).
 STOCKTON AND DARLINGTON.

REPORTS AND MEETINGS.

CALEDONIAN RAILWAY.

At the half-yearly meeting of this company, held on the 15th inst., a dividend at the rate of 5½ per cent. per annum was declared on the ordinary stock of the company.

CALEDONIAN AND DUMBARTONSHIRE JUNCTION RAILWAY.

At the half-yearly meeting of this company, held on the 13th inst., a dividend at the rate of 5 per cent. per annum was declared, leaving a balance of £973 to be carried forward.

EAST ANGLIAN RAILWAY.

At the half-yearly meeting of this company, held on the 8th inst., a dividend of 2½ per cent. on the C stock of the company was declared, after providing for the dividends in full on the A and B stock.

EDINBURGH AND GLASGOW RAILWAY.

At the last half-yearly meeting of this company, held on the 12th inst., a dividend at the rate of 4½ per cent. per annum was declared, after providing for a dividend of 5 per cent. on the preference stock.

LEEDS, BRADFORD, AND HALIFAX JUNCTION RAILWAY.

At the half-yearly meeting of this company, held on the 8th inst., a dividend at the rate of 6 per cent. per annum was declared for the past half-year, and is now in the course of payment.

LEGAL AND GENERAL LIFE ASSURANCE SOCIETY.

The annual general meeting of this society was held on the 12th inst. From the account submitted to the meeting it appears that there has been a considerable accession of new premiums during the past year, the sum of £14,054 12s. 6d. having been received in respect thereof. The assets of the company on the 31st of December amounted to the sum of £1,167,650 7s. 10d.

LLANIDLOES AND NEWTOWN RAILWAY.

At the half-yearly meeting of this company, held on the 12th inst., a dividend at the rate of 5 per cent. per annum was declared.

LLYNVI VALLEY RAILWAY.

At the half-yearly meeting of this company, held on the 14th inst., after providing for the 5 per cent. preference dividend, a bonus of 2 per cent. on the ordinary shares of the company was declared for the last half-year. This, with the 3 per cent. paid for the previous half-year, makes the total payment for the year on the ordinary shares, 5 per cent.

NEWCASTLE AND CARLISLE RAILWAY.

The directors, by their report, recommend a dividend of £3 17s. 6d. per cent. for the last half-year, making, with the dividend previously paid, £7 per cent. for the year. This will leave a balance of £2,833 to be carried forward.

SCOTTISH NORTH EASTERN RAILWAY.

At the half-yearly meeting of this company, held on the 8th inst., a dividend at the rate of 10s. per cent. per annum was declared on the ordinary Aberdeen stock.

WEST HARTLEPOOL.

At the recent half-yearly meeting of this company a dividend at the rate of 5 per cent. per annum was declared upon the consolidated stock of the company.

INTERNATIONAL EXHIBITION, 1862.—It has been certified that the aggregate of the sums, expressing the limits of the liability of the persons who executed the deed of guarantee for enabling the Commissioners for the Exhibition of 1862 to obtain advances from the Bank of England, amounts to the sum of £250,000.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY.

Mr. FREDERICK MEADOWS WHITE, on Common Law and Mercantile Law, Monday, March 18.

The lectures will be resumed in November next.

COURT OF CHANCERY.

The following return has been presented to Parliament.

A return from the Accountant-General of the High Court of Chancery, pursuant to the 63rd section of an Act passed in the fifth year of her Majesty Queen Victoria, intituled, "An Act to make further Provisions for the Administration of Justice," showing the state of the several funds in his name, called "The Suitors' Fund," and "The Suitors' Fee Fund, and the charges upon the same respectively.

THE SUITORS' FUND for the year commencing 2nd October, 1859, to the 1st October, 1860.

	Cash.			Cash.		
	£	s.	d.	£	s.	d.
To cash paid three masters' salaries at £2,500 per annum	7,192	14	2			
" Accountant-General's salary as master (six months, due 5 January, 1860, at £600 per annum)	283	15	0			
" Pensions to retired masters	11,367	3	9			
" Compensation to chief clerks to masters, pursuant to Act 15 & 16 Vict. c. 80	1,077	0	7			
" Ditto to one chief clerk to master, pursuant to Act 10 & 11 Vict. c. 97	641	13	6			
" Ditto to three junior clerks to masters	1,340	4	5			
				21,902	11	5
" Salaries to eleven assistant clerks to registrars				1,053	0	5
" Pensions to five retired registrars	9,707	7	1			
" Ditto to registrar's bag-bearer	186	13	8			
				9,894	0	9
" Accountant-General's salary	861	11	3			
" Expenses of office, office-keeper, water-rate, stationery, &c.	430	15	9			
" Thirty-five clerks' salaries	8,273	6	2			
" Pensions to three retired clerks	2,221	18	2			
				11,787	11	4
Officers of the Lord Chancellor's Court:						
" Court-keeper	86	13	0			
" Persons to keep order	231	0	0			
" Tiptaff	191	9	2			
" Clerk in secretary's office	95	14	7			
				604	16	9
Officers of the Lords Justices' Court:						
" Secretaries	676	13	4			
" Ushers	482	16	6			
" Trainbearers	193	2	6			
" Persons to keep order	154	10	0			
				1,507	2	4
Officers of Vice-Chancellor Kindersley's Court:						
" Secretary	507	10	0			
" Usher	191	9	2			
" Trainbearer	95	14	7			
" Person to keep order	77	5	0			
				871	18	9
Officers of Vice-Chancellor Stuart's Court:						
" Secretary	289	13	9			
" Usher	193	2	6			
" Trainbearer	96	11	3			
" Persons to keep order	138	7	5			
				717	14	11
Officers of Vice-Chancellor Wood's Court:						
" Secretary	289	13	9			
" Usher	193	2	6			
" Trainbearer	96	11	3			
" Persons to keep order	154	5	0			
				733	12	6
" Assistant junior clerks to the judges				919	0	0
" Surveyor's salary				77	0	0
" Solicitors to suitors, in lieu of costs	1,200	0	0			
" Ditto . . . for counsel's fees, insurance and disbursements	468	11	5			
				1,668	11	5
" Compensation to officers of the court of exchequer				3,841	12	1
" Ditto to officers of the subpoena office, doorkeeper, crier and usher of the Court, deputy secretary of decrees and injunctions, and one clerk in the late clerks of accounts' office				1,678	14	2
" Expenses of courts, registrars' offices, masters' offices, report and other offices, for rent, repairs, rates, stationery, coals, candles, gas, servants' wages, &c.				3,853	6	1
" Costs of contempt under Sir E. Sugden's Act				228	0	1
				61,338	13	0
Total payments						
Surplus interest carried over to the "Suitors' Fee Fund Account," as directed by the 15 & 16 Vict. c. 87, s. 53				51,162	9	3
				<u>£112,501</u>	<u>2</u>	<u>3</u>

	Cash.	Stock.
By balance on the 1st October, 1859	19,902 10 10	3,904,989 15 1(a)
" Dividends received during the year	112,133 9 1	—
" Cash received for rent of masters' office, pursuant to Act 15 & 16 Vict. c. 80	520 0 0	—
" Stock purchased with suitors' cash	—	214,165 6 0(a)

(a) viz.	£	s.	d.
	2,613,360	14	3
	214,165	6	0

Fund A	2,827,526	0	3
Fund B	1,291,629	5	6

Note.—Ed. S. J.

Total 4,119,155 5 9

Total payments and surplus interest carried over to the Suitors' Fee Fund account 132,555 19 11
112,501 2 3

Balance 1st October, 1860 20,054 17 8 4,119,155 1 1

THE SUITORS' FEE FUND ACCOUNT, from the 24th November, 1859, to 25th November, 1860.
Officers of the Courts of the Lord Chancellor, Master of the Rolls, and Vice-Chancellors, pursuant to 15 & 16 Vict., c. 87

Salaries to eight senior clerks, to the Master of the Rolls, and the Vice-Chancellors 11,700 0 0 7,473 9 3
Ditto to sixteen junior clerks to ditto 4,400 0 0
Rent of chambers 954 6 3

Total court expenses 17,054 6 3
Compensation to two masters at £725 per annum 1,450 0 0
Salaries to four masters' chief clerks at £1,000 each 3,421 4 0
Ditto and compensation to four masters' junior clerks 2,093 17 11
Compensation to one chief clerk to master 1,250 0 0

Total masters 8,215 1 11
Salaries to eleven registrars 17,150 0 0
Allowances for writing to Registrars, under 3 & 4 Will. 4, c. 94, s. 48, and 5 Vict., c. 5, s. 63 1,100 0 0
Salaries to registrars' clerks 6,900 0 0
Bag bearers to registrars 300 0 0
Salaries to two clerks of entries 635 0 0

Total registrars 26,085 0 0
Salaries attached to the office of master of reports and entries, under 18 & 19 Vict., c. 134 1,000 0 0
Salaries to two examiners 3,000 0 0
Ditto to two clerks to ditto 740 0 0
Compensation to late examiner 50 19 0

Total examiners 3,790 19 0
Salaries, &c., under 5 & 6 Vict., c. 84, and Lunacy Regulation Act, 1853:

Two masters in lunacy, salaries 4,000 0 0
Ditto travelling expenses 1,108 13 0
Ditto rent of premises 430 10 0
Ditto expenses of offices 356 6 7
Ditto salaries to nine clerks 3,500 0 0
Registrar in lunacy, salary 800 0 0
Ditto salaries to four clerks 930 0 0
Compensation to late commissioners in lunacy 375 0 0
Visitors of lunatics' salaries 1,375 0 0
Ditto travelling expenses 1,076 6 0
Ditto secretary 300 0 0
Ditto one clerk to secretary 150 0 0
Ditto rent of premises 60 0 0
Ditto expenses of office 124 19 8

Total in lunacy 14,580 15 3
Compensation to late clerks of affidavits 1,306 10 2
Salaries, &c., under 5 & 6 Vict., c. 108:

Seven taxing masters 13,972 4 6
Fourteen clerks to ditto 3,395 0 0
Messenger to ditto 200 0 0
Rent of taxing masters' offices 800 0 0
Clerk of enrolments 1,200 0 0
Three clerks to ditto 750 0 0
Three clerks of records and writs 4,200 0 0
Fifteen clerks to ditto 3,762 7 3
Office keeper and messenger to ditto 260 0 0

28,539 11 9
Clerks and messengers in Report Office, under 18 & 19 Vict., c. 134 1,000 0 0
Salaries to two clerks of the Petty Bag Office, under 12 & 13 Vict., c. 110 800 0 0
Accountant-General in lieu of brokerage, under 15 & 16 Vict., c. 87, s. 19 2,700 0 0
Increased salary to some of the Accountant-General's clerks, under 15 & 16 Vict., c. 87, s. 39 2,122 9 10
Compensation to late clerks of accounts, under 15 & 16 Vict., c. 87 2,000 0 0
Compensation for loss of office and profits, under 5 & 6 Vict., c. 103:
Twenty-one sworn clerks and messenger 28,700 17 9
One agent to ditto 923 3 4

29,624 1 1
Copy money for writing and copying in the offices of the clerk of enrolments, the clerks of records and writs, the registrar in lunacy, the clerks of entries, and the Petty Bag Office 5,595 14 3
Expenses of the various courts and offices for stationery, coals, candles, servants' wages, rates and taxes, and for furniture, &c. 5,103 15 3

Total payments £156,991 14 0

	£.	s.	d.
Cash paid in by the clerk of the crown, clerk of patents, pursebearer, tipstaff and messenger, on account of fees formerly payable to the Lord Chancellor	946	3	9
Cash brought over from various causes, matters, and accounts, in lieu of fees formerly paid at the taxing masters'	12,982	4	2
Cash brought over on account of per-centages on income from several matters and accounts in lunacy	6,549	10	0
Cash paid in by clerk of enrolments	5,102	4	5
Cash paid in by clerk of petty bag office	562	11	0
Cash paid in for poundage under the Winding-up Act	1,429	8	0
Cash paid in by the Commissioners of Inland Revenue, in respect of money received by them for chancery fee fund stamps	69,588	4	7
Interest brought over from "money arising from sale of the six clerks' office"	43	6	10
Surplus interest brought over from Suitors' Funds, under 15 & 16 Vict. c. 87, s. 56	51,162	9	3
Interest brought over from "monies placed out to provide," &c., under 15 & 16 Vict. c. 87, s. 54	5,741	17	4
Cash paid in by the Accountant-General for brokerage, under 15 & 16 Vict. c. 87, s. 18	4,105	8	6
Total income for the year ending 25th November, 1860	158,213	7	10
Deduct total payments for the same period	156,991	14	0
Excess of income over expenditure for the year ending 25th November, 1860	1,221	13	10
Add balance of cash on this account on 24th November, 1859	83,557	13	8
Balance of cash on this account on 24th November, 1860	£84,779	7	6

ACCOUNT OF MONIES PLACED OUT TO PROVIDE FOR THE OFFICERS OF THE HIGH COURT OF CHANCERY, from the 24th November, 1859, to 25th November, 1860.

	Cash. £ s. d.	Stock. £ s. d.
Interest carried over to Suitors' Fee Fund account, under 15 & 16 Vict. c. 37, s. 54	5,741 17 4	—
Balance 24th November, 1860.	—	201,028 2 3
	£ 5,741 17 4	201,028 2 3
Balance on 24th November 1859	—	201,028 2 3
Dividends received during the year	5,741 17 4	—
	£5,741 17 4	201,028 2 3

STATISTICS OF THE DIVORCE ACT.—A series of interesting returns, giving statistics connected with the Divorce Court, have recently been issued. The first return has been compiled with the view of showing what number of the suits which have occupied the Divorce Court since the passing of the Act under which it is constituted have arisen from acts of adultery committed anterior to that date. The whole number of petitions for dissolution of marriage on the ground alluded to which have come before the Court is 604. In by far the majority of these cases, however, the Court was simply engaged in discharging the arrears of business which had accumulated before its establishment. No fewer than 386 suits arose from acts of adultery committed in bygone years, and in one case, a petition refers to events which took place in the year 1823. As these figures bear upon the controversy which preceded the passage of the Act, it may be worth while to give some of them in detail. The number of petitions relating to acts of adultery committed in the year 1850 were 27; for the year 1851 they were 30; for 1852, 25; 1853, 36; for 1854, 38; for 1855, 39; for 1856, 59. For the earlier portion of the year 1857, up to the 28th of August, the date at which the Act was passed, the number of petitions was 36, and for the remainder of the year, 43, making a total for that year of 79. For the next year they were still more numerous—85; but in 1859 there is a decrease, the number being 66; while in 1860, up to the 21st of August, the date at which the return was moved for, the number was only 24. Another table, compiled on a principle similar to that of the first, relates to petitions for judicial separation. As the numbers in this case are considerably smaller, we need not examine them in detail. The total number of such petitions is 195. Thirty-one relate to alleged acts of adultery committed in 1857, and 26 to those of 1858, but in all the other years the numbers are considerably less.

The will of James Russell, Esq., Q.C., was proved in London on the 25th ult., by his relict, power being reserved to the other executors. The personalty was sworn under £100,000. The will was executed in 1846, and two codicils in 1854. To his relict he bequeaths an annuity of £1,000, and an immediate legacy of £1,200, stating that he gives her these bequests out of love and regard, as she is amply provided for by deeds of settlement, added to which he leaves her his town residence and all his furniture. His estate at Tor Royal he has left to his eldest son, whom he has appointed his residuary legatee,

and to whom he has given the prizes he (the testator) obtained when at school and at college, as well as the medal which he received as a badge of distinguished merit when a student at the University; to each of his sons the testator has given a legacy of £10,000; and to each of his daughters, on attaining twenty-one, or marriage, he has given a legacy of £3,000, and a life interest also in £5,000 to each of them, which bequests are also further increased by legacies in the codicils. There are some small annuities and legacies left by the testator to his brothers, sisters, and other relatives and friends; and Mr. Russell has left to his clerk, Mr. Wallace, an annuity of £100. His law library he has bequeathed to his two sons, James Cholmeley and Richard Bruce. To his executors, the Hon. Edward Lascelles and K. D. Hodgson, Esq., and to the father of the latter gentleman, he leaves the sum of fifty guineas each, and a like legacy to his intimate friend Lord Justice Knight Bruce.

Births, Marriages, and Deaths.

BIRTHS.

- LEWIS—On March 12, the wife of Charles Warner Lewis, Esq., Barrister-at-law, of a daughter.
FRUDENCE—On March 6, the wife of Stanley G. Prudence, Esq., Solicitor, of a son.
WHITE—On Feb. 27, prematurely, the wife of Arthur White, Esq., Barrister-at-Law, of a son, stillborn.

MARRIAGES.

- CUNNING—FRASER—On March 14, James Bannerman Cumming, Esq., of Singapore, to Elizabeth Sarah, widow of the late Edward Fraser, Esq., Advocate.
GREEN—PHILLIPS—On March 6, John Matthias Green, Esq., Solicitor, to Adelaide, daughter of Thomas Phillips, Esq., Wellington Road, Edgbaston.

DEATHS.

- CAPES—On March 14, Sophia, wife of George Capes, Esq., of Gray's Inn, aged 56.
HUSON—On March 8, aged 86, Isabella Anne, relict of Nathaniel Huson, Esq., Barrister-at-law.
M'CARTHY—On March 3, at Macroom, Charles M'Carthy, Esq., Solicitor, son of the late Justin M'Carthy, Esq., Barrister-at-Law, of Cork.
PARKER—On Feb. 27, Elizabeth, daughter of the late Benjamin Parker, Esq., Solicitor, of Birmingham.

POWELL—On March 6, Arthur Powell, Esq., Solicitor, late of Debenham, Suffolk, aged 52.
REXWORTHY—On Feb. 21, aged 46, John Rexworthy, Esq., Solicitor, of Lincoln's Inn.
SMITH—On March 6, Elizabeth, the wife of George Smith, Esq., Solicitor, Leek, aged 43 years, deeply regretted.
SWAN—On March 5, Mary Ann, wife of Henry Swan, Esq., of Doctors' Commons, Solicitor, aged 57.
TURNLEY—On March 3, aged 16 years and 3 months, Thomas Frederic Budd, the only child of Thos. W. Turnley, Esq., Solicitor, Bedford.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BICKERSTETH, HENRY, Esq., Lincoln's Inn (afterwards Lord Langdale), and **ROBERT BICKERSTETH, Surgeon, Liverpool, £200 Consols.**—Claimed by **KATHARINE BICKERSTETH, Widow, and EDWARD ROBERT BICKERSTETH, acting executors of Robert Bickersteth, who was the survivor.**
DEAN, THOMAS, Printer, Threadneedle-street, £4,000 Consols.—Claimed by **HENRY ALCOCK, one of the executors of Mary Ann Dean, Widow, who was the sole executrix of the said Thomas Dean.**
FASSETT, ELIAS DE GRUCHY, Gent., St. Thomas's-place, Old Kent-road, and **MARGARET FASSETT, his wife, Twenty dividends on the sum of £6, Annuity for term of years expired 5th January, 1860.**—Claimed by **GEORGE WOOD and WILLIAM FASSETT, executors of Elias de Gruchy Fassett, who was the survivor.**
FLETCHER, JOSEPH, Ship-builder, Shadwell-dock, HENRY WATSON, Esq., Beckingham, Notts, and GEORGE KINO HOLMES, Esq., East Retford, Notts, £2,205 Consols.—Claimed by **HENRY WATSON and GEORGE KINO HOLMES, the survivors.**
LAKE, JOHN, Gent., Lincoln's Inn, £2,322 4s. 5d. Consols.—Claimed by **GEORGE LAKE, one of the executors of the said John Lake.**

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock .....	..	Shrs	
3 per Cent. Red. Ann. ....	..	Stock	Ditto A. Stock 101½
3 per Cent. Cons. Ann.	91½	Stock	Ditto B. Stock 131
New 3 per Cent. Ann. ....	..	Stock	Great Western 71
New 2½ per Cent. Ann. ....	..	Stock	Lincoln & York 111
Consols for account	92½	Stock	London and Blackwall. 61
India Debentures, 1858.	92½	Stock	Lon Brighton & S. Coast 116½
Ditto 1859. ....	..	Stock	Lon Chatham & Dover 49
India Stock	dis.	Stock	London and N. Water. 96½
India 5 per Cent. 1859.	dis.	Stock	London & S. Western. 91
India Bonds (£1000)	dis.	Stock	Man. Sheff. & Lincoln. 47
Do. (under £1000) .....	..	Stock	Midland 124½
Exch. Bills (£1000)	5 pm	Stock	Ditto Birm. & Derby 103
Ditto (£500)	5 pm	Stock	Norfolk 64
Ditto (Small) ..	5 pm	Stock	North British 64
		Stock	North-Eastern (Brwck.) 102½
		Stock	Ditto Leeds 61
		Stock	Ditto York 91½
		Stock	North London 100
		Stock	Oxford, Worcester, &
		Stock	Wolverhampton 56
Stock Birk. Lan. & Ch. June.	82	Stock	Shropshire Union 46
Stock Bristol and Exeter	102	Stock	South Devon 41
Stock Cornwall 61		Stock	South-Eastern 84
Stock East Anglian 17½		Stock	South Wales 59
Stock Eastern Counties 50½		Stock	S. Yorkshire & R. Dun 94½
Stock Eastern Union A. Stock	34	Stock	25 Stockton & Darlington 41½
Stock Ditto B. Stock	27½	Stock	Vale of Neath 76
Stock Great Northern 109			

London Gazettes.

Professional Partnership Dissolved.

TUESDAY, March 12, 1861.

PAIN, THOMAS, & W. RAWLINS, Attorneys, Solicitors, Winchester, and Whitechurch, Hants, by mutual consent. Feb. 1.

Windings-up of Joint Stock Companies.

TUESDAY, March 12, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (REGISTERED).—V. C. Wood will on March 21, at 12.30, appoint an Official Manager or Official Managers of this Company.

ERA ASSURANCE SOCIETY.—V. C. Wood will, on March 26, at 3, proceed to make a call on all Contributors of the said Society, for 30s. per share.

FRIDAY, March 15, 1861.

UNLIMITED IN CHANCERY.

HERALD LIFE ASSURANCE SOCIETY.—The M.R. will, on March 23, at 1, proceed to make a call on contributors of the company for £1 10s. per share.

RISCA COAL AND IRON COMPANY.—Petition to wind up, presented on the 14th March, will be heard before the M.R. on March 23. Solicitors, **Futvey, Sawtell, & Lightfoot.**

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, March 12, 1861.

CLEGG, WILLIAM, Hat Manufacturer, Grantham, Lincolnshire. Malin, Solicitor. May 17.
COWDRY, WILLIAM GEORGE, Esq., 13, Beaufort-buildings, West, Bath. Dowling & Burne, Solicitors, 15, Vineyards, Bath. May 7.
COX, GEORGE, Watch & Chronometer Jeweller, 15, Lower Smith-street, Clerkenwell, Middlesex. Wedlake, Solicitor, 2, Cook's-court, Serle-street, Lincoln's Inn, Middlesex. May 1.
DOWNMAN, JAMES, Gent., 5, Peacock-street, St. Mary, Newington, Surrey. Donville, Lawrence, & Graham, Solicitors, 6, New square, Lincoln's Inn, London. May 7.
EDWARDS, JOHN, Gent., Newport, Isle of Wight. W. & A. F. Morgan, Solicitors, 37, Waterloo-street, Birmingham. May 1.
FOOT, WILLIAM, Plumber, Bath. Stone, Chamberlayne, & King, 13, Queen-square, Bath. May 27.
RAY, JOHN, Esq., Crowleham House, Kemsing, near Seven Oaks, Kent. Sawyer & Brettell, Solicitors, 2, Scaple-Inn, Holborn. May 11.
READ, CHARLES, Gent., Binstead House, Arundel, Sussex. Hill & Fitzhugh, Solicitors, Brighton, Sussex. April 5.
RUSSELL, HANNAH, Spinster, Shrewsbury. Wedlake, 2, Cook's-court, Serle-street, Lincoln's Inn, Middlesex, and Kough, Swan-hill, Shrewsbury, Joint Solicitors. April 20.
SADLER, HENRY, Rev., Clerk, Ulcomb, Kent. Monckton & Son, Solicitors, Maidstone, Kent. April 5.
WHIPHAM, THOMAS HENRY, Esq., late of Strand House, Strand-on-the-Green, Turnham-green, Middlesex. Robinson & Haycock, Solicitors, 32, Charter-house square, Middlesex. May 30.
WOOD, WILLIAM, Gent., Sowerby, Thirsk, Yorkshire. Weatherill, Solicitor, Guisborough, Yorkshire. May 10.

FRIDAY, March 15, 1861.

CLEVELAND, ELIZABETH, Mrs., Widow, Woolwich, Kent. Sladen, Solicitor, 14, Parliament-street, S.W. April 10.
CROWTHER, JOSEPH, Gent., Horwick, Lancashire. Hill, Solicitor, 42, South John-street, Liverpool. May 1.
FROST, FRANCIS ATLYMER, Corn Miller, Chester. Payne, Solicitor, Liverpool. May 1.
GROVE, JAMES, a Lieutenant in her Majesty's Army, formerly of Dawlish, Devonshire, afterwards of Southampton, afterwards of Woburn-place, Russell-square, London, and late of High Wycombe, Bucks. Puddicombe, Solicitor, 3, Farnival's Inn, London. May 24.
HALL, GEORGE, Solicitor, 11, New Boswell-court, Lincoln's Inn, London. Hunt, Solicitor, 14, New Boswell-court, Lincoln's Inn. May 1.
HASTINGS, Right Hon. JACOB LORD HASTINGS, Melton Constable, Norfolk, and Seaton Delaval, Northumberland. Kent, Watson, & Watson, Solicitors, Fakenham, Norfolk. May 1.
KEMP, ELIZABETH, Spinster, Lovaine-place, Newcastle-upon-Tyne. Fenwicks & Falconar, Solicitors, Clayton-street, Newcastle-upon-Tyne. May 1.
PEARSON, WILLIAM, Secretary to the Leeds Tradesmen's Benevolent Institution, Leeds. Rider, Solicitor, 15, Park-row, Leeds. April 13.
PIGGOTT, RICHARD, Yeoman, Bledlow-house, Bledlow, Buckinghamshire. Church & Sons, Solicitors, 9, Bedford-row. April 30.
VINCENT, RICHARD WEEKES, Esq., Cowfold, Sussex. Rawlison, Solicitor, Horsham, Sussex. May 15.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, March 12, 1861.

BALLELY, ROBERT, Gent., Little Greencroft, Durham. Jefferson v. Ballely, V. C. Stuart. April 9.
CUDDON, JAMES, Esq., Norwich. Cuddon v. Cuddon, M. R. April 12.
DENNIS, SAMUEL GEORGE, Esq., formerly of Beaumont, Essex, but for some time previous to his death residing at St. Vincent, Addington Park, near Maidstone, Kent. Matson v. Dennis, V. C. Stuart. April 16.
HUSBAND, THOMAS MATTHEW, Publican, 2, Retreat-cottages, Hackney, Middlesex. Beynon v. Vaughan, V. C. Stuart. March 27.
KITCHEN, WILLIAM HENRY, Esq., Keith House, Cambridge-road, Hammer-smith, Middlesex. Bethell v. Kitchen, V. C. Kindersley. April 10.
MORGAN, JOHN, Tailor, 5, Albermarle-street, St. George, Hanover-square, Middlesex, and of 104, George-street, Edinburgh. Robertson v. Morgan, M. R. April 10.
PARKER, EMMA, Spinster, Leamington Priors, Warwickshire. Newall v. Sneyd, M. R. April 6.
PARKER, WILLIAM, Esq., Leamington Priors, Warwickshire. Newall v. Sneyd, M. R.
ROWSON, DANIEL THOMASSON, Gent., Tugby, Leicestershire. Rowson v. Harrison, M. R. April 9.
SCHOLEY, THOMAS, Engineer, Machinist, Ballast & Gravel Merchant, & Dredger, Baalzepon-street, Bermondsey, Surrey. Scholey v. Scholey, M. R. April 8.
STEPHENS, STEPHENS LYNE, Esq., Southampton, Surrey. Bulkeley & Other v. Stephens & Others, V. C. Stuart. April 10.
STUART, GEORGE, a Colonel in her Majesty's Army, Barton-in-the-Clay, Bedfordshire, and Painswick, Gloucestershire. Stuart v. Shepard, V. C. Kindersley. April 10.
WALTHAM, RICHARD SMITH, Auctioneer & Surveyor, Birmingham. Brooks v. Waltham, V. C. Stuart. April 15.
WILLIAMS, THOMAS, Farmer, Ilanfawr, Llangristiolus, Anglesoa. Williams & Others v. Jones & Another, M. R. April 8.

FRIDAY, March 15, 1861.

GRIFFITH, ANNE ELIZABETH, Spinster, 6, Victoria-grove-terrace, Bayswater, Middlesex. Moody v. Grey, M. R. April 18.
JONES, JOHN, Captain in her Majesty's 81st Regiment of Foot, 10, Howley-street, Lambeth, Surrey. Jones v. Jones, V. C. Stuart. March 22.
SMITH, WILLIAM, Coachman, Epping, Essex. Smith v. Smith, M. R. April 12.
WITTING, JAMES, Gent., Kingston-upon-Hull. Witting v. Witting, V. C. Stuart. April 20.

Assignments for Benefit of Creditors.

TUESDAY, March 12, 1861.

BROOKES, JAMES, Grocer & Provision Dealer, Burton-upon-Trent, Staffordshire. *Sola, Perks & Prince, Burton-upon-Trent.* Feb. 28.

BURROWS, JOSEPH, Cabinet Maker, Chesterfield, Derbyshire. *Sol.* Cutts, Chesterfield, and Gray's-inn, London. March 7.
CHASE, RICHARD, Cheese Factor, Bristol. *Sol.* Henderson, Bristol. Feb. 14.
WRIGHT, THOMAS, Carpenter & Builder, Fooks Cray, Kent. *Sol.* Gibson, Darford, Kent. Feb. 28.

FRIDAY, March 15, 1861.

CLARK, WILLIAM JAMES, Wheelwright & Blacksmith, Great Burstead, Essex. *Sol.* Woodard, Billericay, Essex. Feb. 16.
FISHER, JOHN, Glass and Earthenware Dealer, Sheffield. *Sol.* Bamforth, Rotherham, Yorkshire. Feb. 26.
GASCOYNE, THOMAS HENRY, Farmer, Wimblington, Cambridgeshire. *Sols.* Wise & Dawburn, March. March 2.
HUGHES, FREDERICK, Tailor & Draper, 24, Triangle, Clifton, Bristol. *Sol.* Sheppard, Bristol. Feb. 20.
JESS, FRANCIS, Innkeeper, Bell Inn, St. Ann-street, Salisbury. *Sol.* Wilson, Sheffield. March 2.
LOVEDAY, JOHN, Miller, Sheepshead, Leicestershire. *Sol.* Baker, Derby. March 11.
MARSDEN, WILLIAM, Flint Glass Manufacturer, Manchester. *Sol.* Bennett, 16, Kennedy-street, Manchester. Feb. 16.
SMITH, JOHN, Tailor & Beerseller, Coalville, Leicestershire. *Sol.* Billings, Leicester. March 1.
STEPHENS, HENRY, Tailor & Outfitter, Devonport. *Sols.* Nichols & Clark, 9, Cook's-court, Lincoln's-inn. March 4.
WADE, THOMAS, Stationer, 23, Princess-terrace, Caledonian-road, Middlesex. *Sol.* Dean, 27, New Broad street, City. March 8.

Bankrupts.

TUESDAY, March 12, 1861.

BALLINGER, WILLIAM, Maltster, Brewer, & Baker, Swansea, Glamorgan-shire. *Com.* Hill: March 26, and April 23, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Taddy, Bristol. *Pet.* March 9.
BRIDGER, JOHN, Grocer, Cheesemonger, and Tea Dealer, 1, Florence-terrace, New Cross-road, Deptford, Kent. *Com.* Fonblanque: March 19, at 12, and April 17, at 1; Basinghall-street. *Off. Ass.* Graham. *Sol.* Peddel, 82, Cheapside, London. *Pet.* March 8.
BRYCE, ALEXANDER, & JAMES SHUTTLEWOOD, Merchants & Commission Agents, Manchester. *Com.* Jemmett: March 27, and April 17, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester. *Pet.* March 7.
CLENCH, HENRY, Milliner, 8, High-street, Newington-butts, Surrey. *Com.* Fonblanque: March 26, at 12.30, and April 23, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Lawrance, Smith, & Fawdon, 12, Broad-street, London. *Pet.* March 11.
FLEMING, THOMAS, Manufacturer, Halifax, Yorkshire. *Com.* Ayrton: March 20, and April 22, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Holroyde & Cronhelm, Halifax, or Bond & Barwick, Leeds. *Pet.* March 11.
HAINSWORTH, JONATHAN, Plumber & Glazier, Halifax, Yorkshire. *Com.* West: March 22, and April 26, at 11; Leeds. *Off. Ass.* Young. *Sols.* Wavell, Philbrick, & Foster, Halifax, or Bond & Barwick, Leeds. *Pet.* March 8.
HARRISON, SUSAN CATHERINE, Innkeeper, Ipswich, Suffolk. *Com.* Fane: March 22, at 1, and April 19, at 12; Basinghall-street. *Off. Ass.* Cannon. *Sols.* Aldridge & Bromley, Gray's-inn; or J. Orford, jun., Ipswich. *Pet.* March 8.
HOBBS, JAMES RICHARD, Corn Merchant, Ashton-under Lyne. *Com.* Jemmett: April 4 & 18, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Boote, 52, Brown-street, Manchester. *Pet.* March 7.
INGRAM, EDWIN, Grocer & Corn Factor, Bilston, Staffordshire. *Com.* Sanders: March 22, and April 18, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Southall & Nelson, Birmingham. *Pet.* March 9.
PAYNE, JONATHAN, Horse Dealer, 84, Milton-street, Dorset-square, Middlesex. *Com.* Holroyd: March 25, and April 27, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London. *Pet.* March 9.
RAWSON, HARRY, Stationer & Printer, Manchester. *Com.* Jemmett: March 27, and April 18, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester. *Pet.* March 8.
ROSENTHAL, SIMON JONAS, & HENRY SIMON ROSENTHAL, 11, Dale-street, and 3, Newington, Liverpool, Billiard Table Proprietors, and 63, Renshaw-street, Liverpool, Butchers. *Com.* Perry: March 22, and April 11, at 11; Liverpool. *Off. Ass.* Morgan. *Sol.* Thornley, 18, Leicester-buildings, King-street, Liverpool. *Pet.* March 8.
STUTLITGE, JOSEPH, Upholsterer, Scarborough, Yorkshire. *Com.* Ayrton: March 25, and April 22, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Lawrance, Smith, & Fawdon, Broad-street, London; or Bond & Barwick, Leeds. *Pet.* March 2.

FRIDAY, March 15, 1861.

BLOOD, EDWARD, Innkeeper, Leicester. *Com.* Sanders: March 26, and April 25, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Dudley, Leicester. *Pet.* March 14.
BELL, THOMAS, Machine and Roller Maker, Bolton, Lancashire. *Com.* Jemmett: March 26, and April 23, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Richardson & Hinnell, Bolton, and St. Ann's-place, Manchester. *Pet.* March 6.
GREEN, JOHN THOMPSON, Manufacturer of Materials for making Paper, Garratt Mills, Wandsworth, Surrey. *Com.* Fane: March 24, at 2, and April 26, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Preston & Webb, 9, Carey-street, Lincoln's-inn. *Pet.* March 13.
GRIFFIN, EDWARD, Woollen Warehouseman, 28, Basinghall-street, London. *Com.* Goulburn: March 25, and April 24 at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Huson and Parker, 4, King-street, Cheapside, London. *Pet.* March 6, 1861.
LIGHTFOOT, EDWARD, Confectioner, Nantwich. *Com.* Perry: March 27, at 12, and April 17, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Tyrer, Union-buildings, 16, North John-street, Liverpool. *Pet.* March 13.
SAVAGE, THOMAS, Smallware Dealer, Macclesfield. *Com.* Jemmett: April 4 and 18, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* Livett & Beckett, Princess-street, Manchester. *Pet.* March 5.
STEVES, ROBERT COCKBURN, Grocer & Provision Merchant, West Hartlepool, Durham. *Com.* Ellison: March 25, and May 8, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Harle & Co., 20, Southampton-buildings, Chancery-lane, London, and 2, Butcher-bank, Newcastle-upon-Tyne. *Pet.* March 12.
WARD, WILLIAM, Farmer & Cattle Dealer, Boothby Pagnell, Lincolnshire.

Com. Sanders: March 26, and April 18, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Smith, High-street, Nottingham. *Pet.* March 14.
WEATHERILL, HENRY, Coach Builder, Kingston-upon-Hull. *Com.* Ayrton: March 27, and May 1, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Summers, 1, Manor-street, Kingston-upon-Hull. *Pet.* March 6.

BANKRUPTCIES ANNULLED.

FRIDAY, March 15, 1861.

MILLWARD, WILLIAM, Grocer & Provision Dealer, formerly of Birmingham, afterwards of Aston, near Birmingham, and then of Kates-hill, Dudley, Worcestershire. Jan. 24.
PHILLIPS, DAVID, & MORRIS VINESBERG, Importers of Foreign Goods, 1, Guildhall-chambers, Basinghall-street, London (D. Phillipp & Co.) March 12.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, March 12, 1861.

ALLEN, CHARLES, Grocer, Risca, Monmouthshire. April 4, at 11; Bristol.
—ALLEN, VINCENT, Draper, Newport, Monmouthshire. April 4, at 11; Bristol.
—AUBERT, ALFRED, & CHAMPNEY POWELL, Ship and Insurance Brokers, & Wine Merchants, 17, St. Mary-axe, London. April 5, at 1; Basinghall-street.
—BROAD, JAMES, Coach Ironmonger, 149, & 150, Drury-lane, Middlesex. April 3, at 12; Basinghall-street.
—BURROWS, MOSES HINDLE, Worsted Spinner, Wakefield. April 16, at 11; Leeds.
—BURTON, BENJAMIN FLETCHER, Timber Merchant, Nottingham. April 4, at 11; Nottingham.
—COOK, WILLIAM, sen., Farmer, Grazier, & Corn Dealer, Great Harrowden, Northamptonshire. April 4, at 11.30; Basinghall-street.
—HAMMOND, SAMUEL, Flax Spinner, Leeds. April 16, at 11; Leeds.
—HOOPER, CLEEVE WOODWOOD, & HENRY PARKINSON, Leather Factors & Leather Merchants, Seething-lane, London (Hooper & Parkinson). April 4, at 12; Basinghall-street.
—MORE, WILLIAM SIMPSON, Share Broker, Liverpool. April 5, at 11; Liverpool.
—MULLETT, WILLIAM, Grocer & Draper, Brookland, Romney, Kent. April 4, at 11; Basinghall-street.
—PICKETT, AUGUSTUS, Coal Merchant & Cement Manufacturer, 60, Queen's-road, Brighton. April 5, at 12; Basinghall-street.
—PORTER, WILLIAM, Linen Draper & Hatter, 5, Bond-street, Brighton, Sussex. April 4, at 12; Basinghall-street.
—PRINGLE, THOMAS WHITAKER, late Draper & Grocer, Blyth, Nottingham, now Grocer, Hawley-place, Kentish Town, Middlesex. March 25, at 2; Basinghall-street.

FRIDAY, March 15, 1861.

GIBSON, WILLIAM, Draper, Castle Donington, Leicestershire. April 18, at 11; Nottingham.
—HARLAND, JOSEPH, Cloth Merchant, Leeds. April 5, at 11; Leeds.
—HOLLAND, JOSEPH, & SAMUEL HENRY HOLLAND, Printers & Paper Dealers, Birmingham (Joseph Holland & Son). April 24, at 11; Birmingham.
—JENNINGS, JOHN, Printer, Gough-square, Fleet-street. April 5, at 2; Basinghall-street.
—LOTHOUSE, JOHN STEELE, Licensed Victualler, 34, Lime-street, Liverpool. April 11, at 11; Liverpool.
—MARRS, GEORGE THOMAS, Rope Maker, Arbour-place, Fairfields, Stepney, Middlesex. March 27, at 11.30; Basinghall-street.
—MERCALY, JOHN, & JOHN LILLY, Hosiery & Glovers, Birmingham. April 24, at 11; Birmingham.
—PAYNE, THOMAS, Grocer & Tea Dealer, King's-heath, Worcestershire, and of Birmingham. April 24, at 11; Birmingham.
—PENNY, ALFRED, Coal Merchant, 2, Richmond-villas, Holloway, Middlesex, and late of Wharf-road, City-road, and Underwriter, Lloyd's Coffee-house, London. April 10, at 2; Basinghall-street.
—SOMERVILLE, MATHIAS, Joiner & Packing Case Manufacturer, Liverpool. April 5, at 11; Liverpool.
—SULLIVAN, JOHN GILES, Boot and Shoe Manufacturer, 55, Blackman-street, Southwark, Surrey. April 9, at 1; Basinghall-street.
—THO. SMILL, JOHN, Awl Blade Manufacturer, Sheffield (Thornhill Brothers). April 6, at 10; Sheffield.
—WATTS, THOMAS, Sail and Ship's Colours Maker, Bristol. April 11, at 11; Bristol.
—WHITFIELD, HENRY, Linen & Woollen Draper & Lacceman, 111, Tottenham-court-road, Middlesex. March 27, at 11; Basinghall-street.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, FALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,947 10	£6,947 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1859, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Fall-mall.

By order, E. L. BOYD, Resident Director.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

We cannot notice any communication unless accompanied by the name and address of the writer.

*** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, MARCH 23, 1861.

CURRENT TOPICS.

In our Parliamentary report of the discussion upon the Bankruptcy Bill, which took place in the House of Commons on last Monday evening, will be seen what took place upon Sir Richard Bethell's motion to repeal the solicitors' advocacy clause in the Bankrupt Law Consolidation Act, 1849. It is by that enactment that solicitors have the right to appear and plead in courts of bankruptcy without being required to employ counsel. It was thought by many persons, when Sir Richard Bethell gave notice of his intention to move the repeal of this clause, without giving in his notice any intimation of the importance of its provisions, that it was a mere mistake in the number of the section of the Act of Parliament. It was hard to believe that even Sir Richard Bethell had the hardihood to attempt in this covert manner to interfere with the statutory powers and privileges of so large and important a body as the solicitors of England. The sceptics, however, are now left without room for doubt. The Attorney-General moved for, and obtained, a repeal of the clause, observing at the same time, however, that he had no intention to deprive solicitors of any powers or privileges which they now possess; and, therefore, in lieu of the repealed section he proposed a new clause, to be inserted in the present Bill, providing that solicitors may appear and practise in any of the courts of bankruptcy other than the chief court. Fortunately, the Metropolitan and Provincial Law Association had entrusted Mr. Murray with a vigorous petition to the House of Commons, against the repeal of the advocacy clause, and some members of the House were prepared to do battle if occasion required. The explanation of the Attorney-General appears to have been considered altogether satisfactory; and the effect of the new clause, it is assumed, will be exactly what he described it. That this is a mistake, however, is clearly pointed out by Mr. Ford (Messrs. Rogerson & Ford), in a communication from him with which we have been favoured. The repeal of the section in question, says Mr. Ford, "would render it incumbent on creditors and bankrupts to instruct counsel on application for the 'Order of Discharge,' which, under the 163rd clause of the Bill, is substituted for the present 'Certificate of Conformity,' thereby greatly increasing the expense to creditors and bankrupts. The repeal of such section will deprive creditors and bankrupts of the privilege which, under that section, they at present enjoy of being heard by their solicitors on applications for certificates of conformity. Under the existing law, the Commissioners of Bankruptcy adjudicate upon bankrupts' applications for certificates; but under the 163rd clause of the Bankruptcy and Insolvency Bill, every application for an order of discharge which is opposed (and notice of opposition will undoubtedly be given in a majority of cases), is, in the London Court of Bankruptcy, to be heard and decided by the chief judge; and the commissioner who has acted in the prosecution of the bankruptcy is to attend at the hearing as assessor to the chief judge. The Attorney-General proposes that solicitors shall be only heard before commissioners and the chief judge in chambers, but deprives them and suitors of the right of audience on applications for orders of discharge when opposed; so that their privilege does not remain intact. Creditors and bank-

rupts must therefore incur the cost of instructions to and seeing counsel."

It is not too late yet to take action in this matter, and it is one on which the entire body of the profession should bring its strength immediately to bear.

Sir Francis Goldsmid has given notice of his intention to oppose in the House of Commons Lord St. Leonards' Bill on Constructive Notice, and no doubt he will be supported in his opposition by Mr. Malins, who on a former occasion, when the sole clause contained in this Bill was substantially included in Lord St. Leonards' Law of Property Bill, 1858, successfully opposed the enactment of that clause. We have already proved beyond question, that the Bill, if passed as it now stands, so far from abolishing the equitable doctrine of notice, although in terms professing to do so, would, in truth, declare by statutory enactment, what is now the doctrine, and that it would make such declaration in inapt words, and after a most illogical fashion. The true meaning of the Bill, put into proper language, is as follows:—

"The validity of any purchase shall not be impeached by any notice to the purchaser, unless in the opinion of the Court he in the matter of the purchase shall have been guilty of fraud or shall have been wilfully negligent."

But the proposition contained in these words, is, in fact, the present doctrine of the courts of equity, and we are unable to discover any advantage that can be derived from embodying in an Act of Parliament what has been so well defined by judges, and has heretofore received such ample illustration.

Our attention has been called to a circular addressed to country solicitors, on behalf of some anonymous person—a London address, however, and an ostensible name being given as some guarantee of the genuineness of the document. For the edification of our readers we print this curious advertisement, omitting, for obvious reasons, the reference and address which it contains.

"A solicitor, practising in the immediate vicinity of the public offices, has made arrangements for the transaction of a particular branch of agency business, comprising the filing of documents, making searches, stamping deeds, &c., &c. upon such terms as he trusts will meet with the approbation of the profession. On the other side will be found examples of the charges alluded to, and which may be taken as a specimen of those generally adopted. It is hoped this will not be construed as an endeavour to divert from the ordinary channels any of the more legitimate business of the London agent. The idea has originated in the frequent complaint of country practitioners of the want of a *responsible* medium for the transaction of the minor matters of business, without incurring expenses for the same, which are scarcely chargeable to their clients."

	<i>s. d.</i>
Searching for judgments, crown debts, and annuities, including letters.....	3 4
Filing certificates of acknowledgment, including the attendance afterwards for the office copy, and including letters.....	3 4
Filing bills of sale and all similar documents, where one attendance only requisite, including letters.....	2 6
Inrolling deeds, and afterwards obtaining the same enrolled, including letters.....	3
Inserting advertisements in Gazette, or other papers, including letters.....	2 ⁶
Stamping deeds, &c.....	3 4

We have generally abstained from incumbering our columns with the advertisements of sham lawyers, as we always deemed that a contrary course—except where it is required for some special reasons—is worse than useless. Nothing is easier than to pick up such productions, except to reiterate the same vapid common-places about them. None of our readers, however, require any evidence as to the abundance of impostors who seek, in

the guise of "Cheap Jacks," to entrap the unwary; nor do lawyers need to be told, week after week, what great evils result from the practice of these fellows. If, indeed, the unprofessional press could be induced to take up the subject, such advocacy might be expected to produce some good; but no advantage that we can see is likely to accrue from the increased publicity which is given to these fraudulent advertisements in a legal journal, to the comments of which on such a subject any layman who happens to read them will probably attribute not much weight. We have departed from our usual rule on the present occasion, because the question is one which is to be decided by lawyers themselves; and is one in which provincial solicitors are quite as much interested as their metropolitan brethren. We believe that the present charge allowed upon taxation to a country solicitor for searching for judgments, &c., is £1 6s. 8d., of which the regular agency charge is 13s. 4d.; but if the latter is reduced to 3s. 4d., or if, in fact, a solicitor sometimes pays but that amount, is it not most likely that in such instances he would be allowed on taxation only the sum of 6s. 8d. instead of £1 6s. 8d. as at present? The same observation applies to others of the items mentioned in this circular. The state of transition in which the law has been for some years past, and many of the alterations which have been made in it, have no doubt had the immediate effect of reducing the business, or, at all events, the profits of the legal profession. It has also lost much by the encroachments of so-called agents and sham practitioners; but we are satisfied that much worse results would follow from disunion and disloyalty in the profession itself; and repudiating most strongly as we do the allegation that we are more devoted to metropolitan than to provincial interests—which has been persistently made in the desperate hope of propping up an effete legal contemporary—we have no hesitation in saying that nothing but general damage can be the result of the patronage by country solicitors of such scheming and anonymous touters as the author of the circular which we have given above.

A curious miscarriage of justice took place at York assizes last week, under the following circumstances. A man named Hudson, holding a respectable position in life as a woolstapler, at Bradford, Yorkshire, was indicted for perjury committed before the registrar of the Court of Bankruptcy at Leeds. As the prisoner had been, until very recently, a member of the Bradford town council the case excited considerable interest. Of course it became necessary to prove that the oath had been duly taken before the registrar, but all that the prosecution could prove was that it had been taken "before an elderly gentleman without a wig," whereupon the case ignominiously broke down, and the prisoner was acquitted.

Now if the oath was not duly administered by the registrar, it is clear that the business of the Court of Bankruptcy at Leeds is conducted in a slovenly fashion; whereas if it was so administered, and evidence could have been procured of that fact, the case for the prosecution was badly got up. We are informed, however, that the prisoner was duly sworn in the presence of the registrar, that the examination was properly conducted before him, and moreover that abundant evidence of these facts was easily procurable. If this be so, the fault rests with those who conducted the prosecution, or rather with the Treasury, which doles out such miserable allowances to prosecuting attorneys that they are totally unable to do that justice to their cases which might reasonably be expected from them under a more liberal scale of payment. In an important prosecution like the one to which we refer, it would surely not be unreasonable that the attorney should have the assistance of counsel in advising upon the evidence

before the case is launched in court. If, however, he procured such assistance he must have done so out of his own pocket. In fact the fees allowed to him for preparing the brief and attending at the assizes are so ridiculously small that he cannot afford to give in return for them that labour and skill without the exercise of which justice must often be defeated. The consequences of this state of things is most lamentable. Either Hudson was guilty of perjury, or he was not. If he was guilty, a malefactor of very deep dye has escaped punishment; whereas if he was innocent he has been deprived of that opportunity of being tried and acquitted on the merits of the case, without which his acquittal, owing to a mere formal defect in the evidence, can be of little value to an honest man. At the same assizes, Mr. Justice Keating proceeded to sentence on Monday morning a batch of prisoners who had pleaded guilty on Saturday. On the first prisoner being put up his lordship expressed a wish to see the prosecutor with a view to asking some questions, the answers to which might have a bearing on the sentence. Neither attorney, nor prosecutor, nor witnesses, were present. They had all gone home on Saturday night. The same wish was expressed and the same answer returned in another case, whereupon his lordship observed that although he was a great enemy to unnecessary expense, he thought it highly desirable that where the prisoners pleaded guilty, cases should not be considered as concluded until the sentences were passed, as by the absence of all persons connected with the prosecution he was unable to give judgments entirely satisfactory to his own mind for want of adequate information. The sudden flight of prosecutors and witnesses from York is, however, easily accounted for, when we remember that they must live, eat, and sleep there for 24 hours at the rate of 6s., or at all events must pay anything beyond that sum out of their own funds. An instance of the extraordinary tenacity with which the Treasury holds the purse strings was afforded at the same assizes in the case of *Reg. v. Nightingale & Another*. The prisoners were indicted for obtaining money by false pretences, and also for a conspiracy to cheat. On the first charge the prosecution failed, but succeeded in obtaining a conviction on the second. The taxing officer thereupon refused to allow the costs, the prosecutor not being entitled to the costs of an indictment for a conspiracy to cheat, and the charge of false pretences having failed. The learned judge, however, on the circumstances being mentioned to him, ordered the costs of the prosecution to be allowed, on the ground that the prosecutor and witnesses had been bound over before the justices to prosecute and give evidence on a charge of false pretences, and that an indictment for that offence had been duly preferred. We fear from what has been recently said by Sir G. C. Lewis that there is little hope of any early amendment of the present scale of costs; but we shall certainly continue to fulfil that duty which we owe not less to the public than to the profession, by showing the great evils of which the system is the parent.

TAXATION OF SUITORS.—No. VI. COURTS OF JUSTICE—AS BANKERS.

Now, that a royal commission has been appointed to investigate and report upon one of the most important branches of the subject touched upon in these papers, we intend to conclude the series with the present article. In the earlier articles we considered several questions involving both principles and details relating to the imposition of court fees, or, in other words, legal taxes. It is obvious, however, that such fertile topics as legal taxation, its incidence, mode of collection, control and supervision, require for their adequate treatment greater space than we can afford. The same observation applies to the questions glanced at in our

later articles. Apart from the several subjects to which we have just referred, but very closely connected with them, are the purely financial and administrative questions as to the mode of levying law taxes (whether by fees or stamps) and the custody, management and distribution of the money so received, as well as the custody and investment of the very large funds which in the course of litigation are confided to, and become subject to the orders of, our judicial tribunals. The commission which has just been issued by the Crown is confined wholly to the latter branch of the general subject. The commissioners are merely to inquire into the mode of doing business in the office of the Accountant-General of the Court of Chancery, and into the custody and management of its funds. It will not be part of their duty to institute any inquiries into the custody or management of the funds committed to the care of the Common Law Courts, or rather to the care of the private bankers of the masters of those courts. In our last article we showed cause, we think unanswerably, why the scope of the Commission should have been extended so as to embrace the Courts of Common Law; and we promised to furnish some information as to the banking arrangements of the Court of Bankruptcy, the Court for the relief of Insolvent Debtors, and the County Courts. We now proceed to redeem that promise; and, first,

As to the Bankruptcy Court:

All monies arising from each bankrupt's estate are paid to the official assignee of such estate. Each official assignee is permitted to retain out of the several estates whereof he is assignee, a sum not exceeding £5,000, and is required to pay the residue of the monies in his hands monthly into the Bank of England to the credit of the Accountant in Bankruptcy. The amount so paid in during the year 1860 was £868,000, and after deducting from the amount so from time to time paid in, the amount paid out to the creditors, there remained, on the 31st day of December 1860, £1,436,241 stock, invested on the bankruptcy fund account; the interest whereof is appropriated towards defraying the salaries of the officers of the court and other expenses connected therewith. In addition to the above money there was also paid into the Bank of England, to the Chief Registrar's account, during 1860, the sum of £73,382 by the official assignees, and £16,939 by the Commissioners of Inland Revenue, which were appropriated in like manner.

The return of the Accountant in Bankruptcy made to Parliament on the 1st March, 1861, shews that the following were the net balances on 1st January, 1860:—

1 General Account of Bankrupt's Estates.	2 Bankruptcy Fund Account.	3 Unclaimed Dividend Account.	4 Chief Registrar's Account.
£ s. d. 17,691 7 11 Stock. 88,100 0 0 Exchequer Bills. 68,102 7 7 Cash.	£ s. d. 1,436,241 6 3 Stock.	£ s. d. 258 11 9 Cash. 42,150 9 1 Stock.	£ s. d. 17,641 7 11 Cash. 129,745 13 1 Stock.

This return was issued on the same day as the Chancery Accountant-General's return as to the Suitor's Funds for 1860, but does not give even so much information as that imperfect account; indeed, the different accounts kept in bankruptcy appear to be somewhat mystified; and they would no doubt be clearer after they had gone through the filtering of a Royal commission.

As between the Accountant in Bankruptcy and the Bank of England, the latter keep with the former a simple debtor and creditor account, as with any ordinary customer; and at the accountant's office in the Bankruptcy Court a debtor and creditor account is kept of each bankrupt's estate. When a dividend is declared on a bankrupt's estate, an order authorizing the same is made by the Commissioner, which is annexed to a list prepared by the official assignee, showing the amount payable to each creditor. This order and list are sent

to the Accountant in Bankruptcy who issues to each creditor a cheque for his dividend, which is paid in the same office by one of the clerks from the Bank of England, who attends there for the purpose.

The total amount paid into the Bank of England in respect of bankrupts' estates in 1860, was about one million, and the total amount paid out was about the same, and the remuneration paid to the Bank of England was for that year £2,291, exclusive of the profits arising from the balance on the accountant's account at the Bank of England, which on the 1st day of January, 1861, amounted to £106,002 cash.

As to the Insolvent Court:

As this Court will become absorbed in the Court of Bankruptcy on the passing of the Bankruptcy Act, now before Parliament, we have not investigated the existing mode of transacting the financial business of this Court. No return appears to have been made to Parliament during the present session as to the funds arising from business in that Court.

As to the County Courts:

All monies paid into these courts by the suitors, as well as the fees of court collected from the suitors, are paid in cash to the registrars of the different courts, whose accounts are quarterly, or oftener, audited and settled by the treasurers of these courts. They are paid the balance of the various monies received by the Clerks, after allowing the amounts retained and paid by them for the salaries of themselves and the high bailiffs, and also paid to the suitors, and after permitting them to retain sufficient for the current expenditure of the court. The treasurers render their accounts annually to the audit office, where they are examined and audited, and such portion of any surplus in their hands as the Commissioners of the Treasury may direct, is paid to the Paymaster-General. It appears by the judicial statistics for 1859, that the amount of the judgments obtained by plaintiffs in that year was £851,732; and that the fees on proceedings paid by the suitors during that year was £215,623. The treasurer, registrar, and high bailiff, give security for such sum as the Treasury may order, for the due accounting for, and payment of, all monies received by them. The amount paid in 1860 to the treasurers for their salaries, exclusive of travelling expenses was £20,000, the whole whereof it is believed might be saved if the fees were collected by stamps, as in the Court of Probate, and the produce paid into the Exchequer; and if the amount paid into court by the suitors were, instead of being paid to the registrars, paid into one of the money-order-offices attached to the post-office, a security more efficient than the present would thereby be provided, and the services of the treasurers might be wholly dispensed with, and a saving to the public effected of £20,000 a year; but if the very numerous and low amount of the fees in these courts should render the introduction of the system of stamps for collecting the fees inexpedient, or the adoption of the money order system inadvisable, we should hope that the authorities at the Treasury might suggest and establish some system of audit of the registrar's accounts more economical than the present, and equally as effective, and so admit of dispensing with the services of the treasurers, and thereby effect a saving of at least £20,000 a year.

We have now touched upon the financial statistics and arrangements of all the leading courts of this country. At some future, but not distant, time, we hope to be in a position to give information of the same kind about the courts of Ireland and Scotland, as there must be considerable advantage in being able to compare the different systems in the three kingdoms. At all events, unmixed good will result from the revelations which are to be made as to the great variety of methods adopted for the custody and management of court funds, not only as between one kingdom and

another, but as between all the different courts of the same kingdom.

The entire subject is one in which solicitors, as a class above all others are most deeply interested. We think we have shown that good management will enable very great reductions to be made in the amount of court fees. This would be directly beneficial to the suitor, and both directly and indirectly highly serviceable to the profession; while neither has any kind of advantage from the present system of mismanagement. It is, therefore, with pleasure that we acknowledge the very valuable services in reference to this question of the Metropolitan and Provincial Law Association. Since 1848 that body has laboured most usefully on the subject of legal finance, as will be seen in the memorial to the Royal Commissioners which will be found elsewhere in our columns. We earnestly invite the attention of the country solicitors to the general subject of law taxes, and particularly to that phase of it which comes most frequently under their observation in the shape of court fees.

THE REPEAL OF THE TWENTY-NINTH CANON.

An attempt has been recently made by the Convocation of Canterbury to repeal one of the Canons of 1603. Their first step was to petition the Queen, stating that they were desirous that the 29th Canon should be altered or amended, and praying for her royal licence to "make, promulge, and execute" such altered and amended Canon. Upon this petition the licence of the Crown was duly granted, with the proviso that the Canon so to be altered or amended should not be contrary or repugnant "to the doctrines, order, and ceremonies of the Church of England, already established;" and provided also that the Canon should not be of any force, effect, or validity in the law, but only so much thereof, and after such time, as the Queen, under the great seal, should approve and confirm.

The licence having been obtained, it still remained a question whether the proposed alteration, when made, would be of any legal force; the doubt arising not upon the general powers of Convocation itself, but springing out of the particular nature of the desired amendment. Legal opinion was taken; and the points submitted to counsel were twofold: first, whether the portion of the Canon which enacts that no parent shall be admitted to answer as godfather for his own child is *declaratory of the ancient usage and law of the Church of England*; and, second, whether the alteration or repeal when sanctioned by her Majesty, would relieve members of the Church of England from the obligation in regard to sponsors now laid upon them. The opinion of Mr. Archibald Stephens was given separately in November last. In answer to the first question, he considered the prohibitory part of the enactment in the 29th Canon was (using the language of Lord Hardwicke in *Middleton v. Crofts*, 2 Atk. 650) declaratory of the ancient usage and law of the Church of England, received and allowed here, which in that respect and by virtue of such ancient allowance, will bind the laity, and much more the clergy. The *dictum* of Lord Hardwicke is, to the minds of lawyers, an authority in itself, and requires no support; but, in answer to arguments which may be brought forward to disturb that *dictum*, Mr. Stephen prefaces his conclusion with a series of elaborate historical and legal propositions, of which it is impossible to give more than the most general indication here. He states that as early as in the fourth century it was an established custom that a person different from the parent should act as a sponsor in baptism, and that in the sixth century the tenet of a spiritual relationship resulting from the office was found existing in the Church. In Britain, in the seventh century, laws were promulgated forbidding marriage between baptized persons and their sponsors, on the ground of this doctrine of spiritual affinity, and the

prohibition was repealed in various forms, and by different authorities for many succeeding centuries. Finally, it is shown that certain of the reformers, and of the bishops since the reformation, designate the enactment of the Canon as "the ancient custom of the Church." The reply to the second question was as follows:—Mr. Stephen concludes: "Unless an Act of Parliament be obtained, the Convocation of Canterbury cannot alter any of the ancient customs or laws of the realm, by making or putting in execution a new Canon permitting parents to be sponsors for their children. The mere repeal of the 29th Canon by the Convocation of Canterbury, notwithstanding the assent of the Queen, would not release the clergy and laity of that province from the obligation imposed on them by virtue of the ancient custom or law in respect of sponsors." The reasons are mainly twofold; first, that by the Act of Submission (the 25 Hen. 8, c. 19) Convocation is prohibited from enacting any canons that would be *contrary to the customs or laws of England*. If, therefore, the disability of parents to be sponsors is an *ancient custom of the Church*, as contended for above, it is plain that no power to enact a Canon releasing parents from such disability exists in Convocation. Another reason for the above conclusion—an argument which is commonly relied upon as being founded on more modern authority—is this. The rubric is confirmed by the Act of Uniformity, and is in a measure embodied into the statute law. The language in the rubric with regard to sponsorship in baptism is not explicit; but it clearly marks a distinction between parents and sponsors, and Mr. Stephen argues with great weight, and with abundant illustrations, that upon the construction of the rubric, no other conclusion can be drawn than that the words "godfather" and "god-mother," in their legal acceptation, exclude the natural parents. Collateral questions affecting the relations between the Churches of England and Ireland, are also discussed; but they have little bearing on the argument.

The next step taken was to submit the same questions, along with the above highly elaborated opinion, to Sir Fitzroy Kelly, Sir Hugh Cairns, and Mr. Richard Jebb. In a few lines, the joint opinion of these three learned persons confirms the former, and states their view to be that, having regard to the Uniformity Act, the state of the Canon Law, and the ancient usage and law of the Church of England, "any alteration or repeal of the 27th canon, such as is proposed by the Convocation of Canterbury, would not, if sanctioned by her Majesty, have the effect of relieving the members of the Church, lay or clerical, in the province of Canterbury, from the obligation which they think now exists, that a child shall be presented for baptism by sponsors other than its parents."

A party in the Church which looks unfavourably upon what is called "synodical action," takes its stand upon this opinion, and, carrying the matter a step further, asserts that an attempt, made on the part of the Convocation, to induce others to commit an act which is contrary to law, must be unlawful in itself, as well as void and ineffectual.

It is obvious that the view taken by counsel was opposed to the wishes of the clergy assembled in Convocation; and it is, therefore, no matter of surprise to find that they proceeded to act in opposition to the opinion they had obtained. On the 27th of February, the Upper House re-enacted a Canon which varied the existing one by the omission from the title of the words "fathers not to be godfathers in baptism;" and from the body of the Canon the words "No parent shall be urged to be present nor be admitted to answer as godfather for his own child." The speakers who touched upon the legal question were mainly the Bishops of Oxford and London. The contention of the Bishop of Oxford, who submitted the alteration to the House, was to this effect. Upon the question as to the ancient practice of the Church in the first four centuries, the

Bishop admits Mr. Stephen's authority to be a fair one, showing that in the year 400 it was an established custom that a person different from the parents should act as sponsor for a child; but he cites, also, St. Augustine as an authority to prove the ancient custom of the Church to be, that parents should themselves come with the child, and be accompanied by other persons, friends, who were to supply or answer the whole of the service which the Church committed to their charge. The Bishop thus skilfully introduces the idea that presence of parents was in ancient times the important, primary, and necessary feature in baptism, and that of sponsors only subsidiary. This prepares the way for what follows. He deals with the customary law of England thus. He does not deny the custom of the country to have been that persons other than parents should be sponsors; but he affirms that the doctrine sprung out of the Romish dogma of "spiritual affinity" above alluded to. With that principle, argues the Bishop, the English custom rose, and with that it must fall. He then proceeds to say that a statute of the 32 Hen. 8, c. 38: "for marriages to stand, notwithstanding pre-contracts," lays it down in the preamble and enacting part (we cite here from a report in the *Guardian*) that the whole notion of spiritual affinity was the invention of the Pope, invented partly from his vanity, and partly from his love of lucre; and that the statute enacts that this principle and all the statutes founded upon it, should have no force or effect in this realm. A more remarkable reading than this of an Act of Parliament was probably never given. We subjoin the only words which seem in the least degree to touch on the subject, and ask any reader to discover in them, if he can, any reference, express or implied, to the doctrine of "spiritual" affinity as between baptized persons and their sponsors. 32 Hen. 8, c. 38: "An Act for Marriages to stand, notwithstanding Pre-contracts. Whereas, heretofore the usurped power of the Bishop of Rome hath always entangled and troubled the meer jurisdiction and regal power of this realm of England, &c. . . .

"Further also, by reason of other prohibitions than God's law admitteth for their lucre by that Court invented, the dispensations for which they always reserved to themselves, as in kindred or affinity between cousin germanes, and so to fourth and fourth degree, carnal knowledge of any of the same kin, or affinity before in such outward degrees, which else were lawful and be not prohibited by God's law." . . .

The statute then enacts: "That marriage contract and solemnized in the face of the Church, and consummate, &c, shall be lawful, &c., notwithstanding any pre-contracts of matrimony, not consummate with bodily knowledge, and that no reservation or prohibition, God's law except, shall trouble or impeach any marriage without the Levitical degree."

The doctrine of "spiritual affinity" may possibly be no longer part of the teaching of the English Church, but that it was repealed by the above Act of Parliament is, probably, what no lawyer will be found to admit. Such, however, was the Bishop of Oxford's argument. He felt the necessity of proving that the practice of having sponsors other than parents in baptism is not one of the ancient customs of the realm of England, and these are the steps by which he attempted to establish the proof. There was still another difficulty to be met, which was this. If the doctrine of spiritual affinity were thus abolished, how comes it that a canon, grounded, according to the Bishop of Oxford's argument, on the principle of spiritual affinity, still exists? The Bishop answers, it was preserved for a totally different purpose. There was an erroneous doctrine abroad that the elect parent must present the child for baptism as an elect child, and no one but the parents could properly covenant for it. It was to bear witness against this error that the Canon was preserved, even after the Reformation.

The Bishop of London treated the matter in a different way. He said, "Our friend the Prolocutor wishes to drive us into a dilemma, and his dilemma appears to be this. 'Either the statute law of the land allows parents to be godfathers at present, or it forbids it; and you say parents may become sponsors. Your saying so will not give parents any legal power to become sponsors; and if the statute law permits them, what is the use of making any alteration in the Canon?' I think that the whole of the argument, and, like all dilemmas, it is very liable to be retorted, and it may be retorted in this way. Either the statute law of the land allows us to do this or forbids it. If it allows us to do it, we had better certainly remove from our Canons something that prohibits and which is not entitled to be there. If it prohibits it, we are, at all events, not doing anything contrary to the law by, under her Majesty's sanction, considering what is the best thing to do in order that the matter may be finally laid before Parliament for further alteration."

In this spirit the rest of the discussion seems to have followed, for the legal difficulty was not combated by any succeeding speaker.

In the Lower House of Convocation a long discussion took place, and the amended Canon was finally returned to the Upper House, with a request that certain additions should be made to it respecting the answers of godfathers and godmothers in the baptismal service, and respecting the necessity of sponsors having been communicants. But the force of the legal objection, which is certainly supported by high authority, and which goes to the very root of the whole proceeding, seems to have been little felt, or, if felt, to have been disregarded.

We are compelled to hold over until the end of next week an article upon the new law examination at the Law Institution; and also other articles.

The Courts, Appointments, Promotions, Vacancies, &c.

VICE CHANCELLOR'S COURT.

(Vice-Chancellor STUART.)

March 18.—*Accommodation for the Vice-Chancellors in Lincoln's-inn.*—The VICE-CHANCELLOR, in the course of the hearing a cause, holding up as "an exhibit" a volume, the binding of which was so much destroyed that the back of it was off, and addressing Mr. Malins, "as a legislator," said that the room at his chambers in which his books were kept and in which he sat was so low and damp that his library was being destroyed. As a consolation, he had been told that he could purchase the whole of Vesey, jun.'s, reports for 27s., which, by the way, was not a bad test of the low estimation in which that valuable repertory of law was held by the present generation of lawyers. His Honour added that he constantly received written complaints from solicitors of the bad accommodation which was provided for them in his chambers.

Mr. Malins said that he would take an early opportunity of bringing the attention of that branch of the Legislature to which he belonged to the subject of his Honour's complaint. If the society of Lincoln's-inn had been allowed to take the course which it proposed in this matter, good accommodation would by this time have been provided in Lincoln's-inn for the Equity Courts and Vice-Chancellor's chambers. It had been said that the accommodation required would be in existence in another year by the completion of the scheme for the centralization of the law and equity courts at the back of Carey-street. He, however, thought that scheme would not be completed for at least seven years.

The VICE-CHANCELLOR.—More likely 27 years.

HOME CIRCUIT.—LEWES.

The commission was opened in this town on Monday last by Lord Chief Justice Erle, and Mr. Justice Wightman.

NORTHERN CIRCUIT.—YORK.

(Before Mr. Justice HILL.)

March 16.—Dryden v. Taylor.—This was an action for negligence brought against the defendant as an attorney.

The plaintiff, it appeared, is a surgeon at Halifax, and the defendant an attorney at Bradford. The plaintiff employed the defendant to prepare for him proper securities to secure the repayment to him of a loan of £344, lent by him to a person named Mount, who became tenant of a mill belonging to the plaintiff, the money being advanced for the purpose of purchasing proper machinery for the mill. It was agreed that a bill of sale should be executed assigning all the machinery in the mill to the plaintiff as security. The bill of sale, however, was so drawn that it had reference only to the machinery then in the mill, and, also, it was not properly registered. The defendant had also at the same time drawn up an agreement to be signed by the plaintiff and Mount, whereby the plaintiff agreed to demise the machinery in the mill to Mount, he agreeing to pay for it by instalments of £10 a quarter, and to pay interest on the residue of the money advanced, on failure of any one of these quarterly payments the plaintiff to be at liberty to seize the machinery. The effect of this agreement was, so long as the quarterly payments were regularly made, to operate as a defeasance of the bill of sale. Mount getting into difficulties the bill of sale could not be enforced, other creditors seized the machinery, and the plaintiff was without remedy. For this negligence of the defendant, as an attorney, to take proper securities the present action was brought. At the suggestion of his lordship the case was referred to Mr. Bell, the clerk of assize, to say what should be done between the parties as gentlemen, and what compensation ought fairly to be made, an offer which it was said the defendant had already made.

On these terms a juror was withdrawn.

WESTERN CIRCUIT.—TAUNTON.

The commission was opened in this town on the 19th ult., by Mr. Justices Willes.

MIDDLESEX SESSIONS.

March 18.—The March adjourned general sessions of the peace for the county of Middlesex commenced this morning at Clerkenwell, before Mr. Bodkin, the assistant-judge, Mr. Payne, deputy, Mr. Pownall, chairman of the bench, and a large number of the magistrates of the county.

The Queen has been pleased to confer the honour of knighthood upon Colley Harman Scotland, Esq., Chief Justice of Madras.

Parliament and Legislation.

HOUSE OF LORDS.

Friday, March 15.

CHARITABLE USES BILL.

Lord CRANWORTH, in moving the second reading of this Bill, stated it was with some few exceptions similar to that introduced by his lordship last session. By the present Bill he proposed to provide that in future deeds conveying land for charitable purposes need not be indented, and to modify the provision in the Mortmain Act as to revocation or reservation for the benefit of the grantor or donor. The Bill provided that in future no deed for charitable uses should be void by reason of any specified stipulations for the donor's benefit, and also that the conveyance of a copyhold for such uses should not be vitiated for want of a deed. He proposed also to render valid the conveyance of the property by one deed and the declaration of the charity by another, if enrolled.

The LORD CHANCELLOR said he viewed the Bill with but little satisfaction. At the same time he hoped that if it passed it would be the precursor of a great improvement in the law of mortmain among the other amendments of the law.

Lord ABINGER opposed; and

Lord WENSLEYDALE and Lord CHELMSFORD supported the Bill.

The Bill was read a second time.

ADMIRALTY COURT JURISDICTION BILL.

This Bill was read a third time and passed.

Monday, March 18.

LUNACY REGULATION BILL.

The LORD CHANCELLOR moved the second reading of this Bill. It was proposed by the Bill that if it were made out to the satisfaction of the Lord Chancellor, that those persons who had incomes under a fixed sum were lunatic, and if after notice they made no objection, the Lord Chancellor should have the power to dispose of the property as if a commission had issued, and they had been regularly found insane. It was also proposed to make the registrar in lunacy a permanent officer.

The Earl of SHAFTESBURY concurred in the measure.

The Bill was read a second time.

Thursday, March 21.

LAW OF FOREIGN COUNTRIES BILL.

This Bill was read a second time.

CHARITABLE USES BILL.

The report of amendments on this Bill was received.

HOUSE OF COMMONS.

Friday, March 15.

ALLOWANCES TO PROSECUTORS AND WITNESSES.

Colonel SMYTH asked the Home Secretary whether he was prepared to alter the scale of allowances to prosecutors and witnesses at assizes and quarter sessions.

Sir G. C. LEWIS said that though the scale of allowances had been complained of by some counties, the complaint was not at all general, and under the circumstances he did not feel justified in recommending a general increase in them. But he was prepared to bring in a Bill to enable any county that thought the allowance insufficient to make an addition to them out of the county rates.

FUNDS IN THE COURT OF CHANCERY.

Sir H. CAIRNS asked for an explanation on the subject of the funds of the Court of Chancery which amounted to nearly £2,000,000. The Hon. Member, after referring to the recent commission for inquiring into the Accountant-General's office, and commenting upon the commissioners, said that the question was not so much who were upon the commission as who were not upon it. This was the first time when a commission had been appointed to inquire into the Court of Chancery that there were not placed upon it some of those who were most experienced in the working of the court, and responsible for its action—the judges in Chancery. A reason for their exclusion did present itself, which he would mention in order that it might be contradicted if it were not the true reason. Upon the former commission several of the Chancery judges, the Master of the Rolls, Lord Justice Turner, Vice-Chancellors Wood and Stuart were examined, and they all thought it was a most grave and serious matter to deal in any way with the funds of the Court of Chancery, except for the benefit of the suitors, and that it was a question deserving great consideration, and, in their minds, one involving much doubt, whether it was a legitimate course for the Chancellor of the Exchequer or any one to take the money which had always been regarded as the sole property of the suitors. All circumstances seemed to argue that the commission was intended to carry out and establish a foregone conclusion at which the Government had arrived, and in some way to connect the Treasury with the funds of the Court of Chancery. He had heard a rumour that it was the intention of the Chancellor of the Exchequer to propose that some new stock should be created, to be called Chancery stock, and that the funds of the suitors in Chancery should be required to be invested in that stock at a fixed rate of interest. He did not know whether there was any ground for that rumour, but he must say that he could conceive nothing more at variance with the legislation of the last few years than any such scheme. He should be glad to hear from the right hon. gentleman that no such scheme was in contemplation. He desired to ask what were the specific purposes which the commission was intended to work out; next, at what time the commission would commence its sittings; and, lastly, whether the Government would object to do that which had hitherto been an invariable practice, and to advise her Majesty

to add to the commission other names, and especially those of some of the judges of the Court of Chancery, who might be able and willing to give them assistance.

Monday, March 18.

SALE AND TRANSFER OF LANDS.

The ATTORNEY-GENERAL (in answer to Mr. Hopwood) said he hoped to bring in a Bill on this subject shortly before Easter.

BANKRUPTCY AND INSOLVENCY BILL.

The House resolved itself into committee on this Bill.

Clause 197 was agreed to.

Clause 198 was amended so as to run that "a majority in numbers including three-fourths in value" should approve of any trust deed.

Clauses 199 to 206 were also agreed to.

On clause 207 empowering the creditors of deceased debtors to petition the Court for the distribution of the estate of the deceased,

Sir H. CAIRNS said the committee had arrived at what were called the "dead man's clauses." And after stating his reasons why these clauses should be omitted from the Bill, hoped the Attorney-General would see the expediency of omitting them. If not, he should when the proper time arrived deem it to be his duty to take with respect to them the sense of the committee.

These clauses were also opposed by Mr. MALINS, Mr. ROLT and other members. After some discussion the objections were waived upon the understanding that the question whether the clauses should be retained or omitted, and should be determined on the report, the restriction of their operation to debtors who were traders at the time of their death being expunged.

On schedule G. being read, which comprises a list of the Acts and parts of Acts proposed to be repealed by the Bill,

Mr. MOFFATT, observed that among the enactments proposed to be repealed was the 247th section of the Consolidated Bankrupt Act, which empowers every solicitor duly admitted as a solicitor of the Court of Bankruptcy to appear and plead in any proceedings in the court without being required to employ counsel. He wished to ask if the hon. and learned gentleman was in a position to give the committee a statement of his reasons for repealing this clause. The effect of the repeal would be to withdraw from solicitors the right which they now possessed of practising as advocates in a class of business with which they were even more competent to deal than the gentlemen of the long robe.

Mr. MURRAY said that it was proposed by this schedule wholly to repeal the 247th section. The hon. and learned gentleman had not given any notice of his intentions in this respect; but he (Mr. Murray) held in his hand a petition on the subject from the chairman and members of the Metropolitan and Provincial Law Association.

The ATTORNEY-GENERAL interposing said: If the hon. and learned member will permit me, perhaps I had better state to the committee the course I am about to take, and that will relieve the committee from the necessity of hearing the petition read. It is not in the least my intention to deprive solicitors of any powers which they now possess, or of any privileges which they have always held. I mean as far as the present Bill is concerned, that those powers and privileges shall remain intact. But I have been obliged to make an alteration in the law in consequence of the establishment of a chief court in bankruptcy, to be presided over by a chief judge, and I am sure that solicitors would never for one moment propose to practise there. The following is the new clause which I propose to substitute for that which is to be repealed. "Every solicitor of the High Court of Chancery, now or hereafter admitted as a solicitor of the Court of Bankruptcy, may practise as such solicitor in the said court, or in any district court, and as to all matters before the Commissioners or in chambers may appear and plead, without being required to employ counsel; and in case any person not being such solicitor shall practise in the court as a solicitor, he shall be deemed guilty of a contempt of court, and be liable to all the penalties incident thereto."

Mr. MURRAY expressed himself satisfied. He thought that

clause would meet every possible requirement on the part of the solicitors.

Most of the other clauses in the Bill were agreed to, and the committee then considered certain new clauses relating to salaries to official assignees and others, and the Bill then passed through committee.

CONSTRUCTIVE NOTICE AMENDMENT BILL.

This Bill was read a second time.

Tuesday, March 19.

RECOVERY OF DEBTS BILL.

This Bill was read a second time.

Wednesday, March 20.

PUBLIC CHARITIES.

Mr. HARDCASTLE, in moving the second reading of the Public Charities Bill, stated that its main object was to provide a more convenient and less expensive mode of appointing trustees of public charities. Instead of the present methods, the Bill enacted that when any vacancy occurred in the trust of a charity the vacancy shall be filled up by election; a certificate of that election shall be drawn up by the chairman, and attested by two witnesses within three months; this certificate shall be presented to the judge of the county court of the district, and within one month thereafter the judge shall give a certificate as a confirmation of the election. Having noticed some of the inconveniences of the present modes of appointment, and explained the minor provisions of the Bill, he moved the second reading.

The ATTORNEY-GENERAL said that great care was requisite in dealing with a subject of this kind, or they might augment inconveniences instead of diminishing them. Giving every credit to the hon. gentleman for his intention in proposing this measure, he could not agree with any one provision in it. In the first place, in cases where a trustee might be elected, the Bill provided that the certificate of such election should be drawn up by the chairman of the meeting, who was required to swear to all the particulars contained in it. He would be a very bold chairman who would do that. Then the certificate of election was to be lodged with the judge of the county court, who was thereon to issue another certificate in confirmation of the election; this certificate, when signed by the judge, and sealed with the seal of the Court and duly registered, was, by the Bill, to be thenceforth received, in the absence of any evidence to the contrary, as full and conclusive evidence of the truth of all the facts, matters, and things respecting the charity contained in such certificate. Now, all facts regarding the title or the transmission of the title of the property of a trust required the utmost caution; and he thought the existing law had amply provided against such difficulties by the appointment of official trustees for public charities; and that provision of the existing law embraced every description of charity. The machinery of that law was of the simplest kind; the official trustees were made the legal custodes of the property of a trust, and the necessity for a continual conveyance and reconveyance of the estate was obviated. By investing the estate of a charity in these official trustees the evils complained of were avoided. But by the present Bill a little knot of men might come together and elect a person quite unqualified as a trustee, and the judge of the county court, who could have no information on the matter, except from the declaration of the chairman of the meeting, must confirm the election; and the certificate of the judge, who could know nothing, would become, not only the evidence of the qualification of the trustee, but of the ownership of the trust property. The present law did not require this kind of interference; he, therefore, could not consent to the second reading of this Bill.

Mr. HARDCASTLE, in consequence of the opposition of the Attorney-General, withdrew the motion.

Mr. HENLEY felt obliged to the Attorney-General for the clear manner in which he had pointed out the objection to the measure.

STIPENDIARY MAGISTRATES.

Mr. SHERIDAN moved for leave to bring in a Bill to enable cities, towns, and boroughs of 25,000 inhabitants and upwards to facilitate the appointment of stipendiary magistrates.

Leave given and Bill read a first time.

Thursday, March 21.

BANKRUPTCY AND INSOLVENCY BILL (STAMP DUTY).

The House resolved into committee on this subject.

The ATTORNEY-GENERAL moved the following resolution:—

"That, in addition to the ordinary stamp duty, there shall be charged an *ad valorem* stamp duty of 7s. upon every £100 of property comprised in every trust or other deed or instrument required to be registered by any Act of the present session for amending the law relating to bankruptcy and insolvency in England."

The resolution was, after some discussion, agreed to.

The House then resumed the consideration of the Bill as amended, and

An important amendment was made in the 82nd clause to the effect that before an adjudication in bankruptcy can be made against a non-trader debtor, he shall be served personally with a copy of the petition for adjudication unless the Court shall be satisfied that every reasonable effort had been made to effect personal service without avail when substituted service may be made under certain conditions.

On the motion of Mr. MALINS the 101st clause was struck out.

Clauses 207 to 218 (the Dead Men's Clauses) were, on the motion of Sir H. Cairns, struck out.

On the motion of the ATTORNEY-GENERAL the Bill was re-committed, when further amendments were made and ordered to be reported.

ADMIRALTY JURISDICTION BILL.

This Bill was read a second time.

Friday, March 22.

BANKRUPTCY AND INSOLVENCY BILL (STAMP DUTY).

The report of the committee on the resolution relative to the stamp duty was brought up.

After some observations from Mr. Crawford,

The ATTORNEY-GENERAL said he would move in committee the substitution of 5s. for 7s. upon every £100, as the latter amount was introduced by mistake.

The report was then agreed to.

BANKRUPTCY AND INSOLVENCY BILL.

The house then went into committee on this Bill, and it was ordered to be printed and read a third time on the 8th proximo.

The house then resumed.

PENDING MEASURES OF LEGISLATION.

CHARITABLE USES BILL.

This Bill has been amended in committee in the House of Lords. Its provisions are as follows:—

1. No future deed or assurance for charitable uses to be void by reason of not being indented, or of specified stipulations for donor's benefit, or (as to copyholds) for want of deed.

2. Where charitable uses of any future deed or assurance are declared by any separate or other deed, the enrolment of such other deed to be requisite, and such deed to be void unless enrolled within six months.

3. No past deed or assurance for charitable uses upon valuable consideration shall be void if enrolled in chancery within twelve calendar months after passing of Act.

4. Where charitable uses of any past deed or assurance upon valuable consideration not enrolled are declared by any other deed, the enrolment of such other deed shall be sufficient. Where neither is enrolled, the enrolment of such other deed to be requisite, and if not enrolled within twelve calendar months after passing of this Act to be void.

5. Act not to invalidate certain deeds, nor to extend to deeds already avoided, or to pending suits. No deed, &c., thirty years old, nor any past deed where acknowledgment by the grantor cannot be obtained within twelve calendar months after the passing of the Act shall require acknowledgment prior to enrolment.

6. Act not to extend to Scotland or Ireland; nor to prejudice the two universities, or the colleges of Eton, Winchester, or Westminster.

Recent Decisions.

EQUITY.

EXECUTOR'S RIGHT TO INDEMNITY IN RESPECT OF TESTATOR'S LEASEHOLDS.

Bunting v. Marriott, M. R., 9 W. R. 264; *Smith v. Smith*, V. C. K., 9 W. R. 406.

In the case of *Garratt v. Lancefield* (2 Jur. N. S. 177), Vice-Chancellor Kindersley laid down several rules as to the

right of an executor to indemnity in respect of his liability to the rent and covenants of leases held by the testator. He said that this being a continuing liability, the executor was entitled to indemnity out of the whole estate, whether the leaseholds had been specifically bequeathed, or formed part of the residue. If the specifically bequeathed leaseholds were themselves a sufficient indemnity, or if the specific legatee could give a sufficient indemnity, that would exonerate the rest of the property. But if the leasehold estate so specifically bequeathed was not sufficient, and the specific legatee himself would not, or could not, give sufficient indemnity, the specific bequest must be retained by way of indemnity; and if that was not sufficient, resort must be had to the general estate. But where the executor had unconditionally assented to a specific bequest of leaseholds, he had thereby deprived himself of the right of coming upon those specific leaseholds, and *a fortiori* of the right of coming upon the general estate, which could only stand behind the particular bequest. Even where the Court itself had directed parting with the property, whether by sale or by underlease, still the liability remained upon the executor, and his right to indemnity stood upon the same footing.

About a year after this case came that of *Waller v. Barrett*, before the Master of the Rolls (24 Beav. 413; s. c. 27 L. J., N. S., Ch. 214), in which a different view from that of Vice-Chancellor Kindersley was enunciated with great distinctness. In that case the leasehold property of the testator had been sold under an order made in the cause. The chief clerk had certified that the covenants of the purchasers, with a bond from the persons beneficially entitled to the testator's personal estate, would be a sufficient indemnity against any contingent liabilities under the covenants. The Master of the Rolls held, in the first place, upon the facts of the case before him, that it was obviously for the interest of the ground landlord to proceed by ejectment against the person in possession, rather than by action upon the covenant; and he thought, therefore, that the proposed indemnity was sufficient. He then went on to show, from the authorities, that in the case of an existing debt, the executor is perfectly exonerated if he brings all the facts before the Court, and pays away the assets under its direction, and he added, "I am at a loss to conceive on what principle a debt which may arise hereafter, but which is not now existing, is to be treated on a different footing from an existing debt." After noticing the ancient practice of obliging legatees to give security to refund in case of the discovery of further debts, and observing that the same principle governed these cases of apprehended future liabilities on covenants in leases, he said, "it is called an indemnity to the executor, but if he has brought the facts before the Court I apprehend his indemnity is complete and perfect, so far as he is concerned, as he acts under the direction of the Court." According to the Master of the Rolls, the Court acts on the same principle with respect to non-existing debts which may hereafter arise, as it would in the case of existing debts not proved. "The indemnity given is only for the sake of effecting a security, in case the Court sees a reasonable probability that a creditor may afterwards come forward who is not now able to establish his case."

In the recent case of *Smith v. Smith*, Vice-Chancellor Kindersley appears to yield his former opinion to that of the Master of the Rolls. "Supposing there had been no dealing with the estate, were the executors entitled to any and what indemnity?" Following previous decisions, his Honour had formerly held that executors had such right; "but he now concurred with the Master of the Rolls, that where an executor fairly represented everything to the Court, the decree directing him to deal with the property must operate as an indemnity to him." The executor, therefore, did not need a pecuniary indemnity for his own protection; and the question was, whether such an indemnity ought to be given for the benefit of the persons who might take advantage of a breach of covenant? It appeared to his Honour "that the Court had in fact arrived at that point that the whole doctrine was set aside." But, supposing it still to subsist, a part of the doctrine was, that an executor by assenting to a specific bequest of leaseholds, lost his right to insist upon an indemnity, whether for his own benefit or for the benefit of the covenantor. Now, in the present case, the leaseholds were not specifically bequeathed, but they were given to trustees, who were also executors, upon certain trusts. His Honour held that when the executors as executors assigned to the trustees as trustees, which they had done, the effect was the same as that of assent to a specific legacy. The executors, therefore, were no longer in a position to claim indemnity; and even if

they had been, the Vice-Chancellor appeared to think that he would have been bound to reject their claim.

Such a case as that of *Waller v. Barrett* would now of course be governed by the Law of Property Amendment Act, 22 & 23 Vict. c. 35, s. 27, which provides that where an executor, liable as such to the covenants of a lease granted to his testator, shall have satisfied all liabilities already accrued thereunder, and shall have set apart a fund to answer any future claim in respect of any fixed sum covenanted to be laid out on the property, and shall have assigned the lease to a purchaser thereof, he shall be at liberty to distribute the residue, without appropriating any part thereof to meet any future liability under the said lease; and the executor so distributing the residue shall not, after having assigned the said lease, be personally liable in respect of any subsequent claim thereunder. But inasmuch as this enactment only extends to cases where the executor "has assigned the lease to a purchaser thereof," all cases of specific or residuary bequests of leaseholds appear to be left under the old law. In reference to such cases, the argument of the Master of the Rolls, that an executor is sufficiently indemnified if he acts under the order of the Court, is of quite as much importance now as on the day it was delivered. We understand Vice-Chancellor Kindersley now to adopt this argument, and to withdraw the opposite opinion which he had expressed in *Garratt v. Lancefield*. But when he goes on to say that the whole of this doctrine as to providing indemnities, whether for the benefit of the executor or of the covenantor, is set aside, we feel some doubt whether there is authority to support so broad a statement. Certainly the Master of the Rolls did not go so far in *Waller v. Barrett*. It is quite true that in *King v. Mallcott*, 9 Hare 692, Vice-Chancellor Wigram dismissed a claim by a lessor seeking to have an indemnity fund provided for him; so that it seems to come to this, that the executor, acting under the authority of the Court, does not want indemnity, and if the lessor asks for it he will not get it. Nevertheless, some attention may still be due to the words of Sir James Wigram in *Fletcher v. Stevenson*, 3 Hare 360:—"In considering what degree of protection is due to the absent covenantor, I am bound to consider whether the Court, taking the fund out of the hands of the executor, can do less than it would expect the executor to do, if the fund remained in his hands." If such considerations as here indicated still deserve attention, it seems premature to say that the whole doctrine founded on them has been set aside.

In the case of *Bunting v. Marriott* a petition was presented by residuary legatees, for the payment out of court of a fund which had, by an order dated 16th of April, 1857, been set apart to indemnify the executor in respect of his testator's leaseholds, which had been assigned to purchasers. The Master of the Rolls admitted that this case was within the Law of Property Amendment Act; but he refused to part with the fund without the consent of the ground landlord. Adhering to previously-expressed opinions, he said that such a fund was not set apart for the indemnity of the executor, because the order of the Court was an indemnity to him, but for the benefit of persons who might have claims on the estate; and, therefore, these persons must have notice before the fund could be parted with. His Honour "did not think that the meaning of the Act was to enable the parties in all cases like the present, where an indemnity fund had been set apart, to come and ask to have that indemnity fund paid out of court."

In the case of *Dodson v. Sammel* (8 W. R. 252), Vice-Chancellor Kindersley held that the Act did not apply to an indemnity fund created before the passing of the Act, nor even to a liability existing before it passed. He admitted in *Smith v. Smith*, that he had been wrong in thus narrowing the operation of the Act. It is remarkable that in *Dodson v. Sammel*, the leaseholds had not been assigned to a purchaser, but to the residuary legatee, and, therefore, the case did not come within the scope of the Act. Thus, it would seem that the decision in that case was right, although it was put on a wrong ground.

COMMON LAW.

MASTER AND SERVANTS ACT (4 GEO. 4, C. 34)—TO WHAT EMPLOYMENTS IT APPLIES.

Davies v. Berwick, Q. B., 9 W. R. 334.

This was a case for the opinion of the Court as to the validity of a conviction under 4 Geo. 4, c. 34. The 3rd section of that Act enacts, among other things, that if any "servant in husbandry, or any artificer, calico printer, handicraftsman, miner, collier, keelman, pitman, glassman, potter, labourer, or

other person," shall, after entering into service, neglect to fulfil his contract in that behalf, or be guilty of any other misconduct or misdemeanour in the execution thereof, he may be convicted before a magistrate and punished as the Act sets forth. In reference to this provision there are a variety of decisions in the books, as to what species of employments fall within one or other of the several classes specified as above. Thus it has been held (though, perhaps, an express decision upon that point was hardly required, the general rules for the construction of statutes being borne in mind), that the words "other person" concluding the list, must be taken to refer to some business analogous to those previously enumerated (*Ex parte Ormrod*, 1 D. & L. 825); though, in the same case, it was also held that in order to justify a committal it is sufficient if an employment and service be mentioned in the warrant such as comes under the provision, without stating under what class of employments mentioned there it came. It has also been settled that domestic servants are not within this Act any more than they are within a previous Act on the subject (5 Eliz. c. 4), from which they are expressly excluded (*Kitchen v. Shaw*, 6 A. & E. 729). Though, on the other hand, in one of the most recent of the cases on the Masters and Servants Act which turned upon the kinds of employment coming under the provision, it was held that a contract between a journeyman tailor and his employer, though a "tailor" is not mentioned in the Act, is yet within its equity (*Ex parte Gordon*, 25 L. J., M. C., 12). The main ground of that decision was, that the person convicted had contracted to work on the premises of his employer, and for him only, until the work he had undertaken was done; and it seems, perhaps, a little difficult to distinguish from this last case the present one. For here a man was engaged to work upon a farm, his duty being to keep the accounts, to weigh out food for the cattle, to lend a hand to anything, and in particular to carry out the orders of his master; and yet it was held that such employment did not come within the Act—for that, on the one hand, the person convicted was not a mere "servant in husbandry" (but rather a steward); nor, on the other, did he fulfil the duties of any of the particular kinds of "artificers" specified in the Act.

LAW OF ARBITRATION—FIXING FEE IN THE AWARD, EFFECT OF.

In the matter of an Arbitration between Parkinson and Smith, B. C., 9 W. R. 340.

What is the effect of an award containing a direction that a specific sum of money be paid for the fees incident to the arbitration? Such is the question discussed in the present case, but with no very useful result, as far as the decision itself is concerned; for it avoids the main question, and serves chiefly to expose a curious contrariety of opinions on certain points between the authorities.

The question resolves itself into these considerations—1. Does the insertion of such a direction invalidate the award? 2. If not, does it affect the award in any other way?

As to the first of these points, it was held in *Re Combs* (4 Exch. 839), that in the absence of a specific power to that effect contained in the submission, the arbitration fees cannot form part of the award; though, in *Threlfall v. Fanshawe* (19 L. J., Q. B., 334), it was held, notwithstanding this ruling, that the arbitrator might name his costs in the award. But this last case was the decision of a single judge only sitting in the Bail Court, and is at variance with the views of the full Court in the subsequent case of *Fernley v. Branson* (20 L. J., Q. B., 178), where it was not only held that the ordinary practice of abstaining from naming in the award itself the precise fee which the maker of it is to receive, is the correct one; but that where one of the parties, in order to obtain possession of the award, is obliged to pay an exorbitant fee named in the award, he may recover back the excess as money had and received to his use by the arbitrator.

Moreover, in *Roberts v. Eberhardt* (3 C. B., N. S., 482), the latest case on the subject, the law, as laid down by the Court of Exchequer in *Re Combs*, appears to have been taken for granted by most of the judges, and is expressly recognised by several—among others, by Mr. Justice Wightman. The balance of authorities, therefore, is clearly greatly in favour of its being improper to name the fee in the award itself (though it may be remarked that Mr. Justice Blackburn, in *Fernley v. Branson*, intimated his adherence to the contrary principle, on which *Threlfall v. Fanshawe* was decided); but, supposing it to be improper, does the direction invalidate the rest of the award? Clearly not; according to the judgment of some of the judges in *Roberts v. Eberhardt* (see in particular, per Wightman, J., p. 521); and the opinion of Blackburn, J., in the present case,

commenting upon *Strutt v. Rogers* (7 Taunt. 212), is to the same effect.

It results, therefore, that an award is probably not invalidated by a direction therein contained concerning the arbitrator's fees; but, on the other hand, it seems that the Courts will not enforce such an award by rule in the exercise of their summary jurisdiction. They will leave the party seeking to enforce it, to his remedy by action. In the present case they contented themselves with discharging a rule nisi, which had been obtained to enforce the offending award—thus leaving the question of its validity or invalidity, by reason of such blemish, still, to a certain extent, an open one.

PRACTICE—SECURITY FOR COSTS—FOREIGN PLAINTIFF.

Nylander v. Barnes, Exch., 9 W. R. 339.

The general practice as to when a litigant will be compelled to give to the opposite party security for costs, is clear enough. If the plaintiff resides out of the jurisdiction of the court, or if a nominal plaintiff can be shown to be in extreme poverty, security will be ordered on the application of the defendant. But the courts will not interfere in this way on behalf of the plaintiff and make the defendant give security for the costs of the proceedings should he be unsuccessful. The question, however, which has usually arisen in these cases, is what facts are sufficient to establish that the plaintiff is "out of the jurisdiction;" for it is not every absence from the kingdom which will be a good foundation for the application. It must be shown that the circumstances of the case are such that a speedy return cannot reasonably be anticipated; and on this ground it was held in one case that a foreigner, captain of a ship, which was in the habit of plying between ports of this country could not be ordered to find security (*Nelson v. Ogle*, 2 Taunt. 253). It has indeed been suggested that the proper test is whether the party intends to be absent from the jurisdiction so long that he will not be ready to be apprehended at the time when execution may be taken out in the regular course of proceedings (See Lush's Pr. 2nd ed., p. 696). But in the present case (which much resembled *Nelson v. Ogle*, except that the ship as well as the master was foreign, which is left uncertain in the report of that case) it was decided that the plaintiff must find security on the more general ground that he was a foreigner not domiciled in this country, but domiciled rather in his ship and the foreign port to which that ship belonged. The court added some observations as to the extreme convenience of a uniform rule of practice in these and similar cases: and it may be remarked that henceforward the case of *Nelson v. Ogle* cannot be cited with any advantage; for though some attempt was made to reconcile it with the present decision on the ground that the ship did not appear to be a foreign one, it was replied with great force that by the then navigation laws a foreigner could not be master of a *British ship*, and that, therefore, there was every reason to presume that the ship of the plaintiff Nelson was foreign as well as himself.

Correspondence.

THE COMMON LAW CHAMBERS.

I read in your columns during last long vacation an admirably sketched scheme for the amendment of the procedure at the Common Law Chambers. Why does not the Incorporated Law Society try to carry it out? The present system is a monstrous nuisance, which ought to be abated. Nothing can be more unlike judicial tribunals than these dens, and nothing can be more removed from the dignity or decency necessary to the due administration of justice than the scenes which are commonly to be witnessed there.

A SUFFERER.

LEGAL EDUCATION.

I am a copying clerk, who has been with his master 12 years. I have not neglected any opportunity of improvement, and my master has just offered me my articles. But I do not know Greek or German, and therefore I am told I cannot avail myself of his kind offer. A young gentleman fresh from school, who knows both, is about to be articulated. I know more law than he does, but I do not appear on that account to be so eligible to be admitted an attorney as that lucky youth. Is not this rather hard?

W. P. B.

The popular fallacy (as I venture to call it) of the present day in the legal world is the necessity of a classical education. A great many resolutely shut their eyes to the fact that hardly any articulated clerks now pay a premium. The day for that is gone by. Clerks now-a-days often get a salary. Can we therefore reasonably expect a knowledge of "Xenophon's Anabasis" "Schiller's Revolt of the Netherlands" &c., as proposed by the committee of the Incorporated Law Society in their report of the 12th February, as to which the opinion of the members has been requested? If we are to have such an absurdity as a classical education, surely it ought to be reduced to a minimum. Do pray, before it is too late, try to stop the ridiculous proceedings of gentlemen so utterly unacquainted with the true interests of the profession. Do they mean that there should be no clerks at all in future? B.

REVERSIONARY LEGACIES — PRACTICE AS TO SERVING EXECUTORS WITH NOTICE OF ASSIGNMENT.

Would any of your readers kindly state whether it is the usual practice of the profession to serve notices of assignment of reversionary legacies on those of the executors who have not proved the will, but to whom power to come in and prove is reserved. I have usually given notice to only the executors who have proved, but it is just possible that such a notice may be practically useless and unavailing to prevent the assignor obtaining payment or possession of the legacy from an executor taking probate after the death, or going abroad, of the executor to whom I gave my notice;—as such subsequently proving executor may have had no communication with his predecessor, nor possession of his papers, and would, I presume, be justified in paying the legacy to the assignor himself, whose receipt would be an effectual discharge, if the assignee, from not being aware of the falling into possession of the reversion, failed promptly to come forward to claim it. On the other hand, it is often troublesome, if not difficult, to trace the non-proving executors to whom power is reserved; and it would be very inconvenient for those parties themselves to be troubled with, and to have to understand and take care of, notices relating to an estate in which they suppose they have no concern. The difficulty, however, which I most strongly feel is the state and extent of the solicitor's liability to his client in such cases. Is the omission to serve notice on the non-proving executors such culpable negligence as to render him liable to his client, the assignee, in case the latter loses the fruits of his purchase or mortgage by reason of his solicitor's omission to give notice to a non-proving executor? In the event of a loss, the client would probably contend that, as the will disclosed the fact of there being other executors beyond those who have proved, and as the solicitor must be presumed to know the possible consequences of failure to affect them with notice, he ought to trace and serve them; notwithstanding the practical inutility and unnecessary expense of such a course in nine cases out of ten.

Possibly the usage of the profession might be to some extent regarded on the question of the solicitor's liability.

A SOLICITOR.

THE BANK OF ENGLAND AND IRISH PROBATES.

It occurs to me that you will not be unwilling to afford a small space in the *Solicitors' Journal* to bring before the profession generally what I conceive to be an arbitrary act on the part of the Bank of England as against executors acting under Irish probates.

By 20 & 21 Vict. c. 79, s. 95, it is enacted, that from and after the period at which this Act shall come into operation, when any probate or letters of administration to be granted by the Court of Probate in Ireland shall be produced to and a copy thereof deposited with the Registrars of the Court of Probate in England, such probate or letters of administration shall be sealed with the seal of the last mentioned court; and being duly stamped, shall be of the like force and effect, and have the same operation in England as if it had been originally granted by the Court of Probate in England. To obtain the seal of the Court of Probate in England to an Irish grant the registrars of the court require a certificate from the Inland Revenue that the full duty has been paid in the grant to cover the English as well as Irish property. In order to obtain such certificate, the Inland Revenue authorities require an affidavit from the executor showing the value of the Irish property, and of what it consists, and also the value of the English property, and its particulars. If the full duty has

been paid on the entire property, and such duty is duly impressed in the grant, the Inland Revenue authorities then transmit a certificate to the registrars of the Court of Probate to that effect, which is deemed sufficient for the Court of Probate to affix its seal to the Irish grant. The grant, with the seal of the Court of Probate attached, is to all intents and purposes, an English grant or probate, and it is adopted as such by all her Majesty's courts of record, bodies corporate, bankers, railway companies, &c., but not by the Bank of England till after the Bank authorities are satisfied that the full duty has been paid to cover both Irish and English property, and it is in regard to this unnecessary and uncalled for interference on the part of the Bank of England that I have to complain and to call attention.

Having had occasion the other day to procure the seal of the Court of Probate in England to an Irish grant for the purpose of obtaining a transfer of some stock standing in the name of a testator in the books of the Bank of England, into the names of the executors, I took the Irish grant with the seal of the Court of Probate attached to the Will Office at the Bank and left it for registration in the usual way, claiming a certain amount of stock. After the lapse of two days I called for the probate, when I was informed that the claim was correct, but that before the transfer could be made the Bank required a certified office copy of the certificate from the Inland Revenue, filed at the principal registry of the Court of Probate, in order to satisfy the Bank that the proper duty had been paid on the English as well as the Irish property. I reflected for a short time and became convinced that the Bank was not justified in requiring such certificate, and that the Act of Parliament authorising the affixing of the English seal to an Irish probate, nor any other Act of Parliament, did not require the Bank of England to look after the revenue (unless, indeed, the Bank had been called upon to transfer a larger amount of stock than was warranted by the duty impressed on the probate); and I accordingly declined to procure such certificate, and intimated that the executors would hold the Bank responsible for any loss that might arise by reason of the non-transfer of the stock. I was then desired to see the chief accountant of the Bank on the subject; and that gentleman, after hearing my objection, referred me to Mr. Freshfield, the solicitor to the Bank; but I was unable to get an interview with him, and the matter stood over a few days for Mr. Freshfield to advise the Bank thereon. I believe that Mr. Freshfield immediately put himself in communication with the authorities of the Inland Revenue, who reported to him what was required by them before a certificate was issued to the registrar of the Court of Probate. I afterwards saw the chief accountant, who informed me that Mr. Freshfield had reported to the Bank, and advised that the certificate could not be dispensed with, and, therefore, unless such certificate was obtained, the transfer of the stock would not be made to the executors. Under these circumstances, and particularly as the probate was required in Ireland, and the fund to be dealt with, I had no alternative but to procure a certified office copy of the certificate from the principal registry of the Court of Probate, and for which I paid 6s.; and I need not say that for attendances to bespeak the office copy and afterwards calling for, and lodging it at the Bank of England entails an unnecessary expense on executors; and I submit that it is most unreasonable of the Bank to subject any party to this expense, particularly when the Bank authorities are fully aware of the means adopted by the Inland Revenue itself, to protect itself against imposition; and the Bank authorities are equally well aware of the means adopted by the registrar of the Court of Probate to avoid imposition and to justify them in affixing the seal of that honourable court to the Irish grant. Upon the knowledge of these facts, I say it is unjustifiable of the Bank to drive parties to this expense and trouble. I must confess I cannot understand why the Bank of England do not require a certificate that the full duty has been paid on an English probate, if it be necessary to do so upon a probate obtained in Ireland with the English seal affixed.

I shall be glad if any of your readers, or even Mr. Freshfield himself, can clearly point out under what Act of Parliament, or under what circumstances, the Bank can incur any responsibility by waiving this certified office copy certificate, and thereby adopting the seal of the Court of Probate attached to an Irish grant, equal and as effective to all intents and purposes as an English probate.

J. B.

19th March.

THE NEW LAW LIST.

SIR,—On referring to the *Law List* just published I find

that my name is improperly inserted as "Yew." This will certainly cause me serious inconvenience, and may do me great injury. I have complained at the publishers, who lay the blame at Somerset House.

Is there any remedy in such a case? By bringing this before your readers you will greatly oblige,

Yours obediently,

THOMAS YEO.

Erskine-chambers, 36, Lincoln's-inn-fields,
London, W.C. March 21.

Ireland.

ADMINISTRATION OF CRIMINAL JUSTICE.

At the monthly meeting of the Dublin "Statistical Society" on Monday last, some points connected with the administration of criminal justice ably introduced in a paper by Mr. R. W. McDonnell, barrister-at-law, came under discussion, in such a manner as to show that the Irish method of conducting prosecutions, although far in advance of that in England, is still far from having reached perfection. Some day or other, after the fifteen or twenty years of deliberation considered necessary in England before any extensive improvement in the law can be effected, prosecutions will, doubtless, be no longer left to private enterprise, but will be conducted by the responsible agents of the Crown. In the meantime, the experiment has been for some time tried here not without success; and the imperfections at which we are about to glance are such as may be readily corrected. It is hardly necessary to premise that prosecutions in Ireland are conducted by solicitors appointed by the Crown, who are remunerated partly by salary and partly by fees. Formerly there was a Crown solicitor for the whole of the circuit; but on any vacancy now occurring, the much more satisfactory plan is followed of appointing a Crown solicitor for each county. When the case for the Crown is complete, and the Attorney-General has (on copies of depositions laid before him for that purpose) directed a prosecution, the briefs are given out to the Crown prosecutors, or counsel who have the privilege of conducting Crown cases in the county. These counsel (two or three in number) are paid entirely by fees, and receive their appointments, which are permanent ones, from the Attorney-General, whose deputies they are considered to be. The number of Crown counsel employed depends, of course, on the nature of the case, and the Crown solicitor brings in the law officers, or one of them, "special," in a case of great moment, as in the late Orange trials in the North. The smaller offenders are tried at Quarter Sessions; and, with that unnecessary multiplication of offices for which this country is remarkable, there is a distinct class of solicitors practising at sessions, who conduct these prosecutions. The latter altogether are, we believe, resident in the counties, whereas the Crown solicitors proper, who are often leading men in the profession, and regard the appointment as a mere appanage to their practice, too often reside in the metropolis, and leave most of the Crown business to the management of a clerk. This is the weak point of the system, a system which is excellent in theory, and which might easily be rendered so in practice, were greater care exercised in the selection of practitioners resident in the several localities as Crown solicitors. The particular evil pointed out by Mr. McDonnell, and recognized by all who took part in this discussion, was the want of acquaintance with the characters, &c., of the witnesses for the Crown, which very frequently leads Crown solicitors, ignorant of the locality and of its inhabitants, to delegate the "getting up" of the case to the constabulary. The constables, who are generally anxious enough to show their zeal, bring forward as much evidence as they can manage to accumulate, without that careful sifting of the good from the bad for which training of another kind is of course indispensable. Hence it frequently happens that a prosecution framed and supported by the police, breaks down because one witness, and perhaps not a very material one, is "damaged" on cross-examination; and the jury, not apt to discriminate so nicely as to reject part of the evidence and give its due weight to the residue, rush to the conclusion that the case for the Crown has broken down, and give their verdict accordingly. Since writing the above, an illustration has occurred of the too prevalent delegation of these duties to the police, in the course of a trial before the chief justice at the Kildare assizes of some soldiers for a robbery of bank post bills. We copy from the *Express*. A banker's clerk is being examined as to the consecutive dates and numbers of bills issued by him:—

"Mr. Kelly, Crown prosecutor, here said he would put all the bank post bills into the witness's hand, and call for them accordingly.

"The Head-Constable here began to look for the post-bills and had some delay in getting them.

"CHIEF JUSTICE—Where is the attorney that has the conduct of the case? It is the duty of the police to catch the thief, and not to conduct the prosecution.

"Mr. Curran, counsel for prisoners.—The police always conduct the prosecution."

The result too frequently is, that the case is mismanaged, and that the prisoner's attorney, who knows the locality and knows something about all the Crown witnesses, has a very decided advantage over the Crown solicitor, who supplements his very limited knowledge by the unskilled zeal of the constabulary. Mr. McDonnell suggests that to the attorney who represents the Crown at quarter sessions should also be delegated the management of the cases tried at the assizes; but we cannot assent to the principle involved in compelling an inferior officer in one department to undertake the work of a superior officer in another, who from absence and want of knowledge cannot efficiently perform his own duties. It would, we consider, be the better remedy to consolidate the two offices in the person of one attorney resident in the county.

Connected with this subject is the inquiry, how far the high military discipline of the constabulary force has promoted or interfered with its efficiency as a force, having for its object the prevention and detection of crime? Many persons are beginning to think that the constabulary, brilliant on parade, and drilled up to the highest point, the admiration of strangers, is not exactly fitted for its real work, and fails to trace crime as a less showy and more unumilitary force might be expected to do. In any given town or village the constabulary will be found, perfect in drill and appearance, occupying with dignity its own barrack, not mixing with the populace, and to all intents and purposes—though not in name—a military force. Observers do not fail to connect this fact with another—that a very large proportion of the worst offenders against life and property remain undiscovered and unpunished.

We pass over some other matters which formed subjects for remark at the meeting referred to. The mischiefs arising from the want of intelligence in jurymen, for example, cannot be remedied by legislation, or by any change that either the legislator or the administrator can effect. We must trust to time and the spread of education to enlarge the class from which intelligent jurors are to be taken. The old complaint of the unequal distribution of punishment re-appeared, and not without reason. Jones receives four years of penal servitude for some small theft, while Brown escapes with three months' imprisonment, although convicted of having nearly killed his wife. This complaint is, at least, as old as the ancient proverb, that "one man may steal a horse, while another may not look over the hedge;" so mellifluously paraphrased by the author of "Fine English" in the last *Cornhill Magazine*. Possibly, if all the crimes, with their corresponding sentences, that occur in the annals of the several circuits were recorded by some central authority, or written in the statistical books of a Redgrave, and printed copies furnished periodically to all the assize-going judges, such information and comparison might do much towards equalising the rates of punishment, and usefully aid in steadying the scales of justice.

THE CIRCUITS—PRIVILEGE OF THE BAR.

All the circuits are now progressing, not without some little contests of the accustomed kind between attorneys and the bar as to the right of the former to examine witnesses. In one of these cases, the judge (on the remonstrance of the members of the bar present), refused to allow an attorney to act in any way in court for a defendant who had not instructed counsel; but the point was, at the instance of the latter, reserved, and will be brought before the full Court at the beginning of term. It will be very advantageous to all parties to have this often-disputed point finally settled. It appears that some of the judges have admitted the right of an attorney to examine witnesses (though not to address the jury), while other judges have upheld to the full extent the alleged privileges of the bar.

THELWALL v. YELVERTON.

There is no doubt whatever as to the intention of the defendant to apply to set aside the verdict obtained against him in this famous case. Many lawyers are of opinion that the Chief-Justice misdirected the jury on two very material points.

First, it is considered that the marriage in Scotland (assuming it to have taken place at all) was not regarded by the lady when she went through the ceremony as a final, conclusive, and binding marriage, but that she at the time intended to supplement and ratify it by another marriage under the sanction of religion; and that the judge ought to have told the jury that it was no legal marriage, unless regarded at the time as final and conclusive to all intents. Secondly, it is considered by many that the law required Major Yelverton (by baptism and education undoubtedly a Protestant), to have recanted and openly professed the Roman Catholic faith for twelve months prior to the marriage by the priest at Rostrevor; and that the judge ought to have directed the jury accordingly, instead of directing them to find that he was a Roman Catholic, unless any open profession of Protestantism could be proved to have been made by him within the twelve months. On these two points of law, or on either of them, the whole subject may very possibly be re-opened. In any event the mode selected of trying the important questions at issue, was an unsuitable one, and seems but to open up a long avenue of litigation.

THE ACCOUNTANT GENERAL'S DEPARTMENT OF THE COURT OF CHANCERY.

The Metropolitan and Provincial Law Association have addressed a memorial to the Commissioners for inquiring into the constitution of the Accountant General's department of the Court of Chancery, and the provisions for the custody and management of the funds of the Court.

After some preliminary statements, it proceeds to state:—

PART I.

That in 1848 the Association prepared and presented to the then Lord Chancellor, the late Lord Cottenham, a very elaborate memorial, in which the following amendments were, among others since effected, suggested with reference to the banking department of the Court of Chancery. To dispense, as is done by the Accountant General in bankruptcy, with powers of attorney, and to require the Accountant-General of the Court of Chancery to act on letters or such other authority as may be sufficient in law to bar the party, the solicitor of the party verifying such authority. According to the present practice there is no evidence given to the Accountant General that the person signing the power is the party entitled to receive the money under the order; to allow money to be paid into court (as courts of law do) without any order, and also to be invested as is now done with money paid in under the Legacy Act; to have the orders on which the Accountant General acts, or an office copy of them, filed with him; to get a branch of the Bank of England established in Chancery-lane for the convenience of the suitors, in the same way as has been done at the Court of Bankruptcy.

The memorial then refers to the report of the House of Commons Select Committee on fees (1848), and proceeds to recommend that the system of brokerage on suitors' funds be discontinued, and that the Accountant General be paid by a salary, and that only the balance of the stock required to be bought or sold in each day be bought or sold by the broker, and that the one-eighth per cent. on the funds transferred thereby saved to the suitor, and which, but for this alteration would have been actually bought and sold, should be paid to the Suitors Fee Fund for the benefit of the suitors, and that a percentage should be charged instead of fees on all money transactions.

The memorial then states as follows:—In 1852 the association petitioned Parliament to abolish the Accountant General's office, and to substitute a branch of the Bank of England in Chancery-lane, through which the Court of Chancery should pay the suitors as the Government does the public creditors.

On September 16th, 1852, the Metropolitan and Provincial Law Association memorialized the Lords Commissioners of the Treasury as to the staff of this office. In the same year the Incorporated Law Society appointed a numerous committee of the solicitors most experienced in equity practice, twenty-nine of whom representing, by their proper and agency business, perhaps half the suits in the Court of Chancery, signed a report on the whole subject of equity reform, which was printed by the House of Commons, on the motion of Sir James Graham (Parliamentary Paper, House of Commons, 1852, No. 216).

As regards this office, they suggested among other reforms since effected, that the slave compensation system of orders should be adopted. That affidavits of calculation be abolished; that powers of attorney be dispensed with; that money be paid into court without order, and invested without requests every half-year; that all orders on which Accountant General

acts should be filed in his office; and that a branch Bank of England should be established in Chancery-lane. In 1853, on March 31st, the association wrote to the Lord Chancellor, enclosing a copy of their petition to the House of Commons in 1852, and again recommending the abolition of this office, and representing the inadequacy of the staff. The reply of the Lord Chancellor's secretary stated that the whole subject was under consideration.

In 1853 the association again petitioned Parliament to abolish the Accountant General's office. In 1854, the association reported that they were convinced the only sound principle was to do away with the office altogether. From the year 1853 to 1856, the consideration of the reform of the Court of Chancery was much removed from the action of the Legislature by the existence of the Chancery Commission, on which not one single solicitor, or officer of the court who had been a solicitor, was appointed, although the Lord Chancellor was memorialized to take that step. The existence of this commission, so constituted, materially deadened the efforts of the solicitors for several years. In 1856, in the third report of the Chancery Commission, the Accountant General's office was only incidentally touched on, viz., as to the proposed abolition of the counter signature of cheques by the registrar (which abolition both registrars and many solicitors had advocated), but which was reported against by the commission (see p. 12, Report, &c., Accountant General's Letter, p. 210). In 1857, in July, the Incorporated Law Society's Equity Committee made a report, of which they sent a copy to the Lord Chancellor, commenting *inter alia* as to this office; on the insufficient attendance, and on the time taken in operations, especially in cases of sales or transfers of stock, preparing drafts, and making out powers of attorney; and again recommended that the whole establishment should be converted into a branch of the Bank of England.

PART II.

The memorial suggests the following points in the present system, as those which call most loudly for alteration and amendment:—

1. There is no officer whose duty it is to see that suitors are not taxed beyond what is actually required, while the existence of the profit funds of the report of the concentration of courts and offices commissioners, called funds B and D, and the fact that they had been permitted to accumulate to such an enormous sum as one million and a half, instead of having been used for the benefit of the suitors of the past generations during which they were accumulated, shows the urgent need of frequent periodical overhauling. Thus in 1852, fees producing say £50,000 a year were taken off, which might have been long before remitted; and there is now a considerable cash balance arising from surplus fees levied.

2. By selling or purchasing the balance only of stock required on any particular day, the chief part of the double one-eighth to the stock-jobber on the entire sales and purchases, which, with brokerage, probably now amounts to £20,000 a year, might be saved. The present practice in this respect was (mainly on the evidence of solicitors) reported against by the House of Commons select committee on fees in 1849, but it has, nevertheless, been continued ever since.

3. The Bank of England is paid by a £300,000 balance (see Mr. Parkinson's evidence in report of the Concentration of Courts Commissioners last year); but there is no one to see from time to time that it does not exceed that sum. It was above £698,000 in 1859.

4. The great inconvenience caused to suitors—

1. From having to go to two places for their money.
2. From having to wait five days for the completion of every sale, and payment of money.
3. From so many months' holiday per annum being taken.
4. From there being no staff to meet the times of pressure before vacation.

5. The following particular details also occasion unnecessary expense:—

1. The keeping of two sets of books and clerks, and all the accounts in duplicate.
2. The requiring powers of attorney, instead of mere letters, to take out the cheques, which are all payable on the mere endorsement of the party.
3. Affidavits of calculations.
4. Registrars giving directions or certificates for sales, and countersigning cheques for interest after the first payment, in which last case, no order being required to be produced to them, their countersigning has become a mere valueless ceremony. Their countersignature of drafts for principal monies

occasions much inconvenience and expense. It may be true that it operates as a check on the Accountant-General, but it might be dispensed with, and some less inconvenient plan substituted.

5. The absence of an office reference to the record.

PART III.

The memorial states that the whole question of legal finance is so bound up with that of the taxation of the suitor, that it is quite impossible to give due consideration to the one subject without entering on that of the other. Thus the House of Commons committee in 1848, which was appointed only on the fee question, found itself obliged to go into the two subjects, and examined the broker and chief clerk of the Accountant-General (Messrs. Mortimer and Parkinson), and it is hoped that the terms and constitution of the present commission may be extended to the consideration of legal finance, and the taxation of the suitor generally in all the courts of England, in order that this very important subject may be investigated in the most comprehensive manner.

All courts more or less require a banker, and your memorialists are of opinion that there should be, as far as possible, one joint banking department for all the courts of justice, both superior and inferior, including the Court of Bankruptcy. This ought to be a source of profit, and its accounts should be annually overhauled and audited by some responsible officer. At this banking department a State deposit account might be also instituted where money, under the control of any court for too short a period to make an investment in stock prudent, might be made productive, though the rate of interest might justly be very low, only just sufficient to give a profit. Suitors might be left the option of depositing their money here, or investing in stock. Of course, as long as fees are taken from suitors, all banking profit should go to aid the suitors. But the principle laid down in 1849 by the House of Commons select committee on fees, of taxing monetary steps by way of per centage (which would be the practical effect of their present proposal), should be the governing one, as it gets away from the unjust poll-tax system, and puts the incidence of the tax where it ought to be, on property. And if that principle be adopted, then the profit of such banking will go for the benefit of the suitors paying such per centage. At present there is no uniformity of principle in assessing or levying fees, or in seeing that they are duly accounted for. The Common Law Procedure Acts have all passed since the report of 1849, and yet no provision for collection by stamps is made in them. In the common law courts there are rather above one hundred persons who collect fees as stewards for the Treasury without any efficient check; and no means exist of detecting defaulters in these courts, or in the local and county courts. Under these circumstances, inquiries should be made into—

The whole system of collecting fees, the existing arrangements, and the most desirable way of providing for the custody, paying in and out of court, and investing of the funds of suitors in all courts, whether of law, equity, bankruptcy, admiralty, probate, or county courts in England and Wales. And that some competent officer should be appointed to superintend the banking department, so as to insure the realization of as large a profit as possible therefrom.

The best mode of auditing the accounts of all officers and agents employed, and of securing and auditing the accounts of all fees levied on suitors for the maintenance of courts, officers, salaries, &c., and of bringing the whole subject annually under direct Parliament control.

The memorial contains copious extracts from the documents to which it refers.

The memorial, therefore, asks that the commissioners may receive the evidence which members of the association, as practising solicitors, are able to give upon a subject with the details of which they are so intimately acquainted, and which so materially affects the interests of their clients the suitors.

(Signed on behalf of the Association)

THOS. KENNEDY, Chairman.
PHILIP RICKMAN, Secretary.

SOCIETY FOR PROMOTING THE AMENDMENT OF THE LAW.

(Concluded from page 364.)

I imagine that I have now said quite enough to show that the argument of "unfairness," as urged against the proposed change, is simply ridiculous. Indeed, that argument, when rightly understood, is in favour of the change. The existing

law is defective in not showing sufficient forbearance towards prisoners, inasmuch as it closes their mouths, and permits them to be convicted on evidence which they might disapprove or satisfactorily explain if they were enabled to give testimony. Let us imagine the case of an innocent man charged with the commission of a crime—would not he be anxious to tell his own story to the jury, and would not his examination tend materially to establish his innocence? These questions can only be answered in the affirmative. Then the law which precludes him from tendering himself as a witness was not made for his benefit. But it was made, we are told, for the benefit of prisoners. Then it must have been made for the benefit of the guilty. But is it just or wise that the innocent should be exposed to the danger of a wrongful conviction in order that the guilty should have no temptation to utter falsehood, and should escape the possibility of any hostile presumption being raised against them in consequence of their silence?

Having now answered all the objections that I have known urged against the proposed change, and having shown that that change would be a substantial boon to all innocent prisoners, I wish to say a few words respecting some special evils that arise from the existing law. And first it must be borne in mind that several large classes of injuries, as for example, assaults, slanders, and frauds, may be dealt with either civilly or criminally. If an action be brought in any of these cases, the defendant can be examined as a witness, but if he be indicted or be summoned before the magistrate, his mouth is closed. His accuser in the one case may give testimony without fear of contradiction, but in the other he must speak in the presence of a man who can, very possibly, expose his exaggeration, disprove his statements, or even turn the tables upon himself. It is obvious that such a law not only gives a very unfair advantage to an accuser who proceeds criminally, but it has a natural tendency to promote prosecutions where actions would otherwise afford a preferable remedy. This view of the operation of the law will probably account for the remarkable fact, that actions for assault are very seldom tried in our county courts, but that complainants in these cases almost invariably proceed either by summons before the justices or by indictment. Magistrates and juries are thus often placed in a very embarrassing position. They are required to adjudicate when, in the event of the defendant being unable to call any witness, they have only heard one side, and this in the face of the legal maxim, which directs them "*audire alteram partem*." I am assured by one of the ablest of the metropolitan magistrates (Mr. Tyrwhitt, in his letter to the Law Amendment Society on this subject) that through fear of being misled by this partial law, he sometimes feels justified in declining to pronounce any decision. "In assaults," says he, "it often happens that the party alleging himself to be injured is the only witness. It is common to dismiss the summons, and drive the complainant to sue in the county courts, so as to let in the defendant to be examined on oath." Language more condemnatory of the law could scarcely be used, but language as condemnatory was recently used by Chief Justice Erle. (*R. v. Goss*, and *R. v. Ragg*, 29 *Law Jour.*, Mag. Cas., 86, 90.) The point under discussion was to fix the true line between what is, and what is not, an indictable false pretence; an important question, as bearing upon the fraudulent statements by which certain tradesmen have of late years been enabled to palm off spurious articles upon the unwary. After stating that, to constitute a false pretence, there must be a false representation knowingly made respecting an alleged matter of definite fact, his lordship went on to observe, that if the term "false pretence" were rendered more comprehensive, "a purchaser who by his negligence had made a bad bargain, and who wished to get rid of it, might have recourse to an indictment, where the *vendor's mouth would be closed*, instead of being obliged to bring an action where *each party could be heard on equal terms*." Now I have no wish to quarrel with the learned judge's definition of a "false pretence;" but I feel that I am entitled to question the argument contained in this passage, or rather the wisdom of the law which could alone justify such an argument. Surely the criminality of any act or statement alleged to be fraudulent, and our right to punish it, ought to depend upon the real character of that act or statement, and not upon the facility of proving it, or the difficulty of disproving it. Probably the learned judge would himself, upon reflection, be the first to recognise the justice of this criticism; but he was obviously oppressed by the feeling that the law which shuts a defendant's mouth is an unfair law, and he could not help recollecting, to use his own language, "how extremely calamitous it would be for a respectable man to have an indictment of this sort brought against him."

In prosecutions for conspiracy, riot, and other cognate offences, in the commission of which several persons may have been more or less engaged, the present law has a tendency to promote a very mischievous and oppressive practice, that is, the practice of including in the indictment more persons than the ends of justice require. As no defendant can make a statement on oath, the net is spread as wide as possible, so as to shut the mouths of the greatest number of witnesses. The prosecutor by these means is saved from the danger of contradiction, the real defendants are deprived of valuable testimony, and men, who perhaps have slightly transgressed the law, but who never ought to have been exposed to any criminal proceedings, are involved with their more guilty comrades in one common ruin.

Another evil caused by the present law is, that it occasionally furnishes an opportunity for a criminal to escape. This happens thus—the prisoner makes a statement, plausible in itself, but capable of being exposed as false by cross-examination. As he is not sworn, he is not cross-examined. The judge leaves the statement to the jury, cautioning them against believing it, as it was not made on oath, or tested by cross-examination. The jury consider these are unfair reasons to urge, when the man was not permitted either to be sworn or to be cross-examined, and, acting upon the statement, they acquit the prisoner.

It must further be borne in mind, that the law which prohibits a prisoner from giving testimony, is not only unjust towards him in the event of his being innocent, but it is *unfair towards the jury* who are required to pronounce a verdict when they know that, very possibly, they may not have heard "the whole truth." In important cases, where the life of the accused is at stake, or where, from the secret nature of the charge, disinterested eye-witnesses can seldom be called to confirm or contradict the testimony of the accuser, the fact that the jury are forced by law to decide on what is practically an *ex parte* statement, cannot fail to oppress them with a heavy sense of responsibility. To a conscientious man the task of sitting as a jurymen in a criminal court must ever cause much anxiety, and it is the duty of the Legislature to diminish that anxiety as far as possible. Now, I am persuaded that nothing would so materially produce this effect as a law which would enable the jury to hear everything that could be said on both sides.

Passing now to the second question which I invite the society to discuss—I mean the question whether prisoners ought not to be empowered to call their wives or husbands as witnesses—I do not deem it necessary to dwell on this subject at any length. All the arguments in favour of permitting prisoners themselves to testify on oath apply with redoubled force to their wives or husbands; and the objections, such as they are, which are urged against the adoption of the first proposition, have, comparatively speaking, little bearing on the second. By the present law, if a wife is injured by her husband, she may indict him for the injury, and give evidence against him. Nay, he may be convicted on her sole, uncorroborated, testimony. In civil suits the husband and wife may be examined as witnesses either for or against each other, and in suits between strangers they may be called on opposite sides, and may point blank contradict each other. In the face, then, of such laws, I am unable to discover any sound reason for rejecting the testimony of a wife when called by her husband to disprove a charge which he is required to meet in a criminal court. She might, no doubt, in some cases be tempted to commit perjury in the hope of screening a guilty husband; but the question is, whether this evil is at all comparable to that which results from withholding her testimony, when she can speak to facts which may establish her husband's innocence. To my mind this question can only be answered in one way; and it appears to me that a law which prevents a wife from aiding her husband when wrongfully accused, can be described in no other language than as a monstrous injustice.

It remains for me only to observe, that our illustrious president Lord Brougham, with that enlightened spirit which has made him, *αὐτὸς ὁ νόμος*, the pioneer of law reform, has on three several occasions—(in the session of 1858, 1859, and 1860, when his lordship brought in Bills to remedy the evils of the existing law, not one of which was quite satisfactory; for all of them omit to notice offences punishable on summary conviction, and offences against the revenue, and they all permit the wives of persons to testify at their own option, and not at the option of their husbands, and some other defects might be pointed out in these Bills, though substantially they are right.)—brought this subject more or less prominently under the notice of the House of Lords. That he has not hitherto met with success is a matter of no surprise, for the change is undoubtedly one of

some magnitude, and the arguments in favour of it have not, until very recently, attracted the attention of the public. Even now much misapprehension as to the real merits of the measure prevails in certain quarters, and we have no right to expect that the doubts respecting its expediency should be cleared up until the subject has undergone a thorough discussion. In the hope of promoting such a discussion, I have drawn up this paper, and I leave the matter with much confidence in the hands of the society.

PROMOTION AT THE BAR.

The petition to the Crown, mentioned in the letter of Mr. Edward Webster, which appeared in the columns of this journal last week, was presented by him in his private capacity, and not as a member of the bar. As the subject is one of much importance, we devote some space to Mr. Webster's statement, which, moreover, is not without interest, in itself.

It referred to a schedule, signed by Mr. E. Webster, stating the reasons on which it was founded, and which we are enabled to give at length. The petitioner prayed the Crown to direct the attention of its responsible advisers to the effect on the Crown, the suitor, and the bar, of the present system of promotion at the bars of England and Ireland, respectively. The petition has been presented.

The schedule is as follows:—

1. Although your petitioner has never had a large professional business, he has within the last five and twenty years, advised and conducted to a successful issue some of the most important and difficult suits that have ever been instituted in the High Court of Chancery, and is, therefore, fully competent to form a judgment upon the subject of the foregoing petition.

2. The bars of England and Ireland are now divided into two sections, called respectively the inner bar and the outer bar.

3. The inner bar is composed of the forensic law officers of the Crown, serjeants at law, counsel called to the council of the Crown, and doctors of law being advocates, and counsel having patents of precedence.

4. The outer bar consists of all other barristers.

5. The inner bar is higher in rank than the outer bar, and sits in court within a barrier of its own, from which the outer barrister is excluded.

6. Until a comparatively recent period in the history of England, the bar of England consisted of the forensic law officers of the Crown, serjeants at law, and doctors of law, being advocates who were honorary members of the bar, and other barristers, but, except in the Court of Common Pleas, in which the serjeants at law had a monopoly of the business, there were in all the other courts of law and equity no exclusive privileges whatever, save a right of pre-audience and a right to a seat in court according to the rank or standing of each barrister. Since about the year 1668, and more especially of late years, it has been customary for the Crown to confer by letters patent in England and Ireland, but not in Scotland, on barristers selected for the purpose from time to time by the Lord Chancellor, a right of pre-audience over other barristers.

7. The barristers so selected become the sworn, and were formerly the salaried servants of the Crown, and cannot without special leave be employed against the Crown. They are termed "King's Counsel," or "Queen's Counsel," according to the sex of the sovereign for the time being, and become members of the inner bar.

8. The loyalty of the outer bar to the Crown does not depend on the expectation of the preferment so bestowed.

9. The Lord Chancellor in making such selection is liable to err, and, consequently, several barristers have of late years been raised from the outer bar to the rank of Queen's Counsel, who afterwards have not been much employed or have not been at all employed in their profession.

10. The actual services of barristers raised to the rank of Queen's Counsel are very rarely indeed, if ever, required by the Crown, hence their office or duties are for the most part nominal.

11. Nevertheless, whilst the Crown obtains no solid advantages from the right of pre-audience so conferred, such right operates, as hereinafter appears, very injuriously to the suitor, and with much injustice against members of the bar of ordinary talent and acquirements, who are not so fortunate as to obtain from the Lord Chancellor the favour of being placed within the inner bar, and to whom such advancement in their profession is necessary.

12. The fees given to the counsel of the inner bar are larger than those given to counsel of the outer bar, although the briefs given to each counsel are always the same in quantity and quality, and although the outer barrister when employed with

a Queen's Counsel may be a better lawyer, a better speaker, and may have more knowledge of his client's case.

13. Solicitors ordinarily consider it their duty to employ a leading counsel chosen from the inner bar.

14. Consequently, a monopoly of the most lucrative professional business is practically enjoyed by the inner bar, which species of monopoly does not exist in any other calling by which your Majesty's subjects maintain themselves by labour, do it labour of mind or of body.

15. Such monopoly operates injuriously to the public welfare, as it largely increases the cost of proceedings to the suitor, and in fact compels solicitors to give leading business to a certain class of barristers instead of having the whole bar to choose from.

16. Such monopoly oftentimes operates very injuriously to those barristers who are not so fortunate as to be selected by the Lord Chancellor, as it frequently deprives them of the opportunity of having that beneficial business which in the course of their profession they would otherwise have.

17. The amount of business whilst at the outer bar and the probable fitness of the candidate are usually, but by no means invariably, regarded by the Lord Chancellor when selecting barristers for the rank of Queen's counsel, and occasionally of late years the Lord Chancellors have called members of the outer bar to the inner bar for reasons entirely extra-forensic.

18. The quantity of business at the outer bar is no certain or even probable test of the qualifications of a barrister to conduct leading business when within the inner bar, inasmuch as a barrister may be an indifferent lawyer yet an attractive and successful advocate, an indifferent advocate yet an excellent judge, an excellent lawyer and pleader and yet utterly inefficient as a leading counsel.

19. The letters patent having no supernatural operation, the learning and ability of the barrister to whom they are granted remains precisely the same as it was before he obtained them, and the only professional advantage he derives from them is that he becomes a candidate supposed to be qualified for the lucrative business monopolised by the inner bar; but as there must always be an equal amount of learning and ability at the outer and the inner bar, it follows, that to the extent to which leading business is monopolised by the inner bar, the learning and ability of the outer bar is displaced and has no action, and is utterly unproductive, although the outer barrister is equally able and justly entitled to exercise the learning and ability so displaced, and cannot be deprived of that right without a flagrant violation of natural justice.

20. So far as the interests of the Crown are concerned, your petitioner verily believes that the monopoly of leading business which it confers on certain members of the bar is injurious, such monopoly being opposed to the principles of free competition on which the Legislature has acted of late years.

21. Moreover, from the errors of selection made by Lord Chancellors, the office of Queen's counsel is getting into disrepute; and your petitioner, in a periodical representing the most advanced and most scientific views of the legal profession in matters connected with the amendment of the law, and which was published a few years ago, finds it described as a "Mock Dignity" (vide 14 vol. *Law Review*, p. 314), an expression which has not the approbation of your petitioner.

22. The Crown must always have great and legitimate influence over the bar, as members of the bar must be selected for judicial appointments.

23. The petitioner in presenting the foregoing petition is actuated by no other feeling than this—viz. he verily believes that for the sake of the Crown, the suitor, and the bar, the utmost competition ought to exist at the bar, and that no exclusive professional privileges ought to be conferred on any barrister, save only the ordinary law officers of the Crown appointed to protect the interests of the Crown, and that the distinction between "the inner bar" and "the outer bar" ought to be abolished.

24. If the bar were one and entire, and the Crown were to confer on barristers of extraordinary learning and forensic ability an order of honour, but without any exclusive privileges, and the Crown were to appoint a limited number of barristers as assistants or advocate deputies to the Advocate-General, the Attorney-General, and the Solicitor-General respectively, but without any exclusive privileges, and the Crown had also power to retain as occasion should require, but not permanently, the services of any other barrister, the Crown would be sufficiently protected and the bar would be relieved from all cause of complaint arising from the unavoidable errors made from time to time by the Lord Chancellor for the time being in selecting or not selecting from the outer bar candidates for the rank of Queen's counsel.

COURT OF CHANCERY.

The following is an abstract of the Accountant-General's annual return for 1860, which we published in *extenso* last week, as to the Suitors' Fund:—

INCOME.		£	s.	d.	£	s.	d.
Balance of cash on 1st October, 1859.....		19,902	10	10			
Dividends of £3,904,489 19s. stock purchased previously to 1859—viz., £2,613,360 14s. 3d. on Fund A and £1,291,629 5s. 6d. on Fund B., and also of £214,165 6s. additional stock on Fund A., purchased with suitors' cash during 1860		112,133	9	1			
Rent of late Master's Offices in Southampton-buildings, let to Commissioners of Patents		520	0	0			
					132,555	19	11
PAYMENTS.		£	s.	d.	£	s.	d.
* Payments		61,338	13	0			
Carried over to Suitors' Fee Fund		51,162	9	3			
					112,501	2	3
Balance of cash on 1st of October, 1860.....					20,054	17	8

The following is an abstract as to the Suitors' Fee Fund:—

	£	s.	d.	£	s.	d.
Balance of cash on the 24th of November, 1859	83,557	13	8			
Cash brought from Suitors' Fund	51,162	9	3			
Dividends of £201,028 2s. 3d. stock on Fund D, purchased with surplus fees since 1833 ...	5,741	17	4			
Brokerage paid in by Accountant-General under 15 & 16 Vict. c. 87, s. 18	4,105	8	6			
Fees levied on the suitors during the year	97,203	12	9			
Total Income.....				214,771	1	6
* Payments				156,991	14	0
Balance of cash on the Suitors' Fee Fund on the 24th of November, 1860.....				84,779	7	6
Add balance of cash on Suitors' Fund on the 1st of October, 1860.....				20,054	17	8
Total balance of cash on Suitors' Fund and Suitors' Fee Fund				£104,834	5	2

* The following is an analysis of the above payments:—

	Total.	Charged on Suitors' Fund.	Charged on Suitors' Fee Fund.
	£ s. d.	£ s. d.	£ s. d.
Compensations (including terminable salaries in respect of abolished offices)	69,710 14 10	27,139 2 8	42,571 12 2
Salaries of officers	116,618 8 11	17,102 18 1	98,515 10 10
Pensions to retired officers	12,115 18 11	12,115 18 11	—
Rents of offices	1,444 16 3	—	—
Expenses of copying in offices	6,695 14 3	—	6,695 14 3
Other expenses of courts and offices, and miscellaneous payments	12,744 13 10	4,980 13 4	7,764 0 6

Law Students' Journal.

EASTER TERM EXAMINATION.

The examiners appointed for the examination of persons applying to be admitted attorneys have appointed Tuesday, the 30th April, and Wednesday, the 1st May next, at half-past nine in the forenoon, at the hall of the Incorporated Law Society, in Chancery-lane. The examination will commence at ten o'clock precisely, and close at four o'clock each day.

Articles of clerkship and assignment, if any, with answers to the questions as to due service, according to the regulations approved by the judges, must be left with the secretary, R. Maugham, Esq., on or before Monday, the 22nd April.*

Where the articles have not expired, but will expire during the Term, the candidate may be examined conditionally, but the articles must be left within the first seven days of Term, and answers up to that time. If part of the term has been served with a barrister, special pleader, or London agent, answers to the questions must be obtained from them as to the time served with each respectively.

On the first day of examination papers will be delivered to each candidate containing questions to be answered in writing, classed under the several heads of—1. Preliminary. 2. Common and Statute Law, and Practice of the Courts. 3. Conveyancing.

On the second day, further papers will be delivered to each candidate containing questions to be answered.—4. Equity, and Practice of the Courts. 5. Bankruptcy and Practice of the Courts. 6. Criminal Law, and Proceedings before Justices of the Peace.

Each candidate is required to answer all the preliminary questions (No. 1.); and also to answer in three of the other heads of inquiry, viz.:—Common Law, Conveyancing, and Equity. The examiners will continue the practice of proposing questions in bankruptcy and in criminal law and proceedings before justices of the peace, in order that candidates who

have given their attention to these subjects, may have the advantage of answering such questions, and having the correctness of their answers in those departments taken into consideration in summing up the merit of their general examination.

In case the testimonials were deposited in a former term, they should be re-entered, and the answers completed to the time appointed.

Admission of Attorneys.

NOTICES OF ADMISSION.

EASTER TERM, 1861.

[Candidates' names appear in Small Capitals, and Solicitors to whom articles or assigned in Roman type.]

QUEEN'S BENCH.

ALDRIDGE, WILLIAM WHEELER.—T. Goater, Southampton, G. B. Gregory, 1, Bedford-row.

APPLETON, JOHN.—H. Pashley, Sheffield.

BEDFORD, CHARLES.—H. Bedford, 4, Gray's-inn-square; E. Ball, Pershore.

BEDFORD, HENRY.—C. Bedford, Worcester; C. Pidcock, Worcester.

BEST, WILLIAM.—J. Rulfe, Winchester.

BEWLEY, ROBERT.—W. S. Ward, Leeds.

BISHOP, WILLIAM THOMAS BONNELL.—T. Bishop, Brecon.

BLERY, HENRY WILLIAM.—G. Armstrong, Newcastle-on-Tyne.

BLEW, JOHN CARDALL.—T. M. Whitehouse, Wolverhampton.

BOXVILLE, JOHN.—W. Lloyd, Carinathen.

BOYER, WILLIAM ALDERLEY.—R. B. B. Cobbett, Manchester.

BREVITT, THOMAS.—W. H. Duignan, Walsall; A. S. Lawson, 1, John-street, Bedford-row.

BRUTY, WILLIAM JOHN.—W. W. Duffield, Chelmsford.

CHAMBERS, J. H. BROUGHAM.—J. W. Hamilton Richardson, Leeds.

CHILD, JOHN HUBERT.—R. G. Smith, 6, New-inn, Strand.

COODE, WILLIAM.—J. Coode, St. Austell.

CRIGHTON, ALEXANDER CLIFFORD.—R. R. Dees, Newcastle-upon-Tyne.

* Candidates, under the 4th section of the Attorneys Act, 1860, may, on application, obtain copies of the further questions relating to the ten years' service antecedent to the articles of clerkship.

DICKENS, JAMES NORTON.—W. Clough, Pontefract; T. W. Clough, Huddersfield.
 DIXON, GEORGE CHEVALLIER.—R. Dawes, Angel-court, City.
 DUNN, GEORGE WHITLY.—L. P. Gibbon, Pembroke; E. F. Burton, 25, Chancery-lane.
 EVE, RICHARD.—A. S. Field, Leamington Priors; P. Johnston, 36, Lincoln's-inn-fields.
 EGLINGTON, WILLIAM MABERLY.—J. Hemmant, Dudley; S. Danks, Birmingham.
 FLETCHER, SAMUEL CORNELIUS.—J. Grundy, Bury.
 FOSTER, CHARLES.—F. G. Foster, Norwich.
 FOSTER, RICHARD BETTON CHARLES PULSFORD.—J. Scarth, Shrewsbury.
 FRANCIS, SWINFORD.—H. T. Sankey, Canterbury.
 GLEDHILL, ALBERT.—J. C. Laycock, Huddersfield.
 GOODMAN, THOMAS.—J. Clark, Sessions House, Old Bailey; H. Avory, Sessions House, Old Bailey.
 GREEN, RICHARD DANSEY.—R. Green, Knighton; C. Meredith, Lincoln's-inn; G. B. Crawley, 20, Whitehall-place.
 GREENWOOD, GEORGE WRIGHT.—J. Ebworth, Walsall; R. F. Dalrymple, 46, Parliament-street; T. J. Horwood, 26, New City Chambers, Bishopsgate-street.
 HALLAM, EDWARD JOHN.—Francis Paxton, 8, New Boswell-court; and Twickenham.
 HELPS, RICHARD SUMNER.—R. Helps, Gloucester; F. Parker, Chester.
 HEYWOOD, BENJAMIN ARTHUR.—E. Futvoys, 23, John-street, Bedford-row.
 HILL, RICHARD CANNING.—C. Pidcock, Worcester.
 HODGSON, JOHN NORMAN.—E. Hough, Carlisle.
 HUGHES, JOHN.—L. Peel, Liverpool.
 HUSTWICK, WILLIAM ANTHONY.—J. Hustwick, Soham.
 JANEWAY, GEORGE WILLIAM HOWARD.—W. Janeway, 38, Bedford-row.
 JONES, WILLIAM.—W. Hughes, Conway.
 KING, THOMAS, jun.—A. R. Bristow, Greenwich.
 KNOTT, JOHN HAMMETT.—H. S. Pownall, 9, Staple-inn.
 MAX, GEORGE.—N. C. Gold, York; H. Richardson, York.
 MAYHEW, SYDNEY.—A. Mayhew, 26, Carey-street; H. White, 7, Southampton-street.
 MERCER, JOHN SHARP.—T. D. Kelghley, 73, Basinghall-street; J. Mercer, Raymond-buildings; and 9, Billiter-square.
 MONKELY, WILLIAM HENRY, jun.—W. H. Moberly, Southampton.
 MONTGOMERY, JOHN.—M. Allan, Newcastle-upon-Tyne; R. M. Allan, Newcastle-upon-Tyne.
 MOORSON, WILLIAM FREDERICK.—N. T. Lawrence, 6, New-square, Lincoln's-inn.
 MOSSOP, SAMUEL SEPTIMUS.—C. Mossop, 60, Moorgate-street; R. F. Bartrop, Kingston-upon-Thames.
 NICKINSON, JESSE.—R. Prall, the younger, 19, Essex-street.
 NORTH, JOHN WILLIAM.—E. J. Hayes, Wolverhampton.
 PARRY, EDWIN.—A. B. East, Birmingham.
 PARRY, HENRY EDWARD.—H. Jones, Carnarvon.
 PEARCE, PARMENAS WILLIAM.—G. Eastlake, Plymouth.
 PHELPS, PHILIP EDMUND.—W. Hobbs, Reading.
 POOK, HENRY.—J. C. Dalton, King's-arms-yard, Bucklersbury; H. J. Riches, 34, Coleman-street; C. Brutton, 27, Basinghall-street.
 POTTS, EDWARD BAGNALL.—G. Potts, Broseley.
 PRIOR, JAMES.—A. C. F. Gough, Wolverhampton.
 PUGH, MAURICE LEWIS.—W. Griffith, Dolgelly; W. H. Dunster, 3, Henrietta-street.
 PULLEN, THOMAS JAMES.—J. Robinson, 17, Ironmonger-lane.
 QUINN, JOHN.—R. Duke, Liverpool; and Birkenhead.
 ROBERTS, RICHARD MICHELL.—R. M. Hodge, Truro, Cornwall.
 ROBINSON, CHARLES.—R. Robinson, Ripon.
 ROGGE, WILLIAM.—J. Johnson, 57, Chancery-lane.
 RUSSELL, JOHN.—H. S. Wasbrough, Bristol.
 SHAFT, GEORGE THOMAS.—A. R. Bristow, Greenwich.
 SHAPLAND, JOHN TERRELL.—F. R. Thomas, 3, Fen-court.
 SMITH, EDWARD THURLOW LEEDS.—W. Smith, Potton.
 SMITH, FRANCIS.—H. Wheeler, Manchester.
 SMITH, GRIFFITHS.—F. Smith, 15, Furnival's-inn.
 SMITH, JOHN.—C. Jackson, Birstal.
 SPILLER, JAMES ROBERT.—J. R. White, Bruton, Somerset; E. F. Burton, 25, Chancery-lane.
 STANDRING, HENRY.—J. Standring, the younger, Roohdale.
 STANILAND, CHARLES HENSON.—E. Atkinson, 22, Bouverie-street.
 SWEPSTONE, WILLIAM HENRY.—T. W. Ratcliffe, Dean Collet House, Stepney.
 THOMPSON, JOHN.—W. R. Dunstan, Northwich.

TILLY, WILLIAM.—T. Johnson, Lancaster.
 TONGE, EDWARD.—J. Evans, 10, John-street, Bedford-row; S. H. Barrow, 2, Queen-street, Cheapside.
 TOWNEND, JOHN.—W. N. Perfect, Blackburn; D. Robinson, Clitheroes Castle.
 URRY, THOMAS HAMILTON.—J. G. Etches, Whitechurch.
 UNWIN, SAMUEL.—S. Heelis, Manchester.
 WADHAM, GEORGE.—J. D. Wadham, Bristol.
 WASHINGTON, JOSEPH WOODIS CLULOW.—J. T. Wilson and C. Moorhouse, Congleton.
 WEBSTER, HENRY.—T. Price, 24, Abchurch-lane.
 WHITE, NATHANIEL.—J. White, 13, Barge-yard Chambers, Bucklersbury.
 WILLIAMS, JOHN GEORGE.—H. Williams, Lincoln.
 WILLIS, CHARLES.—F. Willis, Leighton Buzzard.
 WINTRINGHAM, JOHN.—G. Babb, Great Grimsby; H. R. Hill, 23, Throgmorton-street.
 WOOD, BENJAMIN PHILIP.—J. T. Auckland, Cliffe, nr. Lawes; J. Edwards, 15, St. Swithin's-lane.
 WOOD, HENRY FRANCIS.—J. Taylor, Bradford; H. Roscoe, 36, Lincoln's-inn-fields.
 WOOD, JAMES, jun.—C. Ingoldby, Louth.

Pursuant to Judges' Orders.

ALDRIDGE, GEORGE BRAXTON.—H. M. Aldridge, Poole.
 ATKINSON, GEORGE JAMES.—T. Taylor, Wakefield.
 BROOKES, ROBERT JOHN.—R. G. K. Brookes, Stow-on-the-Wold.
 CRUMP, WILLIAM ALEXANDER.—J. W. Nicholson, Lime-st.
 EDWARDS, FREDERICK STEPHEN.—T. H. Chubb, Malmesbury, Wilts.
 GRAY, BENJAMIN, jun.—E. Lawrance, Old Jewry Chambers.
 LOWE, CHARLES FREDERICK.—H. Newbald, Newark-on-Trent.
 MOER, JACOB JOHN.—T. Swainson, Lancaster; R. Marshall, 2, Verulam-buildings, Gray's-inn.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The preamble of the following Bill has been proved in committee:—

LANCASHIRE AND YORKSHIRE (branches to Shaworth).

The following Bills have passed through committee in the House of Commons:—

ASTON TO DITTON.
 BRIGHTON, UCKFIELD, AND TONBRIDGE.
 EDGEHILL TO BOOTLE.
 EXETER AND EXMOUTH.
 GARNON AND LIVERPOOL.
 LLANDIDLOES AND NEWTOWN.
 MARLBOROUGH.
 NANTWICH AND MARKET DRAYTON.
 STRATFORD-ON-AVON.
 WINWICK TO GOLBORNE.
 WITNEY.

REPORTS AND MEETINGS.

GREAT LUXEMBOURG RAILWAY.

The directors, by their report, recommend that a dividend of 3s. per share be declared, leaving a balance of £62 to be carried forward.

MIDLAND GREAT WESTERN RAILWAY.

The directors, by their report, recommend that a dividend at the rate of 5 per cent. per annum, free of income tax, be declared for the past half-year. This will leave a balance of £7,650 to be carried forward.

NEWCASTLE AND CARLISLE RAILWAY.

At the annual meeting of this company, held on Tuesday last, a dividend of £3 17s. 6d. for the past half-year was declared.

NORTH BRITISH RAILWAY.

The directors, by their report, recommend that a dividend of 3½ per cent. be declared for the past half-year, leaving a balance of £1,005 to be carried forward.

PARIS AND ORLEANS RAILWAY.

The directors of this company, by their report, recommend a dividend for the past year of £4 per £20 share.

SCOTTISH CENTRAL RAILWAY.

The directors, by their report, recommend that a dividend at the rate of 5½ per cent. per annum be declared for the last half-year, and paid on the 5th of April. This leaves a balance of £2,448 to be carried forward.

CRYSTAL PALACE.—During next week, commencing on Monday, the entire chorus of the Royal English Opera, combined with the fine band of the company, will give a series of Oratorio performances in the concert hall as follows: viz.: on Monday, a selection of sacred music, by Handel, including portions of the Funeral Anthems, the Dead March in Saul, the last part of the Messiah, &c.; on Tuesday, Elijah; on Wednesday, the Creation; and on Thursday, the Messiah. The rehearsal organ of the Sacred Harmonic Society will be removed from Exeter Hall for the occasion. On Good Friday a Sacred Concoert, comprising an unusual number of the most celebrated and well-known pieces, will take place in the centre transept at three o'clock. Mr. Sims Reeves will sing, "Comfort ye my people" (Messiah); "Then shall the righteous" (Elijah); "Sound an alarm" (Judas Maccabens.) Madame Rudersdorff, "Let the Bright Seraphim," accompanied by Mr. Thomas Harper; and "Inflammatu8," with chorus, from Rossini's "Stabat Mater." Mr. Santley and Mr. Weiss, the Duet, "The Lord is a man of war" (Israel in Egypt); and the solos, "Arm, arm, ye brave," (Judas Maccabeus), and "The Trumpet shall sound" (Messiah.) The Old Hundredth Psalm, the Evening Hymn, and God Save the Queen will be sung by the assembled thousands of visitors.

Births, Marriage, and Deaths.

BIRTHS.

ASHE—On March 8, at Gorteenroe, county Cork, the wife of Richard Ashe, Esq., Solicitor, of a daughter.
BOULTON—On March 15, the wife of Robert Boulton, Esq., of 17, Berners-street, Oxford-street, W., Solicitor, of a daughter.
COLT—On March 18, the wife of George N. Colt, Esq., of Lincoln's-inn, of a daughter.
HUGHES—On March 6, at Dublin, the wife of Charles Hughes, Esq., Solicitor, of a daughter.
OWEN—On Jan. 9, at Sydney, the wife of William Owen, Esq., Barrister-at-Law, of a son.
OWEN—On March 20, the wife of W. S. Owen, Esq., Barrister-at-Law, of a daughter.
POLLOCK—On March 4, in Sligo, the wife of Edward Pollock, Esq., Solicitor, of a daughter.
SHIEL—On March 11, at Dungannon, the wife of William Shiel, Esq., Solicitor, of a son.

MARRIAGE.

MORGAN—ROBERTSON—On Feb. 11, at Georgetown, the Rev. Charles Morgan, Demerara, to Mary Sarah Elizabeth, daughter of Erasmus Robertson, Esq., Barrister-at-Law, of the Inner Temple.

DEATHS.

CHITTY—On March 19, Julia Lucy, aged 20, daughter of Tompeon Chitty, Esq., Barrister-at-Law.
DENTON—On March 18, Emily, daughter of the late Samuel Denton, Esq., of Gray's-inn.
FARREN—On March 19, Elizabeth, relict of the late George Farren, Jun., Esq., of Lincoln's-inn.
LAKE—On March 15, Herbert John, son of James Philips Lake, Esq., Barrister-at-Law.
SNAGG—On Feb. 16, at Antigua, Ann, the wife of Sir William Snagg, Chief Justice of that island.
STEWART—On Feb. 9, at Ardsheal, Bermuda, in the 66th year of his age, Duncan Stewart, Esq., of Lincoln's-inn, Barrister-at-Law, Her Majesty's Attorney-General for the colony.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

DENT, LANCELOT, Esq., Fitzroy-square, Middlesex, £13,000 Consols.—Claimed by ARTHUR ELLY FINCH, one of the executors of the said Lancelot Dent.
LEWIS, DAVID, Gent., New-inn, St. Clement's, £228 19s. 6d.

Consols.—Claimed by SAMUEL SIMPSON TOULMIN and SAMUEL WESTALL, acting executors of Bryan Holme, who was the surviving executor of the said David Lewis.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock .....	..	Shrs	
3 per Cent. Red. Ann.	..	Stock Ditto A. Stock	104
3 per Cent. Cons. Ann.	92	Stock Ditto B. Stock	130
New 3 per Cent. Ann.	..	Stock Great Western	70½
New 2½ per Cent. Ann.	..	Stock Lancash. & Yorkshire	111½
Consols for account ..	92½	Stock London and Blackwall.	61½
India Debentures, 1858.	..	Stock Lon. Brighton & S. Coast	117½
Ditto 1859.	9½	Stock Lon. Chatham & Dover	47
India Stock	2.0	Stock London and N.-Westm.	96½
India 5 per Cent. 1859.	100	Stock London & S.-Westm.	92½
India Bonds (£1000) ..	30 dis.	Stock Man. Sheff. & Lincoln.	47
Do. (under £1000)....	dis.	Stock Midland	127½
Exch. Hills (£1000)....	dis. 7	Stock Ditto Birm. & Derby	102
Ditto (£500)....	dis. 15	Stock Norfolk	56
Ditto (Small) ..	dis. 15	Stock North British	64
		Stock North-Eastn. (Brwck.)	101½
		Stock Ditto Leeds	60½
		Stock Ditto York	90
		Stock North London	100
		Stock Oxford, Worcester, &	
		Stock Wolverhampton ..	..
		Stock Shropshire Union ...	50
		Stock South Devon	42
		Stock South-Eastern	84
		Stock South Wales	61
		Stock S. Yorkshire & R. Dun	97
		Stock Stockton & Darlington	41½
		Stock Vale of Neath	77
RAILWAY STOCK.			
Stock Birk. Lan. & Ch. June.	81½		
Stock Bristol and Exeter....	100		
Stock Cornwall	6		
Stock East Anglian	17½		
Stock Eastern Counties	50½		
Stock Eastern Union A. Stock	59		
Stock Ditto B. Stock	28		
Stock Great Northern	100½		

London Gazettes.

Windings-up of Joint Stock Companies.

TUESDAY, March 19, 1861.

UNLIMITED IN CHANCERY.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY (REGISTERED).—V. C. Kinderley order to wind up made March 8.
HERALD LIFE ASSURANCE SOCIETY.—The Master of the Rolls will, on March 24, at 1, proceed to make a call on contributories of the company, for £1 10s. per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, March 19, 1861.

CHARLTON, GEORGE, Tea Dealer & Grocer, 48, Charing-cross, Middlesex, and also of 6, Acre-lane, Brixton. Hussey, Solicitor, 20, Great Knight-rider-street, London. April 12.
CROSBY, JOHN, Banker, Kirby Thor, Westmorland. W. & E. Rieamire, Solicitors, Penrith. May 1.
DEWDNEY, WILLIAM, Builder, Horsham, Sussex. Sadler, Solicitor, Horsham, Sussex. May 8.
SCORSEBY, WILLIAM, Farmer & Cattle Jobber, Knapton, Yorkshire. Jackson, Solicitor, Malton, Yorkshire. May 12.
VYSE, THOMAS, Esq., Leghorn Hat Merchant, formerly of Wood-street, London, and late of Hern-hill Abbey, Surrey. Gregory, Skirrow, Rowcliffe, & Rowcliffe, Solicitors, 1, Bedford-row, Middlesex. June 1.
WINDER, HENRY, Liverpool and Wavertree, Lancaster. Carson, Ellis, & Field, Solicitors, Talbot Chambers, 3, Fenwick-street, Liverpool. May 1.

FRIDAY, March 23, 1861.

ELSMERE, COLLEY, Farmer, Upton Magna, Salop. Scarth & Sprott, Solicitors, Shrewsbury. April 20.
GAMBIE, WILLIAM, Esq., Sacombe-park, Hertfordshire, afterwards of Dover, and late of 46, Charlotte-square, Edinburgh. Olverson, Lavis, & Peachey, Solicitors, 8, Frederick's-place, Old Jewry, London. May 21.
GARRETT, EDWARD WILLIAM, a Commander in the Royal Navy, Royal Hospital, Greenwich, Kent. Clayton & Son, Solicitors, 10, Lancaster-place, Strand. May 13.
LANODALE, MARMADUKE ROBERT, Esq., Garston, Bletchingley, Surrey, and Gower-street, St. Giles-in-the-fields, Middlesex. Clayton & Son, Solicitors, 10, Lancaster-place, Strand. May 13.
SMITH, THOMAS, Esq., Ordnance Office, Tower of London, and late residing at Alkham-villa, Alkham, Kent. Watson, Solicitor, 14, Snargate-street, Dover. June 27.
TWEED, AMPHILLIS ELIZA SARAH, Widow, 5, Queen-square, Bloomsbury, Middlesex. Clayton & Son, Solicitors, 10, Lancaster-place, Strand. May 13.
WILDMAN, Colonel THOMAS, a Colonel in Her Majesty's Army, Newstead Abbey, Nottinghamshire. Percy & Goodall, Solicitors, Nottingham, or White, Broughton, & White, 12, Great Marlborough-street, Middlesex. May 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, March 19, 1861.

BLOOR, MARY, Widow, Plumpton-street, Liverpool. Edwards & Edwards, M. R. April 18.
COOKE, THOMAS SIMPSON, Gent., 92, Great Portland-street, Marylebone, Middlesex. Smith & Lyle, M. R. April 12.
CULLUM, SAMUEL HENRY, Gent., East End, Finchley, Middlesex. Cullum & Cullum, M. R. April 15.
HAMPSON, ELIZABETH, Widow, City-road, Middlesex. Bottridge & Adams, M. R. April 13.

MATHEW, ELIZABETH, Widow, Paxton House, Tarnham-green, Middlesex. May v. Smerdon, M. R. April 12.
 PATERNOSTER, JOHN, Gent., Doward-hill, Whitechurch, Herefordshire. Graham v. Paternoster, M. R. April 19.

FRIDAY, March 22, 1861.

ANSELL, JUDITH, Widow, Compton-street, Brunswick-square, Middlesex, & WILLIAM HALE, Hair Dresser, Fetter-lane, Holborn, London. Beattall v. Hale, M. R. April 19.
 AWDRY, JOHN ROWLANDSON, Seaman. M. R. Nov. 15.
 BOWYER, CHARLES, Gent., Cotwalton, Stone, Staffordshire. Meddings v. Bowyer, M. R. April 11.
 CURTIS, RICHARD, Wine and Spirit Merchant, Midsomer Norton, Somersetshire. Paul v. Curtis, M. R. April 20.
 HARRISON, RICHARD MATTHEW, Esq., Charlotte-row, Walworth, Surrey. Napper v. Napper, V. C. Wood. April 8.
 JONES, ELEANOR, Widow, Cambria-cottage, Darnley-road, Gravesend, Kent. Little v. Nickoll, M. R. April 17.
 MORPHY, FRANCIS STACK, Esq., Sergeant-at-Law, 33, Lincoln's-inn-fields, and Earl's-gardens, Brompton, Middlesex. Greenwood v. Sturgis, M. R. April 15.
 NORMAN, Captain RICHARD, Hay, near Brecon, Brecknockshire. Hathway v. Barker, M. R. April 20.
 ROBISON, JOHN, Commercial Traveller, Liverpool. Robison v. Killey, M. R. April 16.

Assignments for Benefit of Creditors

TUESDAY, March 19, 1861.

BOTTOMLEY, BENJAMIN GARFETT, Ironmonger, Devonport. *Sols.* Beer & Roundell, Devonport. March 7.
 BRAGO, ROBERT, & CHARLES BRAGO, Tailors & Drapers, Sedburgh, West Riding, Yorkshire. *Sol.* Jellicorse, 16, Cooper-street, Manchester. Feb. 26.
 CARR, GEORGE, Builder & Bricklayer, Earl Shilton, Leicestershire. *Sol.* Preston, Hinckley. March 14.
 COLLINGWOOD, WILLIAM ALFRED, Licensed Victualler, the Magpie and Horse Shoe, Bedford-street, Red Lion-street, Holborn, Middlesex. *Sols.* Child & Son, 62, Cannon-street, London. Feb. 20.
 EASLEA, JOHN, Miller & Farmer, Eriswell, Suffolk. *Sols.* J. & J. Read, Mildenhall, Suffolk. March 9.
 ETHERIDGE, CHARLES, Berlin Wool Dealer & Fancy Repository, 1, Manorise, Brixton, Surrey. *Sols.* Langford & Marsden, 59, Friday-street, Cheapside. March 8.
 FELDMAN, SIMON FERDINAND, Shoe Manufacturer, New-street, Bishopsgate-street, London. *Sol.* Turner, 68, Aldermanbury, London. Feb. 4.
 HEDGE, WILLIAM, Farmer & Trimming Manufacturer, Sarratt, near Rickmansworth, Hertfordshire. *Sol.* Marlon, 99, Newgate-street, London. Feb. 22.
 HOLLIDAY, JOSEPH, Tailor & Clothier, Smithford-street, Coventry. *Sol.* Soden. March 9.
 JAMES, JOHN, Cordwainer, St. Columb, Cornwall. *Sol.* Whitefield, St. Columb. March 12.
 JENKINS, HENRY, Flour Dealer & Miner, Perry-grove, near Coleford, Gloucestershire. *Sols.* Borlase & Robinson, Mitcheldean, Gloucestershire. Feb. 27.
 LEE, WILLIAM, Builder, Hereford. *Sols.* Bodenham & James, Hereford. March 8.
 LEWIS, JOSEPH, Machinist, Stanley-street, Salford, Lancaster. *Joint Sols.* Shuttleworth, 23, Kennedy-street, Manchester; and Haywood, 25, Dickinson-street, Manchester. March 9.
 LEVTON, JOHN, Woollen Warehouseman, 33, Basinghall-street, London. *Sol.* Turner, 68, Aldermanbury, London. March 8.
 NAYLON, JOHN, Machine Maker, Winterton, Lincolnshire. *Sol.* Liversidge, Winterton. March 2.
 PROCTOR, ROBERT, & ALEXANDER MACKIE, Cotton Manufacturers, Nelson, near Burnley, Lancashire. *Sol.* Boots, 52, Brown-street, Manchester. March 8.
 SCOTSON, WILLIAM, Car Proprietor, Liverpool. *Sol.* Henry, 3, Clayton-square, Liverpool. March 12.
 TEANBY, WILLIAM, Grocer & Draper, Haxey, Lincolnshire. *Sol.* Carnochan, Crowle, Lincolnshire. Feb. 25.
 THATCHER, JOHN, Draper & Clothier, Wells, Somersetshire. *Sol.* Sole, 68, Aldermanbury, London. Feb. 14.
 THURMAN, WILLIAM, Hosier, Nottingham (W. Thurman & Co.). *Sol.* Hunt, Nottingham. Feb. 23.

FRIDAY, March 22, 1861.

BROOK, WILLIAM, Miller, Hopton, Suffolk. March 5. *Sols.* Musket & Garrod, Diss, Norfolk.
 COLE, JOHN, sen., Builder & Haberdasher, Coventry. Feb. 26. *Sol.* Soden, Coventry.
 COX, JOHN, & JOHN GEORGE SHAW, Tallow Merchants & Soap & Candle Manufacturers, Bristol. March 2. *Sols.* Smith & Vassall, Abbot, Lucas, & Leonard, Bristol.
 DAVIES, DAVID, Draper, Llangadock, Carmarthenshire. March 6. *Sol.* Price, Falley, near Llandilo.
 DAVIDSON, THOMAS, Merchant Tailor, North Bailey, Durham. Feb. 29. *Sol.* Watson, 6, Sadler-street, Durham.
 JEFFRIES, JOHN, Shoemaker, Ashton Keynes, Wilts. March 16. *Sols.* Bradford, Son, & Foote, Swindon.
 KETTON, THOMAS, Miller & Flour Dealer, South Stockton, Yorkshire. March 13. *Sol.* Thompson, Stockton.
 KIRKMAN, THOMAS, Ironfounder, Farnworth and Little Hulton, Lancashire. March 14. *Sols.* Holden & Andrews, 15, Mawdaley-street, Bolton.
 KNIGHT, EDWARD, & RICHARD JAMES DIX, Ironmongers, Maldon, Essex. Feb. 25. *Sol.* Newbould, 14, Norfolk-row, Sheffield, York.
 LAYCOCK, ELIZABETH, & JOHN PICKLES, Preston. Feb. 25. *Sols.* Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester.
 LANNITT, SIDNEY, Manufacturing Jeweller, 44, Berner's-street, Middlesex. Feb. 23. *Sols.* Sudlow, Torr, & Co., 38, Bedford-row, London.
 WARREN, SAMUEL, Innkeeper, Melbourne, Derbyshire. March 19. *Sol.* Sale, St. Mary's Gate, Derby.
 NURSET, ALFRED, Stonemason, Redenhall-with-Harleston, Norfolk. March 4. *Sol.* Hazard, Harleston, Norfolk.
 PONTING, JOSEPH, Grocer & Tea Dealer, Swindon, Wiltshire. March 9. *Sol.* Kinneir, Swindon.
 SMITH, CHARLES, Butcher, Swindon, Wiltshire. March 13. *Sols.* Bradford, Son, & Foote, Swindon.
 VICKERS, THOMAS, Farmer, Wroot, Lincolnshire. March 16. *Sols.* Collickson & Littlewood, Doncaster.

WENMOUTH, JAMES, Miller & Farmer, Newbridge, Callington, Cornwall. March 18. *Sol.* Nicolls, Callington.
 WILLIAMS, OWEN, Tailor, Draper, & Grocer, Ivy House, Gwyddelwern, Merioneth. March 4. *Sols.* Finney, 6, Farnival's-inn, Agent for Marcus Louis, Well-street, Ruthin.
 WRIGHT, THOMAS, GEORGE WRIGHT, sen., & GEORGE WRIGHT, jun., Glove Manufacturers, Woodstock. March 15. *Sol.* Wain, Oxford.
 YOUNG, THOMAS, 123, Upper Hill-street, Liverpool, and JAMES PUGH, 16, Daulby-street, Liverpool. March 9. *Sols.* Norris & Son, 16, North John-street, Liverpool.

Bankrupts.

TUESDAY, March 19, 1861.

BARRIE, ROBERT, Builder & Carpenter, York-street, Covent-garden, Middlesex. *Com.* Evans: March 28, at 2; and April 25, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Boydell, 41, Queen-square, Bloomsbury, and Watford, Herts. *Pet.* March 2.
 GRAY, THOMAS, Manufacturer of materials for making Paper, Garrettmills, Wandsworth, Surrey. *Com.* Fane: March 28, at 2; and April 26, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Bruton, 27, Basinghall-street. *Pet.* March 16.
 GROOM, GEORGE, Lithographic Printer, 43, Aldermanbury, London (Groom & Co.). *Com.* Holroyd: April 9, at 12; and May 9, at 11; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Gregson, 5, Angel-court, Throgmorton-street, London. *Pet.* March 8.
 LAIDLAW, ALEXANDER W., Wine Merchant, 3, Bury-court, St. Mary Axe, London. *Com.* Fonblanque: March 27, and May 1, at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Blake & Snow, 22, College-hill, City, London. *Pet.* March 5.
 MEASON, JOHN, Upholsterer & Cabinet Maker, 37, and 38, Ship-street, Brighton. *Com.* Goulburn: April 8, at 2; and May 6, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Laurance, Plews, & Boyer, 14, Old Jewry-chambers, Old Jewry, London; or Faithful, Son, & Coode, Brighton. *Pet.* March 18.
 MORDAUNT, ALFRED, Chemist & Druggist, Southampton. *Com.* Evans: March 28, at 12; and April 25, at 2; Basinghall-street. *Off. Ass.* Bell. *Sols.* Harrison & Lewis, Old Jewry. *Pet.* Jan. 21.
 PARRY, WALTER, Carpenter, Builder, & Licensed Victualler, Brecon. *Com.* Hill: April 9, and May 7, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Garnon, Brecon; or Abbott, Lucas, & Leonard, Bristol. *Pet.* Feb. 28.
 PENNELL, SPENCER PERCIVAL, Commission Merchant, Liverpool. *Com.* Perry: April 4 & 17, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool. *Pet.* March 15.
 RILEY, WILLIAM, Butcher, Ilkston, Derbyshire. *Com.* Sanders: April 4 & 18, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Loea, Nottingham. *Pet.* March 15.
 ROBERTSON, JAMES BOLTON, Draper, South Shields. *Com.* Ellison: March 26, and May 14, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Kidd, North Shields; or Williamson, Hill, & Co., 10, Great James-street, Bedford-row, London. *Pet.* March 16.
 SCOTT, PETER, Timber Merchant, Contractor, & Commission Agent, Liverpool, and Newcastle, Down, Ireland. *Com.* Perry: April 4, & 24, at 11; Liverpool. *Off. Ass.* Morgan. *Sol.* Harris, 20, North John-street, Liverpool. *Pet.* March 11.

FRIDAY, March 22, 1861.

BOWEN, WILLIAM, Victualler, Swansea, Glamorganshire. *Com.* Hill: April 9, and May 7, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* Teddy, Bristol. *Pet.* March 20.
 FIELDING, JAMES, Cotton Spinner & Manufacturer, Macclesfield. *Com.* Jemmett: April 9 & 30, at 12; Manchester. *Off. Ass.* Hernaman. *Sols.* Atkinson, Saunders, & Herford, Norfolk-street, Manchester. *Pet.* March 18.
 GRIFFIN, GEORGE, Grocer & Provision Dealer, Walsall, Staffordshire. *Com.* Sanders: April 4 & 25, at 11; Nottin ham. *Off. Ass.* Whitmore. *Sols.* Duignan & Edworth, Walsall. *Pet.* March 19.
 HUNT, JOHN WAERFORD, Lamp Manufacturer, Liverpool. *Com.* Perry: April 4 & 24, at 12; Liverpool. *Off. Ass.* Turner. *Sol.* Samuel, Liverpool. *Pet.* March 15.
 HUNT, THOMAS DEWICK, Innkeeper, Bootle, near Liverpool. *Com.* Perry: April 5 & 24, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Haigh, 24, North John-street, Liverpool. *Pet.* March 18.
 KIRBY, EDWARD, Liverpool, and SAMUEL BAACORNDLE, Northwich, Chester, Salt Proprietors & Timber Merchants (Kirby & Co.). *Com.* Perry: April 4 & 24, at 12; Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Commerce-street, Liverpool. *Pet.* March 16.
 SALOMONSON, SAMUEL, Bill Broker & Scrivener, 33, Abchurch-lane, London. *Com.* Evans: April 4 at 12.30; and May 2 at 11; Basinghall-street. *Off. Ass.* Bell. *Sol.* Hand, 22, Coleman-street. *Pet.* March 13.
 SCOTSON, WILLIAM, Car Proprietor, Liverpool. *Com.* Perry: April 5 & 24, at 12; Liverpool. *Off. Ass.* Bird. *Sols.* Dodge & Wynne, Union-court, Liverpool. *Pet.* March 18.
 SIMPSON, WILLIAM, Corn Miller, Newsham Mill, near Pickering, Yorkshire. *Com.* Ayrton: April 8, and May 6, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Cariss & Cudworth, Leeds. *Pet.* March 8.
 STEVENS, GEORGE, Merchant, 16, Great St. Helena, London. *Com.* Holroyd: April 9, at 1; and May 9, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Solomon, 54, Coleman-street, London. *Pet.* March 6.
 STEWARD, SAMUEL WILLIAM POTTER, Brick Maker, Hellesdon, Norfolk, and Farmer, Fordham, Cambridgeshire. *Com.* Fonblanque: April 3, at 12.30; and May 11 at 1; Basinghall-street. *Off. Ass.* Graham. *Sols.* Sole, Turner, & Turner, 63, Aldermanbury; or Miller, Son, & Bugg, Norwich. *Pet.* March 18.
 THOMAS, WILLIAM HENRY, Builder, Dawlish, Devonshire. *Com.* Andrews: April 3, at 1; and May 1, at 12; Exeter. *Off. Ass.* Hirtzel. *Sol.* Fryor, St. Thomas, Exeter. *Pet.* March 18.
 YOUNG, CHARLES FREDERICK, Chemist & Druggist, Nottingham. *Com.* Sanders: April 4 & 25, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Brown, Fletcher-gate, Nottingham. *Pet.* March 15.
 VOIGT, AUGUSTUS WILLIAM, Dealer in Pianofortes, Handel-house, 49, St. George's-place, Cheltenham. *Com.* Hill: April 8, at 1; and May 6, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Packwood, Cheltenham. *Pet.* March 20.
 WEST, WILLIAM, Bookseller & Stationer, 11, Upper Arcade, Bristol. *Com.* Hill: April 8, and May 6, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Ashley & Tee, Old Jewry, London; or Barker, Bristol. *Pet.* March 19.
 WILSON, ALFRED, Draper, 39, High street, Kensington, Middlesex. *Com.*

Evans: April 4, and May 9, at 1: Basinghall-street. *Off. Ass. Johnson. Sol. Farrar. 19, Great Carter-lane, Doctors'-commons. Pet. March 19.*

BANKRUPTCIES ANNULLED.

FRIDAY, March 23, 1861.

GRAFFITH, JOHN, Bookseller & Stationer, 21, Hanway-street, Oxford-street, Middlesex. March 18.

PAYNE, HENRY, Tailor & Draper, 234, Strand, Middlesex. March 31.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, March 19, 1861.

AGATE, JOSEPH, Grocer, Tallow Chandler, & Baker, Emsworth, Hants. April 12, at 1: Basinghall-street.—BAKER, JOHN, Scrivener, Woodlands, Blagdon, Somersetshire. April 12, at 1: Bristol.—BAKER, RICHARD, General Smith, 103, High-street, Barnstaple. April 11, at 1: Exeter.—BELL, ALEXANDER DALRYMPLE, & EMIL BRASSET, Silk Fringe & Trimming Manufacturers & Importers, 7, Goldsmith-street, London. April 12, at 1: Basinghall-street.—BONHAM, HENRY, Plumber, Painter, & Glazier, 26, Wilmot-street, Russell-square, Middlesex. April 10, at 1:30: Basinghall-street.—BOYCE, WILLIAM, Printer, Stationer, & Bookseller, East Dereham, Norfolk. April 12, at 12: Basinghall-street.—CRIGSTON, THOMAS, Machinist, South Sea Peter-street, Manchester. April 24, at 12: Manchester.—DAVIS, THOMAS, Hotel Keeper, 11, Chapel-street, St. George the Martyr, Middlesex, heretofore of Great Malvern, Worcester. April 10, at 1: Basinghall-street.—FAWCETT, BENJAMIN, Grocer, Bradford-road, Huddersfield. April 16, at 11: Leeds.—FOULEN, HENRY, Cab & Omnibus Proprietor, & Hackneyman, 23, John-street, Union-street, Kennington-road, Surrey. April 12, at 2: Basinghall-street.—FRAMPTON, JOHN, Butcher, Poole. April 12, at 1: Basinghall-street.—GRAY, JOHN, & JOHN ROBERT HENSON, Upholsterers, Undertakers, & Builders, Epsom, Surrey (Gray & Henson). April 12, at 12: Basinghall-street; joint estate John Gray & John Robert Henson; same time, separate estate, John Gray; same time, separate estate, of John Robert Henson.—HARFORD, JOHN, & WILLIAM WEAVER DAVIES, Iron Masters, Iron Founders, & Iron Merchants, Bristol, and Ebbw Vale and Sirhowy, Monmouthshire. April 12, at 11: Bristol.—HAYES, MARK, Cheesemonger, New Brentford, Middlesex. April 12, at 11:30: Basinghall-street.—KIALMARK, GEORGE WILLIAM BRYANT, Cement Manufacturer, Puriton, Somersetshire. April 24, at 12: Exeter.—LE BATT, CHARLES, Messman, Exeter Barracks, Exeter. April 10, at 12: Exeter. LINDO, SOLOMON, Wine, Spirit, & Beer Merchant, & Bill Broker, 42, Westbourne-grove, Bayswater, Middlesex. April 10, at 12: Basinghall-street.—PATTISON, THOMAS SEPTIMUS, & FREDERICK MILES, Wholesale Stationers, 9, Laurence Pountney-hill, London. April 12, at 2: Basinghall-street; joint estate; same time, separate estate of Thomas Septimus Pattison; same time, separate estate of Frederick Miles.—PERRE, EDWIN, Builder, Torquay. April 11, at 12: Exeter.—PIENFOLD, WILLIAM, Smith & Gas Fitter, 4, Market-terrace, Caledonian-road, Middlesex. April 10, at 1:30: Basinghall-street.—RUSSELL, GEORGE, Hotel Keeper, Leamington Priory, Warwickshire. April 15, at 11: Birmingham.—SHOBBEL, WILLIAM, Publisher & Bookseller, 20, Gt. Marlborough-street, Middlesex, and 27, St. John's Wood-terrace, St. John's Wood. April 12, at 12: Basinghall-street.—STRACHAN, JOHN, Common Brewer, Newcastle-upon-Tyne. April 11, at 12: Newcastle-upon-Tyne.—TOKER, JOHN BUCK, Manufacturer of Malleable Cast Iron, Manchester, and of Ospring, near Faversham, Kent. April 12, at 1: Basinghall-street.—VICKERS, WILLIAM HENRY, Butcher, 5, Suffolk-place, Lower-road, Islington. April 11, at 11: Basinghall-street.—WOLSTENFOLME, WILLIAM, Ironmonger, 97, Brook-street, Old Garratt, Manchester. May 9, at 12: Manchester.

FRIDAY, March 23, 1861.

ABBOTT, JAMES MAUD, Carpenter, Builder, Undertaker, Hanwell, Middlesex. April 15, at 11:30: Basinghall-street.—BAKER, GEORGE, and GEORGE BAKER, JUN., Stock and Share Brokers, 29, Threadneedle-street, London. April 12, at twelve: Basinghall-street.—BROWN, HENRY and BROOK HODGSON, Velvet Manufacturers, Halifax. April 12, at 11: Leeds.—DAVUT, EDWARD RUSSELL, London, Bill Broker, 87, Old Broad-st. April 12, at 12: Basinghall-st.—EVANS, WILLIAM NATHANIEL, and ROBERT BUNCOMBE EVANS, Tanners, Colyton, Devonshire. April 24, at 12: Exeter.—GILYARD, WILLIAM, & SAMUEL BROWN, Machine Wool Combers & Wool Staplers, Bradford. April 12, at 11: Leeds.—MAYO, THOMAS, Wooden Ware Manufacturer, Chesham, Buckinghamshire. April 15, at 12: Basinghall-street.—MORTON, GODFREY, and JOHN WILLIAMS, Builders, Portmadoc, Carnarvonshire. April 4, at 11: Liverpool.

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PURSUANT to an Order of the High Court of

Chancery, made in the Matter of the Estate of Francis Stack Murphy, late of No. 33, Lincoln's-inn-fields, and of Earls-court-gardens, Brompton, both in the County of Middlesex, Esq., Serjeant-at-Law, deceased, and in a cause between Esther Greenwood, Plaintiff, and Samuel Sturgis, Defendant, the creditors of the above-named Francis Stack Murphy, who died in or about the month of June, 1860, are by their solicitors, on or before the 15th day of April, 1861, to come in and prove their debts at the chambers of the Master of the Rolls, in the Rolls-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Tuesday, the 23rd day of April, 1861, at 12 o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the claims.—Dated this 18th day of March, 1861.

GEO. HUME, Chief Clerk.

WALKER & HARRISON,
5, Southampton-street, Bloomsbury, Middlesex,
Plaintiff's Solicitors.

We cannot notice any communication unless accompanied by the name and address of the writer.

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THE SOLICITORS' JOURNAL.

LONDON, MARCH 30, 1861.

CURRENT TOPICS.

The "Non-trader" and "Dead Men's" Clauses of the Bankruptcy Bill have afforded, as might have been expected, the main grounds of opposition to it. The greatest difficulty, however, was anticipated from the former, and it has been overcome by yielding to the suggestions of Sir Hugh Cairns for the protection of persons who are not engaged in trade, but who are intended to be subjected to the operation of the Act. The "Dead Men's" Clauses have been very wisely struck out of the Bill altogether. They were introduced at the dictation of the mercantile classes, who can hardly be supposed to know what the real effect would have been. The principal clause proposed that creditors of deceased "trader-debtors" might petition the Court of Bankruptcy for a distribution of the estate of the deceased. And it was afterwards provided that no order should be made where a suit for the same purposes had been instituted in Chancery. Application was to be made within three months after the decease of the debtor by any creditor of such an amount as would have entitled him to petition for an adjudication in bankruptcy; and in effect, as Sir Hugh Cairns remarked, persons would always be liable after their death to have the stigma of insolvency attached to their names, without any fault of their own. The jurisdiction thus sought to be given to the new Court of Bankruptcy was altogether foreign to its proper functions, and, moreover, involved the great evil of a new conflict of jurisdictions. We are glad, therefore, that these objectionable clauses have been struck out of the Bill.

THE CASE OF *BROOK v. BROOK*.

Perhaps we may venture to describe this case by saying of it, in the words of Lord St. Leonards, that it is one of great importance but of little difficulty. It arose, as is well known, out of an attempt to evade a law which still remains unrepealed in spite of persevering agitation. The party which is active in demanding the repeal of the law against marriage with a deceased wife's sister, would be equally interested in contriving a process of easy application by which that law might be evaded; and, therefore, we may suppose that the decision of the House of Lords on Monday week, was awaited with an anxiety which spread far beyond the persons immediately concerned in the litigation.

Professional readers may have felt an additional interest in this case, because it was an appeal from what was substantially the first judgment given by Sir Cresswell Cresswell, in the character of a judge peculiarly conversant with matrimonial law. On the 4th of December, 1857, after the establishment, but before the opening, of the Divorce Court, Sir C. Cresswell, who was still a judge of the Court of Common Pleas, delivered his opinion as assessor to Vice-Chancellor Stuart in the case of *Brook v. Brook*, then pending in the Court of Chancery. That opinion was adverse to the validity of the disputed marriage, and to the legitimacy of the children born of it. The Vice-Chancellor gave judgment in accordance with the opinion of his assessor, and the party asserting the validity of the marriage appealed directly to the House of Lords. The case has been fully argued by able counsel before the Lord Chancellor and three other distinguished lawyers, and the hope of getting rid of this much-discussed portion of

the marriage law by the device of a continental trip may now be finally laid aside. Probably this failure on the judicial side of Parliament will produce increased activity in the Legislature. The question can henceforward be discussed only under those aspects of it which lie beyond the province of this Journal. The existing law of England, as declared by the House of Lords, holds that marriage with a deceased wife's sister is contrary to the Divine law, and it refuses to allow its own domiciled subjects, standing in that relation of affinity, to contract marriage even in a country where such marriages are held lawful. It is true that there is a rule of international law which says that a marriage valid according to the law of the country where it is celebrated is valid everywhere. But this rule must be understood to speak only of the forms of entering into the marriage contract. An example of its application may be found in what used to be called Gretna-green marriages, which were contracted in Scotland between domiciled English subjects, without the forms of banns or license required by the English law. Those marriages were held valid, because the forms of the country where the contract was made had been complied with. But what the Lord Chancellor called "the essentials of the contract" depend upon the law of the domicile of the contracting parties, and that law must hold the contract void if it be found defective in these essentials. Perhaps the term "essentials" is not very happily selected to meet all the questions which exercise the ingenuity of the student of this branch of law. There is, for example, the question which came before Sir C. Cresswell in the late case of *Simonin v. Malac*, as to the validity of a marriage solemnized in England between persons who, being of an age which by our law enjoys complete freedom of matrimonial engagement, were, nevertheless, required by the law of France to obtain, or at least to apply for, the consent of parents. It is easy to say that the defect existing in that case by the French law was merely a defect of form; but it is quite as easy to represent it as a defect of substance, and we cannot doubt that it would be so regarded by a French court. The Lord Chancellor in his recent judgment said that "it was quite obvious that no civilised state could allow its domiciled subjects or citizens by making a temporary visit to a foreign country to enter into a contract to be performed in the place of domicile, if the contract is forbidden by the law of the place of domicile as contrary to religion, morality, or any of its fundamental institutions." The principle here laid down is quite sufficient to dispose of *Brook v. Brook*, because there is no doubt that by the existing law of England marriage with a deceased wife's sister is forbidden as contrary to religion. But such a law as that of France, which requires consent of parents to marriage under a certain age, seems to come very near to what we should call "a fundamental institution," if it were an institution of our own country. Probably there are many persons who think that the prevention of early marriages without the consent of parents deserves to be regarded as matter of public policy, quite as much as the prohibition of marriage with the sister of a deceased wife. The decision in *Simonin v. Malac* is, perhaps, open to more doubt than that in *Brook v. Brook*; and, at any rate, the comparison of the two cases suggests this remark, that what is called the comity of nations does not usually prevent each nation from treating its own laws and policy as much more important than those of all the world besides. In giving judgment in *Simonin v. Malac*, the Court inquired how an English clergyman when called upon to perform the marriage service could be expected to discover that the applicants were the subjects of a law which prescribed certain consents of parents or other formalities as necessary to a valid marriage. Surely it might be asked with almost equal reason why a Danish clergyman should be required to find out that the parties coming before him stood in a certain relation which,

by the law of England, made a marriage between them null and void.

The decision of the House of Lords went upon the ground that, before the passing of Lord Lyndhurst's Act, the marriage in question would have been held illegal, and might have been set aside, in a suit commenced in England in the lifetime of the parties. The effect of that Act was to make all such marriages as would have been voidable before it passed absolutely void. But in considering whether any particular marriage would have been voidable before that Act, reference is necessarily had to the legislative declaration of the prohibited degrees of affinity and consanguinity which was made at the Reformation. It is important to bear in mind that Lord Lyndhurst's Act has no further effect than we have here ascribed to it. In the words of the Lord Chancellor, "this Act was not brought in to prohibit a man from marrying his former wife's sister, and it does not render any marriage illegal in England which was not illegal before." It will be remembered that in the present case both the contracting parties are dead; and the question arises between the Crown and the surviving children both of the first and second marriages as to the succession to the share of a deceased child of the second marriage in the real and personal property of the father. The words of the Act may now be taken to embrace all marriages of this class, contracted in all parts of the world, by persons domiciled in England or Ireland. Speaking popularly, no Englishman can run over to the Continent, go through the ceremony of marriage with his deceased wife's sister, and bring her home with him as his lawful wife. This seems to be the whole effect of the decision of the House of Lords. The opinion of Sir C. Cresswell was rested upon the ground of the incestuous character of such marriages in the eye of the English law, and also upon the further ground that Lord Lyndhurst's Act created a personal disability, which followed Englishmen like their shadows into whatever part of the world they might betake themselves. But this latter doctrine has been rather anxiously repudiated by the House of Lords, and probably it would not be difficult to show that it might lead to doubtful, and perhaps inconvenient, consequences. Lord Cranworth noticed that one of the questions raised in the case had been, whether this Act applied to all British subjects in all parts of the world; and he declared his own view to be that it applied only to persons domiciled in England and Ireland. Of course domicile may be changed without throwing off allegiance, and this notion of a personal disability created by the Act would appear to enlarge its operation, so as to comprise all subjects of the British crown.

The unfortunate effect of this judgment in bastardizing the innocent children of Mr. Brook will bring home very strongly to the popular mind the truth that legal principles and decided cases are not to be got rid of by agitation. The judgment of the Lord Chancellor is intelligible to the lay reader as well as satisfactory to the lawyer. It is at any rate sufficient to dispose of the case before him, and perhaps none the less valuable because it declines to adopt Sir C. Cresswell's refinement of a personal disability. It seems that the appellant's counsel addressed themselves with a good deal of vigorous confidence to the demolition of that subtle theory. Perhaps they may have had reason for the hopes which this part of their case inspired in them; but if they had, this only shows that the best lawyers may sometimes give unsound reasons for perfectly sound judgments.

THE NEW LAW EXAMINATIONS.

For some weeks past our columns have contained numerous letters on the subject of the proposed preliminary and intermediate examinations at the Law Institution. As might have been expected beforehand,

there is a great diversity of opinion on the subject. But, except amongst the "ten years' clerks," there appears to be a very general conviction on the part of our correspondents in favour of the institution of compulsory examinations, both preliminary and intermediate, as a test of fitness and proficiency in candidates for admission into the profession. No doubt there is great force in the complaints made by some of our correspondents who desire to avail themselves of the ten years' clause. Many of them who are unquestionably men well fitted to undertake the duties of the profession, and to assume a highly respectable position as members of society, may, nevertheless, find it extremely difficult to pass such an examination as would be very proper for lads who had just left school. Indeed, it is obvious to every person who is qualified to form an opinion on the subject, that a difference of ten or fifteen years in point of age, is of itself a very important element in considering what ought to be the test of intellectual capacity or acquirements. It will not be denied that many men a few years after they take their Master's degree at the University, would find it a very irksome task, without considerable preparation, to pass some of the examinations which presented no great difficulty to them years before. It is, moreover, too much to expect that examiners will not sometimes lean towards severity where candidates are very much beyond the average age. If, indeed, the examination was confined to questions in which the results of experience could be exhibited, it would not be unreasonable to expect from persons of mature age more than from mere boys; but when it is of a character altogether favourable to the latter, this circumstance is one that ought not to be forgotten. In reference to the present occasion it should, also, be borne in mind, that any plan which is adopted may, unless special care be taken, have an unfair retrospective effect so far as the ten years' clerks are concerned. We, therefore, suggest to the Incorporated Law Society, whether it would not be fair towards the "ten years' clerks," to make, at least for some time, a difference between the examinations to be passed by them and those which are prescribed for the general body of articulated clerks. It is at present proposed that every candidate must pass in Latin, and either Greek, French, German, mathematics or physics. Such a scheme must in effect exclude not a few respectable men who have been many years away from school and engaged in the practice of the law, but who are by their character and general attainments well qualified for the profession. We suggest then that in the case of "ten years' clerks" there should be an option of being examined in moral philosophy and political economy in place of the subjects which we have mentioned. Ethics and economics belong to the same general division of philosophy as jurisprudence. They can both be studied from text books in the English language; they comprise a domain of knowledge as profitable to the lawyer as they are interesting in themselves; and they are admirably adapted to prepare the minds of men who have not been much accustomed to scholastic training for an accurate and systematic study of law. The great advantage that would thus be gained would be in the fact, not only that such knowledge might be acquired by men of mature age at intervals of leisure, and without irksome cramming, but that it would remain to those who had gained it an important and permanent acquisition. Whether, indeed, all candidates might not be allowed to elect as one subject of examination, logic, metaphysics, ethics or political economy, is a question well worthy of consideration. At Dublin University, where for some years past all these subjects have received great prominence, it is observed that a large proportion of the men who become distinguished at the bar have selected for their final Honour Examination—in other words, they have "gone out" in—the Moral Sciences. Of these, the names of Sir Hugh

Cairns and Mr. Justice Willes, and, if we mistake not, of Mr. Justice Keating, may be mentioned as being best known in England. The "Novum Organum," and other works of Lord Bacon, the treatises of Dugald Stewart, Dr. Thomas Brown, Victor Cousin, and such like authors among the moderns, to say nothing of the greater names of antiquity, constitute, undoubtedly, the best possible preparation for perusing even the technical books of English law. It is not to be expected, however, that ten years' clerks could do more than acquaint themselves with the most elementary works on the subjects to which we have referred—e.g., Dugald Stewart's "Outlines of Moral Philosophy;" Adam Smith's or Sir J. Macintosh's "Ethical Histories;" Thomas Brown's smaller work on "Mental Physiology;" and Archbishop Whateley's "Lectures on Political Economy." All these works are within the ability of any person of tolerable capacity and education; and we think our readers will agree that even a slight acquaintance with the subjects treated by the authors in question would be much more valuable than such a smattering of Latin and Greek as could be obtained from professional crammers by men who have no time, and, probably, no disposition, for anything else than cramming.

Having thus explicitly stated our views, it is hardly necessary for us to say how entirely we agree with the spirit of the suggestions made by Mr. Blyth to the Incorporated Law Society, which were published in this Journal a fortnight ago. In the same number Mr. Sidney Gedge, who is entitled to speak with some authority upon the subject on which he writes, presents to the Council of the Society some formidable objections against the recognition of the "Middle Class Examinations;" and we confess that his reasons appear to our minds to be well-nigh conclusive. We understand that the entire subject is still under the consideration of the Incorporated Law Society, and we have no doubt that the many valuable suggestions which have been made by our numerous correspondents will receive due attention from that body.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

VIII. (Continued.)

In my last article I was considering the various authorities referred to in the case of *Munroe v. Douglas*, 5 Madd. 379. Upon these citations of cases, and texts of authors, Sir John Leach decided in favour of an acquired domicil in India, and it may not, perhaps, be irrelevant in this place to consider certain expressions in this judgment which have been made the ground of argument in favour of intention merely being sufficient to constitute a new domicil, or to let in the domicil of origin. At this distance of time it is difficult to say whether the judgment is a *verbatim* report of what actually fell from the learned judge; the case is otherwise most elaborately and carefully reported, and hence, perhaps, it would not be just to call that fact in question; but, if it is the sense only of what was delivered, that circumstance might account for an apparent inconsistency, attempted, with considerable acumen, to be reconciled by another learned judge now on the bench. The passage is this:—"A domicil cannot be lost by mere abandonment. It is not to be defeated *animo* merely, but *animo et facto*, and necessarily remains until a subsequent domicil be acquired, *unless the party die in itinere toward an intended domicil*." Now, certainly, this appears to involve a perfect contradiction, that is to say, that a domicil necessarily remained, until a new one was acquired *animo et facto*, unless the party died *in itinere*, towards an intended domicil; that is, unless he

did an act which *his Honour* had just said could not constitute a domicil. These words the learned judge last referred to thought applied to the abandonment and not the acquirement. Another view, however, might be taken of them, and perhaps supported by the judgment as a whole. In the subsequent words, his Honour observes upon the fact that the intention to return to Scotland was not supported by the evidence, and hence, it may fairly be assumed that, if the evidence had been sufficient, the starting on the journey toward an intended domicil, and that domicil the domicil of origin or birth, might have had the effect of causing such domicil to *revert* (the other and acquired domicil having been abandoned) by starting for another country; and this is somewhat supported by the fact that the whole judgment seems based upon the *defect of evidence*.

Upon the subject of revival of a domicil of origin there was some discussion in the case of *Hoskins v. Matthews*, which occurred in January, 1856, before the Lords Justices on Appeal, from Vice-Chancellor Wood, 4 W. R. 216; in which a residence abroad from ill-health was considered not to be of such a compulsory nature as to prevent the acquirement of a foreign domicil; but the most important part of the case consisted in an observation of Lord Justice Turner, who, after stating the fact that the domicil of origin being English had been lost, and a new one acquired in Sweden, Spain and Portugal, thought, *there was yet enough to show that this new domicil was again lost, and the original domicil revived*. The case was, that subsequently the testator went to Florence, where he made his will and died, and the Vice-Chancellor decided that his domicil was Tuscan, in which Lord Justice Turner concurred; but Lord Justice Knight Bruce, thought that the English domicil remained during the year, when Lord Justice Turner held it had revived, or at all events, that a Tuscan domicil was not acquired; but the opinion of one of their lordships being the same as that of the Vice-Chancellor, the result was that the appeal was dismissed.

Upon the question of reverter, it therefore appears that much more is assumed than actually laid down or decided; and the following proposition may now, I think, be taken to be the law upon the point; namely, that a man must *ex necessitate rei* be taken to have some domicil; and, therefore, supposing that during his life he acquires many, and absolutely abandons and loses them, his native domicil, or domicil of origin or birth, will revive; but only in this way, that there must still be some act on the part of the person to complete the intention that it shall revive; but that in the case of a domicil of origin, a slighter degree of evidence is necessary, a slighter degree of *factum* to support such evidence than in the case of any other species of domicil. That a domicil of origin subsists *ipso facto*, whereas any other species must be acquired by some act; and, lastly, that a domicil of origin cannot revive or revert by the mere intention that it shall do so, which is, in fact, a corollary from the first proposition.

In the case of *MacDaniel v. King*, 5 Cushing (American reports) 472—3, the argument was that residence was something different from, and something less than domicil; if this was so under some circumstances, (was observed by the Court) and in connection with a particular subject, or particular words which might tend to fix its meaning; yet in general, residence and domicil were regarded as nearly equivalent; and there seemed to be no reason for making the distinction. The question of residence or domicil was one of fact, and often a very difficult one; not because the principle upon which it depended was not very clear; but on account of the infinite variety of circumstances bearing upon it, scarcely one of which could be considered as a decisive test. The principle seemed to be well settled, that

every person must have a domicile, and he could have but one domicile for one purpose; at the same time, it followed of course, that he retained one until he acquired another, and that acquiring another, *eo instanti*, and by that act he lost his next previous one. The actual change of one's residence and the taking up a residence elsewhere, without any intention of returning, is one strong indication of change of domicile. The actual removal of a person from another place to this, leaving his family therein, but with no intention of returning, was a change of domicile.

In the case of *Hoskins v. Matthews*, 20 Jur. 110, which I have already mentioned, and shall have occasion hereafter more particularly to refer to, it was laid down, as I have said, as an axiom by Lord Justice Turner, that a domicile of origin after it has been lost, revives more easily than an acquired domicile; thus establishing the position that, whatever domicile a man acquires, or indeed, whatever number of domiciles, if he successively loses them all, the domicile of origin, although lost twenty deep, would revive, supposing it was clear that the party at the time of his death had no other. It might, perhaps, be somewhat difficult to put such a case, but we might easily imagine that the movements of the individual might, from choice or circumstances, be so varied and unsettled from the time of attaining majority until death, as that no domicile whatever was acquired, and this alone would raise such a case as to come within the principle I have adverted to. With regard to the *animus remanendi*, the following remarks of Lord Fullerton in the case of *The Commissioners of Inland Revenue v. Gordon's executors*, 12 Dec. of Court of Sess.; 2 Ser. p. 657, are somewhat in point. "If, in order to constitute a domicile there were required an *animus remanendi* so permanent and so absolute as to be independent of all possible change of circumstances, I do not understand how, in the constant uncertainty and transition of all sublunary events, a domicile ever could be established. I think, on the contrary, that the domicile is entirely independent of the motive by which the party was influenced in adopting it. If the motive was one which naturally led to a permanent residence, and if under the influence of that motive, the party did act, the *animus* is sufficiently established, and the presumption cannot be taken off by the mere possibility, or even the probability, that but for the existence of the inducement the party might have established himself elsewhere." The same learned judge in the case of *Arnott v. Groom*, 9 Dec. of Court of Sess. 2nd series, p. 142, (and therefore, on a previous date) made some very pertinent remarks upon the cases of *Somerville v. Somerville*, and the case of *Dr. Munroe (Munroe v. Douglas)* where it was held that because he (Dr. Munroe) had not fixed on any other domicile, although it was not pretended that he had not left India permanently, India was his domicile at the time of his death. Cases might be conceived, he said, involving questions of domicile, in which this principle would lead to strange conclusions, but as limited to the law of intestate succession, it was, perhaps, not very unreasonable. A man having the power of disposing of his property as he chose, and the act of the law being, as it were, the substitute for any expression of his intention on the subject; the change of domicile truly operated as an alteration of his implied will, and there might be some reason for holding that nothing should be held so to operate short of a clear, and definite, and complete purpose to fix himself in some other country, where a different law on the subject was in force. The above *dicta*, as far as they go, are in favour of the reverter of the domicile of origin, and upon the principles regulating this subject, certainly the case of *Munroe v. Douglas* went as far as it is possible to conceive the law could be carried. There was an absolute and entire abandonment of the residence in India, the only qualification upon that being that it was not absolutely completed by an

acquisition of a new domicile, and the mere progress towards such an end was not thought sufficient to complete the abandonment. But, Lord Fullerton, as above, expressed grave doubts upon the soundness of the rule, and those doubts, are, I think, entitled to great weight; for there scarcely appears any reason where there is a total abandonment, not to hold that the domicile of origin would revive, and be the domicile where a party dies *in itinere*.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

HOME CIRCUIT.—KINGSTON.

The commission for the county of Surrey was opened in this town on the 23rd inst. There were only 50 causes entered for trial—41 common and 9 special jury cases.

OXFORD CIRCUIT.—HEREFORD.

The commission was opened by Mr. Baron Wilde in this city on the 25th inst. There were only 6 causes entered for trial.

WESTERN CIRCUIT.—DEVIZES.

The commission was opened in this town on the 25th inst. by Mr. Baron Martin. Two causes only were entered for trial.

SOUTH WALES.—BREGON.

The Lord Chief Baron became so unwell on the evening of the 22nd inst. that he was obliged to leave the court, and Mr. Grove, Q.C., sat and tried prisoners.

Mr. Benjamin William Simpson, of No. 17, Gracechurch-street, has been appointed a commissioner to administer oaths in the Courts of Queen's Bench and Common Pleas.

Recent Decisions.

EQUITY.

ASSIGNMENT OF STOCK IN TRADE BY INSOLVENT TRADER.

The Oriental Bank v. Coleman, V. C. S., 9 W. R. 432.

The case of *Ex parte Bailey* (3 D. M. & G., 534), supplies a good illustration of the principles on which assignments by traders are held void as against assignees in bankruptcy, as tending to defeat or delay creditors. In that case a trader, when insolvent and subject to two judgments, conveyed and assigned to a creditor real property encumbered to its full value, certain policies of assurance, and all his credits, together with his books of account (being all his property, except his furniture and stock in trade) by way of mortgage, to secure the debt due to the creditor. Executions had been issued on the judgments and the furniture and stock in trade were seized under them two days after the assignment. The trader became bankrupt, and it was held that the assignment was void as against his assignees. The deed had been obtained under a degree of pressure which put fraudulent preference out of the question, but it was contended that the deed was void, as contrary to the policy of the Bankrupt Act. There was some doubt whether, at the time he executed the deed, the bankrupt was aware of the issuing of the writs of *fi. fa.*; but he must have known that they might issue at any moment; and however that might be, Lord Justice Knight Bruce thought the execution of the deed, and the delivery of the bankrupt's books to the creditor's solicitor, were "acts of the bankrupt inconsistent with the rational possibility of a continuance of his trade after that day." The deed and the delivery of the books must be taken as parts of the same transaction, by which all chance of the bankrupt continuing in trade, "fairly or substantially, or otherwise than colourably," was destroyed. In answer to the argument that, inasmuch as a substantial part of the bankrupt's estate was left out of the deed, the case did not fall within the principle of the decisions as to assignments of the entire estate, Lord Justice Turner remarked that the true question in that case is, "whether there is such an assignment

as prevents the trade being carried on in the usual and ordinary course?"

On the very day that the above case came before the Lords Justices, the Court of Exchequer Chamber was occupied with the case of *Smith v. Cannan* (2 Ell. & Bl. 35). In that case G., a farmer, conveyed all his farming stock and goods to S. by bill of sale by way of security for about £900, with a power of sale. The property comprised in the bill of sale was of about the value of £2,800, and there was a trust for G. of the surplus. The bill of sale comprehended the whole of G.'s property except two shares in a joint-stock bank of the value of £17 10s. each. S. seized and sold enough of the stock to pay the amount secured to him. G. was afterwards declared a bankrupt as a banker in respect of the before-mentioned shares. The bill of sale was *bond fide* given under pressure, and of course the trade of the bank was in no degree affected by the giving of it. On these facts the assignees of G. were held entitled to recover against S. the value of the stock seized by him. It was laid down by the Court that the necessary consequence of an assignment of what is substantially all the trader's property, is to delay his creditors, and that the existence of a resulting trust, and of a substantial surplus, does not prevent its having that effect; and, further, that a conveyance necessarily delaying a trader's creditors is an act of bankruptcy, though it has not the effect of stopping his trade. It was said by Baron Parke that the test to be applied in such a case is "not whether the necessary effect of the deed is to stop the trade, but whether its necessary effect is to delay the creditors of the trader." It was a remarkable feature of that case that the property conveyed by way of security exceeded by two-thirds the value of the liabilities for which it was pledged, and that there was an express trust of the surplus for the assignor. The Court held that these facts made no difference. Chief Justice Jervis said: "The whole property is conveyed and put out of the immediate reach of the trader and of his creditors. The fact that there is a substantial surplus may prevent the deed from ultimately defeating the creditors; but it does delay them, for they are deprived of the power of taking that surplus under a *fi. fa.*"

The authorities on this subject, of which the two above noticed are among the most recent, have been lately brought under the consideration of Vice-Chancellor Stuart in the case of *The Oriental Bank v. Coleman*, which arose out of the complicated affairs of the estate of the notorious Colonel Waugh. There had already been a suit of *Jolly v. Arbuthnot*, 7 W. R. 127, 532, in which the question was between a mortgagee of Waugh's estate of Branksea, and his assignees in bankruptcy, as to the validity of a power of distress contained in the mortgage deed. That question was decided by the Lord Chancellor in favour of the mortgagee, reversing the judgment of the Master of the Rolls. The question in the present case arose between the Oriental Bank, as transferee of the securities held by the London and Eastern Bank, and the assignees of Waugh, and related to the validity of a bill of sale given by Waugh to the latter bank, comprising all the furniture, effects, goods, chattels, and other things in Branksea Castle, or the island of Branksea, where Waugh lived and carried on extensive pottery works. A portion of the property comprised in this bill of sale had been already taken under the distress put in by the mortgagee, and now the Vice-Chancellor's decision gives the remainder to the assignees in bankruptcy. The trade in respect of which Waugh was adjudicated a bankrupt was this pottery business, carried on at Branksea. Vice-Chancellor Stuart said that "a long course of decisions had established this—that if a trader is made a bankrupt, and before bankruptcy, being in insolvent circumstances, has assigned all the stock in trade by which he was enabled to carry on his business, that assignment is fraudulent in the eye of the law, and is an act of bankruptcy in itself." In this case the Court considered that the insolvency was clearly proved, and the bill of sale was therefore declared void. It is to be observed on this decision that it was alleged by the plaintiffs that at the time of giving the bill of sale Waugh possessed other property than that included in it. The Vice-Chancellor does not appear to have noticed this allegation in his judgment, but if it was supported by the evidence, it seems to give the case a different aspect from those we have above stated, in both of which there was substantially nothing left in the trader after the assignment. It is quite true that in *Ex parte Bailey*, the Court said that the question was, whether the assignment prevented the trade being carried on in the usual way? and it would seem that an assignment of all the effects at the pottery works would have this effect. Nevertheless, if a case should arise of an assignment by an insolvent trader of his stock in trade, he having at

the time other substantial property, it is possible that such a case would still admit of a good deal of argument, as may be seen by reference to the case of *Hale v. Alnutt*, 18 C. B. 505, which is even more recent than *Ex parte Bailey*. In that case A., a licensed victualler, was indebted to B in £570 for goods sold and money advanced. Being pressed for payment, as an inducement for forbearance on the part of B., A. executed a deed whereby he mortgaged to him the public-house in which the business was carried on, and assigned to him all his trade and other fixtures and household furniture, other than his stock-in-trade, with a power of sale. The value of the property mortgaged was between £300 and £400, and the value of A.'s assets at the time was about £1,200. It was held that this deed was not an act of bankruptcy. To this authority may be added the words of Chief Baron Pollock in *Young v. Waud*, 8 Exch. 221: "If a man's business be that of a carrier, and he sells his horse and cart, but has ample funds to buy another horse and cart, such an assignment is no act of bankruptcy."

It should be observed that, according to the report, the Vice-Chancellor did not state quite accurately the circumstances of the case of *Smith v. Cannan*. The bankrupt in that case had not "reserved a substantial surplus of his property in his possession." He had assigned everything he possessed except the two bank shares; and the value of the property thus assigned was thrice the amount of the debt intended to be secured, so that after satisfying that debt, there would have remained in the hands of the assignee "a substantial surplus" applicable to the payment of the other debts of the assignor. But that surplus could not have been reached by a *fi. fa.*, but only by proceedings in equity by the creditors. It was for this reason that Chief Justice Jervis held that the assignment tended to delay creditors, and was therefore void; but the case was not decided on the ground that the assignor had put it out of his power to carry on business, because, in fact, he was a farmer, and only became liable to the bankrupt law as the holder of two shares in a joint-stock bank. This case of *Smith v. Cannan* certainly went very far as to the meaning of the term "delay creditors" in the Bankrupt Act; and if it was not for the later case of *Hale v. Alnutt*, it might be easy to understand how any assignment of property by an insolvent trader could be supported in the face of that decision.

COMMON LAW.

BILLS OF SALE, WHEN THEY REQUIRE REGISTRATION—
17 & 18 VICT. c. 34, s. 1.

Murphy v. Hartley, Q. B., 7 W. R. 384.

An important though simple question was settled in this case. The Bills of Sale Act (17 & 18 Vict. c. 36), in effect, applied the system of "filing" or registering, which has long been required with regard to warrants of attorney and cognovits given by a trader to make them effectual as against the assignees in bankruptcy of such trader, to *bills of sale*. Indeed, with reference to these last instruments, the law under that Act is still more stringent; for it provides that unless filed within twenty-one days after execution (as "warrants of attorneys" given by traders are required to be by 12 & 13 Vict. c. 106, s. 136), such instruments shall be void not only against the giver's assignees in bankruptcy or insolvency, but also against *execution creditors*. But the object of registering these instruments was only, as appears from the preamble of the Act, to prevent persons, by giving secret bills of sale to their creditors of their personal property, to keep up the appearance of being in good circumstances and possessed of property, and therefore the provision (as, indeed, also appears from the concluding words of the first section) does not extend to the case of a transaction in which the creditor takes possession of the goods assigned to him by the bill of sale. And it follows, as a necessary consequence, that he has the whole of the period of twenty-one days from its execution, to choose whether he shall take possession or register. It is only when he does *neither* that the requirements of the Act come into operation.

LAW OF ASSURANCE—MEANING OF THE TERM "ACCIDENT" IN A POLICY.

Sinclair v. Maritime Passengers' Assurance Company,
Q. B. 9 W. R. 342.

A somewhat curious point in the law of assurance has been here determined. In a certain policy, the risk insured against was "any personal injury sustained by the assured from or by reason or in consequence of any accident to him happening upon any ocean, sea, river, or lake" within a certain period. And within such period, and while sailing on a certain

river, the assured "was struck down by a sun-stroke," from the effects of which he died the same day.

The question was, whether the sun-stroke so received was "a personal injury" resulting from an "accident," within the meaning of the policy; and the Court of Queen's Bench have decided this in the negative.

There is only one reported case which appears to bear at all upon the subject—viz. *Tres v. The Railway Passengers' Assurance Company* (29 L. J., Exch., 218; 8 W. R. 191); and this, though relied upon to support the claim on the policy, will be found on examination to be to a certain extent an authority against it. In that case the plaintiff sued for a claim arising upon a policy which was similar to the present one, so far as the point under consideration is concerned, and it appeared that the assured had been seen to go to bathe in the sea, and was not again seen till several hours afterwards, when his dead body was washed ashore; yet it was held that there was no evidence of a personal injury caused by "accident," for that it might have been caused by paralysis or other natural causes. This case, indeed, turned directly upon the proof of the accident required in the policy to be furnished to the directors; but some of the expressions of the Barons in delivering their judgments throw light upon the meaning of the term "accident" as used in these policies—themselves, it is to be remembered, of very recent establishment—and, probably, influenced the Court of Queen's Bench in their decision as to the present case. Thus, Mr. Baron Martin incidentally observed that if a person were drowned from the upsetting of his boat or by striking his head against a rock in bathing, such death would be caused by accident, but that it would be otherwise if, being in the water, he was suddenly seized with apoplexy, or even with cramp, by means of which he became disabled and was drowned. Another of the judges suggested—but did not give his opinion as to—the instance of a man suffocated by sleeping in a room with a charcoal fire without sufficient vent.

In the present case it was admitted by the Lord Chief Justice in his judgment that it was difficult to define the term "accident" as used in policies of this nature, so as to arrive with perfect accuracy at the boundary line between death from accident and death from natural causes; but he was of opinion that in all cases of "accident" there must have been of necessity some violence or casualty, and that "sun-stroke" (notwithstanding what is implied by the word itself) is, in reality, nothing more than an inflammatory disease of the brain brought on by over exposure to the heat of the sun; and, consequently, that a death or injury occasioned thereby must be considered as resulting from a natural cause and not from an accident.

Correspondence.

EXAMINATION OF ARTICLED CLERKS.

I have watched with considerable anxiety, being greatly interested therein, the controversy now pending on this question. It may appear rather singular, but my articles were signed the very day before the publication of the number of your Journal which entered upon a course of articles especially addressed to articled clerks. I have, therefore, to request that you will give insertion to the few remarks I am about to make, premising that they are necessarily informal. I have now been a clerk for a period of eighteen years, the last nine of which I have been a managing clerk, and that not in name only. I have been for the last six years engaged in a business of great magnitude, a portion of it comprising applications to Parliament for private Bills, for powers to construct railways and other works, and the business necessarily arising out of the construction of these works.

During this period I have also been left (by reason of the absence of the principal through sickness) for six months at a time to the unassisted management of several very heavy and important matters of business, in which I have frequently had to advise upon questions involving the most serious consequences, and that sometimes at a moment's notice; in addition to which, I have had the entire experience of all the other general business of the office,—I have had, over and over again, unassisted and alone, to attend and advise board meetings of directors and committees; to correspond with members of Parliament and public bodies, and officials; and to seek and obtain interviews with members of the Government upon special questions affecting local interests, with a multiplicity of et cetera very unnecessary to particularise; in none of which several weighty matters have I ever had the misfortune

to lose the confidence of client or employer, but, on the contrary, am proud to say have made friends of both.

I happened to be born and brought up in a remote inland county, where twenty years ago parents thought very little (if indeed they thought at all, which I very much question) of a classical education; and consequently when I went first to the office, I was acquainted with nothing more than the rudiments of a very limited English education; and since that time, especially of late years, I have had enough to do, without attending to the education of myself, except in subjects absolutely necessary in conducting the business. I am not acquainted with what I believe from report to be the beautiful works of Homer, Cicero, or Virgil; I cannot understand the French, German, or other foreign language; and I am not much ashamed to confess this, seeing that not a person in the Home Office at the present moment, including Sir G. C. Lewis himself, understands the Hungarian language. I know nothing of mathematics (proper) or physics, and for the matter of that, of metaphysics either, and I could go on ad nauseam of what I do not know; and yet I shall consider it a very great hardship if any preliminary or other examination should be required (as a *sine qua non* to admission) to be passed by me which included the subjects (some of them at least) recommended by the Committee of the Incorporated Law Society; neither do I believe I should forfeit the confidence and esteem (which I so highly prize) of clients public, or private, or employer, by being unable to pass it; neither would they for that reason believe that I am any the less competent to act as an attorney or solicitor. It appears to me, sir, that the tide has turned, and that the present generation of articled clerks are suffering grievously from the fact that the old system was too lax, and thereby admitted a few black sheep, and seeing that the system is now likely to be changed for one going to the extreme in the other direction. By all means let us keep the profession respectable; let them be gentlemen, (and that as a general rule they must be) but this desideratum, I submit, need not be secured in any way that shall inflict unmerited and unnecessary hardship, and life-long suffering upon even one single individual. "Be just and lean to mercy," it is an old axiom, and one I believe not abused in the long run.

March 26, 1861.

AN ARTICLED CLERK.

THE BANKRUPTCY BILL.

I see the official assignees in London received in 1860 not less than £22,563 for fees, giving them on an average about £2000 to pay their office expenses. If such highly paid officials are still to exist, I hope they will do their work themselves. How much of their proper work has been delegated to clerks? I submit that certainly as to some of them the clerks do so much of the work their masters should resign in their favour.

A. B. C.

LEGAL EDUCATION.

The report of the committee of the Law Institution is very confusing. Can any of your readers explain it? It seems to me that a great many persons duly qualified will be deterred from offering themselves. £130 a year was paid at school for me, but I did not learn German, as it was not taught in the school; therefore, as I understand the report, Schiller would be my bar to admission. Many parents do not allow their sons to learn Greek; but Xenophon seems essential.

X. Y. Z.

Reviews.

The Law of Merger as it affects Estates in Land and also Charges upon Land. By CHARLES J. MAYHEW, of the Inner Temple, Barrister-at-Law. London: V. & R. Stevens & Sons. 1861.

We believe that every one of our readers will endorse the assertion which forms the opening sentence of the preface to this book—viz. "that the legal doctrine of merger is one of the most curious and subtle in our system of jurisprudence." And after reading Mr. Mayhew's work and perceiving, as we have done, and as every one else will do, what a vast number of cases and questions have arisen during the last few years it is probable that the profusion will not, as modestly apprehended by the author, incline to the feeling of surprise that after Mr. Preston's able treatise the writer should attempt to "touch the subject." Our readers will remember that the able treatise to which Mr. Mayhew refers is not a separate work of Mr. Preston's, having reference solely and exclusively to the

law of merger, but that it consists of the 3rd vol. of that gentleman's work on the more comprehensive subject of conveyancing; it will further be remembered that Mr. Preston has hardly mentioned the law of merger as it affects charges upon land, and we conceive that a practical and comprehensive epitome of the cases and doctrines which have been elucidated in the jurisprudence of the Court of Chancery upon that division of the law in question will be useful, because, for the first time, it enables practising lawyers to ascertain the present condition of rules of doctrine which very probably have been modified by recent decisions never hitherto collected. We have read Mr. Mayhew's book with as much care as our leisure has permitted, and we can assure the profession that the author has throughout adopted a most clear and satisfactory method of marshalling the heads of his subject. The work, as indicated by the title, is divided most properly into two parts. The law of merger as it affects estates in land may be said to be matter of conveyancing science and is based upon feudal maxims, the intention of the persons concerned not being, generally speaking, a criterion which the courts consider in decision. The law of merger, as it affects charges upon land, which forms the subject matter of the second part of the work under review, is, on the other hand, matter purely of equitable doctrine. Motive and intention are the prominent considerations in question, which arise in the application of this law, and the settlement of those questions is, therefore, within the field of the jurisprudence of the Court of Chancery. Mr. Mayhew has, in dealing with both branches of his subject, evinced considerable and careful industry in collating the dicta and cases which have reference to the matter or view for the time being under consideration. He has not fallen into the error in any instance of introducing merely speculative and personal disquisitions as to the reasonableness of settled doctrines, nor, as has happened in the cases of one or two recent works of young text-writers, as to the wisdom of the Judges who may, in the author's opinion, have judged illogically or unwisely; and we can recommend his work to the consideration of those who may have need of a *resumé* of all the cases and doctrines to be found in the books upon either branch of the law of merger, from the earliest period down to the present time.

Mr. Preston's matter upon the subject is to some extent dateless. It is, moreover, discursive and not easily to be ascertained for want of a proper index. The reader of his work has to go fortified with previous learning on the principles of the law, and to the student or young lawyer it is not satisfactory. Mr. Mayhew's treatise contains everything which any reader can need or expect; it treats both branches of the law in an easy and intelligible method by considering "estates" in regular gradation of succession—fee-tail, life, and years, and the index to the work is complete and particular.

OBSERVATIONS BY THE MANAGING COMMITTEE OF THE METROPOLITAN AND PROVINCIAL LAW ASSOCIATION, ON THE REPORT OF THE COMMITTEE OF THE INCORPORATED LAW SOCIETY ON EXAMINATIONS IN GENERAL KNOWLEDGE, AND ON INTERMEDIATE EXAMINATIONS IN LEGAL KNOWLEDGE, TO BE INSTITUTED UNDER THE ATTORNEYS ACT 1860.

The committee have appended a copy of the report,* in which they have incorporated the alterations which they desire to recommend to the council.

If the council should feel any difficulty in adopting any of these suggestions, the committee, feeling that they represent a large number of professional men who take a deep interest in this subject, would be glad to be allowed the opportunity of verbally explaining their views to the council.

In the meantime they submit the following few observations which, for convenience sake, they have numbered in accordance with the order of their suggestions upon the accompanying report.

1. It would have been better if the 5th section of the Act had referred to examinations then or thereafter to be established by any of the universities instead of in any of the universities; so as to avoid any question whether the middle class examinations are included in the provisions of the Act—the committee submit, however, that the wording of the rule ought to follow the wording of the Act.

2. The judges have not any power to make a rule to permit persons to be articulated for any specified term. The object of

the Act is to regulate the conditions under which persons having been articulated may be admitted, and the rule should be worded in accordance with this object.

5. The committee submit that the elementary amount of mathematics under the 5th head of the second part of the examination ought to be required from all persons seeking to enter the profession.

It is not an unimportant consideration that a similar amount is now required from all persons seeking to obtain from the Royal College of Physicians a license to practise; that learned body having recently established a preliminary examination, in all respects analogous to that proposed for our profession.

6. The scheme of this second part of the examination, as drawn, does not appear to the committee to recognize sufficiently the important distinction between the general rules which are to be made by the judges, and the temporary regulations which are to be made, and from time to time varied, by the examiners.

The alterations suggested will if adopted bring the scheme more into harmony with the regulations contained in the calendars of our universities, which have also served as a model for the regulations above referred to, recently issued by the Royal College of Physicians.

7. The committee consider this suggestion to be important. Questions arising from the subjects of the passages selected for translation afford to examiners an invaluable means of testing whether the candidate has prepared for his examination by intelligent study, or by mere *cram*.

In this respect also the committee propose only to follow the well considered practice of other examining bodies.

8. The study of moral and mental science is so important and so well calculated to exert a beneficial influence upon members of our profession, that the committee would regret to see the scheme prepared by the council omit distinctly to recognize it; while, on the other hand, considering the average age at which the examination will have to be passed, the committee feel that it would be impossible to do more than insert it as an optional alternative.

9. As all persons who have been articulated since the passing of the late Act have had full notice that a preliminary examination was contemplated, the committee do not think that any reasonable complaint can be made if all are subjected to the first part of the examination. Indeed, it is obvious that no person is fit to enter the ranks of the profession who is unable to pass an elementary examination in these subjects; while on the other hand the committee entirely concur with the council in thinking that it would not be expedient to subject such persons to the proposed second part of the preliminary examination.

10. The committee regret to see that it is proposed that all the examinations should take place in the hall of the Incorporated Society; and they greatly fear that this resolution if adhered to will cause much dissatisfaction in the country, and will tend to prevent that cordial co-operation in adopting the beneficial provisions of the Act which is obviously so much to be desired.

The wording of the 9th section of the Act is as wide as possible, and contemplates the establishment of more than one intermediate examination; and the committee trust that the council will ask the judges by the new rules to leave them at liberty, should their first experience lead them to desire to do so, to establish additional examinations, and to hold such examinations in as close a proximity as possible to the offices in which the articulated clerks are serving their time.

In order to render a period of clerkship one of real and systematic study, the committee would be glad hereafter to see a scheme devised under which every articulated clerk in the Kingdom should be examined at the end of every year, at some place within easy reach of his own home.

The committee feel that it would be very injudicious to attempt to establish any such system at the present time; but they are on the other hand equally convinced of the expediency of so wording the rules as to enable the council from time to time to modify the detail of these arrangements in accordance with the results of their growing experience, and they would especially regret to see any rule so worded as to render local examinations impossible.

The University of London have recently adopted a plan by which with great facility the examiners, though themselves remaining in London, conduct matriculation examinations at the various affiliated provincial colleges. A slight modification of this plan, which if the council are not already acquainted with it, we should be glad to have the opportunity of explaining—would enable examinations to be held in every

* The most important parts of the Report of the Incorporated Law Society have already been published in these columns.

town where there is a Provincial Law Society, and, indeed, in every town where there is a solicitor of established reputation.

The committee are not desirous to urge the council to adopt it even partially in the first instance; but they are very anxious that the council should secure the liberty to adopt it hereafter if they should see fit; and they feel sure that as the rule in its present proposed shape would be viewed in many places with considerable jealousy, so the mere liberty to hold local examinations would tend to excite throughout the country the sympathy and co-operation of our provincial brethren.

REGULATIONS ALTERED AS SUGGESTED BY THE COMMITTEE OF THE METROPOLITAN AND PROVINCIAL LAW ASSOCIATION.

That from and after the 1st day of Term 186 , every person who before entering into articles of clerkship shall produce to the registrar of attorneys a certificate that he has successfully passed the senior middle-class examination established in (1) the universities of Oxford and Cambridge, or the Moderation examination at Oxford, or the Previous examination at Cambridge, or the Matriculation examination at the universities of Dublin, Durham, or London, may be admitted and enrolled as an attorney or solicitor after having been subsequently bound by and having duly served under articles of clerkship to a practising attorney or solicitor for the term of 4 years (2).

In order to carry into effect the enactment in the 8th section, the committee recommend

That from and after the 1st day of Term 186 , every person proposing to enter into articles of clerkship for five years, shall produce to the registrar a certificate either that he has successfully passed the junior middle-class examination established in (1) the universities of Oxford or Cambridge, or taken a first-class in the examinations of the College of Preceptors, or has successfully passed an examination by special examiners, whom the committee further recommend that the Lords Chief Justices and Chief Baron, jointly with the Master of the Rolls, be requested to appoint, and that such last-mentioned examination take place half-yearly, and consist of two parts.

ALTERED PROGRAMME OF EXAMINATION AS PROPOSED BY THE METROPOLITAN AND PROVINCIAL LAW ASSOCIATION.

N.B. No alteration is suggested in Part I.

PART II.

Papers also to be set in the following six subjects, and each candidate to be required to offer himself for examination in three subjects at least, of which Latin and Mathematics must be two (5), but no candidate to be examined in more than four.

1. Latin.—Translation of passages to be selected, two years previously by the examiners, from two of the classical authors ordinarily read in schools (6). Candidates to have liberty of choice between the two works.

2. Greek.—Translation of passages selected from two of the classical authors ordinarily read in schools. Candidates to have liberty of choice between the two authors.

(The classical subjects are until Term 186 , Latin.—"Caesar's Commentaries," "De Bello Gallico" (books I. & II.), and "Virgil's Æneid" (books I. & II.).—(Greek: St. John's Gospel; Xenophon's "Anabasis" (book I.).

3. French.—Translation of passages selected from a French author of established reputation, ordinarily read in schools; easy English sentences to be translated into French.

The French subject is until Term, 186 , Fenelon's "Télémaque."

4. German.—Translation of passages selected from a German author of established reputation, ordinarily read in schools; easy English sentences to be translated into German.

The German subject is until Term, 186 , Schiller's "Revolt of the Netherlands."

Besides these translations in the several languages, the candidate to answer, if required, questions on grammar, history, and geography, arising from the selected passages (7).

5. Mathematics.—"Euclid" (books I. & II.). Algebra, to simple equations, inclusive.

6. Physics.—"The Elements of Natural Philosophy."

7. Ethics.—"The Elements of Moral Philosophy" (8)

If the examiners conducting such examinations be satisfied with the answers given to the questions, they will sign a certificate to the following effect.

"We certify that A. B. has been examined by us in general knowledge, as required by the rules and regulations of Term, 186 , of the Courts of Queen's Bench, Common Pleas,

and Exchequer, and we testify that he has passed a satisfactory examination."

Each person on receiving his certificate to pay the fee of

The committee do not think it expedient to commend that persons who have been articleed after the passing of the Act on the 28th August, 1860, but before the rules come into operation, should be examined in Part II. of the above examination, but they recommend that an examination in Part I. should in those cases be added to the intermediate examination in legal knowledge (9).

In reference to this examination the committee recommend that the 2nd rule suggested by the council should be worded as follows:—

2. That such intermediate examination shall be conducted in each term by the examiners appointed under the 6 & 7 Vict. c. 73, the orders of the Master of the Rolls of 13th January, 1844, and the rules of the common law courts of Hilary Term, 1853, at such times and places as the examiners shall from time to time appoint (10).

CRIMINAL PROSECUTIONS—REMUNERATION TO WITNESSES.

We have received the following communication from a gentleman who is very conversant with the administration of the criminal law, and can speak with some authority on the question now exciting so much attention—the insufficient remuneration of witnesses under the present Treasury scale:—

In the port of Liverpool there are frequent robberies of goods and merchandize from ships, dock-quays, warehouses and other places where the same are deposited; and on a report of such robberies being made known to the police, it is the particular duty of the constables forming the detective department to endeavour to discover the thief and property. In the performance of this duty they experience great difficulties in eliciting information from the labouring classes in consequence of the inadequate remuneration they receive if compelled to attend the police court and sessions or assizes. This unwillingness is more particularly amongst carters and porters, who refuse to give any information, not from dishonest motives, but simply from the insufficient pay awarded to witnesses in all stages of a criminal prosecution. If some of these difficulties should be overcome, and the officer investigating the case had apprehended parties suspected and got the case sufficiently ripe for an enquiry before a justice, he has much trouble in getting the witnesses to the police court and still more in detaining them until the case is called on. To do this he has often to pay such witnesses out of his own pocket in the form of refreshments and sometimes in money to keep them together, as well at the police court as at the trial. Carters only receive 1s. 6d. per day for attending the police court, and at the same time have to pay a man 4s. per day for driving the cart during their absence; porters receive also 1s. 6d. per day for attending the police court, and as porters they receive 3s. 6d. per day. Town witnesses, of whatever class in society, receive no more than 2s. 6d. per day attending at the sessions, and 3s. 6d. per day attending at the assizes. Witnesses from a distance receive for attending the police court 2s. 6d. per day, and 2s. 6d. per night; when attending sessions 3s. 6d. per day and 2s. per night, and when attending the assizes, the same daily allowance with 6d. extra for bed. For travelling, in no case is more than second-class railway fare allowed. In consequence of this parsimony on the part of Government, the detective constables say they have failed to obtain sufficient evidence in many cases of felony, particularly of the class before mentioned, from the porters who, they were morally certain, from information before received, had assisted in the loading of the stolen goods, refusing to know anything, and the same as regards the carters who had carted the goods away. They have wasted days making inquiries amongst carters and porters without any good resulting therefrom, and this they attribute entirely to the small sum allowed to witnesses in criminal prosecutions. Those who have once been witnesses tell others what they have received, and thus it becomes generally known. Witnesses brought from a distance to Liverpool in every case are money out of pocket. This falls particularly heavy on poor persons without means to bear the burden, and to enable them to return home the police authorities have to make up the deficiency. In some cases, parties required as witnesses before a police magistrate will not say anything or leave their homes until the police authorities have guaranteed first-class railway fares and a reasonable sum

per day during their absence from home; and the detective constables say, "We find this reluctance to afford information to prevail in all grades of society, and we know of our own knowledge that many a thief escapes detection, and, if apprehended, conviction, from the causes before mentioned. Many will put up with the loss and let the thief go rather than have the trouble of attending the police court for two or three days and then the sessions or assizes for the same period, losing their time and money."

As regards the remuneration to police officers, when they have to attend trials at a distance, the pay allowed them is 1s. 6d. per day and 2s. per night. It would be an insult to common sense to suppose this sum sufficient to support them. They say "many of us have attended in London and other towns and received the above reward for our labours, together with third-class railway fare. In each case we have been money out of pocket more or less, according to the length of time we were away." Prior to the issuing of Sir George Grey's rules and regulations as to the scales of payment to witnesses in criminal cases, the detective constables say they experienced no such reluctance to give information on the part of prosecutors and witnesses as now exists.

There is another great grievance to complain of. Witnesses in criminal cases, as a rule, are poor people who have to rely on their daily labour for their support. They know the trifling sum per day that will be allowed them for attending the court before trial, and are perfectly indifferent in attending the court at the time they are warned to be there, and they make their appearance at different hours during the morning, sometimes keeping the grand jury waiting and sometimes the Court, thereby causing unpleasant remarks to be made by the judge towards the prosecuting attorney and the police officers on the case, but which it is impossible to avoid unless an officer is set to watch over each witness during the night and bring him to the court in the morning at the proper time. As it is, much anxiety and trouble are caused, and frequently messengers in cabs have to be sent after the absent witnesses, thereby incurring expenses which are not allowed by the taxing-officer of the court. It may be said the witnesses are bound over and may be called on their recognisances and have the same forfeited. What do they care? They have no goods worth distraining upon or money to pay, and it would be absurd to take their bodies.

UNCERTIFICATED ATTORNEYS.

At the Bristol County Court (before Sir J. Eardley Wilmott, Bart.), on the 26th instant, Mr. Miller, solicitor, asked his Honour, before the public business of the court was commenced, to allow him to make an application with reference to a matter which was not only of importance to the profession to which he belonged, but also to the Court itself. His Honour was aware that attorneys and solicitors were obliged by Act of Parliament to take out annually a certificate to practise, the proper time being between the 15th of November and the 15th of December in every year. The penalty for not taking out such certificate under the Attorney's Act, 6 & 7 Vict. c. 73, sec. 26, was as follows:—"And be it enacted that no person, who, as an attorney or solicitor, shall sue, prosecute, defend, or carry on any action, or suit, or any proceedings in any of the courts aforesaid, without having previously obtained a stamped certificate, which shall be then in force, shall be capable of maintaining any action or suit at law or in equity for the recovery of any fee, reward, or disbursement for, or in respect of, any business, matter, or thing done by him as an attorney or solicitor as aforesaid whilst he shall have been without such certificate as last aforesaid." It was not without some pain and regret on the part of some members of the profession, himself included, that they found by the *Law List*, of 1860 (a book published by the authority of the registrar of certificates, which though not actually an official document, or evidence in a court of law, was considered by the profession as tantamount to evidence), the absence of six attorneys' names, of this city, from that book, which, in fact, was evidence that they were practising without a certificate—that no less than six names of attorneys, who daily, or weekly, or periodically practised before his Honour in that court, did not appear in that book. Of course, he did not mention names in the matter—he should not choose to do so—still there was the fact patent to any person who liked to look into the book for 1860, that the names of six attorneys, practising in the city then, did not appear in it. His Honour was aware that towards the close of last year another Act of Parliament affecting attorneys was passed, having for its object in some degree to raise the status of the

profession by providing for the examination of articled clerks during their articles to test their proficiency and acquirements. That Act was 23 & 24 Vic., c. 127, and was passed on the 27th of August last. He referred to the 27th section, which was as follows:—"Every certificate issued by the registrar between the 15th day of November and the 16th day of December, in any year, shall bear date the 16th day of November, and shall take effect on that day for all purposes, provided it be stamped before the 16th day of December, and in every such case the 16th day of November shall, for the purpose of this Act, be deemed to be the date of the payment of the duty; but if such certificate be not so stamped, it shall take effect, as regards the qualification to practise, on the day on which it is stamped; and every certificate issued at any other time shall bear date on the day on which it is issued, and subject to the provision herein contained relating to certificates stamped after the 1st day of January in any year, and not produced within a month to be entered by the Registrar, shall take effect, as regards such qualification, on the day on which it is stamped; and every certificate shall be and continue in force from the day on which it shall take effect, as aforesaid, until the 15th day of November next following inclusive, and no longer; and any list of attorneys, solicitors, and conveyancers purporting to be published by the authority of the Commissioners of Inland Revenue, and to contain the names of attorneys, solicitors, and conveyancers who have obtained stamped certificates for the current year on or before the 1st day of January in the same year, shall, until the contrary be made to appear, be evidence in all courts, before all justices of the peace, and others, that the persons named therein as attorneys, solicitors, or conveyancers holding such certificates, as aforesaid, of the current year, are attorneys, solicitors, or conveyancers holding such certificates, and the absence of the name of any person from such list, shall, until the contrary be made to appear, be evidence, as aforesaid, that such person is not qualified to practise as an attorney, or solicitor, or conveyancer, under a certificate for the current year; but in the case of any person being an attorney or solicitor, whose name does not appear in such list, an extract from the roll of attorneys and solicitors kept by the registrar, certified under the hand of the secretary of the Incorporated Law Society (while such society performs the duties of registrar), or of the registrar for the time being, shall be evidence, as aforesaid, of the facts appearing in such extract; and in the case of any person being a conveyancer, whose name does not appear on such list, the fact of his being so shall be proved in the way in which it is now by law required to be proved." Such was the present state of the law on the subject. The *Law List* was in future to be the absolute authority in all courts, whether an attorney had or had not taken out a certificate at the proper time. From the new *Law List* first published under that Act, by the authority of the Commissioners of Inland Revenue, were absent the names of parties who were in the habit of appearing before the court, and not having taken out certificates. There were not so many names omitted from the *Law List* this year as there were last year; still certain parties' names did not appear in it. He referred to what they, unfortunately, all knew, that a certain gentleman, no longer among them, his Honour was obliged to summarily expel from the court last year, and that last week they saw by the public prints that his Honour felt himself called upon to tell a solicitor that his conduct was not such as became a gentleman, and (continued Mr. Miller) such circumstances, however remotely they might affect the attorneys, were felt by the profession at large to, in some degree, cast a stigma on the profession, which was not desirable if it could be avoided. His application was founded on the 86th rule of the county court, which was this:—"86. No attorney shall be allowed to appear for any person in a county court until he has signed a roll or book to be kept by the registrar for that purpose, but no fee shall be payable for that purpose, and he shall once in every year, if required by the registrar, produce his certificate for the year to the registrar, who shall note the fact on the roll." His application was that the registrar might be called on to refer to the *Law List*, and where he saw an attorney's name omitted to put in force the 86th rule, by calling on such attorney to produce his certificate before he appeared in a cause before his Honour. It perhaps would be hard to enforce the rule without notice, and if it met his Honour's approbation, he would suggest that until that day month should be given to enable attorneys to obtain certificates before the registrar be called on to enforce the rule. He made that application with the cognisance and approbation of many of the members of the profession, who were, however,

absent—as that was somewhat out of the usual course of county court days—in attendance at the neighbouring assize, and that perhaps would account in some degree for his not being supported by some other members of the profession on that occasion.

His Honour said he was obliged to Mr. Miller for bringing the matter before the Court, for it was important that gentlemen practising there should come properly authorised by the possession of a certificate and every requisite. In almost every case, he had reason to thank the attorneys for the ability with which they conducted the cases in court; but if anything in any quarter required amendment, he would order the enforcement of the rule, which had not been strictly done hitherto. Every gentleman in the profession would be glad to have that rule enforced, and once a-year the attorneys should be called on to show their certificate to the registrar. No one would feel aggrieved at that.

Ultimately his Honour ordered that after the expiration of one month from that time the registrar do ask for the production of the certificates for the current year of solicitors practising in that court.

Public Companies.

REPORTS AND MEETINGS.

NORTH BRITISH RAILWAY.

At the half-yearly meeting of this company, held on the 22nd inst., the following dividends were declared:—On the preference stock at the rate of 5 per cent. per annum, on the Jedburgh guaranteed stock at the rate of 4 per cent. per annum, and on the ordinary stock at the rate of 3½ per cent. per annum, for the past half-year.

SCOTTISH CENTRAL RAILWAY.

At the half-yearly meeting of this company, held on the 22nd inst., a dividend at the rate of 5½ per cent. per annum was declared, leaving a balance of £2,400 to be carried over to the surplus fund.

Births, Marriages, and Deaths.

BIRTHS.

CHOLMELEY—On March 23, at Wimbledon, the wife of Stephen Cholmeley, Esq., of Lincoln's-inn, solicitor, of a son.

FORD—On March 20, the wife of William Augustus Ford, Esq., solicitor, of a son.

GAIL—On March 21, the wife of Samuel H. Gael, Esq., barrister-at-law, of a son.

MARRIAGES.

DAWSON—**GRIFFINHOOF**—On March 20, at Leghorn, Francis Dennis Massey Dawson, Esq., of Lincoln's-inn and the Middle Temple, barrister-at-law, to Harriet, daughter of the late Rev. Thomas Sparkes Griffinhoof, of Arksdon, Essex.

WYMAN—**DAY**—On March 21, George Wyman, Esq., solicitor, Peterborough, to Clara, daughter of the late George Game Day, Esq., of Gloucester-gardens, Hyde-park, London.

DEATHS.

BOURNE—On March 25, in her 7th year, Ellen Ada, daughter of James Samuel Bourne, Esq., solicitor, Dudley.

CLARKSON—On March 24, Frederick Clarkson, Esq., of Doctors'-commons, aged 64.

M'LEAN—On March 16, Louisa Maria, daughter of James M'Lean, Esq., solicitor, Belfast.

STALLARD—On March 23, at Worcester, aged 33, Sarah Elizabeth, wife of John Stallard, Esq., solicitor.

London Gazette.

Professional Partnership Dissolved.

TUESDAY, March 26, 1861.

WHITCOMBE, JOHN AUBREY, RICHARD HELPS, & GEORGE WHITCOMBE, Solicitors & Attorneys, Gloucester, by mutual consent. March 26.

Windings-up of Joint Stock Companies.

TUESDAY, March 26, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (Registered).—V. C. Wood has appointed Robert Palmer Harding 3, Bank-buildings, London, and 5, Serle-street, Lincoln's inn, Middlesex, Accountant, Official Manager of this Company.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY (Registered).—Creditors to prove their debts before V. C. Kindersley. His Honour

has appointed April 22, at 12, for hearing and adjudicating upon the claims.

DEPOSIT AND GENERAL LIFE ASSURANCE COMPANY.—The Master of the Rolls purposes on April 16, at 3, to proceed to make a call on all the contributories of the Company settled on the list, for ten shillings per share.

MEXICAN AND SOUTH AMERICAN COMPANY.—The Master of the Rolls has peremptorily ordered a call of eleven pounds five shillings per share on all the contributories set forth in exhibit A, and such contributories are to pay the same on or before April 4 to Robert Palmer Harding, the Official Manager, at his office, 3, Bank-buildings, London.

LIMITED IN BANKRUPTCY.

ELECTRO PRINTING BLOCK COMPANY (LIMITED).—Petition to wind up, presented April 12, will be heard before Com. Goulburn, April 12, at 1.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, March 26, 1861.

CULLINGWORTH, GRIFFITH, Bookseller, Bookbinder, & Stationer, 75, Brig-gate, Leeds, Yorkshire. Turner, Solicitor, Rothwell, near Leeds. May 15.

FINDEN, THOMAS, Esq., Baron House, Mitcham, Surrey. Solicitor, Rem-nant, 52, Lincoln's inn-fields, London. June 1.

RACKHAM, THOMAS, Jun., Innkeeper, Wymondham, Norfolk. Solicitors, Mitchell & Clarke, Wymondham. May 6.

RUSSELL, WILLIAM EDWARD, Esq., Mansion-house, Swancombe, Kent. Solicitors, Russell & Son, 52, Moorgate street, City. May 6.

STANTON, STEPHEN JAMES BRIDGES, Esq., Chase-lodge, Page-street, Hendon, Middlesex. Solicitors, Ellis, Phillips, & Bannister, 12, Clement's-lane, London. June 1.

WATSON, ARCHIBALD, Draper, Newcastle-upon-Tyne. Solicitor, Reed, 3, Gresham-street, London. June 1.

WOODS, MARY, Widow, Framlingham, Suffolk. Solicitor, Clubbe, Fram-lingham. May 10.

WOOD, WILLIAM, Gent., Sowerby, Thirsk, Yorkshire. Solicitor, Wea-therill, Guisborough. May 10.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, March 26, 1861.

JOHN, BAKER, Farmer, Heathfield, Sussex. Stone & Baker, V.C. Kinder-sley. April 26.

BUTLER, MARIA, Widow, Knowle, Duffield, Derbyshire. Hull & Heygate, V.C. Kindersley. April 13.

BUTLIN, ELIZA, Widow, Braunston, Northamptonshire. Strong & Gery, V.C. Stuart. May 6.

FRICKER, JOHN, Gent., Melksham, Wiltshire. Fricker & Fricker, V.C. Wood. April 11.

GREATREX, CHARLES, Saddler's Ironmonger, Walsall, Staffordshire. Greatrex & Whitehouse, V.C. Wood. April 19.

HART, FATHER, Widow, 77, Gloucester-place, Hyde-park, Middlesex. Hart and Others & Lindo and Others, M.R. April 17.

HOPE, MARY, Spinster, 10, Mitre-terrace, Downham-road, Kingsland, Middlesex. Hope & Hope, V.C. Stuart. April 15.

MIDDLETON, WILLIAM, Woollen Draper, Saint James-street, Westminster. Snell & Toulmin, M.R. April 15.

POTTER, CHARLES, Gent., Albany-road, Camberwell, Surrey. Potter & Potter, V.C. Wood. April 10.

TOWRY, GEORGE EDWARD, Harewood Lodge, Berkshire. Hopkins & Phillips, V.C. Stuart. April 29.

WHITING, THOMAS, Farmer, Bradley, Derbyshire. Birchall & Hough, V.C. Stuart. April 23.

County Palatine of Lancaster.

CHAFFERS, Rev. THOMAS, Clerk, Brasenose College, Oxford. Chaffers & Chaffers, District Registrar, 1, North John-street, Liverpool. April 22.

WOOD, JOSEPH, Cotton Spinner, Radcliffe, Lancashire. Walker & Wood. District Registrar, 4, Norfolk-street, Manchester. April 23.

Assignments for Benefit of Creditors.

TUESDAY, March 26, 1861.

BALLARD, JOSEPH, Watchmaker, Lamberhurst, Sussex. March 20. Sol. Hinds, Goudhurst, Kent.

CAMBRAY, WILLIAM, Machinist, Great Rissington, Gloucestershire. March 9. Sol. Brookes, Stow-on-the-Wold.

CAREY, JOHN, Jun., & LEVI AVERY, Builders, St. Leonard's-on-Sea, Sussex. Feb. 26. Sol. Young, Hastings.

CLEMENTSON, THOMAS, Provision Dealer, Hexham, Northumberland. March 15. Sol. Swan, Newcastle-upon-Tyne.

CLODE, JOHN, Wine Merchant, High-street, New Windsor, Berkshire. March 4. Sol. Michael, 7, Old Jewry, London.

DALTON, WILLIAM JAMES, Builder, Arundel-house, Balham-hill, Surrey. March 6. Sol. Howard, Halse, & Trustram, 66, Paternoster-row, Lon-don.

DAVIES, JOHN, Milliner, Great George-street, Liverpool. March 4. Sol. Reed, 3, Gresham-street, London.

FOSTER, JOSEPH, Top Maker & Farmer, Bradford. March 20. Sols. Terry & Watson, Market-street, Bradford.

HOLLAND, BENJAMIN, Farmer, East Ville, Lincolnshire. March 19. Sol. Jebb & Son, Boston.

HUMMELL, JOHN, Watchmaker, Derby. March 20. Sol. Eddowes, Derby.

MOONEY, JAMES, Cabinet Maker, Southport, Lancashire. March 14. Sol. Jones, 18, Scarisbrick-street, Southport.

PARKIN, EDWARD, File Manufacturer, Canton Works, Sheffield, Yorkshire. March 20. Sol. Hudson, Brook-hill, Sheffield.

PRICE, JOHN, General Shopkeeper, Ystalyfera, Glamorganshire. March 21. Sol. Essery, 57, Wind-street, Swansea.

RACKSTRAW, PHILIP BENNETT, Smack Owner, 18, Marlborough-place, Old Kent-road, Surrey. March 18. Sol. Waters, Gravesend.

TATTERSALL, JOHN HENRY, Cotton Manufacturer, Lyon Mills, Oldham, Lancashire. March 21. Sols. Radcliffe & Murray, Oldham.

Bankrupts.

TUESDAY, March 26, 1861.

BOOTH, JAMES, Jun., Worsted Manufacturer, Bramley, Yorkshire (J. & J. Booth). Com. West: April 3, and May 3, at 11; Leeds. Off. Ass. Young, Sols. Terry & Watson, Bradford, or Bond & Barwick, Leeds. Pet. March 16.

CRIVEN, JONATHAN, Stuff Manufacturer, Birstal, Yorkshire. Com. West: April 5, and May 3, at 11; Leeds. *Off. Ass.* Young. *Sol.* Darlington, Bradford, or Bond & Barwick, Leeds. *Pet.* March 23.

EVANS, RICHARD, Fuller & Flannel Manufacturer, Toywn, Merionethshire. Com. Perry: April 5, and 26, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Liverpool. *Pet.* March 15.

FIELD, RICHARD, sen., Corn Dealer, Chastleton, Oxfordshire, and of Moreton-in-the-Marsh, Gloucestershire. Com. Hill: April 8, and May 6, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Small-street, Bristol. *Pet.* March 25.

GABRIEL, BENJAMIN WILLMOTT, Cotton Spinner, Portwood and Hempshaw-lane, Stockport, Cheshire. Com. Jemmett: April 5, and May 1, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Cooper & Sons, P. li-mall, Manchester. *Pet.* March 21.

GATES, JAMES HARDEN, Builder, Manor-street, Clapham, Surrey. Com. Evans: April 5, at 11, and May 9, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Hewitt, 4, Princes-street, Bank. *Pet.* March 22.

JARVIS, CHARLES KEDMAN, Bookseller & Stationer, Division-street, Sheffield. Com. West: April 6, and May 4, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Broomhead, Sheffield. *Pet.* March 20.

KING, JAMES, Cotton Manufacturer, Shawforth, Rochdale, Lancashire. Com. Jemmett: April 19, and May 10, at 12; Manchester. *Off. Ass.* Herniman. *Sol.* Storer, 89, Fountain-street, Manchester. *Pet.* March 21.

KING, JOHN, Saddler & Harness Maker, Southampton. Com. Evans: April 5, at 12; and May 9, at 1.30; Basinghall-street. *Off. Ass.* Bell. *Sol.* Lott, 44, Parliament-street. *Pet.* March 26.

MANLEY, JOHN, Baker & Flour Dealer, Liverpool. Com. Perry: April 4, and 29, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Norris & Son, Union-buildings, 16, North John-street, Liverpool. *Pet.* March 16.

NORMAN, GEORGE, & GEORGE BENNETT NORMAN, Brass Founders, Birmingham (Norman & Son). Com. Sanders: April 5, & 26, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Southall & Nelson, Birmingham. *Pet.* March 22.

PARKER, GEORGE EDWARD, Dealer in Foreign Goods, Moorgate-street, London, and Buckingham-street, Strand, Middlesex. Com. Holroyd: April 9, at 2.30; and May 9, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Treherne, 17, Gresham-street, London. *Pet.* March 13.

PATRICK, WILLIAM STROUD, Surgeon & Apothecary, Birmingham, Warwickshire. Com. Sanders: April 10, and May 9, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* James & Knight, Birmingham; or Mason, Birmingham. *Pet.* March 25.

PHILLIPS, MINSHULL GEORGE, Mercer & Draper, Newcastle-under-Lyme, Staffordshire. Com. Sanders: April 10, and May 6, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Litchfield, Newcastle-under-Lyme; or James & Knight, Birmingham. *Pet.* March 21.

PRYDE, GEORGE, Ship Chandler & Ship Store Dealer, Liverpool. Com. Perry: April 5 & 26, at 11; Liverpool. *Off. Ass.* Turner. *Sols.* Woodburn & Pemberton, Liverpool. *Pet.* March 22.

RAPHAEL, PHILLIP, Wine & Spirit Merchant & Publican, St. James's Tavern, Duke-street, Aldgate, London, formerly Cigar Dealer & General Merchant, Magdalen-row, Great Prescot-street, Middlesex. Com. Foulque: April 9, at 12.30; and May 1, at 2; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pet.* March 22.

SNOWDON, ROBERT, Carver & Gilder, Looking Glass & Picture Frame Manufacturer, and Dealer in Prints, Newcastle-upon-Tyne. Com. Ellison: April 10, at 12; and May 8, at 11; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Joel, Newcastle-upon-Tyne; or, Hoyle, 102, Leadenhall-street, London. *Pet.* Feb. 16.

STEWART, WILLIAM BARCLAY, Yard & Cloth Agent, Manchester. Com. Jemmett: April 11, and May 2, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester. *Pet.* March 19.

WHITTAKER, JOHN, Victualler & Dealer in Wines & Spirits, Wrexham, Denbighshire. Com. Perry: April 5 & 29, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Liverpool; or, Acton, Wrexham. *Pet.* March 25.

WOOD, THOMAS, Builder & Dealer in Asphalte, Colchester, Essex. Com. Holroyd: April 9, at 2.30; and May 9, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* March 23.

BANKRUPTCY ANNULLED.

TUESDAY, March 26, 1861.

ELLISON, THOMAS, Baker & Flour Dealer, Liverpool. March 23.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, March 26, 1861.

ANSELL, EDWARD, Draper, 37, South-street, Manchester-square, Middlesex. April 16, at 11; Basinghall-street.—**ALLISON, JOSEPH**, Corn & Provision Merchant & Cattle Dealer, Stockton-upon-Tees, Durham. April 18, at 12; Newcastle-upon-Tyne.—**BAKER, WILLIAM WILCOX**, and **HENRY SUNDALL**, Manufacturing Stationers, 67, Old Bailey, London. April 16, at 12; Basinghall-street.—**BOTTWELL, SAMUEL**, Builder, Dorking Surrey. April 16, at 11.30; Basinghall-street.—**COLLS, JAMES**, Coal Merchant, Commission & Insurance Agent, Thrapston and Denford, Northamptonshire. April 17, at 11.30; Basinghall-street.—**ELLIOTT, WILLIAM**, Builder, Church-street, Chelsea, and 5, Oxford-terrace, King's-road, Chelsea, Middlesex. April 16, at 11.30; Basinghall-street.—**HARRIS, JOHN**, Envelope Manufacturer, 11, College-hill, London. April 19, at 11; Basinghall-street.—**HICKEN, GEORGE**, Lace Manufacturer, Nottingham. April 18, at 11; Nottingham.—**HOLLIN, DAVID**, Boot & Shoe Manufacturer, Leicester. April 23, at 11; Nottingham.—**HULLAN, JOHN**, Bookseller, St. Martin's-hall, and 5, Langham-street, Portland-place, Middlesex. April 16, at 11; Basinghall-street.—**HUNT, JACOB**, Cotton Manufacturer, Stockport. April 18, at 12; Manchester.—**MARRIOTT DAVID**, Draper, 118, Oxford-street, Middlesex. April 19, at 11; Basinghall-street.—**NASH, EDWARD RICHARD**, Wine Merchant, 25, College-hill, London. April 16, at 12; Basinghall-street.—**PICKFORD, WILLIAM**, Merchant, 157, Fenchurch-street, London (William Pickford & Co.) April 16, at 11.30; Basinghall-street.—**READ, WILLIAM**, Builder, 28, Dorset-street, Portman-square, Middlesex. April 17, at 12.30; Basinghall-street.—**RETHERFORD, THOMAS**, Merchant, formerly of Moradabad, Presidency of Bengal, East Indies, and now of Agnes-place, Waterloo-road, Surrey. April 18, at 11; Basinghall-street.—**SHALES, EDWARD THOMAS**, Linen Draper, Brighton. April 19, at 11; Basinghall-street.—**STANNARD, JAMES**, Trader, Newport, Isle of Wight. April 17, at 1.30; Basinghall-street.

UNCONDITIONAL ASSURANCE ON LIFE.

Under the New Scheme (Class B) of the LIFE ASSOCIATION OF SCOTLAND there is no liability to Forfeiture or to extra Charges, or to any Restrictions as to Residence or Occupation. Further, the Policy-holder is not left in uncertainty as to the sum he will receive back, if he should give up his Policy; but this is fixed at first, being an unusually large proportion of his payments. There are, also, other concessions to the Policy-holder. The policies are, therefore, peculiarly valuable for almost every purpose. Persons proceeding to unhealthy climates, are, however, not eligible for admission to the Scheme. Prospectuses, containing full explanations, will be forwarded to any part of the country.

A medical officer in attendance daily, at half-past 12 o'clock.

THOS. FRASER, Res. Secy.

London, 20, King William-street, E.C.

ON 5TH APRIL NEXT, the Original Scheme (Class A.) of the Life Association of Scotland will be Closed for the 22nd Annual Balance; and Entrants will secure Special Advantages.

Those who desire to avail themselves of Life Assurance at the smallest outlay consistent with due security, are invited to examine into this Scheme, and its results to the Policy-holders. Prospectuses will be furnished on application. Assurances can be effected in any part of the kingdom.

A medical officer in attendance daily, at half-past 12 o'clock.

Applications should be lodged on or before 5th April.

THOS. FRASER, Res. Secy.

London, 20, King William-street, E.C.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1836.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

LAW STUDENTS' DEBATING SOCIETY, AT THE LAW INSTITUTION, CHANCERY LANE.

Members are requested to supply the Committee with Questions.

QUESTIONS FOR DISCUSSION.

For Tuesday, 9th April, 1861. President—Mr. MATTHEWS.

QUARTERLY MEETING.

The Treasurer will lay before the Meeting a statement of unpaid fines and subscriptions.

The Secretary's Report of the proceedings of the Society during the past Quarter will be read.

Members who have been absent from six successive Meetings without written notice, must show cause at this Meeting, why their names should not be erased from the list of Members.

Mr. PEACHEY will move—That Rule XIII. be amended by adding the words:—"That in the event of the President appointed for the evening not attending in person, or by deputy, the senior member of the Committee present, or in case no member of the Committee other than the Secretary be present, then the senior member of the Society in attendance shall act as President."

Mr. ANDERSON will move—"That it would be beneficial to the Members of this Society, if further facilities were given towards the acquirement of a more perfect knowledge of the Law and Practice of Evidence. That for this purpose the Society do on one Tuesday in each Term, hold a sitting for the purpose of trying issues in fact, and that a Committee be appointed to draw up the rules to be observed at such sittings."

Mr. MELVILL GREEN will move—"That the Secretary do not act as deputy under Rule VI. clause 1, unless he have consented so to do eight days at least prior to his so acting as deputy."

Mr. JACKSON will move—"That the votes on election of Members be taken by show of hands instead of by Ballot."

269.—On the sale of goods with all faults; is a vendor guilty of fraud, in case he does not disclose to the purchaser some defect which could not be discovered by a diligent examination?

Mellish v. Motteaux, Peake, 157; Baglehole v. Walters, 3 Campb. 155.

Affirmative—Mr. J. W. SHARPE and Mr. A. H. MILLER.

Negative—Mr. HEWITT and Mr. WILLIAMS.

For Tuesday, 16th April, 1861. President—Mr. WINGATE.

270.—Is a bona fide purchaser of debentures of a public company, bound to ascertain whether the debentures have been issued in all respects in the manner prescribed by the deed of settlement?

Agar and Others v. The Athenaeum Life Assurance Society, 6 W. R. 277 G. P.; The Athenaeum Life Assurance Society v. Pooley, 7 W. R. 167, L. J.

Affirmative—Mr. LAWRENCE and Mr. WEST.

Negative—Mr. G. LINDO and Mr. HARRIS.

For Tuesday, 23rd April, 1861. President—Mr. WINCKWORTH.

XCVI.—Ought the Government to have introduced a Reform Bill during the present session?

Mr. DOWSE is appointed to open the debate, and Messrs. ALDRIDGE, HANDBORN, and BUSBY to speak on the question.

For Tuesday, 30th April, 1861. President—Mr. GREEN.

271.—A holding under a lease in which there is the usual covenant, not to assign without license, will a bequest by him of his interest in the property without license operate as a forfeiture?

Fox v. Swan, Styles 483; Lloyd v. Crisp, 5 Taunt. 249; Doe v. Evans, 9 Ad. & Ell. 274.

Affirmative—Mr. RUSSELL and Mr. W. PHILLIPS.

Negative—Mr. ANDERSON and Mr. BROWN.

The chair will be taken at Seven o'clock.

GEO. L. WINGATE, Jun., Secretary,
9, Copthall court, E.C.

GUARDIAN FIRE AND LIFE ASSURANCE COMPANY, No. 11, Lombard-street, London, E.C.

Established 1821.

DIRECTORS.

HENRY VIGNE, Esq., Chairman.
Sir MINTO T. FAMOCHAB, Bart., M.P., Deputy Chairman.
 Henry Hulce Berens, Esq. Stewart Marjoribanks, Esq.
 Charles William Curtis, Esq. John Martin, Esq.
 Chas. F. Devas, Esq. Rowland Mitchell, Esq.
 Francis Hart Dyke, Esq. James Morris, Esq.
 Sir Walter R. Farquhar, Bart. Henry Norman, Esq.
 Thomson Hankey, Esq., M.P. Henry R. Reynolds, Esq.
 John Harvey, Esq. Sir Godfrey J. Thomas, Bart.
 John G. Hubbard, Esq., M.P. John Thornton, Esq.
 John Labouchere, Esq. James Tulloch, Esq.

AUDITORS.

Lewis Lloyd, Esq. Henry Sykes Thornton, Esq.
 John Henry Smith, Esq. Cornelius Payne, Jun., Esq.
 Thomas Tallmach, Esq., Secretary. — Samuel Brown, Esq., Actuary.

LIFE DEPARTMENT.—Under the provisions of an Act of Parliament, this Company now offers to new Insurers EIGHTY PER CENT of the PROFITS, AT QUINQUENNIAL DIVISIONS, OR A LOW RATE OF PREMIUM, without participation of Profits.

Since the establishment of the Company in 1821, the Amount of Profits allotted to the Assured has exceeded in Cash value £660,000, which represents equivalent Reversionary Bonuses of £1,058,000.

After the Division of Profits at Christmas 1859, the Life Assurances in force, with existing Bonuses thereon, amounted to upwards of £4,730,000, the Income from the Life Branch £207,000 per annum, and the Life Assurance Fund exceeded £1,618,000.

LOCAL MILITIA AND VOLUNTEER CORPS.—No extra Premium is required for service therein.

INVALID LIVES assured at corresponding Extra Premiums.

LOANS granted on Life Policies to the extent of their values, if such value be not less than £50.

ASSIGNMENTS OF POLICIES.—Written notices of, received and registered.

MEDICAL FEES paid by the Company, and no charge for Policy Stamps.

NOTICE IS HEREBY GIVEN, that Fire Policies which expire at Lady-day must be renewed within fifteen days at this Office; or with Mr. Sama, No. 1, St. James's-street, corner of Pall-mall; or with the Company's agents throughout the Kingdom, otherwise they become void.

Losses caused by Explosion of Gas are admitted by this Company.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, PALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 3 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,987 10	£6,987 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1859, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order, E. L. BOYD, Resident Director.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited),

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £100,000, in 10,000 shares of £10 each.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. COBBOLD & PATTESON, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal is 5 per cent. The investment being secured by a subscribed capital of £35,000, £70,000 of which is not yet called up.

LOANS.—Advances are made, in sums from £55 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to

JOSEPH K. JACKSON, Secretary.

EQUITABLE REVERSIONARY INTEREST SOCIETY, 10, Lancaster-place, Strand.

—Persons desirous of disposing of Reversionary Property, Life Interests, and Life Policies of Assurance, may do so at this Office to any extent, and for the full value, without the delay, expense, and uncertainty of an Auction.

Forms of Proposal may be obtained at the Office, and of Mr. Hardy, the Actuary of the Society, London Assurance Corporation, 7, Royal Exchange.

JOHN CLAYTON, } Joint Secretaries.
 I. S. CLAYTON, }

ESSEX.

On the high road from London to Southend, and within 1½ mile of the Pitsea Station, on the London, Tilbury, and Southend Railway.—Very valuable Freehold Estates, land-tax redeemed, embracing an area of 324a. 1r. 35p. of very productive Arable, Pasture, and Grazing Land, with Farm, Homesteads, and Two Cottages, situate in the parishes of Vange, Pitsea, and Basildon; also the Advowson and Next Presentation to the Rectory of Vange, together with a Rectory-house, tastefully laid-out Pleasure Grounds, all necessary Outbuildings, and 75a. 0r. 17p. of Glebe Land, the whole producing, at a moderate estimate, an income of upwards of £750 per annum.

MESSRS. BEADEL and SONS are instructed to offer for SALE by AUCTION, at the MART, Bartholomew-lane, on TUESDAY, MAY 7, at TWELVE for ONE, in Lots, MERRICKS or VANGE WHARF FARM, in the parish of Vange; comprising a residence, farm homestead, and 148a. 1r. 28p. of superior arable, pasture, and grazing marsh land, principally abutting upon the high road from London to Southend, together with the wharf, from which produce is shipped and manure landed, in the occupation of Mr. John Pocklington, a yearly tenant; the Hill Farm, in the parishes of Vange and Basildon, consisting of a comfortable farm-house, capital buildings, and 114a. 2r. 1p. of useful land, in the occupation of Mr. William Hurchill, a yearly tenant; Felmore Farm, in the parish of Pitsea, including a residence, farm buildings, and 61a. 1r. 1p. of capital land, in the occupation of Messrs. William and Abraham Wright, yearly tenants; the Advowson and Next Presentation to the Rectory of Vange, together with the rectory house and outbuildings, and 75a. 0r. 17p. of arable and grazing land.

Further particulars may be obtained of Messrs. BEADEL and SONS, No. 25, Gresham-street, London, E.C., and Chelmsford, Essex.

KENT.

About a mile and a-half from the Town of Wye, and four miles from Ashford.—A very desirable Freehold Property, exonerated from Land-Tax, comprising 65a. 0r. 31p. of superior Arable and Meadow Land.

MESSRS. BEADEL and SONS have received instructions to offer for SALE by AUCTION, at the MART, Bartholomew-lane, on TUESDAY, MAY 7, at TWELVE for ONE o'clock, in One Lot (unless previously disposed of by private contract), a valuable FREEHOLD ESTATE, known as Lukin Land, situate in the parishes of Wye and Brook, containing 65a. 0r. 31p. of superior land, principally meadow, in the occupation of Mr. George Parkins, a tenant from year to year.

Further particulars may be obtained of Messrs. BROWNE and WILLIAMS, 19, Margaret-street, Cavendish-square, W.; and of Messrs. BEADEL and SONS, 25, Gresham street, E.C.; and Chelmsford, Essex.

The Reversion, expectant on the death of a lady, aged 70 years in May, 1860, in 14 Copyhold Houses at Limehouse, Freehold Manufacturing Premises, brick-built Dwelling-houses, Timber-yard, Workshops, Cottages, and other Buildings, with Wharfrage to the river Lea, and on the high road from London to Stratford.

MESSRS. BEADEL and SONS are instructed to offer by AUCTION, at the MART, Bartholomew-lane, London, on TUESDAY, the 7th day of MAY, at TWELVE for ONE o'clock, in Three Lots, the REVERSION, expectant on the death of a lady, aged 70 years in May, 1860, in the following PROPERTY, viz.:—14 copyhold brick and tiled houses, being Nos. 1 to 12, and Nos. 15 and 16, Edward-street, Limehouse; the substantially erected freehold manufacturing premises, with workshops, manager's house, coach house, stable, packing rooms, lodge, and large yard, together known as Bell and Blacks lucifer match manufactory, and let on lease to, and in the occupation of, Messrs. Bell and Black; two brick-built and slated dwelling-houses, large enclosed timber-yard, workshops, counting-house, large brick and timber-built warehouses, six-stall stable and looc box, let on lease to, and in the occupation of, Messrs. Cordery and Chance, situate on the high Essex road, near Bow-bridge; four freehold cottages, wheelwright's shop, granaries, stables, and enclosed yard, with wharfrage on the river Lea, adjoining Bow-bridge, known as Woodstock-place, in the occupation of Messrs. G. P. Vale, A. Whipps, W. Smea, and J. Banner.

The premises may be viewed by permission of the tenants, and particulars, with lithographic plans and conditions of sale, obtained of Messrs. TAMPLIN & TAYLER, Solicitors, 159, Fenchurch-street; Messrs. G. & E. HILLEARY, 5, Fenchurch-buildings, Fenchurch-street; at the MART; and of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C., and Chelmsford, Essex.

PURSUANT to an Order of the High Court of

Chancery, made in the Matter of the Estate of Francis Stack Murphy, late of No. 33, Lincoln's-inn-fields, and of Earls-court gardens, Brompton, both in the County of Middlesex, Esq., Serjeant-at-Law, deceased, and in a cause between Esther Greenwood, Plaintiff, and Samuel Sturgis, Defendant, the creditors of the above-named Francis Stack Murphy, who died in or about the month of June, 1860, are by their solicitors, on or before the 18th day of April, 1861, to come in and prove their debts at the chambers of the Master of the Rolls, in the Rolls-yard, Chancery-lane, Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said order. Tuesday, the 23rd day of April, 1861, at 12 o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the claims.—Dated this 18th day of March, 1861.

GEO. HUME, Chief Clerk.

WALKER & HARRISON,
 5, Southampton-street, Bloomsbury, Middlesex,
 Plaintiffs Solicitors.

We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, APRIL 6, 1861.

CURRENT TOPICS.

The proceedings on the Home Circuit during the last week present the singular feature of an action brought by a gentleman against a lady ostensibly to recover damages for the breach of an engagement to marry him, but really to vindicate his character against the imputation of immorality by which the lady justified her change of mind. Lord Chief Justice Erle made many strenuous efforts to escape the unpleasant duty of having to try this case. He seemed most entirely to agree with Mr. Serjt. Ballantine that "it was always a very painful matter when a gentleman brought an action of this description against a lady." As the plaintiff's counsel stated that his object was not damages, it really seemed rather hard that the judge and jury should be forced to try the case. If the defendant had rejected the plaintiff without assigning any reason, except that she was tired of him, he would not have complained—at least not before a court of justice; but character is dear to those who do not value money. It seems that the young lady's father was labouring under a sense of his obligation to bring before the Court what he knew of the plaintiff's life and conduct, and so he persisted in refusing to withdraw the obnoxious plea. The plaintiff's counsel had got into the correspondence, when an energetic representation by the judge of the mischief to the defendant of her friends' obstinacy at last inclined them to a compromise, and the further progress of the case was stayed.

From the Bristol Assizes is reported the trial of an action brought against "The Bristol Bread and Flour Company, Limited," by their late secretary, for ten months' salary. It appeared that he had served them zealously during that time. "He was engaged from after breakfast till 1 or 2 o'clock next morning," in the advancement of the interests of a company which nevertheless appears to be verging on winding-up. The only trace of business done by it is the allowance of bread and flour for his family to the company's own manager. The people of Bristol seem to have been wanting in enthusiasm for the cause in which this energetic secretary went through such a long day's work. If, indeed, self-devotion could have established the "Bread and Flour Company, Limited," this secretary and the directors under whom he acted would have accomplished what they undertook. We read that there were seven directors who were entitled to divide among them the sum of thirty shillings by way of remuneration for attendance at each weekly board-meeting. Surely the duty of director of a public company was never before undertaken at the rate of less than five shillings a week! At a meeting of shareholders it was resolved to offer to the plaintiff the rather unsubstantial remuneration of one hundred paid-up shares. The jury gave him £200 in addition to £50 received on account.

The West India Incumbered Estates Act (17 & 18 Vict. c. 117), which was framed on the model of the Irish Act previously passed for the same purpose, has hitherto, except as regards two or three of the smaller islands, remained a dead letter. The cause of this is easily explained. Unlike the Irish Act the West India Act was not compulsory, but permissive in its character. It was left entirely to the discretion of

the different colonies to adopt it or not, as their own Legislatures might determine. We can easily perceive, therefore, that such a measure would be regarded with no friendly eyes by that class in the colonies, and we fear it is a numerous and influential one, who are interested in maintaining the existing state of things. If all the heavily incumbered estates in the West Indies were brought to the hammer, as they ought to be, the profits of their managers would be most materially curtailed. It is this powerful interest which has hitherto rendered the West India Act all but inoperative. But we are glad to learn that it will remain so no longer. By the last mail from Jamaica, we hear that the Legislature of that important island has adopted the Act. It reflects great credit on that body to have done so, as in Jamaica, more, perhaps, than in any other colony, the interests opposed to the measure in question must have been numerous and strong. That fine island, from causes to which we need not now refer, has suffered more than any other from the effects of negro emancipation. It has more heavily incumbered estates than any other West India colony, and the transfer of a number of these to fresh owners will infuse both energy and capital into the island. This transfer will be effected expeditiously and cheaply by means of the court established in England for the purpose, the business of which may be now expected steadily to increase. As our principal West India colony has of her own accord adopted the Incumbered Estates Act, it is probable that most, if not all, the others will, sooner or later, follow her example.

SIR JOHN TRELAWNEY'S AFFIRMATION BILL.

The Affirmation Bill of the member for Tavistock, the second reading of which was moved in the House of Commons on the 14th instant, proposes to remedy a striking imperfection in our judicial machinery. In the spirit of recent legislation on the subject of judicial evidence, it removes one more obstacle to the elucidation of truth. It facilitates considerably the access to justice by making one more breach in the barriers which have so long blocked up its avenues, and on which lawyers have inscribed the title of Competency of Witnesses. This end it attains by very simple means. It admits the evidence of a class of persons, not very numerous it is true, but who, as the law at present stands, however unimpeachable their moral conduct, however honourable their social position, however spotless their commercial integrity, because they refuse to bow to a religious sanction, are placed below the level of the convicted felon. Finally, it abolishes an anomalous distinction between the admissibility of *written* depositions and of *vivâ voce* testimony, occasioned by the fact that in the latter case only is an objection ever taken to a witness on the ground of his religious belief.

The progress of ideas in this country on the subject of oaths may be very briefly indicated. Two hundred and fifty years ago, the narrow-minded bigotry of the age led Lord Coke to decide that no evidence was admissible in a court of justice which was not fortified by oath and accompanied with a profession of Christian faith. A century later, in the Chancellorship of Lord Hardwicke, the sworn evidence of an unconverted Gentoo was admitted in a court of equity, after solemn argument before all the judges. More recently, judicial opinions have been expressed, to the effect that it is sufficient that the witness should avow his belief in an Avenger of falsehood. But the evidence of persons who, while declaring themselves to be Christians, refused on conscientious grounds to be sworn, was excluded for a much longer period. It was not till 1834 that any concession in this respect was made to the sects. In that year, Quakers, Moravians, and Separatists were permitted to make an affirmation in lieu of an oath. In 1854, the like privilege was extended to all who alleged

themselves to be actuated by conscientious motives, provided the Court was satisfied of the sincerity of the objection. No further relaxation has been introduced in favour of persons in this country who do not entertain the required religious convictions, except by the statute of the second year of the present reign, which is, in fact, only confirmatory of the previous dicta of Lord Hardwicke, and allows the administration of an oath "with such ceremonies as the witness may declare binding in cases where an oath may be lawfully administered." The evidence of those who do not acknowledge a superintending Providence is not rendered admissible by this statute, for no oath can be administered to him who refuses to acknowledge a religious sanction. It is the case of these persons, or rather of those who suffer by the present exclusion of their testimony, that Sir J. Trelawney's Bill is chiefly designed to meet, though it also seeks to carry out the suggestion of Mr. Bentham, and in effect to abolish judicial oaths altogether. In the wisdom of this latter portion of the Bill we cannot acquiesce. The main end of an oath is to guarantee the veracity of the witness, and so long as persons are found to attach importance to the religious ceremony, so long ought that ceremony to be kept up. Wherever the religious sanction is felt to exist, there is no reason why it should not be appealed to with advantage. And the solemn adjuration of the Divine Being serves another purpose. The language of a judicial witness should be more guarded and precise than is demanded by the usage of every-day life, and the oath which reminds us of our relation to a Higher Power has a powerful effect in producing veracity. But the question, whether the testimony of a witness who refuses to recognise any religious sanction ought on that account to be peremptorily excluded is not affected by the foregoing consideration, and it is to this part of Sir J. Trelawney's Bill that we wish to direct attention.

In every judicial investigation, one of the first objects of the Court is to procure evidence—the best, if it can be had, if not, the best that can be had. But the caution which requires in all cases, as a condition of admissibility, the presence of an oath, may obviously be pressed into the service of falsehood. Witnesses have been forewarned ere now, the combined force of the moral, the legal, and the religious sanctions, notwithstanding; and where is the security that the examinations on the *voir dire* will elicit religious convictions which the proffered witness really entertains? If he declines to make any definite statement, the Court has neither power to compel him to avow his religious belief nor to cross-examine him respecting it. The sworn depositions of those who have come in contact with him can alone be relied on in order to discredit his testimony, and it is plain that in many cases these will not be forthcoming. Let him, however, succeed in satisfying the judge on this preliminary inquiry and he will be enabled to claim credence for his statements, which but for the presence of the oath would not have been due to them.

Let us examine, on the other hand, the probability of falsehood which attaches to a witness who, on the ground of absence of religious belief, refuses to be sworn. It will be found to be of the slenderest possible description. Could he take any course better adapted to defeat his object? He declines to give the single guarantee of good faith that is asked of him. He offers his statements for what they are worth, uninvested with the garb of solemnity. He risks all the perils of cross-examination, but withholds the assurance required by the law, that what he says may be relied on.

While the evidence of such a person is absolutely rejected, the unsworn testimony of "barbarous, and uncivilized people in our colonies, destitute of a knowledge of God, or of any religious belief," has been rendered admissible by Act of Parliament, so that the exclusion enforced by the present rule must be regarded as a

penalty inflicted on certain individuals. But the weight of the penalty, unfortunately, does not fall where it ought. For who is really injured by the exclusion of the proffered evidence? The proof of the innocence of the accused is often locked up in the breast of a single witness. But the witness disbelieves in a moral Governor of the Universe. Is the prisoner at the bar to suffer for the imperfect religious convictions of the only person who can exculpate him? Are the doubts of the unbeliever to be visited on the head of the orthodox Christian? Should the atheistical opinions of the one be allowed to operate to the prejudice of the other, who is in no way responsible for them? And this in order to satisfy an arbitrary rule of evidence, "*Non nisi juratis creditur!*"

Or take the case of a witness for the prosecution, who is subpoenaed to prove the guilt of an accomplice. He is reluctantly forced into the witness box, but he can effectually screen his partner in crime without fear of committal for contempt. Nothing is easier; the counsel for the prisoner desires that he should be questioned as to his religious belief—the answers are unsatisfactory, the Court is bound to pronounce him incompetent, and he is ordered to stand down. He does stand down, and he goes out laughing. We could mention stronger cases where the operation of the present law has been to confer impunity on crime—cases where young children, sole witnesses of their own wrongs, have been debarred from giving evidence against unnatural fathers, because those fathers had taken care that they should be entirely destitute of any definite religious ideas. But it is sufficient to glance at these instances, which anyone may easily multiply for himself.

The truth of the matter is, that the distinction hitherto taken between the *competency* and the *credibility* of a witness breaks down as soon as you begin to investigate it. Between competency and incompetency, indeed, the difference is indisputable, but it is a difference which has absolutely no meaning except in reference to a technical rule of law. A competent witness is one whose evidence is admissible in a court of justice, an incompetent witness is one whose evidence is rejected there, *by the rules of law existing at the moment when it is tendered*. But a witness who in conformity with those rules is rejected as incompetent may in many cases be more worthy of credit than one whose testimony is admitted. Thus an intoxicated person is incompetent as a witness; but the spontaneous utterances of one man whose powers of invention are paralysed by alcohol might conceivably be more trustworthy than those of another whose soberness enables him to carry out designs of premeditated falsehood. So the evidence of a child of too tender an age to understand the nature of an oath might, in a particular instance, be much more safely relied on than that of an adult on whom no oath has any binding effect. It is a presumption of law that every witness believes in a God, until his disbelief is established out of his own mouth or that of others; but it is just because it is *only a presumption of law* that his credibility ought to derive little weight from the circumstance. In all cases, it is the *credibility* of the witness that has in the last resort to be inquired into; and while no form should be discarded that is likely to conduce to the elucidation of truth, none should be retained in those cases where the test it supplies is an illusory one, or where it serves to exclude evidence which may be sifted by appropriate methods, and is often of capital importance.

THE SALMON FISHERY COMMISSION.

The supply of salmon in the rivers of Great Britain has for many years past been steadily diminishing, and a royal commission was appointed last autumn to inquire into the causes, and, if possible, to devise a

remedy. Their report as to the fisheries of England and Wales has recently been published, and the recommendations embodied in it are of a somewhat startling character. Their adoption would, no doubt, tend most materially to increase our native supplies of salmon. But there are difficulties in the way of a more formidable character than the commissioners appear to be aware of. We fear, indeed, that these difficulties will be found to be insurmountable.

The causes which have led to the steady diminution of our native supplies of salmon are, first, the growth of towns, and the increase of population in certain localities; and, secondly, the employment of an infinite variety of fixed engines, both in our rivers and upon our sea coasts, in the capture of this justly prized fish. It is obvious that as regards the first nothing can be done; for, as the commissioners in their report truly observe, "the interests of manufactures nationally considered must be deemed paramount to those of fisheries." But as regards the second the case is different. There is not the smallest doubt that the removal of all fixed engines employed in the capture of salmon in our rivers and upon our sea coasts would be followed by a large increase in the supply. But without a sweeping alteration in the law this cannot be done. Private property to a large amount would necessarily be destroyed by any such innovation, and Parliament would justly regard with suspicion any measure which promised such a result. But the commissioners have come to the conclusion that something of the kind must be done. The evidence they have heard from all parts of the kingdom induces them apparently to believe that some decisive steps must be taken if we would prevent the gradual diminution and the final disappearance of our home supplies of salmon. Before, however, adverting to the remedies proposed by the commissioners, let us see what statutes are now in force for the regulation of salmon fisheries in England and Wales, and whether or not these require alteration.

The Acts now in force are the 58 Geo. 3, c. 43, and the 6 & 7 Vict., c. 33. By these the magistrates of each county in quarter sessions are empowered to fix the seasons when it shall be lawful to capture salmon in their respective districts. This provision at first sight may appear a fair and prudent one, but in practice it has been found to work very badly. Our principal rivers often form the boundaries of different counties. The Severn, for example, intersects no less than four. A variety of different jurisdictions are thus created over the same river. The magistrates of each county which it touches in its course may, and often do, fix a different close time when all fishing is prohibited. It thus happens not only that different portions of the same river are subject to different rules, but where it separates two counties it may be lawful to fish upon one side while it is close time on the other. On some parts of the Severn it appears that this anomalous state of things now prevails.

The Commissioners propose that instead of leaving it to the local authorities to fix the close time in their respective counties, the Legislature should fix one uniform season for the whole kingdom. The evidence they have heard from all parts induces them to conclude that this arrangement would be a great improvement upon the present system. They recommend accordingly that the close season for salmon fishing throughout the kingdom should, except for rod fishing only, commence on the 1st of September and end on the 1st of February. They further recommend the formation of a central board similar to that which exists in Ireland, to be invested with the power of making bye-laws for the regulation of the salmon fisheries. They further recommend that under this board a local board of conservators should be appointed for each river, as is also the case in Ireland. The plan of the Commissioners, in short, is borrowed directly from that

which was introduced into the sister island by the 11 & 12 Vict. c. 92.

But by far the most important of the recommendations of the Commissioners, is that in which they propose that "all fixed engines on the estuaries and sea coasts" should be suppressed. "These engines," they say, "with few exceptions, are of modern invention. Stake-nets have been scarcely known in England until within the last fifty years, and bag nets are still more recent, and they are opposed to the whole aim and spirit of the fishing laws, the object of which, as has been fully shown, was to secure to the salmon a free passage to and from the sea, and to cause an equitable distribution of them throughout the rivers. These engines are baneful to the fisheries, not only on account of the number of fish which they destroy, but also because they scare and drive them away to the sea, when they come in shoals seeking the rivers, thereby exposing them to be injured or destroyed in a variety of ways."

There are several other matters of detail which, in the opinion of the Commissioners, require alteration; but the passage we have quoted contains by far the most important of their recommendations. We need hardly add, that if it can be carried into effect, it cannot fail to add largely to our home supplies of salmon. But will Parliament sanction a measure of so sweeping a character? We very much doubt it. Whatever may have been the ancient policy of the law, there is no doubt that a good title can be shown in numerous instances to these fixed engines which it is now proposed wholly to sweep away. Their owners will not hesitate to denounce as confiscation in its most arbitrary form the recommendation of the Commissioners. We confess we do not see at present how this difficulty is to be overcome.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

CHAP. IX.

OF TWO EQUAL DOMICILS.

Although it is generally easy to determine where a man has his domicil, so far as the possession of a house wherein he resides, is concerned, yet, as I have said in another place, it has happened more than once that an individual of wealthy means, and eccentric or wandering disposition, has possessed establishments in different countries of the globe at one and the same time. A case is barely within the limits of possibility where the circumstances are precisely similar in the case of two domicils; for as any one circumstance relating to either would be allowed to weigh either for or against it—this is not only an argument against a man having two domicils, but almost shows the impossibility of such a thing subsisting at all, independently of the view which the law might take of such a possibility. One of the most difficult cases coming under this head which has perhaps ever occurred was the case of *Forbes v. Forbes*, decided by Vice-Chancellor Wood, 1 Kay 341, and already adverted to, but even then, there were many circumstances which upon investigation greatly preponderated in favour of the English domicil, and that was decided to prevail at the time of the testator's death. In that case the testator had a mansion and estate in Scotland where he constantly resided, but at the same time possessed the lease of a house in London, and kept an establishment of servants, and also resided there from time to time; but still there were so many circumstances operating both ways, namely, the domicil of origin being Scotch, the position which the testator held in Scotland, and the duties he fulfilled there, as to make it extremely doubtful whether the domicil was

not Scotch, had it not been that his wife resided mainly in London, and his establishment in Scotland consisted of servants hired for the time only; and upon these two facts, but chiefly upon the first, the domicile was held to be English. In reference to this circumstance the case of *Warrender v. Warrender*, 2 Cl. & Fin. 536, was cited, in which the principle was recognised, that the wife's presence regulates the domicile, although rebutted by the circumstance of the parties being separate; but under ordinary circumstances, the place where the wife resides must certainly be looked upon as the "home" of the parties. In observing upon this principle, Vice-Chancellor Wood happily remarked that the wife must certainly be regarded as the tutelary genius of a man's house, and stand in the place of the *lares* of old; and it was considered on all the authorities as an almost decisive circumstance to determine the domicile, that it was the residence of the wife, she being, as it were, indivisible from the family and establishment. In cases of this kind, the slightest circumstance has weight, because, although slight in itself, yet, coupled with other facts, also, alone, equally slight; it may have in that way considerable influence, even retrospectively, in determining which of two domicils shall prevail. In such a case it is very doubtful whether domicile of origin would not, *simpliciter*, as such, have a preponderance, although the question rests on evidence which must necessarily vary in every case. In the case of *Lord v. Colein* before referred to, the most voluminous evidence was pretty equally balanced, and domicile of origin was held to prevail. Although it seems to be assumed that length of time, or diuturnity of residence, as it is called, is alone sufficient to determine a domicile, yet in the case of two equal domicils, it is doubtful whether that would be so, inasmuch as a man might regard both as equally in the light of a home, chance circumstances only causing the residence in duration in the one to outweigh that in the other, and therefore, it appears to be necessary that more than one circumstance must be adduced to give a preference, although any circumstance going to show that the party considered one of the two his home, would of course guide the decision as to that one being the domicile. Upon the whole, we may conclude that in the case of two or more equal domicils, that is, both being residences, the fact of the wife residing, a fixed establishment of servants, spending the greater part of the year there, say the winter months, and using the other as a summer resort for change or recreation only, would be sufficient to determine in favour of one over the other, it not being possible to lay down any positive rule, except such as may be applied upon general principles. And where the circumstances are so balanced as to make it impossible to decide which was the preponderance, then the domicile of origin turns the scale.

In another place I have referred to the case of *The Inhabitants of Abington v. The Inhabitants of Bridgewater*, 23 Pickering American Reports, 170; and as to another point, but in the same case are some striking *dicta* relating to the question of two domicils to this effect. Two considerations must be kept steadily in view, first, that every person must have a domicile somewhere, and secondly, that a man can have only one domicile for one purpose, at one and the same time. Every one has a domicile of origin which he retains until he acquires another, and the one thus acquired is in like manner retained; and the supposition that a man can have two domicils would lead to the absurdest consequences. If he had two domicils within the limits of distant sovereign states in case of war, that which would be an act of imperative duty in one would make him a traitor to the other, as not only sovereigns, but all their subjects, collectively and individually, are put into a state of hostility by war. He would become an enemy to himself, and bound to

commit hostilities, and afford protection to the same persons and property at the same time. But, suppose he was domiciled within two military districts of the same state, he would be bound to do personal service at two places at the same time, and in two countries, and he would be compellable on peril of attachment to serve on juries in two remote shire towns, or in two towns to do watch and ward in two different places; or suppose he was removed by a warrant to the place of his settlement or residence, it would follow that two sets of civil officers would be bound to remove him by force, each acting under a legal warrant; these are, therefore, rather *postulata* than propositions to be proved, yet they go far in furnishing a test by which the question may be tried in each particular case. It depends not upon proving particular facts, but whether all the facts and circumstances taken together tend to show that a man has his home or domicile in one place, and overbalance all the like proofs tending to establish it in another. Such an inquiry, therefore, enables a comparison of proofs, and in making that comparison there are some facts which the law deems decisive, unless controlled and corrected by others still more stringent. It will be seen by these observations what the view taken by the American judges is of the possibility of two subsisting domicils; and it seems to me that they are of considerable value.

CHAP. X.

THE EFFECT WHICH DOMICIL HAS IN RESPECT OF FOREIGN CONTRACTS.

Inasmuch as the law of domicile operates upon foreigners as well as natural born subjects of a state, it becomes a matter of some importance to consider what effect the acts of a party domiciled in another country would have in this country, or upon the continent. This question would generally have its origin in acts of a mixed character, that is, where part of such acts came within the foreign law, and part within the law of the place of domicile. Suppose a person domiciled in England (for it is with reference to the view our law takes that this question is discussed) goes abroad, but without losing the English domicile, and does acts, partly according to the law of the country where he or she then is, and partly according to our law; if the acts done according to the foreign law are connected with and depend upon the acts done according to the English law, a court of equity in this country will hold the foreign acts binding according to the law of that country; and personal property belonging to a party domiciled in England will be administered by English courts of equity, although dealt with by instruments invalid according to the foreign law of the country in which the instrument is made; that is, the law of this country will both take cognizance of and act upon contracts entered into in a foreign form by a party domiciled in England, and carry out all other acts not recognized by the law of a foreign country, but in the English form. This question was argued in the case of *Este v. Smyth*, 18 Jur. 300; 2 W. R. 148, before the present Master of the Rolls. In that case a marriage took place in Paris according to the English form; both parties being domiciled in England, and a contract was entered into to settle property, partly charged on real estates in England, and in the French form and language. Each party contributed to the amount settled, which was to be held in common according to the custom of Paris, which the parties agreed should prevail with respect to it, wherever they should happen to reside. It was also agreed that the surplus of what should belong to each of them, together with whatever should come to them, whether moveable or immovable during the coverture, should belong to the said intended husband and wife respectively *biens personnels*, i.e., to their separate use. Between the date of the contract, and the time of the marriage the Code

Napoleon was promulgated, and it was admitted that it came within the terms of that code. The parties very shortly separated, and the wife made a will in the English form expressed to be "in pursuance of all powers enabling her in that behalf" giving legacies, and the residue to the plaintiff, and died, and the will was proved in Canterbury (*vide Este v. Este*, 3 Robertson 351;) some of the property settled was raisable by trustees, but in consequence of the opposition of the husband they refused to raise it, and this Bill was filed in consequence, and the questions were, first, whether, there being no valid marriage by the law of France, the contract made in contemplation of a French marriage was or was not subsisting; and whether the husband was entitled to the wife's personal property under his marital right? Or, in the alternative, whether, supposing the contract valid, it gave the wife power to dispose of her property in the English form? The opinions of eminent French *avocats* were taken on these questions. The *Master of the Rolls* thought that the parties were competent, in anticipation of an English marriage, to contract that their rights should be regulated by the laws of any country they chose; but that the effect of the contract upon French property was not within the jurisdiction of the court to decide. He then considered the effect of the contract, with reference to the English property, and construed it according to the French law, and declared the will valid inasmuch as it had been proved in England, and therefore declared valid by a competent court. The summary of this part of the subject is, that a domicile puts the party in possession of exactly the same rights as a natural born subject would have, and the domicile is a sufficient substratum to enable the enforcement of contracts, not only in the form and according to the law of the country where the domicile exists, but of any other country where the domiciled party may be temporarily residing. The case of *De Verne v. Routledge*, Sirey's (French) Reports, 1852, is in point on this question upon this part of the subject, and will be found extracted in the case of *Bremer v. Bremer*, 1 Deane. Eccles. 200. The 13th article of the Code Napoleon is as follows:—"L'étranger qui aura été admis pour le Gouvernement à établir son domicile en France y jouira de tous les droits civils tout qu'il continuera d'y résider." That is, a stranger receiving the authorization of the Government, and establishing a domicile in France, can enjoy all civil rights, including of course the power of executing legal documents. Demolombe's *Cours de Code Civil*, p. 143-4; *Code Napoleon*, 319. In the case of *Watts v. Shrimpton*, 21 Beav. 97, an Englishwoman had married a domiciled Frenchman, and articles were executed in the English form previously to the marriage, under which the wife was entitled to £200 *per annum*. The husband afterwards separated from her, and the French court condemned her for adultery, and it was held that the contract of marriage was English, and the rights of the parties were to be regulated by the English law, and further that the property of the wife having fallen into possession, and the moral conduct of both parties being reprehensible, the income of the fund must be equally divided between them. It must be confessed that this case is somewhat singular in its principle; for it recognizes the contract, marriage, &c., as English, and yet adjudicates upon the breach of it, according to the French law, and further than that proceeds as to the decision of the case, both on the assumption of the marriage as valid according to the English law, and the offence of the wife according to the French; and then sums up all by taking into consideration the conduct of both parties, from which the conclusion is unavoidable that where a native of England marries a person domiciled in France, and the marriage and its concomitants are according to the English law, not only will the French law recognize the English marriage as

binding, and punish for an offence in breach of its obligations, but the English courts will adjudicate upon the footing of the judgment of the French courts as to the adultery; and also take into consideration extraneous circumstances. It is not difficult, however, to see upon what reasoning the French law proceeds, namely, that for the purpose of merely trying the question of adultery, the fact is distinct from the marriage, although it recognizes a foreign contract as binding upon a domiciled subject of France, by implication, inasmuch as it condemns the other party for infidelity, which it could not do without assuming the marriage as valid. The *Code Civil* is a perfect model of simplicity and perspicuity, and yet cases and authorities have so multiplied that I believe the French law is now admitted to be in a most unsatisfactory condition, and this is somewhat embarrassing, because, for some purposes it is impossible to avoid recognizing foreign contracts made with a British subject; for, of course, to do otherwise would be seriously to affect moral relations, where innocent parties are concerned, which no system of laws, founded on equitable principles, would for a moment sanction. I think, there can be no doubt that a marriage solemnized according to the law of the native country of one of the parties is binding upon both, and that would extend to all contracts made between them in good faith, and without anything to render them inequitable, and the authorities show that the domicile of a party, though merged in that of the other party by a foreign contract, yet will so far be recognized as to uphold a contract made according to the laws of the country of which the party so losing the domicile is a native, except so far as the laws of that country considered the party under disability by reason of coverture, conviction, infancy, or incapacity. In the case of *Strathmore v. Bowes*, 4 Will. & Shaw, App. 89, it was not questioned that where a man's domicile was Scotch, if he did acts in England which would amount to a legal marriage, if he were then in Scotland, and his domicile was Scotch at his death, the marriage was legal. In that case the question was whether a child was legitimate so as to inherit a title, which I take as distinct from the general question of legitimacy for any other purpose, because it was distinctly held in exactly the same circumstances that a child would be legitimate, *Robins v. Paston*, 6 W. R. 457.

Upon the general state of law as existing between us and our continental neighbours, it may not be superfluous to quote some observations which appeared in a French journal of September 1867, with reference to the "legal status of an Englishman in France.—With reference to a case—that of *Parkinson v. Bedene*—which has lately come before the civil tribunal at Paris, the plaintiff's solicitor, Mr. Margary, addresses to *Galignani's Messager* the following general statement of the existing law:—"Great facilities are given by the law of France for the arrest of a foreigner when the creditor is a Frenchman, and many an unfortunate Englishman has been incarcerated upon overdue bills of exchange (often obtained from him fraudulently) endorsed to a Frenchman. As, however, in the majority of cases the party is not a *bona fide* holder for valuable consideration, but merely a man of straw who lends his name for the occasion (technically called a *prête nom*), the debtor generally succeeds in obtaining his liberation on showing to the court the real nature of the transaction, and getting the arrest declared illegal. This, however, requires some time to effect, as, if he succeeds in the *Tribunal de Commerce*, the nominal creditor appeals to the *Cour Impériale*, and months elapse before a final judgment can be obtained. In the meantime the unfortunate debtor must remain in prison, unless he can deposit the amount claimed in the *Caisse des Consignations*, or give bail; and, as the surety is not only answerable, as in England, for the

appearance of the debtor, but also for the payment of the debt and costs in case judgment is given against him and he is unable to meet the demand, it is almost impossible for a foreigner to find a substantial person willing to undertake responsibility. In England no distinction is made as to liability to arrest between a British subject and a foreigner, as neither can be arrested on *mesne process* (that is, before judgment), unless the creditor can prove, to the satisfaction of a judge, that the debtor intends to leave the country. Art. 11, tit. 1, liv. 1, of the Code Napoleon says:—*'L'étranger jouira en France des mêmes droits civils que ceux qui sont ou seront accordés aux Français par les traités de la nation à laquelle cet étranger appartiendra.'* It is not, however, sufficient that certain rights are accorded to Frenchmen by the laws of a foreign country for the subjects of that country to enjoy the same privileges in France, the reciprocity must be expressly stipulated for by treaty (see Rogron's note on this article in his *Code Civil Expliqué*). Now, no treaty exists which puts Frenchmen in England, and Englishmen in France, upon an equality as to arrest for debt, the former enjoying in England the same privilege in that respect as a British subject purely and simply by the law of the land. It strikes me, however, that if the case were brought officially to the notice of the French Government they would admit the equity of the claim of British subjects to enjoy in France the same privileges as the law of England accords to Frenchmen in that country, and the cordial alliance which now exists between the two nations, the high sense of justice of the Emperor of the French, and the well-known zeal of our ambassador at Paris, seem to render the present moment peculiarly favourable for obtaining the desired object."

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

OXFORD CIRCUIT.—GLOUCESTER.

The commission was opened in this town on the 2nd instant by Mr. Justice Blackburn. The cause list contained an entry of twenty-two causes, seven of which were marked for special juries.

MONMOUTH.

The commission was opened in this town by Mr. Baron Wilde on the 28th ult. The cause list contains an entry of only five causes.

WESTERN CIRCUIT.—BRISTOL.

The commission was opened in this city by Mr. Baron Martin on the 28th ult. There were 15 causes entered for trial.

NORTH WALES AND CHESTER CIRCUIT.—CHESTER.

Mr. Baron Channell opened the commission in this city on the 31st ult. The civil list contained only 9 entries.

MIDDLESEX SESSIONS.

The April quarter sessions commenced on the 1st inst. at Clerkenwell, before Mr. Bodkin, assistant judge, Mr. Payne, deputy, Mr. Pownall, chairman of the bench, and a large number of justices.

The calendar was somewhat heavy.

It is rumoured that Mr. Frederick Dawes Danvers, the clerk of the council and registrar of the Duchy of Lancaster has retired, and that Mr. J. H. Gooch, the chief assistant in the office, will succeed him.

Mr. James Consedine, of No. 58, Pall-Mall, has been appointed a commissioner to administer oaths in the Courts of Queen's Bench and Common Pleas.

Mr. George Kirby, of Bicester, Oxford, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Recent Decisions.

REAL PROPERTY AND CONVEYANCING.

RESTRICTION OF GENERAL POWER OF APPOINTMENT TO OBJECTS CONTEMPLATED BY SETTLEMENT.

Peover v. Hassall, V. C. W., 9 W. R. 399.—*Eland v. Baker*, M. R., 9 W. R. 444.

The first of the above cases raised the difficult and important question, whether, seeing that the purposes and objects of marriage settlements are obviously to provide for children, any words, however large, purporting to give power to either parent to deal with the settled property in disherison of the children, can be read in any other way than for the benefit of the children. In dealing with this question Vice-Chancellor Wood bestowed a good deal of consideration on the case of *Bristow v. Warde*, 2 Ves. Jun. 336. In that case the question was not between children and strangers, but between children and more remote issue, and further the power to which the Court gave a limited construction was contained in pre-nuptial articles and not in a formal deed. By the articles a money fund was agreed to be settled upon trust for the husband for the joint lives of him and his wife; and if he should die first leaving issue by her, for the wife for life; and after her decease to apply the capital in such manner as he should appoint; and in default of appointment to divide the same among the issue equally at twenty-one, with maintenance and survivorship. After the marriage an estate purchased with the fund was settled upon the husband for the joint lives of him and his wife; remainder to trustees, to preserve, &c.; remainder, in case of his death first without issue, to certain uses; remainder, in case of his death first leaving any child or children, to the wife for life; remainder to all the child or children in such shares as the husband should appoint; for want of appointment equally in tail with cross remainders; remainder to the heirs of the husband. The husband died leaving the wife surviving, and having by his will appointed shares to children for life with remainder to their children as they should appoint. It was held that this was an excess of power. Lord Loughborough in giving judgment said, "The first consideration is, what is the construction of the articles? I was at first struck with the idea that was urged that the extent of the articles gave him a larger power than the settlement afterwards made, purporting to be in pursuance of the articles, had left him. But it is clear upon the articles he had no more power under them than what he took to himself under the settlement executed with regard to the bulk of the money. The articles were made in order to secure a provision for the intended wife, and the issue of the marriage. That is the object of all marriage articles. . . . But it was contended that the power here is indefinite as to its objects. It would be a forced construction of articles to hold that a provision to be made for children, in default of appointment to be equally distributable, in the case of, an appointment, should be subject to his debts; which would be the necessary consequence of holding that he had an indefinite power of appointing, only providing for the jointure of the wife; for if he had that indefinite power, it would be assets; he might appoint to any one; his creditors could affect it; and if he executed his power for the children, the children must take it subject to the debts of their father. It is not the natural frame of such a settlement, nor is it the construction of the words of this. It is clear the power of appointment is not indefinite, but is confined to the issue." His Lordship then went on to consider whether the word "issue" in the articles had a larger extent than "children" in the settlement; and he decided that it had not. "I am unable," he said, "to extend the construction of either the settlement or the articles beyond the children." It seemed desirable to give this full extract from the judgment of Lord Loughborough, because it has occasioned difficulty to Sir L. Shadwell, to Lord St. Leonards and to Vice-Chancellor Wood. The last-named learned judge remarks upon it that the circumstances of the case were extremely strong in favour of the decision; but that Lord Loughborough "could not be considered as laying down any general rule that, however large the words of the power in a marriage settlement, they could only be construed for the benefit of the children."

Another instance in which the generality of a power was restrained by regard to the context of the settlement and to the circumstances is to be found in the Irish case of *Cooke v. Briscoe* (1 Dru. & Walsh 596). In that case a person on his second marriage executed a deed of settlement, whereby certain lands were vested in trustees to the use of the settlor for life; then to secure a jointure for his intended wife; and subject

thereto to the use of the first and every other son of the settlor by his intended wife; with a proviso that if the settlor should have more than one son he should have full power and authority by deed or will to prefer such son or sons to the whole or part of the settled lands, subject to the jointure for his said wife, and also subject to all such sums of money not exceeding £4,000 as the settlor might think proper to charge thereon by deed or will. The settlor executed this power, and charged the lands with the sum of £4,000 in favour of the children of his former marriage. Lord Chancellor Sugden, in giving judgment, said, that "the instrument before him was very clumsily and inaccurately framed; but it was quite clear that the power of charging the £4,000 could arise only in the event of there being more than one son of the intended marriage, and one of such sons being in possession of the whole or part of the lands by virtue of the powers of preferring such son or sons reserved to the father. The words of the deed were directly to this effect, and the object of the settlement would be defeated by giving them the construction contended for by the plaintiff; inasmuch as the lands were not worth more than £4,000, and so the eldest son of the marriage would be left, in the event of there being more than one son, without any certain provision. The construction relied on by the defendant was therefore sustained by the words of the deed. It also appeared more rational than that contended for by the plaintiff; for if the eldest son became liable to be displaced by the birth of a second son, and the provision intended for him by the marriage-settlement so far liable to be defeated, it would not be unreasonable to enable the father to make a provision for the eldest son so displaced by charging a sum not exceeding the value of the inheritance; and though the settlement did not secure that the power so given to the father should be exercised in the whole or in part in favour of the eldest son, yet it left the father at liberty to make provision for him and for the other branches of the family. However this might be, the words of the settlement clearly confined the power to the event of another son or sons of the said marriage being born, and in possession by virtue of the power of preferring reserved in that event to the father; and there being now no younger son, and the power not having been effectually exercised by giving a preference to any of them while they were in existence, the plaintiff's claim could not be sustained." Vice-Chancellor Wood remarked upon this case that it "required much consideration." The effect of it appears to be that the state of circumstances had not arisen under which the power was to become exercisable, because there was only one son of the second marriage, who survived the father. But if there had been more than one son, then it seems that the power would have been well exercised, although the money raised under it might have been given to the children of the first marriage. Thus the existence of a second family was necessary to the exercise of the power, and yet it was not necessary that the power should be exercised for their benefit. The case, so far as it goes, seems to be an authority for holding that the words of a power may be too large to be controlled by the general intention in favour of children prevailing in marriage settlements. The report, however, is not very intelligible, and the settlement is a miracle of blundering.

In the case of *Peover v Hassall*, an estate was settled to the use of the wife and husband successively for life, and after the death of the survivor, if there should be any children or issue living of the marriage, to such uses as the husband should appoint; in default of appointment to the children as tenants in common in tail; in default of all such issue to such uses as the wife should appoint, and in default of appointment to her right heirs. Children were born of the marriage and survived their parents. Those parents appointed and conveyed to a mortgagee who (the parents being now dead) sought to foreclose the children. Vice-Chancellor Wood observed that the words of this power were as large as possible, and that it might have been so framed out of confidence reposed in the husband. He considered that *Bristow v. Wurde* had not a general application, and he also took the distinction between a question arising upon articles and upon an executed deed. In the absence of any general principle by which such words as those before him could be cut down, he held that the interests of the children had been displaced by the exercise of the power.

The case of *Eland v. Baker*, before the Master of the Rolls, contains some expressions which contrast strongly with the above reasoning, although we do not apprehend that there would be any difficulty in reconciling the two decisions. By the settlement which came in question in that case, freehold and

other property was conveyed by the wife's father upon trust for the wife and husband successively for life, and then for the children according to appointment, and in default, equally. The settlement contained a power to the wife's father, the husband and wife, and after the death of the wife's father, to the husband and wife jointly, with the consent of the trustees, to revoke all the uses of the settlement and to declare new uses. This power was expressed in general terms. The husband afterwards borrowed a sum of money of one of the trustees upon the security of a deed, whereby the wife's father, the husband and wife, with the consent of all the trustees, revoked the uses of the settlement (so far as was necessary for the purpose of that deed) and appointed the property to the lending trustee by way of mortgage with power of sale. A purchaser under this power of sale objected that the mortgage deed disclosed a breach of trust, and the Master of the Rolls refused to compel him to take the title. His Honour thought that a mere power of revocation of all the uses, so as to give back the whole to the settlor, might, perhaps, have been validly exercised. But the deed went on to authorise the limitation of new uses. "How must the estate be relimited? To what trusts and with what declarations? To trusts for the benefit of the persons who are the *cestuis que trust* of the instrument according to the true scope and intention of the deed itself." These words of the Master of the Rolls certainly do not fall far short of enunciating that very principle which Vice-Chancellor Wood could not find in the authorities brought before him. There is, however, this important feature in the case at the Rolls, that the consent of the trustees was necessary to the revocation and new appointment. It may fairly be said that the discretion of the trustees is to be exercised for the benefit of their *cestuis que trust*, and not for the destruction of their interests. Still trustees are, so to speak, the machinery of a marriage-settlement; and if trustees must act for the protection and not for the impoverishment of the issue of the marriage, may it not be said with equal justice that the operation of the settlement itself ought to be limited by the same principle? The Master of the Rolls went on to notice that the trustee himself was the person who advanced the money; that he bought the estate (for a mortgage was the same, in principle, as a sale); and that he exercised his discretion for the purpose of getting the estate himself, although paying for it. Upon this latter ground of the trustee himself becoming the mortgagee, probably no lawyer will doubt the soundness of the decision which refused to force the title on a purchaser.

COMMON LAW.

LAW OF EXECUTION—EFFECT OF A C.A. SA.—ACTION AGAINST A GARNISHEE.

Jorralde v. Parker, Exch., 9 W. R. 347.

The point established here has often been raised at chambers, and has there invariably been decided in the same way as it has now been settled by the Full Court. It arises under the garnishee clauses of the Common Law Procedure Act, 1854, by which a plaintiff is enabled to seize or attach any of the execution debtor's available assets—that is to say, the debts which are owed to him by a third party; and under which, to allow him to make such debts available, the plaintiff may sue such third party (or garnishee) himself. The present case, however, shows that proceeding against the garnishee will be of no avail if the debt owing to the defendant in the original action has become extinguished; or even if the remedy therefor has become barred. For here, the original defendant had already taken the garnishee in execution for the debt attached; and a plea by the garnishee, alleging this fact as an answer to the action brought against him by the plaintiff in the original proceedings, was, on demurrer, held good by the Court without calling upon the counsel, relying on such plea to support it. The principle of law decisive of the point will be found in *Burnaby's Case* (1 Str. 653), to the effect that to take the body of a debtor in execution satisfies the debt in point of law. For if a debt owing to A. be satisfied as regards A., it cannot of course be revived in favour of B.

LIABILITY OF MASTER TO SERVANT—CASE OF *Priestley v. Fowler* CONSIDERED.

Riley v. Buzendale, Exch., 9 W. R. 347; *Holmes v. Clark* ib. 419.

There are, probably, few single decisions which have laid the foundation for so much litigation as the well known one of *Priestley v. Fowler* (3 Mee. & W. 1). The proposition established by it was to the effect that (as the general rule, and

subject to the exceptions to which we are about to refer), a servant takes upon himself the risks of his employment, and cannot hold the master responsible if an injury should happen to the servant in the course of, and consequent upon, the service. It is strange that such an important principle as this should have for the first time been judicially recognised in the year 1837. But such appears to be the fact. In that case not a single authority was cited, either by the bench or at the bar; and, indeed, the Chief Baron, in commenting upon it with reference to the last of the two cases mentioned above, observes that it was one "of the first impression, and which has given rise to what may be almost now called a new branch of the law." But it often happens that a broad proposition of law thus laid down, shortly becomes the foundation of a numerous crop of decisions extending or limiting its applicability; and such has been the event with respect to the decision in *Priestley v. Fowler*. For in the first place, it has been settled that the rule does not prevent a master from being liable, if he causes the hurt complained of by his personal negligence or interference (see *Robert v. Smith*, 2 H. & N. 213). It also appears to be established that the master may be liable if the injury has been the result of his not having taken due care to expose his servant to no unreasonable risk (see *Marshall v. Steward*, H. of L. March, 1855, cited in "Broom's Com. on the Com. Law," 2nd ed. p. 686), and both of the cases to which the present remarks refer are illustrative of this qualification of the rule; for in both of them, the action was brought by a servant against his master for an injury received by defective machinery; and though in one of them the action failed, in the other case the servant succeeded in keeping a verdict he obtained for large damages.

Many of the facts in these two cases were the same. In both the injury was caused by machinery, which, though sufficient for its purpose at the time of the plaintiff entering the defendant's service, became afterwards unsafe, and was allowed by the master to remain in that condition. But in the first case, the servant appears to have made no complaint, but to have continued in his employment, notwithstanding the danger to which he must have known himself exposed. In *Holmes v. Clark*, on the contrary, the servant did complain more than once, and received a promise that the defective machinery should be remedied. In this appears to be the essential difference between the equity of the two cases; but (as sometimes happens) they were decided on technical grounds rather than on considerations of justice as between the individual litigants. For in *Riley v. Baxendale*, since there was no complaint made, nor any personal negligence or interference on the part of the master, the plaintiff endeavoured to help out his case by framing his declaration as upon a contract on the part of the defendant not to expose him (the defendant) to any extraordinary danger in the course of his employment; but at the trial nothing beyond an ordinary hiring could be proved, and he was accordingly nonsuited. No application was made at the trial to amend the declaration by striking out the allegation as to the special terms of hiring; but at the argument with respect to setting aside the nonsuit, it was intimated by all the Court that such an amendment, had it been applied for, would not have been granted; and that no encouragement would be given to attempt to multiply the cases in which masters are responsible to their servants for injuries received by them in the course of their employ—in other words, to weaken the rule laid down in *Priestley v. Fowler* by introducing unnecessary qualifications.

But in *Holmes v. Clark* the same Court gave judgment for the plaintiff, because a qualification of the rule seemed, under the circumstances, necessary. There had, indeed, been no express terms of hiring; but the defendant had not only been guilty of disregarding certain precautions required by Act of Parliament with regard to the machinery used, but had continued to work it while unsafe and after being remonstrated with by the plaintiff, and after having engaged to remedy the evil complained of. And the accident having happened before this pledge had been redeemed, and without any negligence on the part of the servant, the Court held the action to be maintainable—holding that, under the circumstances, the master must be considered as having taken the risk upon himself until he chose to repair the defective machinery.

Correspondence.

REGISTRY OF JUDGMENTS.

I have a judgment which was entered up and registered nearly five years before the passing of the Act of last session to amend the law of property. The five years have now

expired, and I have re-registered it; and such re-registration is, I presume, sufficient to continue the judgment as a charge upon my debtor's freehold property.

I want, also, to charge his leasehold property, and have issued a writ of execution for that purpose. On tendering it, however, for registry in the register of executions established under the above-mentioned Act of last session, the officer refuses to register it there, on the ground that he is instructed not to enter in it executions upon judgments which were entered up prior to the passing of the aforesaid Act of last session.

What am I to do in order to bind my debtor's leasehold property? Must I actually lodge the writ in the sheriff's hands? I fear that since the decision in *Westbrook v. Blythe*, 3 El. & Bl. 737, and the refusal to enter it in the register of executions, I have no alternative.

Can some of your learned contributors who have furnished valuable articles on the subject of judgments, enlighten me and some of my fellow practitioners, who are in the same difficulty with myself, on the point?

Will you permit me to ask, at the same time, whether any effectual steps have been taken to remedy the blunder in sect. 2 of the before-mentioned Act of last session, which requires the registry of executions to be kept in the plaintiffs' names, and in alphabetical order (instead of in the defendants' names)? In consequence of which I am obliged now, in order to ascertain whether a writ of execution has issued against a particular debtor, to search the register of executions from beginning to end in the name of every one of the plaintiffs, in which I am not much, if at all, assisted by the fact of their being in alphabetical order.

A SOLICITOR.

London, April 4.

CRIMINAL PROSECUTIONS—REMUNERATION TO ATTORNEYS.

Seeing a paragraph in your last number on the remuneration to witnesses, I am induced to give you an account of the fee I received for the labour done for conducting a prosecution for murder at the Exeter assizes some short time since.

I had eight witnesses, and the case gave me some considerable trouble in getting up. I prepared two briefs, 16 sheets each, expecting that I should be allowed to employ two counsel; but I found that I should be allowed for one only, so one brief was not used. I prepared and sent by post to the Clerk of Indictments instructions for indictment. I travelled 60 miles to the assize town and back and attended the court for four days preparing for the trial and attending the same,—and for the whole of my professional services I was rewarded by the Court with two guineas only!

Who will conduct a prosecution after this?

A DEVONSHIRE ATTORNEY.

EXAMINATION OF ARTICLED CLERKS.

The importance of the above subject, both to those who have been already admitted members of the legal profession and also to those who purpose so to be, induces me, as one of the latter class, to trespass shortly on your valuable space, for the purpose of enabling me to make a few remarks upon two letters that appeared under the same heading in your last week's impression. The first of these is signed "An Articled Clerk," and the writer, after telling us that his remarks are "necessarily interested," goes on to state that he has been a clerk for eighteen years, a managing clerk for the last nine, and has just commenced his service under articles. He then enumerates many weighty and important matters in which he has been latterly engaged; and concludes the first part of his letter by appealing to the great confidence reposed in him both by clients and employer. He next informs us that he was brought up in "a remote inland county," where, twenty years ago, parents thought next to nothing of a classical education; and that, notwithstanding his alleged success in business, he went to the office totally ignorant of either ancient or modern languages, knowing nothing of mathematics, and, in his own words, "acquainted with nothing more than the rudiments of a very limited English education;" and, as though to clear up all doubts as to his present attainments, he finally tells us that since that time he has had no opportunity of improving himself with regard to these (probably in his opinion) unimportant matters. Then comes a great deal about the hardships and unfairness of requiring a classical examination from a gentleman of his unquestionable legal attainments, and, according to his own showing, equally undoubted general ignorance.

But the answer to this bitter complaint of the injustice of the proposed examination is simply this, that this gentleman,

in common with all others recently articulated, knew perfectly well when he signed his articles a few months ago that an examination in general knowledge was pending, and had been called for by the almost unanimous voice of the profession; and if he did not feel equal to the trial he should have been contented to remain a managing clerk; which position seems to me to suit him exactly, and which, by his own confession, he fills so entirely to his own and others' satisfaction.

And if this reply fails to convince your correspondent of the absurdity of his quarrel, I would ask your readers whether they think that the admission of a gentleman of the above capabilities would be likely to be, directly, a benefit to the profession, or, indirectly, would tend to raise its tone by inducing gentlemen of education and position to enter it?

To the writer of the second letter, who signs himself X. Y. Z., I only say that probably a second perusal of the report of the committee of the Incorporated Law Society will convince him that neither Greek nor German are absolutely necessary requirements to enable him to pass the proposed examination, and that they will only be expected from those candidates who fail in other and less difficult subjects.

April 4.

ANOTHER ARTICLED CLERK.

Review.

The Law List for 1861. Compiled by WILLIAM WILKS DALBIAC, of the Inland Revenue Office, Registrar of Certificates. London: V. & R. Stevens & Sons.

Since the passing of the 23 & 24 Vict. c. 127, this work has become of considerable importance to the profession. By section 22 of that Act it is enacted that "Any list of attorneys, solicitors, and conveyancers, purporting to be published by the authority of the Commissioners of Inland Revenue, and to contain the names of attorneys, solicitors, and conveyancers who have obtained stamped certificates for the current year on or before the 1st day of January in the same year, shall, until the contrary be made to appear, be evidence in all courts, and before all justices of the peace and others, that the persons named therein as attorneys, solicitors, or conveyancers holding such certificates as aforesaid for the current year, are attorneys, solicitors, or conveyancers holding such certificates; and the absence of the name of any person from such list, shall, until the contrary be made to appear, be evidence as aforesaid, that such person is not qualified to practise as an attorney, solicitor, or conveyancer, under a certificate for the current year; but in the case of any person being an attorney or solicitor whose name does not appear in such list, an extract from the Roll of Attorneys and Solicitors kept by the registrar certified under the hand of the secretary of the Incorporated Law Society (while such society performs the duties of registrar), or of the registrar for the time being, shall be evidence as aforesaid of the facts appearing in such extract; and in the case of any person being a conveyancer whose name does not appear in such list, the fact of his being so shall be proved in the way in which it is now by law required to be proved."

In addition to that portion of the work usually supplied by the registrar of stamped certificates, the compiler has introduced much useful information upon many subjects interesting to the profession. Among the most important additions we observe that the date of the admission of each attorney, proctor, and notary has been prefixed to his name. So far as the public is concerned, this new feature may not be of much value; but it will often be convenient for purposes of professional intercourse. A complete alphabetical list of the London commissioners to administer oaths in Chancery, the Queen's Bench, Common Pleas, and Exchequer, has also been added. This has long been a desideratum, and will prove of the greatest convenience to the profession. We have frequently had the subject brought under our notice, and intended at a convenient opportunity to have published a similar list. We are happy, however, to find that the necessity for our labour in that respect has been superseded by the work now under notice.

Ireland.

RECENT DEATHS.

The Right Hon. Richard Wilson Greene, whose death was announced last week, was for many years one of the Barons of the Court of Exchequer, and had only retired from the active duties of that position a few months before the disorder under

which he had long suffered terminated his life. The ex-baron was born about the year 1791, and was called to the Bar in 1814, and after passing through the grades of Serjeant-at-Law and Solicitor-General, became the leader in the Court of Chancery, and in 1852 was deservedly promoted to the bench by Lord Derby. Baron Greene's connection with the law was hereditary, his father, Sir Jonas Greene, having been Recorder of Dublin. He was regarded as a deeply-read lawyer, and a very able and painstaking judge, and has left behind him few judicial personages who are so thoroughly respected by the bar and the public. In private life he was singularly amiable, and of a most retiring disposition. The last time that the present writer saw Baron Greene, the subject of conversation was the duration of life in the several professions, suggested by an article that had appeared in one of the reviews; and he discussed the topic with all the manner of a man who was near the close of a well-spent life, and regarded its termination with a hopeful tranquillity. A large concourse of judicial and legal personages were present at his interment in the family vault attached to St. Peter's Church, Dublin.

Sir Matthew Barrington, Baronet, of Glenstal Castle, who died on the 31st of March, at the residence of his son-in-law, in Pembroke-street, was undoubtedly for a quarter of a century one of the leading solicitors in Ireland. The firm of Barrington, Jeffers, & Co., of which he was the head, had conducted the legal business of the Great Southern and Western Railway, and of several branch and other railways, from their very commencement; and had prepared and carried through far more railway bills than any other Irish firm. In addition to these engagements, the deceased baronet had at an early age been so fortunate as to obtain the very lucrative appointment of Crown Solicitor on the Munster Circuit, an office worth two or three thousand a-year, but which will in future be superseded by the nomination of separate Crown solicitors for the several counties. Sir M. Barrington died at the age of 71, and is succeeded in his title, and in his estates in the county of Limerick, by his eldest son W. H. Barrington.

The death is also announced of Mr. Felton F. W. Harvey, her Majesty's Inspector of Irish Prisons, formerly captain in the 13th Light Dragoons. This much-respected gentleman was son-in-law to Acheson Lyle (late a master in chancery), and has been prematurely taken away at the age of thirty-five.

Public Companies.

REPORTS AND MEETINGS.

GREAT NORTH OF SCOTLAND RAILWAY.

The directors of this company, by their report, recommend that a dividend at the rate of 6½ per cent. be declared on the preference stock, and of 6½ per cent. on the original stock. This will leave a balance of £1,536 to be carried forward.

PERTH AND DUNDEE RAILWAY.

At the half-yearly meeting of this company, held on the 30th ult., a dividend of 2½ per cent. was declared on the issued capital of the company.

Births, Marriages, and Deaths.

BIRTHS.

FREELING—On March 31, the wife of Charles Rivers Freeling, Esq., of a daughter.
INNES—On April 3, at Edinburgh, the wife of John B. Innes, Esq., writer to the Signet, of a daughter.
WOOD—On March 27, the wife of Thomas Lett Wood, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

BARRELL—**ELLIS**—On March 26, William Barrell, Esq., Solicitor, of Liverpool, to Margaret Elizabeth, daughter of M. Ellis, Esq., Edge-hill.
FALKNER—**CODD**—On April 2, Francis Falkner, Esq., Dublin, Solicitor, to Ellen S. Codd, daughter of John Codd, Esq., late of Kilbeggan, in the county of Westmeath.
GEOGHEGAN—**MENZIES**—On March 27, at Keir House, Dumfriesshire, Francis Geoghegan, Esq., Solicitor, of Dublin, to Jane, daughter of the Rev. William Menzies.

DEATHS.

BARRINGTON—On March 31, at Dublin, Sir Matthew Barrington, Bart., of Glenstal, county Limerick, and Crown Solicitor for the Munster Circuit, aged 72 years.

CHAMBERS—On March 27, Edward Waller Chambers, Esq., Solicitor, son of the late Edward Chambers, Esq., Surgeon, of Deal, Kent.

DUPLEIX—On March 26, Henry Dupleix, Esq., of 61, Lincoln's-inn-fields.

MARTIN—On April 2, Nathaniel Martin, Esq., Solicitor aged 66.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	Shrs	Ditto A. Stock	103½
3 per Cent. Red. Ann. 91½	Stock	Ditto B. Stock	131
3 per Cent. Cons. Ann. ..	Stock	Great Western	70½
New 3 per Cent. Ann. ..	Stock	Lancash. & Yorkshire ..	110½
New 2½ per Cent. Ann. 91½	Stock	London and Blackwall. ..	61
Consols for account ..	Stock	Lon. Brighton & S. Coast ..	119½
India Debentures, 1858. ..	25	Lon. Chatham & Dover ..	48
Ditto 1859.	22½	London and N.-Westm. ..	95½
India Stock	100½	Stock London & S.-Westm. ..	92½
India 5 per Cent. 1859. ..	..	Stock Man. Sheff. & Lincoln. ..	45½
India Bonds (£1000) ..	..	Stock Midland	124
Do. (under £1000).....	..	Stock Ditto Birn. & Derby ..	98
Exch. Bills (£1000)....	6 dis.	Stock Norfolk	55
Ditto (£500).....	..	Stock North British	62
Ditto (Small) ..	13 dis.	Stock North-Eastn. (Brwck.) ..	101½
		Stock Ditto Leeds	60
		Stock Ditto York	90½
		Stock North London	99
		Stock Oxford, Worcester, & Wolverhampton ..	..
		Stock Shropshire Union	49
		Stock South Devon	40
		Stock South-Eastern	83½
		Stock South Wales	60
		Stock S. Yorkshire & R. Dun ..	96
		Stock 25 Stockton & Darlington ..	41
		Stock Vale of Neath	76
RAILWAY STOCK.			
Stock Birk. Lan. & Ch. Junc. ..	81		
Stock Bristol and Exeter....	99		
Stock Cornwall	6		
Stock East Anglian	18		
Stock Eastern Counties	49½		
Stock Eastern Union A. Stock ..	39		
Stock Ditto B. Stock.....	28		
Stock Great Northern	110½		

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, March 29, 1861.

EDWARDS, HENRY, and BENJAMIN CHARLES GODWIN, Attorneys & Solicitors, Winchester, by effluxion of time. March 25.

Windings-up of Joint Stock Companies.

FRIDAY, March 29, 1861.

UNLIMITED IN CHANCERY.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY (REGISTERED).—Vice-Chancellor Kindersley will, on April 10, at 12, appoint an Official Manager of this Society.

DEPOSIT AND GENERAL LIFE ASSURANCE COMPANY.—The Master of the Rolls purposes, on April 16, at 3, to proceed to make a call on all contributors of the Company for 10s. per share.

HERRFORD AND MERTHYR TYDVIL JUNCTION RAILWAY COMPANY.—Vice-Chancellor Stuart will, on April 8, at 1, proceed to make a call on the contributors of the Company, to pay the costs, charges, and expenses incurred by the Official Manager, and also the taxed costs, charges, and expenses of Messrs. Hill and Everitt, the former Solicitors of the Company, and proposes that such call shall be for £40 per share.

RISCA COAL AND IRON COMPANY.—Master of the Rolls order to wind up March 23. James Edward Coleman appointed interim liquidator.

TUESDAY, April 2, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (REGISTERED).—V.C. Wood has appointed Robert Palmer Harding, 3, Bank-buildings, London, and 5, Serle-street, Lincoln's-inn, Middlesex, Accountant, Official Manager of this Company.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY (REGISTERED).—V.C. Kindersley will, on April 10, at 12, appoint an Official Manager of this Society.

MEXICAN AND SOUTH AMERICAN COMPANY.—The Master of the Rolls has peremptorily ordered that a call of £11 8s. per share be made on all contributors of this company who are set forth in the exhibit A annexed to the affidavit of William Frederick Kettle, such call to be paid on or before April 4, to Robert Palmer Harding, Official Manager, 3, Bank-buildings, London.

LIMITED IN BANKRUPTCY.

ST. JOHN'S UNITED COPPER AND LEAD MINING COMPANY, NEWFOUNDLAND (LIMITED).—Petition for winding up, presented March 20, will be heard before Commissioner Evans on April 11. Mackrell, Solicitor, 34, Cannon-street West.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, March 29, 1861.

ADCOCK, ROBERT HILL, Wine Merchant, formerly of Little Arzyle-street, Middlesex, and late 19, Brompton-square, Gent. Cates & Elgood, Solicitors, 48, Lincoln's-inn-fields, London, W.C. May 1.

BARNBY, HANNAH, Spinster, Holderness, East Riding, Yorkshire. Frost & Dawson, Solicitors, 10, Seale-lane, Hull. June 15. Agents, Parker, Rooks, and Parkers, 17, Bedford-row.

GODFREY, JOHN, Esq., Brooke-house, Ash, Kent. Wrightwick, Kingsford, & Fraser, Solicitors, 16, Watling-street, Canterbury. June 1.

HEBROT, MARTHA, Widow, Gloucester-place, Kentish-town, Middlesex. Shephard, Solicitor, 24, Moorgate-street, London. May 4.

HAYES, ALICE, Widow & Beer-seller, Kishaw-street, Preston, Lancaster. Dodd, Solicitor, 48, Lime-street, Preston. April 30.

JOPLIN, WILLIAM, Gent., Bishop Auckland, Durham. Hepple & Proud, Solicitors, 16, Market-place, Bishop Auckland. July 1.

KENINGTON, THOMAS, Farmer, Stainton-le-Vale, Lincolnshire. Daubney, Solicitor, Market Rasen. June 1.

MORRIS, MRS. LOUISA, late of Wickham Villa, Wickham-road, New Cross, Kent. Widow of Harvey Morris, Esq., late of the same place. Johnson, Solicitor, 5, Gray's-inn-square, London. May 15.

HUDSON, ROBERT, and JAMES HORGON, Esqrs., Clapham-common, Surrey, Executors of John Parrott, Surgeon, Clapham-common. April 20.

RAUCHE, CAROLINE, Widow, Ledbury, Herefordshire. Moore, Banker, Ledbury, Executor. April 15.

ROGERS, HENRY, Gent., formerly of College-place, Bristol, and afterwards residing at 4, Chandos-place, Clifton. Farnell & Brown, Solicitors, 23, Baldwin-street, Bristol. May 23.

SCAPLEHORN, ELIZABETH, Spinster, Cambridge. Fearon & Clabon, Solicitors, 21, Great George-street, Westminster. April 30.

SNEED, JAMES, Cheesemonger, Sun-street, Bishopsgate, London. Davies, Solicitor, Ross, Herefordshire. April 12.

SOUTH, THOMAS, Staines, Middlesex. Abbott & Wheatly, Solicitors, 22A, Southampton-buildings, Chancery-lane. June 3.

STANBRIDGE, BENJAMIN, Farmer, Ticehurst, Sussex. Beecham & Son, Solicitors, Hawkhurst, Kent. May 31.

SWAFFIELD, THOMAS, Innkeeper, Northam, Southampton. Lomer, Solicitor, 18, Portland-terrace, Southampton. May 1.

TAYLOR, THOMAS, Common Brewer, Queen-street, Wells, Somersetshire. Welsh, Solicitor, High-street, Wells, Somersetshire. May 21.

WINKS, THOMAS, 14, Queen's-road, Chelsea, Middlesex. Fearon & Clabon, Solicitors, 21, Great George-street, Westminster. April 15.

TUESDAY, April 2, 1861.

BLOXIDGE, RICHARD, Gent., late of Kingsdown-parade, Bristol, and also late of Clevedon, Somersetshire, and of Hazelwood-villa, Edgbaston, Warwickshire. Solicitors, Sutton & Jelf, 14, Colmore-row, Birmingham. May 24.

HAYDON, JAMES, Collar & Harness Maker, Croydon, Surrey. Solicitors, Drummonds, Robinson, & Tili, Croydon. May 20.

MASON, WILLIAM, Gent., formerly of East Allington, Lincolnshire, and afterwards of Whaplode, Lincolnshire. Solicitor, Sturton, Holbeach. May 1.

RAYTON, THOMAS, Surveyor, Sheffield. Executors, J. Carr, Surgeon, Eyre-street, Sheffield, and T. Thorpe, Law Clerk, Collegiate-crescent, Broom-hall-park, Sheffield. May 1.

ROSCOE, AMELIA, Spinster, Hindley, Lancashire. Solicitor, Marshall, King-street, Wigan. April 16.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, March 29, 1861.

AVENELL, ABRAHAM, Gent., Ipswich, Suffolk. Avenell v. Peachey, M. R. April 27.

BROWN, THOMAS COWPER, Gent., Denmark-hill, Surrey, and King's Bench-walk, Inner Temple, London. Brown v. Brown, M. R. April 20.

CLARKSON, JANE, Widow, Newsholme, Wressle, Yorkshire. Bell v. Clarkson, V. C. Stuart. April 26.

COULSON, JAMES, Millwright & Ironfounder, late of Crawley, Southampton, but formerly residing at Matanzas, Island of Cuba. Coulson v. Coulson, M. R. June 10.

GILLY, WILLIAM OCTAVIUS SHAKESPEAR, Esq., formerly of 25, Sussex-gardens, Hyde-park, Paddington, Middlesex, and late of Totton. Shields v. Morgan, V. C. Wood. May 1.

HUTTON, JOHN, Esq., Sowber-hill, near Northallerton, North Riding, Yorkshire. Hutton v. Hutton, V. C. Kindersley. April 27.

JULER, GEORGE, Watchmaker, North Walsham, Norfolk. Juler v. Juler, M. R. April 29.

LEWIS, JANE, Bronllangwrdda, Llanbedarnfawr, Cardigan. Lewis v. Evans, M. R. April 19.

MITCHELL, DAVID WILLIAM, Esq., Barton-le-Clay, Bedford, and Neuilly-sur-Seine, France. Miller v. Mitchell, M. R. April 22.

MOORS, PAUL, Metal Wire & Hinge Manufacturer, Broadfield House, Sutton Coldfield, Warwickshire. Moore v. Morris and Bayley v. Moore, M. R. April 23.

ROBINSON, GEORGE NEWMAN, Labourer, Silverstone, Northamptonshire. Ackling v. Whitlock, M. R. April 20.

SCARISBRICK, CHARLES, Scarisbrick Hall, Lancaster. Talbot v. Scarisbrick, M. R. May 1.

TURTON, JOSEPH, Merchant & Flie Manufacturer, Sheffield. Wright v. Carr and Carr v. Turton, V. C. Wood. April 25.

WATSON, ANN, Spinster, Bishop's Stortford, Hertfordshire. Burrows v. Clayden, V. C. Wood. May 1.

TUESDAY, April 2, 1861.

LAWFORD, JOHN, & EDWARD LAWFORD, Attorneys & Solicitors, Drapers' Hall, Throgmorton-street, London, under indentures of Nov. 15. Jellicoe v. Turquand, and Whitmore v. Turquand, V. C. Wood. May 1.

MOORHOUSE, JAMES, Hotel Keeper, Albemarle-street, Middlesex. Moorhouse v. Moorhouse, M. R. April 22.

Assignments for Benefit of Creditors

FRIDAY, March 29, 1861.

ALLEN, JAMES, Builder & Carpenter, Glemsford, Suffolk. March 5. Sol. Andrews & Canham, Sudbury.

BLOCKEY, JOSEPH THEACY, & THOMAS REMWANT, Wine Merchants, 104, Fbury-street, Pimlico, Middlesex. March 15. Sol. Thomson, 60, Cornhill, London.

BROWNE, ANN, Draper, 10, Upper-street, Islington, Middlesex. March 21. Sol. Sole, 68, Aldermanbury, London.

CHISHOLM, THOMAS, Farmer, Wingates Moor, Longhorsley, Northumberland, and also of Windyhaugh, Alwinton, Northumberland. March 16. Sol. Forster, Alnwick.

DISHER, ROBERT, Jun., Hop Merchant, 7, Three Crown-square, Southwark, Surrey, and of Merrington-house, Old Brompton, Middlesex. March 2. Sol. Hawks & Wilmott, 82, High-street, Southwark.

DUXWELL, WILLIAM, Schoolmaster, Burton-upon-Trent, Staffordshire. March 23. Sol. Druwty, Burton-upon-Trent, Staffordshire.

HALL, THOMAS HENRY, Brass Tap Manufacturer, Sheffield. March 3. Sol. Smith & Hinde, Bank-street, Sheffield.

HICKET, JAMES HENRY, Builder, 45, Cirencester street, Paddington, Middlesex. March 12. Sol. E. Skeet, Jun., 8, Gray's-inn-square.

LEWIS, ROBERT, Linen Draper, 40, Warwick-street, Pimlico. March 5. Sol. Jones, 15, Sine-lane.

MORRIS, JAMES, Paper Dealer, Liverpool. March 8. *Sols.* Dodge & Wynne, 7, Union-court, Castle-street, Liverpool.
SMITH, THOMAS, Woollen Draper & Tailor, Newcastle-upon-Tyne. March 1. *Sol.* Joel, Newcastle-upon-Tyne.
SWINGLEHURST, JOHN, & JAMES SWINGLEHURST, Cotton Manufacturers, Rose Hill Shade Freetown, Bury, Lancashire. March 19. *Sol.* Cross-land, Mayfield, Bury.
TURTLE, CHARLES, News Agent, 49, High-street, Swansea, Glamorgan-shire. March 4. *Sol.* Goodere, Swansea.
WOOTEN, RICHARD, Provision Dealer, Stratford-upon-Avon, Warwickshire. March 19. *Sols.* Hobbes & Slatter, Stratford-upon-Avon.

TUESDAY, April 3, 1861.

BROOKE, JOHN JENNINGS, Milliner, 3, Abbey-place, Torquay. March 16. *Sol.* Friend, Exeter.
CAPPEL, JAMES, Outfitting Warehouseman, 7, Milk-street, Cheapside, London. March 2. *Sols.* Langford & Marsden, 59, Friday-street, Cheapside, London.
FINNEY, ELIZABETH, Widow & Brick-maker, Stallow, Montgomeryshire. March 27. *Sol.* Wilding, Montgomery.
MICHELL, WILLIAM, Farmer & Grocer, Camborne, Cornwall. March 15. *Sol.* Chilcott, Truro.
POWELL, WILLIAM, Shoemaker, Hereford. March 25. *Sol.* Bodenham, Hereford.
SUTTON, HENRY, Grocer, Baker, Ship Chandler, and Spirit Merchant, Middlesbrough, North Riding, Yorkshire, and JAMES WARE, Grocer, Baker, Ship Chandler, and Spirit Merchant, of said borough. March 5. *Sol.* Peacock, Middlesbrough.
WILSON, MARTHA, and MARY WILSON, Grocers and Provision and Corn Dealers, 3, Tiviot Dale, and John Milton Place, Heaton Norris, Stockport. Feb. 21. *Sol.* Jones, Manchester.

Bankrupts.

FRIDAY, March 29, 1861.

ADLINGTON, JOSEPH WILLIAM, Iron Master, Oldbury, Worcestershire. *Com.* Sanders: April 14, and May 2, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Plunkett & Shakespear, West Bromwich; or James & Knight, Birmingham. *Pet.* March 29.
BOTTOMLEY, BENJAMIN GARFITT, Ironmonger & Lodging-house Keeper, Devonport. *Com.* Andrews: April 8, and May 6, at 12.30; Plymouth. *Off. Ass.* Hirtzel. *Sols.* Saunders, 41, Cherry-street, Birmingham; or Turner & Hirtzel, Exeter. *Pet.* March 18.
BURTON, ANTHONY, Grocer, Sheffield. *Com.* West: April 13, and May 4, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Hoole & Yoomans, Sheffield. *Pet.* March 26.
CARMAN, BENJAMIN, & ROBERT BAILEY, Cabinet Makers, Harwich, Essex. *Com.* Fonblanque: April 10, at 2.30; and May 14, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Jones, Colchester, Essex. *Pet.* March 29.
COWTON, JAMES, Fruiterer, Birmingham. *Com.* Sanders: April 11, and May 2, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* East, Birmingham. *Pet.* March 28.
CRAFT, WILLIAM, Baker & Confectioner, Maidstone, Kent. *Com.* Fane: April 11, at 12.30; and May 10, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Monekton & Co., 1, Raymond's-buildings, Gray's-inn; or Goodwin, Maidstone, Kent. *Pet.* March 23.
DALTON, WILLIAM JAMES, Builder, Arundell House, Batham Hill, Surrey. *Com.* Goulburn: April 8, and May 13, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Howard, Halse, & Trustram, 66, Paternoster-row, London. *Pet.* March 23.
DAVIS, JOHN, Manufacturer, Manchester. *Com.* Jemmett: April 10 and 30, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Pankhurst, Manchester. *Pet.* March 25.
DAUGHTON, SAMUEL, Draper, Preston, Lancashire. *Com.* Jemmett: April 11, and May 2, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester. *Pet.* March 19.
DRAKE, GEORGE, Glover & Leather Dresser, St Thomas the Apostle, Devonshire. *Com.* Andrews: April 10, at 1; and May 8, at 12; Exeter. *Off. Ass.* Hirtzel. *Sol.* Fryer, St Thomas, Exeter. *Pet.* March 28.
FOWLER, JOHN, Stock & Sharebroker, & Commission Agent, Whitehaven, Cumberland. *Com.* Ellison: April 9, at 12; and May 14, at 1; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Musgrave, Whitehaven; or Griffith & Crighton, Newcastle-upon-Tyne. *Pet.* March 20.
GATES, JAMES HAYDEN, Builder, Manor-street, Clapham, Surrey. *Com.* Evans: April 5, at 11; and May 9, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Hewett, Princes-street, Bank. *Pet.* March 22.
GRIFFIN, GEORGE, Grocer & Provision Dealer, Walsall, Staffordshire. *Com.* Sanders: April 4 and 25, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Duignan & Ebsworth, Walsall. *Pet.* March 19.
PROBERT, WILLIAM, Hop Dealer & Coal Merchant, Worcester. *Com.* Sanders: April 11, and May 3, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Hughes & Son, and Corles, Worcester; and E. & H. Wright, Birmingham. *Pet.* March 25.
RETKAN, THOMAS, Grocer & Builder, William-street, Swansea, Glamorgan-shire. *Com.* Hill: April 8, and May 7, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Fisher & Sons, 162, Aldersgate-street, London; or Brittan & Sons, Bristol. *Pet.* March 11.
ROLFE, PHILEMON, Chemist & Druggist, 39, High street, Gravesend. *Com.* Goulburn: April 8, at 11; and May 6, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Wilkinson, Stevens, & Wilkinson, 4, Nicholas-lane, London. *Pet.* March 26.
SKINNER, WILLIAM, Innkeeper, Wine & Spirit Merchant, Redcar, Yorkshire. *Com.* Ayrton: April 15, and May 6, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Simpson, Yarm; or Curiss & Cudworth, Leeds. *Pet.* March 28.
THOMAS, WILLIAM, Innkeeper, Green House, Llantarnum, Monmouthshire. *Com.* Hill: April 9, and May 7, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Greenway & Bytheway, Pontypool; or Bevan, Girling, & Press, Bristol. *Pet.* March 22.
WALKER, CHRISTOPHER, Smallware Manufacturer, Nicholas Croft and Southam-street, Manchester. *Com.* Jemmett: April 17, and May 1, at 12; Manchester. *Off. Ass.* Fraser. *Sol.* Marriott, Brown-street, Manchester. *Pet.* March 20.

TUESDAY, April 2, 1861.

ASHERY, CHARLES KITCHEN, Common Brewer, Sheffield. *Com.* West: April 13 & May 18, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Webster, 14, St. James's row, Sheffield. *Pet.* March 30.
COPLAND, JAMES BENJAMIN, Wine & Spirit Merchant, Manchester. *Com.* Jemmett: April 17 & May 15, at 12; Manchester. *Off. Ass.* Pott. *Sols.*

Sharp, 92, Gresham-house, Old Broad-street, London, or Rowley & Son, Manchester. *Pet.* March 12.

EDWARDS, JOHN, Draper, Cwm Yniscoy, Pontypool, Monmouthshire. *Com.* Hill: April 16 & May 14, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Bevan, Girling, & Press, Bristol. *Pet.* March 21.

FREEMAN, WILLIAM, Builder & Contractor, Belper, Derbyshire. *Com.* Sanders: April 18 & May 9, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Gamble & Leech, Derby. *Pet.* March 28.

ISENBERG, JACOB, and DANIEL MYERS, Boot and Shoe Warehousemen, 19, Skinner-street, Snow-hill, London (Jacob Isenberg & Co.). *Com.* Goulburn: April 12, at 2; and May 15, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Howard, 9, Quality-court, Chancery-lane, London. *Pet.* March 28.

ROGERS, JAMES, Linen and Woollen Draper, East Hartlepool, Durham (James Rogers & Co.). *Com.* Ellison: April 19, at 1; and May 15, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sol.* Forster, Newcastle-upon-Tyne. *Pet.* March 28.

MEETINGS FOR PROOF OF DEBTS.

FRIDAY, March 29, 1861.

BARNES, THOMAS, Innkeeper, Lion & Lamb Hotel, Farnham, Surrey. April 26, at 12; Basinghall-street.—BROOKS, ALFRED, Optician, 41, Ludgate-street, London. April 19, at 12; Basinghall-street.—CHAMNEY, WILLIAM, Grocer & Baker, Portsmouth. April 9, at 2; Basinghall-street.—DAVIDSON, JOHN RANKIN, Builder, & Railway Contractor, Eden Cottage, near Carlisle, Cumberland; and WILLIAM OUGHTERSON, Builder, & Railway Contractor, Bush or Lyne, near Longtown. April 12, at 11.30; Newcastle-upon-Tyne.—DAVIS, WILLIAM POPHAM, Slate & Marble Merchant, Dealer in Bricks, Cement, & Pottery, Cardiff, Glamorgan-shire. April 30, Bristol.—EDGE, THOMAS, Gas Meter Manufacturer, 59, Great Peter-street, and 39, Vincent-square, Westminster. April 9, at 12; Basinghall-street.—EOW, RODOLPHUS, Gun-maker, Bradford, Yorkshire. April 19, at 11; Leeds.—GOULDING, WILLIAM, Grocer & Draper, Upwell, Norfolk. April 9, at 11.30; Basinghall-street.—HOBBS, JAMES, Drysalter & Wood Grinder, Little Green Mill, Middleton Dale, Chadderton, Prestwich-cum-Oldham, Lancashire. April 26, at 12; Manchester.—HUTCHINSON, MATTHEW, Hemp & Flax Dealer, 48, Mark-lane, London, and of Paragon, Blackheath, Kent (Matthew Hutchinson & Son.) April 24, at 2; Basinghall-street.—LINDO, SOLOMON, Wine, Spirit, & Beer Merchant, 42, Westbourne-grove, Bayswater, Middlesex. April 10, at 12; Basinghall-street.—MANN, HENRY, Miller & Dealer, Chester-ton, Cambridgeshire. April 9, at 1; Basinghall-street.—MARTIN, JOHN WADDO, Farmer, and Dealer in Wood & Hop Poles, Moor Farm, Yalding, Kent. April 24, at 11.30; Basinghall-street.—MAYO, THOMAS, Wooden Ware Manufacturer, Chesham, Bucks. April 12, at 12; Basinghall-street.—NOBLE, JOHN, Rope Maker, Carlisle. April 26, at 12; Newcastle-upon-Tyne.—OLDFIELD, GEORGE, ROBERT OLDFIELD, & JOHN CLARKE, Millers & Corn Dealers, Lichfield (Oldfields & Clarke.) April 22, at 11; Birmingham.—PALMER, JOHN, Picture Dealer, Nutley House, Nutley, near Plymouth. April 25, at 12.30; Basinghall-street.—PAINOLA, THOMAS WHITAKER, Draper & Grocer, late of Blyth, Nottingham, but now of Hawley-place, Kentish Town, Middlesex, Grocer. April 24, at 1.30; Basinghall-street.—PITCHARD, CHARLES, Plumber, Painter, & Glazier, 5, East-place, Walcot-place, Lambeth, Surrey. April 19, at 11; Basinghall-street.—REED, THOMAS SADLER, Silk Manufacturer, Derby. April 18, at 11; Nottingham.—ROGERS, THOMAS, Hotel & Lodging House Keeper, 109, Queen's-road, and 35, Queen's-road, Brighton. April 22, at 12; Basinghall-street.—ROLF, ALFRED, & JOHN DAVIS, Timber Merchants, 8, Dorrington-street, Clerkenwell, Middlesex. April 12, at 12.30; Basinghall-street.—SHIPLEY, JOHN GEORGE, Saddler & Harness Maker, 179 & 181, Regent-street, Middlesex; Joint Proprietor of the Sporting Life and Eclipse Newspapers, and Sole Proprietor of the Court Circular Newspaper. April 9, at 1.30; Basinghall-street.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

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LAW REVERSIONARY INTEREST SOCIETY

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C. B. CLABON, Secretary.

BRITISH MUTUAL INVESTMENT, LOAN

and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £100,000, in 10,000 shares of £10 each.

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INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal is 5 per cent. The investment being secured by a subscribed capital of £85,000, £70,000 of which is not yet called up.

LOANS.—Advances are made, in sums from £25 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Prospectuses fully detailing the operations of the Company, forms of proposal for Loans, and every information, may be obtained on application to

JOSEPH K. JACKSON, Secretary.

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beg to recommend the following Fashionable and Superior Articles for the TOILET to the especial notice of all purchasers of Choice PERFUMERY.

John Gosnell & Co.'s JOCKEY CLUB PERFUME, in universal request as the most admired perfume for the handkerchief, price 2s. 6d.

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John Gosnell & Co.'s BALL-ROOM COMPANION or FOUNTAIN PERFUMES. Elegant Novelties, in the form of Portable Handkerchief Perfumes in a neat case, which emits on pressure a jet of most refreshing perfume. Price 1s. and 1s. 6d. each.

John Gosnell & Co.'s LA NOBLESSE POMADE—elegantly perfumed, and highly recommended for beautifying and promoting the growth of the Hair.

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John Gosnell & Co.'s CHERRY TOOTH PASTE is greatly superior to any Tooth Powder, gives the Teeth a pearl-like whiteness, protects the enamel from decay, and imparts a pleasing fragrance to the breath.

John Gosnell & Co.'s AMBROSIAL SHAVING CREAM, 1s. and 1s. 6d. in pots; also, in compressible tubes, for the convenience of persons travelling, price 1s.

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TWELVE HOURS TRANSCENDENTLY BRILLIANT LIGHT AT THE COST OF ONE PENNY. This incomparable household boon is obtained by the use of the New Lamp, sold at the Stella Lamp Depot. Light equivalent to three candles. Larger light, equivalent to a pound of dips, and superior to gas, at the cost of about Five Farthings per night. Cost of Lamp, 3s. to 5 Guineas.

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COALS.—THE KING'S-CROSS COAL DEPARTMENT, ESTABLISHED 1846. Best Walls End, Hettons, Stewarts, or Lambtons, free from small and slates, 25s. per Ton. Why pay more? Richmond 21s., Best Silkestone 23s., Claycross 22s., South Yorkshire 20s. to 22s., large for kitchen use 19s. Terms cash. To test the economy of purchasing coals at this establishment, a trial is solicited. A Discount of 5 per Cent. on orders of Five Tons and upwards.

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For the Relief of Poor and Necessitous Attorneys, Solicitors, and Proctors, in England and Wales, and their Wives, Widows, and Families.

INSTITUTED 1858.

SUPPORTED BY MEMBERS' SUBSCRIPTIONS AND BY GENERAL DONATIONS.

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JOHN HOPE SHAW, Leeds.
EDWARD BANNER, Liverpool.

JAMES ANDERTON, London.
WM. STRICKLAND COOKSON, London.

Board of Directors.

JAMES ANDERTON, Chairman.

THOMAS HARRISON, Deputy Chairman,

LONDON.

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Thomas Holme Bower.
Thomas Dounie Calthrop.
George Capes.
Wm. Strickland Cookson.

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Edwin Hedger.
Frederick Halsey Janson.
Thomas Kennedy.

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Charles Fletcher Skirrow.

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Henry Thomas Young.

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THE SOLICITORS' JOURNAL.

LONDON, APRIL 13, 1861.

CURRENT TOPICS.

Among the few Acts of Parliament which have received the Royal assent during the present session is one of some importance to persons having transactions in the public funds. On the 22nd of last month, the 24 Vict. cap. 3 was added to the statute-book, and it has already, in several important particulars, come into operation. The two main objects of the statute are to make certain alterations in the mode of paying the Bank of England, and in the management of the public debt, and also to give increased facilities for the transfer of the public stocks. Heretofore, as our readers are aware, the transfer books were closed for a month prior to the day fixed for the payment of the half-yearly dividend. The object of this regulation was, to give time for the calculation of the dividends, and for the preparation of warrants. During that period no transfers were permitted, except under circumstances of special necessity, and even then the stock so transferred always carried the right to the current half-year's dividend. It has been, however, enacted by the recent statute that henceforth the Bank may close the transfer books on any day in the month preceding that in which the dividends shall be payable; and the persons who, on the day of the closing of such books, are inscribed as proprietors are to be entitled to the current dividend; but transferees after the day of the closing of the books are not to be entitled to that dividend. The effect will be, that persons holding stock on the morning of the day when the books are closed, say on the 1st of June next, will be entitled to the dividend which will fall due on the 5th of July; but in the meanwhile, transfers may be made in the usual way, and as if the books were not closed. This arrangement will be very convenient for the public, but especially so for suitors in the Court of Chancery. The frequent intervals in which dealings in stock were impracticable to the Court very much impeded the course of its business.

A Select Committee of the House of Lords has commenced taking evidence on questions connected with the law of divorce and dissolution of marriage. We are not aware whether the scope of the inquiries committed to their lordships includes the constitution and business of Her Majesty's Court of Divorce, as at present constituted, under Sir C. Cresswell. But it is not unlikely, owing to the arrears of the Cause List in that Court, that some change will soon be made either in its constitution or its business. Various suggestions have been offered on this subject, but we have not yet noticed one which appears to afford the best solution for the present difficulty—we mean the transfer to the Court of Chancery of the metropolitan Probate business. The forms and procedure incidental to the proving of wills and the granting and revocation of letters of administration are much more cognate to the ordinary business of courts of equity than to the litigation in suits for judicial separation or dissolution of marriage. Indeed, no little inconvenience is frequently experienced in chancery suits by the peculiar jurisdiction of the Court of Probate and its exclusive competency to constitute the legal personal representative of a deceased person. Financial reasons would also go to support the same suggestion; for, as courts of equity at present have scarcely enough of work to keep them going, they

would be able, without putting the country to greater expense, to accept a transfer of the business at present done by the metropolitan Court of Probate.

The *Times* of Thursday last has got a very mysterious article upon the Bar and Barristers generally. It says that "matters which are discussed at every circuit table, and, indeed, at every dinner table, cannot but have their public interest and challenge some public allusion." The writer does not condescend to particulars. There can be but little doubt, however, that the text has been mainly supplied by the recent retirement from Parliament, and from a minor judicial office, of a well-known *nisi prius* advocate. The writer of the article in question states that the current scandals which have suggested his remarks must "pass unfixt," because they have not yet been made public. We also think it right to abstain from giving any further currency to them, although they have already obtained a very wide circulation in connection with a name which has been long well known in the profession.

THE CASE OF ST. GREGORY'S CHURCH, SUDBURY.

It has fallen to the lot of the Court of Chancery to play an unusual part in the composition of a second phase of the famous strife at Sudbury, with the particulars of which general readers are less acquainted than with the proceedings which attracted so much notice a few years ago in the case of St. Peter's Church in the same town. To lawyers the result is interesting, by its exhibiting a new application of the powers of the Court, acting as a very efficient auxiliary to the ecclesiastical authority still vested in the diocesan chancery. An attentive examination of the case shows that the powers of the Chancellor of the Diocese would have been unavailing to establish a valid compromise between the claims of the contending parties, without the convenient aid which the Great Seal, under its improved jurisdiction, has been enabled to give. At the same time the story of the conflict may not be without interest, as an example, *par excellence*, of the sort of struggle which a vast number of our country parishes have witnessed on a less exaggerated scale. It furnishes another proof of the wide distinctions which exist between London and country congregations, founded, we may presume, upon the essentially different character of their constitution, and of the relations which the members bear to each other. It shows the exact weight which in this instance was due to episcopal opinion and authority. It also suggests the necessity of a change in the working of the courts of the chancellors of dioceses. Although the facts may be familiar to some of our readers, they are yet perhaps worthy of being placed on record in an authentic and complete form.

It appears that the parishes of St. Peter's and St. Gregory's, Sudbury, are for church purposes united. In 1855, Mr. Molyneux was appointed to the perpetual curacy of both. All the tithes are alienated, and the whole endowment of the two is £72 a year. The sentiments of the new incumbent were no secret. He was the honorary secretary of the General Committee on the Pew System, the objects of which are—"To direct attention, through the press and otherwise, to the fatal effects of the pew system in churches upon the religious and moral condition of the people; to secure the full and free access of all classes, without respect of persons, to churches hereafter to be built in populous districts; and to enforce the fundamental principle of the parochial system—the common and equal right of all parishioners to worship in their parish church." Mr. Molyneux had also, or has since, published a letter to the Bishop of Ely, "On the Equal Rights of all Classes of Parishioners to the Use of their Parish Church, and the un-Christian

results of the Appropriation of Seats." Proceedings were very soon commenced to carry out these principles at St. Peter's, the larger and more central of the two churches. Of these it is only necessary to say that they ended in the church being seated with chairs instead of pews; and the case has been alluded to in the report of the House of Lords Committee in 1858, as "an experiment which has been soberly conducted during more than three years," and as one "based on a principle of law which is applicable to every parish church in England." The subject of our present narrative, as disclosed in the suit of *Cardinall v. Molyneux*, just decided, was the repewing of the other church, St. Gregory's. It seems beyond doubt that the fabric of this church was in bad repair—the roof was unsafe, the floor rotten and in holes, and the woodwork of the pews decayed. The west end was also blocked up by a large gallery with an organ in it. At the time when this was erected, in 1829, or possibly before, the tower arch was filled up with a lath and plaster partition. The west window was partly bricked up, so as to convert the space under the tower into a lumber room. It was manifest that the work of renovation was partly matter of necessity, but also partly of ecclesiastical taste, into which sentiment diversity of religious feeling largely entered.

In October, 1857, a vestry meeting was summoned, at which a shilling rate for the repair of the roof was suggested and negatived; but an inquiry by some competent person into the state of the roof was proposed by way of amendment and carried, and further consideration of the repairs deferred till the Easter following. Meanwhile the church was closed. Finding the vestry impracticable, the incumbent, and his churchwarden Mr. Hasell, summoned a voluntary meeting of the parishioners, when it was proposed that Mr. Hasell should endeavour to raise subscriptions, and the meeting stood adjourned till the 18th of June. Mr. Hasell then reported that he had obtained £39 4s., of which he had himself subscribed £2 2s. The other churchwarden, the plaintiff in the suit, Mr. Cardinall, was also present. He had collected nothing, and refused to subscribe. Mr. Molyneux thus finding that the church was likely to remain permanently shut up, canvassed privately for subscriptions, which he obtained to the amount of £214 17s. 5d. The Bishop of Ely contributed £25, and the Church Building Society £80. Of the whole sum thus collected, £63 were specially to be applied, says Mr. Molyneux, to the restoration of the interior of the church, unless absolutely required for the fabric. In short, the £63 was contributed by friends of the incumbent in special aid of his particular views. Being thus supplied with funds, Mr. Molyneux employed a builder named Grimwood to repair the roof, and the work was completed on the 25th of March, 1859. Mr. Molyneux then finding that he had funds sufficient, after paying for the repairs of the roof, to remove the pews and gallery and to relay the floor, entered into another contract with Mr. Grimwood to clear away the pews, sittings, and gallery, take up the floor, and lay down a new one for £30. He directed him at the same time to proceed with the work so that the church might be ready by Easter Sunday following, the 24th of April. By this time the intentions of the incumbent were well understood in the parish, though it was alleged that his measures were taken in secret. He did not conceal, indeed, he had stated, that it was his wish to do with St. Gregory's as he has done with St. Peter's, and a strong opposition was ready at any moment to break out. The population of St. Gregory's parish is about 2,500, rather larger than that of St. Peter's; the inhabitants being principally poor weavers.

On the 30th of March open warfare commenced. Mr. Grimwood with his workmen entered the church, and proceeded, at Mr. Molyneux's direction, without the consent of either churchwarden (though Mr. Hasell

afterwards said he quite approved of the proceeding, as Mr. Molyneux knew), and without the consent of the parishioners or a faculty, to "cut down, sever, and remove" the pews, sittings, and gallery; making, in fact, a clean sweep of everything within the walls. On the same day the indignant inhabitants found the walls of the town placarded with bills announcing the sale on the following day, on the market hill, of a quantity of building materials, "arising from the repairs, &c., at the church of St. Gregory." This publication seems to have given the alarm. Mr. Cardinall, the churchwarden, set off to the church, where he arrived about half-past twelve, in time to find all the pews down and the gallery removed. There was Mr. Molyneux and his curate Mr. Green. Mr. Green addressed Mr. Cardinall, and asked him whether he did not think this was an improvement. Mr. Cardinall replied, "No doubt it would be considered so if Mr. Molyneux would but have the church benched and allowed his parishioners a seat, but not to have chairs." Mr. Molyneux then apologised for not having called on Mr. Cardinall, and inquired if he did not think the church improved. Mr. Cardinall asked Mr. Molyneux if he intended boarding it. He replied as far as he could, but that chairs would be placed in the church as in St. Peter's. Mr. Molyneux then went away. Mr. Cardinall then said to Mr. Green, "What a pity it is he will not appropriate seats to his parishioners!" To which Mr. Green replied, "He won't do it, it is a hobby of his." [Mr. Green afterwards gave a different version of this conversation. His account is that Mr. Cardinall said that none of the parishioners wished to keep the pews, or would object to the alterations, if Mr. Molyneux would give up what Mr. Cardinall called his hobby.] Mr. Cardinall said he would engage to bench the church if Mr. Molyneux would agree to it; but the parishioners were determined not to come to church to sit upon chairs. He added, they had been resolved not to have the pews taken out; but had been outdone in that respect.

The following day, the 31st, was a memorable one in the annals of St. Gregory's. The parishioners had been meditating revenge, and commenced operations early. A notice had been prepared addressed to Mr. Molyneux, Mr. Grimwood, and Mr. Rolfe, the auctioneer, giving them notice not to pull down—though that had been already done—and not to remove, sell, or dispose, of the pews and sittings or materials in the church; and that it was his intention to move for an injunction. This document Mr. Cardinall served upon Mr. Grimwood, at half past eight in the morning, and also upon Mr. Molyneux and Mr. Rolfe a little later. He then repaired with a number of men to the church, where Mr. Grimwood with some dozen workmen was busy in getting out the fittings and panneling of the old pews, ready for the sale. Mr. Cardinall read the notice, and bade Mr. Grimwood desist. Mr. Grimwood laughed and said, "I will remove them in spite of you or your notice." Thereupon orders were given to the men to proceed with their work, and a fight ensued. Mr. Cardinall was knocked against an iron gate, fell down, as he says, to avoid being forced on the spikes, and was bruised and injured. One of his companions, Loft, was wounded in the face. Another was threatened with a carpenter's axe. Mr. Grimwood describes the affair as a scuffle, in which one of Mr. Cardinall's men was injured by a board falling on him.

Meanwhile, Mr. Cardinall and his party, though defeated in the churchyard, were winning the day more quietly, but more safely, in Lincoln's-inn. The bill was filed the same morning, the injunction was obtained, and a telegraphic despatch, with notice of the order restraining the sale, was hurried off with all speed to Sudbury. It was a neck-and-neck race, for the sale of the church fittings was proceeding as rapidly as the auctioneer could get through the lots. The railway clerk at Sudbury received the message at 4:35. At

4-37, as he states with ostentatious exactness, he served it upon Mr. Rolfe, who was then on the market hill in the act of selling lot 84. Mr. Rolfe, as the plaintiff's witnesses say, read the paper, knocked down the lot, and continued the sale, amidst much unusual laughter, for nearly half an hour. There were ten lots remaining. He himself declares that he put up the lot, and then began reading the message and selling the lot at the same time. When he had knocked it down, he signed the message in the usual way. He denied that he laughed, or affected to treat the notice with contempt. He swore he did not believe that lot 84, which consisted of old boards, contained anything which came out of the church, and he satisfied himself that none of the remaining ten lots formed part of the church materials before he sold them. According to the auctioneer's own statement, therefore, eleven of the lots were, by a not uncommon artifice, included among the rest, and advertised for sale as materials from St. Gregory's church, though not really forming part of such materials.

Mr. Molyneux was present, and so was Mr. Grimwood. There are great differences of statement as to whether the latter knew of the telegraphic message or not. Mr. Harding, an artist, deposed that he was present at the sale, and conversed with Mr. Grimwood. Mr. Grimwood was talking to him about the sale, and observed that he had had a regular "spree" at the church, and that he was rather too strong for Mr. Cardinall. Mr. Aprill, one of the defendant's witnesses, on the other hand, said that he saw Mr. Harding shortly before he made the above affidavit, and that he had been drinking freely before he went to the solicitor's office to do so. Other witnesses said they believed Mr. Grimwood and several of the buyers knew the contents of the message; but a Mr. Jefferies, late sergeant in the army, distinctly swore he was the first to tell him of it at seven in the evening. Meanwhile, at about five o'clock, the sale was concluded; regular notice of the injunction was served on the parties; on Mr. Grimwood, as the solicitor and his clerk said, at a quarter past five; or, as he said, at half-past six; and later in the evening on Mr. Molyneux and Mr. Rolfe. It was sworn by two of the purchasers that some of the lots were not removed until twenty minutes to six; but the auctioneer swore that there was no delivery of the lots on his part otherwise than by knocking them down. On the same evening, the 31st, notice of motion for the 4th of April, to commit Messrs. Grimwood and Rolfe for contempt of the injunction, was served on all three defendants.

Mr. Molyneux meanwhile continued his measures. He proceeded under the friendly, and afterwards the professional, advice of Mr. Butterfield, to take up the floor of the church, to open a hole in the wall for an air-drain, to throw open the lower space, and to remove the rows of bricks with which the west window was blocked up. A supplemental bill was filed on the 4th by the plaintiff, alleging these facts, and praying for another injunction. This was afterwards granted on the 21st of April. The motion to commit was to have come on at the same time, but the two applications stood over till the 12th of May.

During the interval Mr. Molyneux persevered. On the same afternoon of the 21st of April, the Thursday before Easter, Mr. Molyneux and his churchwarden, Mr. Hasell, published hand-bills announcing that though the repairs of the church were incomplete, still *in order to carry out the original intention and to prevent disappointment to the parishioners*, it was determined to use the church on the afternoon of Easter Sunday next. On the same day about 200 chairs were placed in the church. On the following Saturday, Mr. Cardinall and Mr. Gooday, his solicitor, proceeded to the church and were admitted. Upon entering they found Mr. Molyneux, the Rev. Mr. Green, his curate, and the Rev. Mr. Edward Pemberton, a former curate. Mr. Gooday

expressed his surprise at what he saw, having understood that nothing was to be done till the hearing of the cause. He added that the arrangements of the church had been just what was complained of, and he thought Mr. Molyneux had brought himself within the terms of the injunction. To this Mr. Molyneux only bowed. The chairs were then set in rows and were being fixed with ropes. Mr. Pemberton, the late curate, followed Mr. Cardinall down the aisle, using, as the churchwarden deposed, the most irritating language, and stating that he did not care for his proceedings (Mr. Pemberton, be it observed, was no party to the suit); that they would make him (Mr. Cardinall) bankrupt for the costs, and make him pay it in gaol. Mr. Cardinall added that his solicitor remonstrated with Mr. Pemberton, and he believed it was Mr. Pemberton's wish and intention to cause a breach of the peace in the church, which Mr. Cardinall believes would have been the case had it not been for the presence of Mr. Gooday, the solicitor. On Easter Sunday, in the afternoon, service was resumed. Mr. Molyneux had no pulpit, and was obliged to preach standing on the seat of one of the stalls in the chancel.

The two motions were heard, as we have said, on the 12th of March. On the question of the injunction, an array of affidavits was filed by rival adherents on either side. The popular view, represented by the plaintiff, Mr. Cardinall, was supported by Mr. Potter, farmer; Mr. Parmenter, gentleman; Mr. Killick, a church-goer; Mr. Ely, jeweller and general dealer; Mr. Welham, provision merchant; Mr. Ginn, builder, whose brother put up the gallery; Mr. Hansell, hotel keeper; Mr. Meeking, magistrate, and late churchwarden; Mr. Jones, builder; Mr. Gross, innkeeper, who said he lived 500 yards from the church, and that he had no intimation or knowledge of the intended destruction of the interior until he saw the hand-bill on the 30th of April; Mr. Purr, member of the corporation and poor-law guardian; Mr. Sikes, magistrate, and Mr. Poley, late mayor and under-sheriff. Mr. Gooday, the solicitor, in his affidavit, described a meeting for the election of churchwardens for the parish which took place on the 28th of April. As soon as the proceedings commenced, Mr. Molyneux being in the chair, W. W. Humphrey, Esq., of Sudbury, barrister-at-law, who was a parishioner, addressed the meeting to the effect that he was an old man, and had been a life-long attendant at the parish church; that his family and children were interred within the walls; that he felt as deep an interest in the church as the incumbent; that he warned the incumbent the present proceedings would do more harm than fifty sermons would do good, and that he came there as the oldest parishioner to protest against the clandestine, violent, and lawless proceeding of the incumbent in removing the pews and gallery from the church, which he considered an aggression upon his rights and those of the other parishioners. Mr. Humphrey then left, having recorded his vote for the plaintiff, who was re-elected by a large majority.

Mr. Molyneux, on the other hand, said that out of the twenty-three deponents who had made affidavits on the side of the deponent (some of them being on the question of the attachment), excluding the plaintiff, his solicitor, and solicitor's clerk, four only were parishioners, and of those four one was a dissenter. Amongst those who were favourable to the alterations in the church, and to the chair system as opposed to pews, several of whom also said that the proceedings of Mr. Cardinall were supported by dissenters, and were undertaken out of hostility to the incumbent, and from factious motives, were the Rev. Mr. Pemberton, the late curate; Mr. Scott, the sexton; Mr. Bevan, banker; the Rev. Mr. Badham, vicar of All Saints, Sudbury; Mr. Clubb, parish clerk; Mr. Jefferies, the ex-sergeant; Mr. Gager, ratepayer; Mr. Pitcairne, a resident inhabitant; Mr. Westoby, saddler; Mr. Spooner, owner of property in the parish; Mr. Mason, surgeon; the Rev.

Mr. Foster, rector of Foxearth; Mr. Bland, builder and timber merchant; Mr. Green, builder; Mr. Lynch, surgeon; Mr. Making, who assailed Mr. Parmenter's evidence; the Rev. Mr. Gray, a rated inhabitant; and Mr. Digby, an inhabitant. Mr. Scott, the sexton, and a witness named Andrews, ascertained that Mr. Cardinall had not qualified as churchwarden at the last visitation.

At the hearing a point of law was raised as to the plaintiff's right to relief, and as to whether the Attorney-General should not be a party to the suit; but the result was that his Honour Sir John Stuart, V.C., after a most patient hearing of the case, had no doubt about the laudable motives of Mr. Molyneux, but recommended him to proceed more quietly. The order for the injunction was made. At the same time the Vice-Chancellor directed that the plaintiff and the defendants should be at liberty to lay proposals before the judge in chambers, "for fitting up the interior of the parish church, and providing proper accommodation therein for the minister and parishioners of the parish for the performance of Divine Service, but such proposals were to be subject to the approbation of the bishop and archdeacon of the diocese of Ely." On the motion for attachment his Honour thought there had been no deliberate intention to break the injunction; but after remarking on the conflict of evidence as to the time of service, he felt bound to conclude that the notice was served on Grimwood by Mr. Drew at about a quarter past five, and, therefore, adjudged the conduct of the two defendants, Grimwood and Rolfe, to have been improper, and that they were in contempt. He condemned them each to pay £15 towards the cost of the motion, but on their expressing their contrition, made no further order on the motion.

Soon after the plaintiff had obtained this favourable decision, it appears that some apprehension was felt as to the jurisdiction of the court; for on the 26th of May the bill, which prayed for an injunction in the usual manner, was amended by adding to the prayer the words "until a faculty for the purpose has been duly obtained." Meanwhile the course marked out by the order of the 12th of May was pursued. Proposals for fitting up the interior were submitted by both parties to the Bishop of Ely; differing, as may be supposed, in several points, of which the question of the sittings was the most prominent. The plaintiff's proposal was that the pews which had been removed should be replaced. That of the defendant was to provide benches for seating the congregation "*as far as the present seating by chairs and benches is insufficient.*" The only other substantial point of difference was as to the position of the organ. The bishop's reply to the two sets of suggestions was cautious and somewhat enigmatical in one respect, and very decisive in another. It was as follows: "The bishop has no knowledge what kind of pews were in the church before; he suggests for the consideration of the parties whether a better method may be adopted at no greater cost. His lordship will be ready to consider any new plan; and if no better than the old one can be suggested and agreed on, let the old pews be replaced. The bishop has no objection to the north and south sides being benched as at present. The bishop has the strongest objection to chairs." This answer was given in August. Plans were therefore forwarded, and a new set of episcopal observations returned, part of which was as follows: "The bishop considers that the centre of the church should be filled up with single pews according to the plan of pews in modern churches." A reply which still left open the all important issue of what was the plan of pews in modern churches. At the same time the bishop strongly and repeatedly urged the necessity of obtaining a faculty. The papers were all laid before the chief clerk; and the matter stood over to enable Mr. Molyneux to apply for a faculty according to the bishop's directions.

The expense of obtaining a faculty appears in some

instances to be very considerable. Mr. Butterfield states that in the course of a large experience in superintending the repairs and alterations of churches, he knows of only a few instances of a faculty; and that it is scarcely ever applied for when the expenses have been met by private contributions and not by a church rate, owing to the expense. From this it appears that a reduction in the fees or an alteration in the procedure, might be attended with pecuniary advantage to the court. Evidently unless some such improvement is made, the diocesan Chancellors must expect to see an important part of their functions in part discharged by a cheaper, and quite as speedy and efficacious a process in Chancery.

Mr. Molyneux's petition was presented to the Chancellor of the diocese of Ely. It set forth that the church of St. Gregory, Sudbury, was in a dilapidated condition and required several alterations, and amongst the works specified was the following:—"In addition to the present accommodation, to complete the seating of the church with benches similar to the best of those now in the church." In other words, the present chairs were to remain. In May the citation issued, and cause was shown at St. Mary's, Cambridge, on the 9th of June last. A previous attempt at arrangement with Mr. Molyneux had failed. Finally, on the day last mentioned, the plaintiff's solicitor having appeared and opposed the granting of the faculty, and Mr. Molyneux refusing to modify his application, the Court refused to decree the faculty, on the ground, as alleged, that Mr. Molyneux did not propose to carry out the refitting of the church in accordance with the bishop's suggestions and approval.

This was a second reverse for the incumbent. The matter now fell of necessity into the hands of the chief clerk, who prepared a scheme, in which the more important question was dealt with in this way:—"The church to be properly floored and fitted up with single pews, according to the plan of pews in modern churches (here following the bishop's language), or with open benches. The question of the general style and character of the pews or benches to be settled in the proceedings requisite for obtaining a faculty." The scheme was certified to have been approved of by the bishop and archdeacon of the diocese, as was admitted by both sides. It was also approved by the judge in chambers; and on the 13th of March last, the injunction was made perpetual, and the costs of the suit were ordered to be paid by the defendants, the Rev. Mr. Molyneux, H. Grimwood, and Rolfe.

It is not necessary for us to attempt to point a moral in this case, or to pronounce commonplaces on the punishment that awaits the unlawful violation of rights of property, undertaken with what laudable motive soever. The argument is more worthy of notice which is implied in the remark of Mr. Butterfield. "The principal object of the defendant was, to provide free accommodation for all the parishioners, in the place of the appropriated pews which before nearly filled the church, and prevented the poorer classes of the parishioners from finding room in the church, and this object was gained by the entire removal of all the pews and the substitution of benches and chairs, such as those now in use at St. Paul's Cathedral and Westminster Abbey." In other words, if certain London congregations have from choice adopted chairs instead of pews, why should the people of Sudbury complain? But the case seems to show that the people did more than resent the unauthorized destruction of their pews and gallery; they refused to have chairs under any circumstances, and Mr. Butterfield will not deny the essentially different character of the two congregations—one an assembly of strangers, the other of townspeople and neighbours, with all the varied feelings which intimate knowledge of each other and their concerns must necessarily inspire. Without saying whether there ought to be a distinction in the two cases, it is sufficient that the

grounds for it are real and existing, and are too substantial at present to give way to any of these doctrines of equality in religious ceremonial and practice which are urged by Mr. Molyneux and his friends. From this we turn to another consideration, namely, that had the Bishop of Ely been favourable to the use of chairs in parish churches, it seems probable that the faculty would not have been refused; and, in that case, the Chief Clerk's scheme would have been different from what it is. The Church party to which Mr. Molyneux and his friends are considered to belong, cannot consistently with their principles view this indirect exercise of episcopal authority with jealousy, though it has been adverse to the innovations of the incumbent of St. Gregory's.

On the whole, looking at the decision in *Cardinall v. Molyneux*, as an assertion of law and order, of the principle of "*fiat justitia*," though Mr. Molyneux would doubtless be ready to add the other clause of the proverb, we regard it with entire satisfaction; and in so far as it represents the feelings of the successful public of Sudbury, we think it gives a result, not very flattering possibly to their advance in ecclesiastical taste, but, when the circumstances of the parish are considered consistent, on the whole, with reason and common sense. The suit affords at all events a strong testimony to the superiority of such a tribunal as the Court of Chancery over Diocesan Courts, for the determination of causes like *Cardinall v. Molyneux*. It would have been impossible to have found in any of the latter a judge of so great authority, learning, and experience, as a Vice-Chancellor. In the present case, indeed, all the parties to the suit, and all the friends of the Church, are under no little obligation to the Vice-Chancellor Sir John Stuart, for the signal moderation and regard for the interests of the Church, and for the pains which he took to compose differences, throughout this bitter and troublesome contest.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

IX. (Continued.)

As Scotland may, for many legal purposes, be considered as a foreign country, it is as well to observe that it has been held that the statute of limitations runs against a party who had contracted a debt in England by simple contract, and come to Scotland where he remained domiciled. *Gibson v. Stewart*, Dec. of Court of Sess., vol. 9, p. 525. It has also been held that where money was lent on a bond in the English form, the transaction taking place between parties domiciled in England, and the obligor afterwards gave a heritable bond charging lands in Scotland, the English bond was a mere personal security, and did not merge in the *jus nobilitatis*. *Cust v. Goring*, 18 Beav. 383. *Lamb v. Lamb*, 5 W. R. The priorities of creditors also are regulated by the domicil of the testator, though his personal estate may be situate and administered in another country. *Wilson v. Lord Dunsany*, 18 Beav. 293.

A most important, as well as interesting part of this subject is with regard to marriages celebrated in a foreign country, and more especially where both the ceremonial and the actual ability of contract are not valid according to our law. Now, in the former case, there can be little doubt, and indeed, I believe, it is admitted, that a marriage contracted according to the *lex loci* is good, supposing the parties may legally contract such marriage, according to the provisions of our law—the only exception being where such foreign country is a colony appendant to Great Britain, in which case the law of Great Britain would apply

not only to the marriage (as affecting the parties to it), but to the actual ceremony. But in the latter, it is now well settled that nothing can make a marriage between British subjects legal, which marriage is not legal according to our law; and although it may be a perfectly good marriage as long as they remain within the pale of those foreign states, (so far, that is, as any question may there arise,) by the laws of which it is declared to be lawful, it becomes bad, or rather the law attaches (for it always was bad by our law) the moment they come within our jurisdiction. As regards Scotland, the law on this subject, as indeed in many others, is, as regards that country, in a very anomalous state. The Act 5 & 6 Wm. 4, c. 54, which has made the marriage with a deceased wife's sister void, does not extend to Scotland; and indeed, it was quite unnecessary that it should, inasmuch as such marriage, though the ceremony may take place unquestioned, is penally recognised when once contracted, and punished accordingly, very much in the same way as bigamy in England; the marriage, so far as the relative position of the parties goes in consanguinity, is good; but the man by reason of a previous act, the consequences of which are still subsisting consequences, is disabled from contracting it, that is, he renders himself penally liable if he does so. So that a man domiciled in England may marry his deceased wife's sister in Scotland; but the moment he is indicted under the Scotch law, plead that it is no marriage. This subject, however, is fully discussed in a case of *Brook v. Brook*, of which I insert an extract from a report in the Weekly Reporter, 6 vol. p. 110. This case came before the Vice-Chancellor Stuart and Mr. Justice Cresswell, and was argued in March, November and December, 1857, and the following were the facts:—B. by his first wife C. who died in 1841, had one son and one daughter. In 1851, he being then a domiciled English subject intermarried in Denmark with E. the sister of his deceased wife (such marriage being valid according to the *lex loci contractus*) by whom he had one son and two daughters. By his will, dated in 1855, he gave all his real and personal estate among the children of both marriages in certain proportions. The testator B. and his second wife E. died in 1855, and the son of their marriage in 1857. The question then arose whether the share of this son in B.'s estate went, as to the realty to B.'s son by the first marriage, and as to the personalty to all B.'s children equally, or whether such share, both as to realty and personalty, passed to the Crown by reason of the invalidity of B.'s second marriage in this country, and consequent illegitimacy of the issue.

Upon the effect of a foreign contract the following authorities were referred to:—*Buller v. Freeman*, 1 Amb. 301; *Compton v. Bearcroft*, cited 2 Hagg. Cons. Rep. 443; and "*Buller's Nisi Prius*," 6th ed. 113; *Fenton v. Livingston*, 18 Fraser; and "*Story's Confli. of Laws*," ss. 66a, 97, 98, 112, 123, & 123a. The writer last mentioned showed that such marriages as the present, if valid in the country where celebrated, must be equally so in all other countries by the comity of nations. Sir F. Kelly also cited *Ruding v. Smith*, 2 Hagg. Cons. Rep. 371; *Thompson v. The Advocate-General*, 13 Sim. 153; s. c. 12 Cl. & F. 1; *Roach v. Garvan*, 1 Ves. sen. 157; *Middleton v. Janverin*, 2 Hagg. Cons. Rep. 437; and "*Story's Confli. of Laws*," s. 124.

On the other hand, the 26 Geo. 2, c. 33, for the better prevention of clandestine marriages, was for a century evaded, by parties intending to marry going to Scotland or abroad. Two years after the passing of that Act Lord Hardwicke held, although the words of that enactment were stronger than those of 5 & 6 Wm. 4, c. 54, that it did not affect the marriage of British subjects in foreign countries. This distinction was very strongly remarked upon by Lord Brougham, in 11 Cl. & Fin. 150-1. The following authorities were

also referred to:—"Story's Conflict of Laws," 115; *Medway v. Needham*, 16 Massachusetts Reports, 157; *Dalrymple v. Dalrymple*, 2 Hagg. Cons. Rep. 58; *Herbert v. Herbert*, ib. 263; 3 Phill. Eccl. Rep. 58, *Scrimshire v. Scrimshire*, 2 Hagg. Cons. Rep. 395; *Lacon v. Higgins*, 3 Stark. 178. "Story's Confl. of Laws," s. 121; 25 Hen. 8, c. 22; 4 Wm. 3, c. 3, and 2 Anne, c. 6. *Huber Prelectiones Juris Romani et Hodierni*, in "*De Conflictu Legum*," p. 2, h. 1, tit. 3, ss. 3, 8, et seq. ed. 1689. *Jefferys v. Boosey*, 4 H. Lds. Ca. 815; *The Attorney-General v. Forbes*, 2 Cl. & Fin. 48; *Thompson v. Advocate-General*, 12 Cl. & Fin. 1; *Arnold v. Arnold*, 2 Myl. & Cr. 256, 270; and the dictum of Pollock, C. B., in *Jeffery v. Boosy*, ubi supra, 939; and that of Lord Cottenham, C., in *Arnold v. Arnold*, 270; and to *Regina v. Chadwick*, 11 Q. B. 173. *Conway v. Beazley*, 3 Hagg. Eccl. Rep. 651; *Warrender v. Warrender*, 2 Cl. & Fin. 488, 530; *Rex v. Lolley*, Russ. & Ry. C. C. 237; *Greenwood v. Curtis*, 6 Massachusetts Rep. 378, 379; "Story's Confl. of Laws," s. 97 (opinion of Lord Meadowbank there cited), and ss. 100, 103, 104. "Story's Confl. of Laws," ss. 20, 262, 291; "Voet's Commentaries," h. 1, tit. 4, ss. 1, 2, et seq. *Shedden v. Patrick*, 5 Paton's App. Cas. 194; s. c. 1 Macq. Ho. Lds. Ca. 535; *Birtwhistle v. Vardill*, 2 Cl. & Fin. 571; 7 Cl. & F. 918, 935; *Munro v. Munro*, ib. 842. "Burge's Commentaries on Colonial and Foreign Law," p. 1, ch. 5, s. 1147. Huber (lib. 1, tit. 3, "*De Conflictu Legum*," s. 2, 538) on the comity of nations as applicable to this subject has this passage:—"That the rulers of every empire from comity admit that the laws of every people in force within its own limits ought to have the same force everywhere so far as they do not prejudice the powers or rights of other governments or of their citizens." By the comity of nations, a foreign country is bound to take the rule of our own law on this subject as applicable to our own domiciled subjects. *Rose v. Rose*, 4 Wils. & Shaw. 289; *Harford v. Morris*, 2 Hagg. Cons. Rep. 423; *Scrimshire v. Scrimshire*, ib. 407. *McCarthy v. Decaix*, 2 Rus. & Myl. 614; *Sherwood v. Ray*, 1 P. C. C. 353, 396; *Forbes v. Cochrane*, 2 Bar. & Cress. 448, 470; *Ray v. Sherwood*, 1 Curt. Eccl. Rep. 173, 193. Saint Joseph, 2 Concordance entre les Codes Civils Etrangers, 139. In *Male v. Roberts*, 3 Esp. 163, Lord Eldon held that the law of the country where the contract arose must govern the contract. In that case the cause of action accrued in Scotland, and infancy was pleaded, and it was decided that the defendant must show that infancy was a legal defence to the demand by proving the law of Scotland in that respect. So also, in *De la Vega v. Vianna*, 1 B. & Ad. 284, which was a suit between parties resident in England on a contract made between them in a foreign country, it was held that the contract must be interpreted according to the foreign law. Stuart, V.C., (Nov. 25), said that the case was by far too important to be dealt with except upon mature consideration. On the 4th December, Cresswell, J., delivered his opinion upon the case stating the facts, and observing upon the various authorities and arguments adduced: his lordship observed that Sir George Hay, in pronouncing judgment in *Harford v. Morris*, 2 Hagg. Cons. Rep. 423, expressed an opinion that marriages of English subjects having an English domicile celebrated in other countries have been held valid—not merely because they would be valid according to the laws of those countries, but because they were not contrary to the law of England. In p. 434 he says, "I do not say that foreign laws cannot be received in this court in cases where the court of that country had a jurisdiction, or that this court would not determine upon those laws in such a case. But I deny the *lex loci* universally to be a foundation for the jurisdiction, so as to impose an obligation on the Court to determine by those foreign laws." The judgment in that case was reversed, but upon grounds wholly irrespec-

tive of the opinion above cited. It therefore remains of such value as the reputation of the learned judge by whom it was pronounced can give to it. And in *Warrender v. Warrender* 2 Cl. & Fin. 488, 530, there are some passages in the judgment delivered by Lord Brougham which throw much light on this question. In one place he says, "The general principle is denied by no one that the *lex loci* is to be the governing rule in deciding upon the validity or invalidity of all personal contracts. But the rule extends, I apprehend, no further than to the ascertaining of the validity of the contract, and the meaning of the parties; that is, the existence of the contract, and its construction." The case of *Reg. v. Lolley* (ubi supra), although not directly in point, almost compels one (if it be good law) to adopt that opinion. The case was this:—An Englishman married in England. He afterwards went to Scotland, and obtained a divorce there, which according to the law of that country dissolved the marriage. He then returned to England, and married another woman, leaving the first wife, for which he was indicted, tried, and convicted. The propriety of that conviction was argued by very able counsel before the twelve judges, and, by their unanimous opinion, was held to be correct. The learned judge then went on to say, "There are some passages in 'Huber's Prelectiones Juris Civilis' which show that, in his opinion, the *comitas gentium* did not require so large an effect to be given to foreign law. In his chapter '*De Conflictu Legum*' he states, in s. 2, three axioms:—1. *Leges cujusque imperii vim habent intra terminos ejusdem reipublice, omnesque ei subjectos obligant, nec ultra.* 2. *Pro subjectis imperio habendi sunt omnes qui intra terminos ejusdem reperiuntur, sive in perpetuum sive ad tempus ibi commorentur.* 3. *Rectores imperiorum id comiter agunt ut jura cujusque populi intra terminos ejus exercita, teneant ubique suam vim quatenus nihil potestati aut juri alterius imperantis ejusque civium prejudicetur.* There is nothing in the case of *Roach v. Garvan*, Ves. sen. 157, to show that if the parties had been British subjects domiciled in England, and it had been contrary to our law, and the courts of this country had been called upon to adjudicate with regard to it, they would have held it valid. The next case in order of time was *Scrimshire v. Scrimshire*, 2 Hagg. Cons. Rep. 395." In a subsequent part of the judgment he continued, "I have found nothing to justify giving the more extensive meaning of the words of Lord Stowell except some passages in Mr. Justice Story's work on the '*Conflict of Laws*,' and a decision cited by him from the reports of the Court of Massachusetts; and perhaps this greater force given in one of the United States to the laws of another at variance with its own may be accounted for by the greater inclination that would naturally exist to give a larger scope to the *comitas gentium* between the different states of the Union than could be expected to find place amongst nations wholly independent of, and unconnected with, each other. I have therefore come to the conclusion that a marriage contracted by the subjects of a country in which they are domiciled in another country is not to be held valid if by contracting it the laws of their own country are violated." Vice-Chancellor Stuart subsequently delivered judgment, in which he concurred substantially with the opinion delivered by Mr. Justice Cresswell.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

CENTRAL CRIMINAL COURT.

The sittings of the Central Criminal Court for the April session were resumed on the 8th inst. before the Right Hon. W. Cubitt, M.P., Lord Mayor of the city of London; Mr. Rus-

sell Gurney, Q.C., the Recorder; Aldermen Challis, Sir F. G. Moon, Hale, Allen, and Dakin, Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Lusk, Mr. Under-Sheriff Eagleton, Mr. Under-Sheriff Gammon, &c.

Mr. Herbert Arrott Browning has been appointed to a clerkship in the Duchy of Lancaster.

The office of resident assistant commissioner of the copyhold enclosure commission has become vacant by the death of Colonel Robert K. Dawson, C.B.

The recordership of Leeds has become vacant by the death of Mr. Thomas Flower Ellis, barrister-at-law, who died at his residence in London on the 5th instant. The Attorney-Generalship of the Duchy of Lancaster has also become vacant by the same sad event.

It is stated that Mr. Edwin James, Q.C., has resigned the recordership of Brighton. The salary is £200 per annum.

Parliament and Legislation.

HOUSE OF LORDS.

Tuesday, April 9.

LUNACY REGULATION BILL.

In the absence of the Earl of Shaftesbury the committee on this Bill was postponed.

BANKRUPTCY AND INSOLVENCY BILL.

This Bill having been read a first time,

The Earl of DENBY thought it would be advisable to refer the Bill to a select committee, as a Bill of so complicated a character could be better considered by a committee composed of noble lords who took an interest in legal and mercantile subjects, than by a committee composed of the entire of their Lordships' house.

The LORD CHANCELLOR opposed referring the Bill to a select committee, as he had every reason to believe it would receive a full and satisfactory consideration without the intervention of a select committee.

Tuesday next was then fixed for the second reading.

Thursday, April 11.

PRIVATE BILLS.

Lord REDESDALE moved the following resolutions:—

* That no private Bill brought from the House of Commons shall be read a second time after Tuesday, the 9th day of July next;

"That, no Bill confirming any provisional order of the Board of Health, or authorizing any enclosure of lands under special report of the enclosure commissioners for England and Wales, or for confirming any scheme of the charity commissioners for England and Wales, shall be read a second time after Tuesday, the 9th day of July next;

"That when a Bill shall have passed this House with amendments, these orders shall not apply to any new Bill sent up from the House of Commons which the chairman of committees shall report to the House is substantially the same as the Bill so amended."

The resolutions were agreed to.

Lord REDESDALE said the House having agreed to these resolutions, he wished to state that he would not give notice of any similar resolution regarding public Bills. He had come to this conclusion, not because he had changed his opinion on the subject, but because he thought it better to see what recommendations would be made by the committees of both Houses now sitting on the public business. The resolution came to formerly on this subject had been disapproved by several members; but he could show a precedent for it in the proceedings of their lordships' House as far back as 1668.

HOUSE OF COMMONS.

Monday, April 8.

BANKRUPTCY AND INSOLVENCY BILL.

On the motion that this Bill be read a third time,

Mr. VANCE said that there was still a strong objection to that provision of the Bill which took away nearly altogether the power of supervision from the official assignee. He hoped that the provision in the Bill, in respect to the new act of

bankruptcy created by persons suffering execution to be levied on their property, would be altered; for it took away all the reward to which a man might be entitled for diligence in proceeding against his debtor.

The Bill was then read a third time and passed.

Wednesday, April 10.

NEW SITE FOR LAW COURTS.

The ATTORNEY-GENERAL gave notice that on Thursday, the 18th inst., he should move for leave to bring in a Bill or Bills to provide for the concentration in one place of all the superior courts of law and equity, including the Courts of Admiralty, Probate, Divorce, and Bankruptcy, and the offices connected with them, and for the application of certain funds of the Court of Chancery for the purchase of the site of such courts and offices, and for the erection thereof.

Thursday, April 11.

NEW WRIT.

On the motion of Mr. BRAND, a new writ was ordered for the borough of Marylebone, in the room of Mr. Edwin James, who since his election has accepted the office of steward of the manor of Northstead.

ADMIRALTY COURT JURISDICTION BILL.

The Admiralty Court Jurisdiction Bill [Lords] passed through committee.

COMMON LAW PROCEDURE ACT (1854).

Mr. LOCKE obtained leave to bring in a Bill to extend the Common Law Procedure Act (1854); and the Bill was read the first time.

PENDING MEASURES OF LEGISLATION.

VOLUNTEERS.

A BILL TO EXEMPT THE VOLUNTEER FORCES OF GREAT BRITAIN FROM THE PAYMENT OF TOLLS.

1. From and after the passing of this Act all volunteer officers and soldiers being in uniform shall be exempted from payment of any dues, duties, pontage, or tolls on embarking or disembarking from or upon any pier, wharf, quay, or landing place, or in passing over or along any turnpike or other roads or bridges, any Act or Acts to the contrary notwithstanding.

2. No toll or pontage shall be demanded or taken at any turnpike gate or bar or at any bridge for any horse, mare, gelding, carriage, waggon, cart, or car ridden by, drawing, or conveying any volunteer officer or soldier who shall at the time be wearing uniform, or conveying any baggage belonging to any volunteer officer or soldier, anything in any Act or Acts to the contrary notwithstanding.

3. Any toll collector or other person who shall take, demand, or receive any toll whatsoever from any volunteer officer or soldier, being in uniform, either for himself or for any horse, mare, gelding, carriage, waggon, cart, or car on or in which he may be riding, or which may be conveying any baggage belonging to any volunteer officer or soldier, shall, on conviction by any justice of the peace, forfeit and pay for every offence a sum not exceeding five pounds nor less than twenty shillings.

4. Any person who shall falsely personate or represent himself to be a volunteer officer or soldier with the view fraudulently of evading any toll to which he would otherwise be liable, shall, on conviction by any justice of the peace, forfeit and pay for every offence a sum not exceeding five pounds nor less than twenty shillings.

PUBLIC CHARITIES.

A BILL TO FACILITATE THE APPOINTMENT OF NEW TRUSTEES IN PUBLIC CHARITIES.

1. Provides that the Act shall apply to all public charities (not incorporated) in England and Wales.

2. Where any vacancy in the number of trustees in whom any property may be vested, shall have happened, and persons duly qualified to fill such vacancy shall have been elected a certificate of such election, and that it was legally made according to the form or to the effect mentioned in Schedule A of the Act signed by the chairman for the time being of the meeting at which such election shall be made, and attested by two witnesses, together with a solemn declaration made by such chairman as aforesaid, in pursuance of the fifth and sixth of King William the Fourth, and according to the form or to the effect contained in Schedule B. of the Act may, with-

in three calendar months after such election shall have been made, be presented to the judge of the county court of the district wherein such charity is situate; and within one calendar month after the receipt of such certificate of election and declaration the said judge shall issue a certificate of confirmation under his hand and the seal of his court, according to the form contained in Schedule C. of the Act, and such certificate of confirmation, with such certificate of election and declaration thereto annexed, shall be registered in the office for the general registration of the judgments of county courts, and on such registration such certificate of confirmation shall, in the absence of evidence to the contrary, be received as conclusive evidence of such certificate of confirmation having been signed by the said judge, and sealed with the seal of the said court, and of its having been registered as aforesaid, and of the truth of all the facts, matters, and things contained in such certificates of confirmation and election and declaration, and of the provisions of this Act having been duly complied with.

3. On the registration of such certificate of confirmation, with such certificate of election and declaration thereto annexed, all property vested in trustees in trust for such charity shall vest in the trustees named in such certificate of election and declaration: provided that no copyhold or customary lands holden in trust for such charity shall vest in such trustees until the consent in writing of the lord or lady of the manor whereof such lands shall be holden shall have been entered on the court rolls of such manor, together with a memorandum of such certificate of confirmation as aforesaid.

4. Where any trustees of any public charity in whom any property is vested in trust for such charity shall be desirous of retiring from such office of trustee, or for the space of twelve consecutive calendar months shall have been absent from the United Kingdom of Great Britain and Ireland, in either of such cases a vacancy shall be deemed to have happened in the number of the trustees of such charity, and it shall be lawful for the person or persons duly authorized to fill up any vacancy to elect or appoint a trustee or trustees in the place of such retiring or absent trustee.

5. Provides for the payment of the fees and states the effect of the registrar's certificate.

Recent Decisions.

REAL PROPERTY AND CONVEYANCING.

EQUITABLE MORTGAGE POSTPONED TO UNDISCLOSED PRIOR TRUST.

Stackhouse v. The Countess of Jersey, V. C. W., 9 W. R. 453.

The danger of taking an equitable mortgage, where the property mortgaged may be subject to an undisclosed trust, has been illustrated by several cases; but it seems that the convenience of the practice is thought to counteract its insecurity, and bankers persevere in lending money upon deeds with almost as much confidence as upon bullion. A remarkable example of the danger of this practice was furnished by the case of *Manningford v. Toleman* (1 Coll. 670), in which a very curious state of circumstances came before Vice-Chancellor Knight Bruce. There had been a marriage of a lady whose fortune was under the control of the Court, and the arrangements which enabled the husband to commit a fraud were made with the sanction of the Master. A sum of £2,000 was paid to the husband out of Court, upon his undertaking to apply it in the purchase of a suitable house for himself and wife, which he was to convey to the trustees of his marriage settlement upon certain trusts. He purchased a house accordingly, and having procured it to be conveyed to himself in fee, he deposited the title-deeds with his bankers, as a security for advances, without notice to the bankers of the trusts of the settlement. It was held that the trusts must prevail against the bankers' lien. Vice-Chancellor Knight Bruce said he thought that at the moment of the purchase a trust was fastened upon the property. "Consistently with all the authoritative decisions since the Statute of Frauds, the estate was bound by the trust. The husband was as completely a trustee of it as if he had executed a declaration of trust, not conveying the legal estate. The trustee thus holding the trust property pledged it for a debt of his own. According to the principles of this Court, and the course of decisions, the prior trust must prevail." The bill had been brought by the bank to establish its lien, and the Vice-Chancellor asked the plaintiffs' counsel whether they were willing to give up the

deeds, and upon their agreeing so to do, the bill was dismissed without costs. It is to be observed that the Court did not go into the question whether the bank had notice, but decided against it on the assumption that it had none. It would seem, however, that, supposing the bank to be innocent, the Court would not have taken the deeds away from it, although it would not have been allowed to make any beneficial use of them. The trustees, who had got the legal estate by conveyance from the husband, would probably have been left to recover them by an action.

The lesson which the above case ought to have inculcated on bankers has been renewed in a very striking manner by the recent case which has suggested this article. That case arose out of a fraud perpetrated by the too well known solicitor John Edward Buller. The plaintiff, Mrs. Stackhouse, and her sister, who was Buller's wife, became entitled, on the death of their mother, to £1,000 each. Both sums were received by Buller, and on Dec. 3, 1849, were advanced by him in one sum on mortgage in his own name. In July, 1851, Mrs. Stackhouse was for the first time informed, by a letter from Buller, that her money had been thus employed. Interest was paid to her, and upon her marriage, in January, 1856, Buller paid to her £100, and executed a declaration of trust of the remaining £900. The trustees of her marriage settlement frequently applied to Buller for the deeds relating to the mortgage, but were from time to time put off with promises. They applied to the mortgagor, who told them that he continued to pay interest to Buller, and had received no notice of any charge. Buller absconded and was declared bankrupt, and the plaintiffs then discovered that he had in March, 1854, deposited the mortgage deed at Child's bank as security for advances to him. Mrs. Stackhouse and her trustees had filed this bill to establish their right to the £900, in priority to any claim by the defendants. Messrs. Child, as equitable mortgagees. The substantial question between the parties could not, after *Manningford v. Toleman*, and other cases, be open to any serious doubt. Vice-Chancellor Wood said that Buller by his letter of July, 1851, had clearly recognized the trust. Unless there was such negligence as to deprive the plaintiffs of their right to the money secured by the deed, the deposit of that deed by the trustee gave no interest whatever to the bankers. This decision proceeded on the plain principle that a person could not pass that which was not his own. There had been no negligence. Buller was entitled in right of his wife to half of the money secured by the deed, and, therefore, it was not easy to say how he could have been compelled to deliver up the deed except by removing him from the trust. The application to the mortgagor did not elicit anything calculated to excite suspicion. If, therefore, this had been merely a question as to a fund *in medio*, the case would have been of the simplest character. Between two innocent parties, each having merely an equitable title, priority in time must decide the right. Messrs. Child would, therefore, lose their money, although the transaction was as prudent and business-like on their part as any transaction of the kind could be. We can only say that it is wonderful that such transactions should take place every day in the face of decisions which declare the risks in which they are involved. But although the principle which governed the case was so very clear, the Vice-Chancellor felt a good deal of difficulty from the frame of the suit and what had taken place since it was instituted. The suit was simply against the bankers, and the mortgagor was not a party to it. It asked for a declaration that the bankers were not entitled to an equitable charge on the mortgage debt of £2,000 for more than the £1,000, which belonged to Buller, and that the £900 belonged to the plaintiffs, for whom the defendants were in the nature of trustees. Now, if the suit had remained in this shape, the question would have arisen whether, unless the Court was prepared to disregard the decision of Sir Edward Sugden in *Joyce v. De Moleyns*, 2 Jo. & Lat. 374, the defendants were not entitled to have the bill dismissed on the ground that they were purchasers for value without notice of the plaintiffs' right. In order to understand the difficulty which thus arose it will be necessary to ascertain what Sir Edward Sugden's decision was.

In *Joyce v. De Moleyns*, a testator who died before the new Wills Act, devised all his right and interest in certain tithes to his second son W. At the time of making his will the testator was entitled to an equitable estate in fee simple in the tithes. The legal estate in fee was afterwards conveyed to him. Upon his decease administration with the will annexed was granted to his eldest son and heir-at-law, F., who obtained possession of

the deed of conveyance of the legal estate in the tithes and deposited it with certain bankers by way of equitable mortgage. This deposit was made without the knowledge of W., who from the decease of the testator had been in possession of the tithes, and had frequently applied to F. for the deed, but could not obtain it. The bill was filed by a bond creditor of the testator for administration of his estate, and it prayed that the bankers might be decreed to deliver up the deed. The bankers by their answer insisted that they were purchasers for valuable consideration without notice of the will of the testator, or of the title of any person claiming thereunder, or of the demand of the plaintiff. Lord Chancellor Sugden said it was clear that the persons entitled to the tithes might maintain trover for the deeds. There was no question as to their title to recover at law; but his Lordship apprehended that the defence of a purchase for value without notice was a shield as well against a legal as an equitable title. "I think," said he, "that the mere circumstance that this is a legal right is not a bar to the defence set up, if in other respects it is a good defence. That it is a good defence cannot be denied. Suppose a tenant for life under a will with remainder over, and that the tenant for life, being the heir-at-law of the testator, conveys the inheritance to a purchaser without notice, the remainder-man cannot have any relief in equity against the purchaser. He must establish his title outside of this Court as well as he can. It is the same with respect to title-deeds. Deeds are chattels; and, where no adverse claimant interferes, the person entitled to the estate is entitled to the deeds. But the person who has possession of the deeds may deal with them as with any other chattels, subject to the rights of those who are interested in them. Here a person obtains the possession of title-deeds, having no title to the estate. Another person advances money to him upon the security of a deposit of the deeds. The rule, therefore, comes into operation (for it applies equally to real estate and to chattels) that if a man advance money, *bonâ fide* and without notice of the infirmity of the title of the seller, he will be protected in this Court, and the parties having title must seek relief elsewhere. . . . The defendants use the possession of the deeds, as they have a right to do, as a shield to protect them against the plaintiff. They can make no use of the deeds themselves; they cannot maintain possession of them against the true owner. But in this Court they have a right to say that they ought not to be compelled to deliver them up, as they obtained them *bonâ fide*, and without notice." The bill was dismissed as against the bankers with costs. The soundness of the above decision appears to be questioned in two respects. 1st, Lord Cottenham says in *Fraser v. Jones*, 17 L. J. N. S. Ch. 353, that it is the only instance in which a party claiming only an equitable interest has been held entitled to protect himself on the ground of being a purchaser without notice. 2nd, Vice-Chancellor Wood suggested, in the case we are now discussing, that the plaintiff in *Jones v. De Moleyns* may have been entitled to a declaration of right, although he may not have been entitled to compel the defendants to deliver up the deeds. He thought, that in the case before him, either the mortgagor might have filed a bill in the nature of a bill of interpleader, and the fund being thus brought in *medio*, the question must have been decided in the plaintiffs' favour; or the plaintiffs might have filed their bill against the mortgagor and the bankers to have a declaration of their right in the presence of the mortgagor to this money. If *Joyce v. De Moleyns* was an authority against the plaintiffs' right to such a declaration, his Honour was not disposed to follow it.

This is how matters stood upon the bill as originally framed. Pending the suit, however, the mortgagor being desirous of paying off the mortgage, leave was obtained for him to pay the money into court. If hereupon the bill had been simply amended and had asked for the decision of the Court upon the fund thus brought in *medio*, payment would have been directed to the plaintiffs as having the better right. But the amended bill stated that the defendants had by arrangement delivered the deeds to the mortgagor, and the £900 had been paid into court "without prejudice to the question originally raised in this suit." The defendants relied on these words as entitling them to the benefit of whatever argument they might have founded on the actual possession of the deeds, and the Vice-Chancellor seems to have felt it his duty to look at the case as it had stood upon the original bill. The substance of his decision appears to be, that in some way or other the plaintiffs could have got the relief they sought, and, therefore, he gave it on the present bill; but, in consideration of the doubts as to the frame of that bill, he did not give costs.

COMMON LAW.

LAW OF EVIDENCE—EFFECT OF ADMISSIONS.

Haller v. Worman, 9 C. P., W. R. 348. *Tupper v. Foulkes*, ib., 349.

These are two cases upon the law of evidence, as affected by admissions, and therefore, though otherwise unconnected, they shall be considered together.

The general doctrine with respect to "admissions" is that they are received as evidence in substitution for the ordinary and legal proof (see Taylor, 2nd ed. s. 653); and one class of such substituted proof are statements relevant to the issues which have been made by the legal advisers of the parties to the record. If an admission be expressly made by the attorney of one of them, for the purpose of alleviating the stringency of some rule of practice, or of dispensing with the formal proof of some fact at the trial (as in the case of documents admitted in consequence of a "notice to admit"), it binds the client conclusively throughout the cause; and even where not made with such object, but as it were incidentally, such statement is often considered as raising an inference respecting the existence of facts which the opposite party would otherwise have been called upon to prove (see, for example, *Milward v. Temple*, 1 Camp. 375). On the other hand, admissions by an attorney respecting his client in a mere conversation cannot be received, as his agency is only for the management of the cause in court (see *Petch v. Lyon*, 9 Q. B. 147). Such being the rules with regard to admissions by the party's attorney, those made by his counsel stand on much the same footing: for where a special case is signed by the junior counsel on both sides, the facts therein are regarded as admitted for the purpose of any ulterior proceedings (*Van Wart v. Wolley*, R. & M. 4); and when the counsel on both sides so conduct a cause as to lead to an inference that a certain fact is admitted between them, it will thereafter be taken as true (*Stracy v. Blake*, 1 M. & W. 168). Indeed, in one case where the plaintiff's counsel stated in his opening that his client had paid a particular cheque, the defendant was allowed to give secondary evidence of its contents (after a notice to produce) without proving in any other way that it was in the possession of the plaintiff. This was the case of *Duncombe v. Daniell* (8 C. & P. 222); but on the other hand in *Colledge v. Horn* (3 Bing. 119), it was said to be a question of much doubt whether the defendant (a new trial having been ordered) might dispense with proof of part of his case on the ground that the plaintiff's counsel had in the former trial admitted it in his opening address while in the presence of his client. With regard to the case of *Colledge v. Horn* (the decision itself in which was not in reference to the point now under consideration), it may be here remarked that one of the judges, Mr. Justice Burrough, stated incidentally his opinion to be that if a plaintiff was in court and heard what his counsel said and made no objection, he was thereafter bound by the statement. And Mr. Taylor, in his work upon Evidence (s. 709), observes, commenting on this dictum, that if Mr. Justice Burrough's view is the correct one, "some learned members of the profession, if duly watched, will often save their adversaries much trouble in the way of proof." Now, the first of the two cases above referred to, viz., *Haller v. Worman* (which was an action to recover some deeds in which the defendant had pleaded, *inter alia*, *non detinet*), justifies this remark. For the defendant's counsel having, in support of a summons to change the venue, admitted, in the presence of the clerk of the defendant's attorney, that his client had the deeds in question, and claimed a lien thereon, this admission was received by the judge at the trial in support of the plaintiff's side of the issue joined; and the Court, supporting this ruling, observed that the statement made, was one made by counsel in the discharge of his duty in order to influence the judge in favour of his client, and that it was equally a statement of the attorney represented by his clerk; for that if the statement made by counsel were incorrect, it was the attorney's duty to set it right at the time.

As to the second case, *Tupper v. Foulkes*, it may be thought somewhat to impugn the accuracy of another passage in Mr. Taylor's work that, viz., wherein he states (s. 907) as a general proposition, subject to no exception, that in order to authorize an agent to execute a deed for his principal the authority must be given by an instrument under seal; and that when he has not been authorized in that manner, a parol ratification by the principal of the deed will not give it validity. In the present case, the defendant was sued on a deed of indemnity, and he pleaded, *inter alia*, *non est factum*. It appeared that the defendant's son had executed the deed in his father's name; and that the defendant, on being subsequently brought into the

room, and asked if his son had his authority to execute the deed for him, said that he had. It was objected at the trial that it must be shown that the son was authorized by deed; but the judge held that the defendant was bound by his admission that his son had proper authority. Now, this decision appears at first sight to be at variance with the proposition with which Mr. Taylor concludes in the passage above adverted to; for he there says, "and it seems that evidence of the implied, if not of the express recognition or adoption of the deed by the principal, will not, even as against him, raise a presumption that the agent was thus formally authorized to act, so as to dispense with the necessity for proving that fact;" for which he cites *Lord Gosford v. Robb* (8 Ir. Law Rep. 217).

But it is to be remarked that in the first place Mr. Taylor only says "it seems," and secondly, that the present action was against the principal himself, and not against other parties affected by the instrument, with regard to whom the law may probably be as Mr. Taylor supposes. And this is the more likely when the grounds for the present decision are considered. For the argument seems to have turned upon a point overlooked by Mr. Taylor—viz., that as against the principal there would be an estoppel from afterwards denying the proper authority to have been given, arising from his admission at the time (see *Doe d. Birmingham Canal Co. v. Bold*, 11 Q. B. 127). Moreover, in the present case, there was an act by the defendant which went beyond a mere "recognition or adoption" of the instrument. There was an actual *re-delivery*; for it is laid down in the books that if a deed already executed be lying on a table, and I say, "take that as my deed," it is sufficient without taking it into my hands—for "not only may a deed be delivered by deeds without words, but also by words without deeds" (see *Shep. Touch.* p. 37).

Correspondence.

EXAMINATION OF ARTICLED CLERKS.

I feel bound to testify my gratitude to you for your article on this subject, published in your number of March 30th. I am quite satisfied you understood my letter, inserted in the same number of your Journal, in a very different spirit from that exhibited by your flippant correspondent of this week; whom I may tell that if my education has taught me nothing else it has taught me to be courteous and civil to others, though strangers and unknown—a habit it is evident this young Nemesis has yet to acquire. It is not usual, I believe, in polite society to tell a gentleman what position in life you think he is fit for, or if two differ in opinion, for one to tell the other he is absurd; the first would, I apprehend, be considered gratuitously impertinent, and the other an expletive notorious for anything than its elegance. But I am not inclined to be so severe upon inexperience, and therefore pass on to the object of my letter.

I have not been able to procure through my bookseller "Brown's Smaller Work on Mental Physiology," and "Adam Smith's Ethical Histories," two of the works recommended in your article for perusal. You will therefore increase my obligation to you by a line in your next week's paper informing me where they may be procured.

My only apology for thus troubling you must be the interest you exhibit on behalf of artied clerks, and my inability to obtain the books through the usual channel.

AN ARTICLED CLERK.

[Sir James Mackintosh wrote a history of Ethics, which has been edited by Dr. Whewell. Adam Smith's history of Moral Systems is part of his larger work on the Theory of Moral Sentiments. The Historical Survey of Speculative Philosophy of Chalybæus (Tulk's translation) is the best work of the kind on Metaphysics. Our publisher, we have no doubt, will procure any of these books for subscribers.—ED. & J.]

LEGAL EDUCATION.

My letter in your impression of the 30th ult. has been replied to (on the 6th inst.) by another "Artied Clerk." He first taxes me with mistaking the whole matter. Now I appeal to anyone if I pretended to understand the report of the committee of the Law Society? But if I did fancy I interpreted it rightly, I have erred in good company. Look at the letters in your columns of "An Artied Clerk," on the 30th ult., "W.

P. B.," and "B." on the 23rd ult., "A. B." on the 9th, besides, I believe, every other writer but "An Artied Clerk," and your leading article of the 30th ult., where you say, "it is at present proposed that every candidate must pass in Latin, and either Greek, French, German, mathematics, or physics" (whatever the latter may mean). Another "Artied Clerk" says, in the face of this, that "probably a second perusal of the report will convince" me "that neither Greek nor German are absolutely necessary requirements, and they will only be expected from those candidates who fail in other and less difficult subjects." My words were, "it seems to me that a great many persons duly qualified will be deterred from offering themselves." I went on to say that, as I understood the report, Xenophon and Schiller seemed essential, and I so repeat; for the class on whose behalf I write cannot possibly possess much, if any, knowledge of Latin, French, and the other two, and will consider that they must cram in the other languages referred to, to cover their deficiencies in these. But, as I said before, I did not pretend to understand the report; and the main fact is, as well stated by "B.," "If we are to have such absurdity as a classical education, surely it ought to be reduced to a minimum." That the council of the Law Institution represent the views of the profession generally is a fallacy; that they do in this particular respect, I question. "B." says truly, "Are we (the solicitors) to have no artied clerks at all in future?" That is really the question. Premiums are now almost unheard of, salaries often required; but what clerk paying no premium, or wanting a salary, can pass this examination? Clearly, not one. All your correspondents agree in this respect. You say in your article before referred to, many "of your correspondents who desire to avail themselves of the ten years clause may" "find it extremely difficult to pass such an examination as would be very proper for lads who have just left school;" and yet that is what the committee actually propose!

X. Y. Z.

Writing as I do on the weak side and representing those who do not put themselves forward to be heard against the feeling of the dons of their profession, I claim pardon if I express myself too forcibly. Numbers are against us; the Legislature and the Law Institution are too strong for us; the pretended and would-be organ of the country solicitors will not let us be heard; and it is in your columns alone we can get even an audience. Encouraged in seemingly so hopeless a conflict by various admirable passages in an article recently appearing in your columns, I beg to represent the case of the hardworking clerk, who has not had the benefit of a classical education, or at all events not of one that will enable him to pass the school-boy examination which the Law Society threaten. I also plead the cause of the great body of the profession—their masters. The large Lincoln's-inn houses, represented too strongly in the council, are not likely to give clerks their articles—800 or even 500 guineas come in to swell their ample balances at their bankers, and the efforts of a hardworking managing or copying clerk, or their struggling master having their bread to earn, are alike unknown and uncared for. Is the law in future to become merely an aristocratic profession? What men are expected to practise in the county and insolvency courts? What highly educated solicitor to attend to the common law judges chambers, or are none but paid clerks to go there? In plain English it is well known that a solicitor expects to live by his business; yet the Law Society coolly ignore that fact by preventing meritorious clerks from being artied, and thus entertaining an honourable ambition, or really working solicitors, from getting clerks at a remunerative salary, merely as far as I can learn, because various unqualified and disreputable practitioners have crept into the profession. But who certified that those men had duly served? Do not the Law Society regard but as the inerest form that very important certificate? Why should all but the dons of the profession suffer because a laxity has grown up in permitting improper additions to their body, and for the sins of a past generation?

Z.

LONDON COMMISSIONERS TO ADMINISTER OATHS IN COMMON LAW.

I cannot understand nor ascertain upon what principle these commissioners are appointed, and I therefore write to you in the hope that you, or some of your numerous readers, will enlighten me upon the subject.

I was admitted in Easter Term, 1850, and have taken out my certificate ever since. Finding it was necessary, and that

it would be a great convenience to myself, my neighbours, and clients, that I should be a London commissioner, I, sometime after having been ten years in practice, presented the usual petition, setting out various special reasons why I should be appointed, and the usual certificate, numerously and respectably signed by barristers and solicitors of standing, and also gave the usual notice to the Incorporated Law Society of my intention to apply. I believe many other solicitors did the same about the same time, understanding (as I did) that a "batch" of London commissioners was about to be appointed.

On my application in due course to the Lord Chief Justice's clerk, I was informed that I and many others were *not* to be appointed commissioners, the preference having been given to those who had been longer in practice than we had, say thirty, twenty, or fifteen years instead of ten.

Now, observing the appointment of a London commissioner in your paper of April 6, (who is personally unknown to me) I had the curiosity to turn to the "Law List," where I find that he was not admitted until Michaelmas Term, 1853, not yet eight years. Now, sir, I ask how is this? Is the "Law List" correct, or has the gentleman some friends at court, or by whom is this appointment made before the gentleman has been ten years in practice, as is, I believe, required by the Act; or, if not required by the Act, why in preference to us who have been eleven years in practice? This surely requires an explanation, and I hope some one will give it.

MARK LANK.

BANKRUPTCY AND INSOLVENCY BILL— MEETING AT MANCHESTER.

A conference on the Bankruptcy and Insolvency Bill was held at the Palatine Hotel, Manchester, on the 22nd of March last, at which the following Associations and Chambers of commerce were represented:—Manchester Association for the Protection of Trade; Manchester Guardian Society; Leeds Chamber of Commerce; Bradford Chamber of Commerce; Huddersfield Chamber of Commerce. We have been requested to publish the minutes of what transpired at this meeting, and as the subject of the Attorney-General's Bill is still of considerable interest to the profession, we do so at some length. The following gentlemen were present:—Philip Gillibrand, Esq., President of the Manchester Association for the Protection of Trade; William Butterfield, Esq., President of the Manchester Guardian Society; John Jowitt, Esq., Vice-President of the Leeds Chamber of Commerce; J. Darlington, Esq., Secretary of the Bradford Chamber of Commerce; William Willans, Esq., President of the Huddersfield Chamber of Commerce; Thomas Mallinson, Esq., ex-president; Mr. Edward Huth, Vice-President; also, Messrs. Francis Taylor, Charles Watson, George Booth, R. M. Shipman, Hugh Fleming, Henry Whitworth, Joseph Rayner, S. Gelder, and John Dodds.—Phillip Gillibrand, Esq., in the chair.—The chairman briefly explained the proceedings which had been taken by the Manchester Association in reference to this Bill, and the circumstances which had led the committee of that association to invite the co-operation of other commercial bodies in promoting amendments in the Bill when it reaches the House of Lords. The attention of the meeting was first directed to the following resolution, proposed by the Attorney-General as the basis of an alteration in clause 201 of the Bill:—"That, in addition to the ordinary stamp duty, there shall be charged an *ad valorem* stamp duty of seven shillings upon every £100 of property comprised in every trust or other deed or instrument required to be registered by any Act of the present session for amending the law relating to bankruptcy and insolvency in England."

It was unanimously resolved "That the principle of levying a tax for the benefit of the general community on those who have already suffered the loss of their property is highly objectionable; and that the particular proposal to tax insolvent estates, requiring the minimum amount of interference on the part of the Court, with such an oppressive duty is grossly excessive and unjustifiable." As the resolution referred to was to be considered in the House of Commons that night, it was decided that the following telegram should be sent from the meeting to Thomas Bazley, Esq., M.P., and that similar telegrams should be sent to Edward Baines, Esq., M.P., E. A. Leatham, Esq., M.P., and W. E. Forster, Esq., M.P. Telegram:—"A meeting of the Chambers of Commerce of Leeds, Huddersfield, and Bradford, and the Manchester Association and Manchester Guardian Society, is now being held. We are unanimous in considering the imposition of seven shillings per

cent. on deeds of arrangement as grossly excessive, and calculated to interfere with that mode of settlement. We object to taxation based on the misfortune of creditors, and think even clause 201 as it stood in the Bill very excessive. Please confer with members for Leeds, Huddersfield, and Bradford." The meeting then discussed the "remarks and suggestions of the committee of the Manchester Association for the Protection of Trade," dated February 16, 1861, and it was decided that leaving points of minute detail for future settlement, the attention of the conference should be chiefly directed to those clauses of the Bill referring to the extension of jurisdiction in bankruptcy to county courts, the position and remuneration of official assignees, and to the duties and responsibilities of the creditors' assignee. It was stated that the committee of the Manchester Association had objected to the transfer of bankruptcy business to county courts, on the grounds set forth in the printed "Remarks and Suggestions" now under consideration. But if the consent of a majority, in number as well as value, of the creditors would be necessary to transfer the proceedings to a county court, in cases where the assets exceed £300, and the same principles were applied to estates under £300, the committee was not disposed to press the objection to these clauses, feeling satisfied that any evils which might arise would cure themselves. The members of the conference from Leeds, Huddersfield, and Bradford urged very strong reasons in favour of local adjudication, particularly in cases where the debtor and his creditors resided in the same locality, but concurred in the propriety of requiring the consent of number as well as value to the transfer, and of granting the same power of removal to creditors under clause 106 (105 in Bill reprinted), as in other cases. Clauses 6 to 11, 106, and 119 were then considered; and after a full discussion of the question, all these clauses were agreed to, subject to an alteration in clause 106 (105 in Bill reprinted), compelling all debtors within a defined distance of a district court to petition such court, giving to a majority in number and value of the creditors power to remove the proceedings into a district court; an amendment in clause 119 (118 in Bill reprinted), requiring the consent of a majority in number as well as value; and such a modification of clause 99 as shall give the court power to order the removal of proceedings in certain cases to any court they may think proper, without the necessity of applying to the chief judge. It was unanimously agreed that the office of messenger ought to be abolished, and the duties performed by the official assignee as to possession of the estate, and as to other matters as general orders may direct. It was agreed that the words "if such official assignee," in the first line, page 30 (30th line, page 29, in Bill reprinted), ought to be struck out, as it is considered undesirable that the discretion as to retaining possession of a bankrupt's estate should be vested in the official assignee. Such discretion should be limited to the court, "on the representation of the official assignee," or of any creditor. The meeting unanimously approved of the payment of the official assignee by fixed salary instead of by percentage, and considered the salaries proposed in the Bill amply sufficient, and resolved strenuously to oppose any attempt which might be made to adopt a contrary principle during the future stages of the Bill. The clauses of the Bill referring to the creditors' assignee were then considered, and it was unanimously agreed that the clauses referring to the duties and responsibilities of the creditors' assignees, and which provide that every three months his accounts shall be verified upon oath, and submitted to the audit of the official assignee—he shall find security if a majority of the creditors and the Court require it—shall be liable to dismissal by a majority in value of the creditors—may at any time be called upon by one-fourth in value of the creditors to show cause why he should not be dismissed; and shall be compelled to call a meeting of the creditors to pass judgment upon his conduct before he can obtain his final discharge, are such as would prevent any mercantile man undertaking the office; and that with the view of removing these objectionable features from the Bill, the following amendments be proposed:—The power to require the creditors' assignee to give security is altogether objected to. If the principle of appointing a manager be adopted, his appointment ought to be vested in the creditors' assignee, with the sanction of the Court, but it is thought the manager ought to find security in some cases, and with that view it is proposed that in line 34 (25 in Bill reprinted), page 32, after the word "terms," the words "as to security or otherwise" be added; and that in line 35 (26 in Bill reprinted), the word "majority" be struck out, and the word "court" be substituted. The power here given to the creditors to remove the creditors' assignee is altogether objected to. In case of misconduct of the creditors' assignee,

clause 146 (145 in the Bill reprinted), gives to the court sufficient power to remove such assignee. It is therefore proposed that this clause be struck out of the Bill. This clause should be so altered as to leave it entirely optional with the creditors whether the official assignee or the creditors' assignee shall collect all debts. But in any case there ought to be no distinction as to amount, as the possession of the books is indispensable for the collection of both large and small debts. This clause, by requiring the creditors' assignee to submit his accounts to the official assignee virtually places the representative of the creditors under the control of that officer. On the whole it is deemed less objectionable to substitute the registrar for the official assignee in this clause; and it is thought that after the first meeting, which should be within a fixed period, it is altogether unnecessary to hold any subsequent meetings at stated periods, as considerable expense would be thereby entailed on the estate. These meetings should be left to the discretion of the Court. It is therefore proposed to strike out the words "expiration of every succeeding three months," and to insert the words "at the discretion of the court" in lieu thereof, and to strike out the words "the official assignee in the presence of" in the 16th, 17th, and 18th lines (7, 8, and 9 in Bill reprinted); and the words "verified on oath as," in the 20th line (11th in Bill reprinted); and to substitute the word "registrar" for the words "official assignee" in the 24th line (15th in Bill reprinted). The creditors' assignee would be subject to great annoyance and inconvenience if the creditors were empowered to transmit proofs of debt to him, and frequent disputes would arise as to the fact of such transmission. Proofs ought in all cases to be sent to the official assignee. It is therefore proposed to strike out the words "before the appointment of the creditors' assignee," in line 36 (22 in Bill reprinted); and the words "and after such appointment to the creditors' assignee," in lines 37 and 38 (23 and 24 in Bill reprinted). Sect. 6. *Accepting* bills of exchange for the accommodation of others for which no value has been received, ought to be included in the grounds of objection to granting a discharge to a bankrupt as "trading on fictitious capital" takes in only one side of the transaction, and relates to the *drafter* of such bills only; whereas the creditors of the *acceptor* may have to suffer in consequence of such bills being proved against his estate. That after the word "dividend" in the ninth line the words "out of any realisable estate" be added, so as to bring the clause into harmony with clauses 187 and 188 (189 and 190 Bill reprinted). In other respects this clause needs considerable modification, as the provision requiring the assignee to call the meeting in question to sit in judgment on his conduct is highly objectionable. This clause is regarded as most objectionable, because it will enable a debtor to compel creditors whose debts are represented by bills to accept an arrangement to which their consent has not even been asked, and it would thus be open to great abuse. Sufficient protection to the debtor would be given, and the above objection would be removed by omitting the words "three-fourths in number and value of all his other creditors," and substituting the words "the persons with whom the debts represented by such bills of exchange, &c., were originally contracted." The words "a majority in number" should be inserted before the words "three-fourths" in the first line. The conference then unanimously resolved that with the view of insuring the adoption of these several amendments in the Bill when it reaches the House of Lords, it was desirable that a deputation, to consist of gentlemen from each of the associations and chambers of commerce represented at the conference to-day, should proceed to London, to seek an interview with the Lord Chancellor, and to confer with other members of the House of Lords, and to take such other steps as may seem desirable to secure the success of the Bill with the proposed amendments.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The standing orders have been declared to have been complied with in the following cases:—

BRENTFORD AND KEW BRIDGE.
EDGEWARE, HIGHGATE, AND LONDON.
LLANIDLOES AND NEWTOWN.

NEWTOWN.

SHEREWSBURY AND WELCHPOOL.

The preamble of the following Bill has been proved in the House of Lords:—

LEEDS, BRADFORD, AND HALIFAX.

The following has been referred to a committee of the House of Commons:—

LANCASHIRE AND YORKSHIRE (Salford to Manchester).

REPORTS AND MEETINGS.

GREAT WESTERN OF CANADA RAILWAY.

At the half-yearly meeting of this company held on the 11th instant, a dividend at the rate of £3 per cent. per annum was declared for the past half-year.

MONMOUTHSHIRE RAILWAY.

The directors of this company propose that a dividend at the rate of 6 per cent. per annum, should be declared for the half year ending December 31st 1860. This leaves a balance of £900 to be carried to the reserve fund.

The number of causes and other matters set down for hearing in the ensuing term appear to be as follows, viz.:—In the Court of Queen's Bench there are 87 rules, of which 40 are in the new trial paper for argument and 43 in the special paper, in addition to which there are four enlarged rules. In the Common Pleas there are eight enlarged rules, 16 in the new trial paper, two matters for the decision of the Court, and 20 demurrers, making 45; while in the Court of Exchequer the number is 34, consisting of nine errors and appeals, two rules in the special paper for judgment and eight for argument, and in the new trial paper two for judgment and 13 for argument. In the Court of Chancery there are 344 causes entered for hearing; of which 12 are before the Lords Justices, 73 before the Master of the Rolls, 69 before Vice-Chancellor Kindersley, 92 before Vice-Chancellor Stuart, and 98 before Vice-Chancellor Wood. The Judges, Queen's Counsel, and other learned functionaries, will breakfast with the Lord Chancellor at Stratheden-house on the first day of term, and afterwards proceed to inaugurate the Term at Westminster-hall.

On Saturday morning, the 6th inst, about three o'clock, a fire resulting in the entire destruction of one of the finest mansions in the county of Surrey took place at Burhill Park, the seat of Mr. Francis Thomas Bircham, solicitor to the South Western Railway Company, situate near Walton-on-Thames. The family made their escape, with the exception of Mr. Bircham, who, in his endeavours to save a large quantity of valuable plate (in which to some extent he succeeded), was very considerably burnt. The whole of the furniture, valuable paintings, a large proportion of the plate, &c., has been utterly destroyed or lies buried in the ruins. The property was insured in the Law Fire and Life Insurance-office, of which Mr. Bircham is himself a director, for the sum of £6,000, but that will not cover the amount at which the property destroyed is valued.

Court Papers.

Court of Chancery.

SITTINGS.—EASTER TERM, 1861.

LORD CHANCELLOR.

Westminster.

Monday, April 15...Appeal Motions and Appeals.

Lincoln's-inn.

Tuesday 16...Petitions and Appeals.

Wednesday ... 17

Thursday 18

Friday 19

Saturday 20 } Appeals.

Monday..... 22

Tuesday 23

Wednesday ... 24

Thursday 25...Appeal Motions and Appeals.

Friday 26

Saturday 27

Monday..... 29 } Appeals.

Tuesday 30

Wednesd., May 1

Thursday, May 2...Appeal Motions and Appeals.
 Friday 3 }
 Saturday 4 } Appeals.
 Monday 6 }
 Tuesday 7...Petitions and Appeals.
 Wednesday ... 8...Appeal Motions and Appeals.

Such days as his Lordship shall be engaged in the House of Lords are excepted.

MASTER OF THE ROLLS.

Westminster.

Monday, April 15...Motions.

Chancery-lane.

Tuesday 16 }
 Wednesday ... 17 } General Paper.
 Thursday 18 }
 Friday 19 }
 Saturday 20 { Petitions, Short Causes, Adjourned Sum-
 monses, and General Paper.
 Monday 22 }
 Tuesday 23 } General Paper.
 Wednesday ... 24 }
 Thursday 25...Motions.
 Friday 26...General Paper.
 Saturday 27 { Petitions, Short Causes, Adjourned Sum-
 monses, and General Paper.
 Monday 29 }
 Tuesday 30 } General Paper.
 Wednesday, May 1 }
 Thursday 2...Motions.
 Friday 3...General Paper.
 Saturday 4 { Petitions, Short Causes, Adjourned Sum-
 monses, and General Paper.
 Monday 6 }
 Tuesday 7 } General Paper.
 Wednesday ... 8...Motions.

The unopposed Petitions must be presented and Copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard: and any Causes intended to be heard as Short Causes, must be so marked at least one clear day before the same can be put into the Paper to be so heard.

LORDS JUSTICES.

Westminster.

Monday, April 15...Appeal Motions.

Lincoln's-inn.

Tuesday 16...Appeal Motions and Appeals.
 Wednesday ... 17 }
 Thursday 18 } Appeals.
 Friday 19 { Petitions in Lunacy and Bankruptcy,
 Appeal Petitions and Appeals.
 Saturday 20 }
 Monday 22 } Appeals.
 Tuesday 23 }
 Wednesday ... 24 }
 Thursday 25...Appeal Motions and Appeals.
 Friday 26 { Petitions in Lunacy and Bankruptcy
 Appeal Petitions and Appeals.
 Saturday 27 }
 Monday 29 } Appeals.
 Tuesday 30 }
 Wednesday, May 1 }
 Thursday 2...Appeal Motions and Appeals.
 Friday 3 { Petitions in Lunacy and Bankruptcy,
 Appeal Petitions, and Appeals.
 Saturday 4 }
 Monday 6 } Appeals.
 Tuesday 7 }
 Wednesday ... 8...Appeal Motions and Appeals.

The days (if any) on which the LORDS JUSTICES shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

Vice-Chancellor Sir RICHARD T. KINDERSLEY.

Westminster.

Monday, April 15...Motions.

Lincoln's-inn.

Tuesday 16 }
 Wednesday ... 17 } General Paper.
 Thursday 18 }
 Friday 19...Petitions.
 Saturday 20 { Short Causes, Adjourned Summonses,
 and General Paper.
 Monday 22 }
 Tuesday 23 } General Paper.
 Wednesday ... 24 }
 Thursday 25...Motions and General Paper.

Friday, April 26...Petitions.
 Saturday 27 { Short Causes, Adjourned Summonses,
 and General Paper.
 Monday 29 }
 Tuesday 30 } General Paper.
 Wednesday, May 1 }
 Thursday 2...Motions and General Paper.
 Friday 3...Petitions.
 Saturday 4 { Short Causes, Adjourned Summonses,
 and General Paper.
 Monday 6 }
 Tuesday 7 } General Paper.
 Wednesday ... 8...Motions and General Paper.

Any Causes intended to be heard as Short Causes, must be so marked at least one clear day before the same can be put into the Paper to be so heard.

Vice-Chancellor Sir JOHN STUART.

Westminster.

Monday, April 15...Motions.

Lincoln's inn.

Tuesday 16 }
 Wednesday ... 17 } General Paper.
 Thursday 18 }
 Friday 19...Petitions and General Paper.
 Saturday 20...Short Causes and General Paper.
 Monday 22 }
 Tuesday 23 } General Paper.
 Wednesday ... 24 }
 Thursday 25...Motions and General Paper.
 Friday 26...Petitions and General Paper.
 Saturday 27...Short Causes and General Paper.
 Monday 29 }
 Tuesday 30 } General Paper.
 Wednesday, May 1 }
 Thursday 2...Motions and General Paper.
 Friday 3...Petitions and General Paper.
 Saturday 4...Short Causes and General Paper.
 Monday 6 }
 Tuesday 7 } General Paper.
 Wednesday ... 8...Motions.

Any Causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put into the Paper to be so heard.

Vice-Chancellor Sir W. P. WOOD.

Westminster.

Monday, April 15...Motions.

Lincoln's-inn.

Tuesday 16 }
 Wednesday ... 17 } General Paper.
 Thursday 18 }
 Friday 19 }
 Saturday 20 { Petitions, Short Causes, and General
 Paper.
 Monday 22 }
 Tuesday 23 } General Paper.
 Wednesday ... 24 }
 Thursday 25...Motions and General Paper.
 Friday 26...General Paper.
 Saturday 27 { Petitions, Short Causes, and General
 Paper.
 Monday 29 }
 Tuesday 30 } General Paper.
 Wednesday, May 1 }
 Thursday 2...Motions and General Paper.
 Friday 3...General Paper.
 Saturday 4 { Petitions, Short Causes, and General
 Paper.
 Monday 6 }
 Tuesday 7 } General Paper.
 Wednesday ... 8...Motions and General Paper.

Any Causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put into the Paper to be so heard.

Births, Marriages, and Deaths.

BIRTHS.

BEAUMONT—On April 6, the wife of Joseph Beaumont, Esq., of Lincoln's-inn, of a son.

HOWARD—On April 9, the wife of Alfred George Howard, Esq., Solicitor, of a son.

MARRIAGES.

ALDERSON—GUEST—On April 9, Frederick Cecil, son of the late Sir E. H. Alderson, Baron of the Exchequer, to Katha-

rine Gwladys, daughter of the late Sir J. J. Guest, Bart. M.P., of Dowlais.

DEASY—O'CONNOR—On April 2, at Black Rock, near Dublin, the Right Hon. Richard Densy, Baron of her Majesty's Court of Exchequer in Ireland, to Monica, daughter of the late Hugh O'Connor, Esq., of Dublin.

EDEVAIN—BROKE—On April 4, R. F. Eaton Edevain, Esq., of the Middle Temple, to Elizabeth Zilpah, widow of the late Sir Arthur de Capell Broke, Bart., of Great Oakley Hall, Northamptonshire.

GEE—YOUNG—On April 10, William Gee, Esq., of Bishop's Stortford, to Emily Anne, daughter of the late Noah Robert Young, Esq., of Hertford.

HORE—SWEENEY—On April 3, William Hore, Esq., M.R.C.S., of Shoreham, to Mary Ann, widow of the late Chas. S. Sweeney, Esq., M.D., and daughter of Mr. Serjeant Storks, Gower-street, Bedford square.

IBOTSON—BREAREY—On April 3, Richard Revell Ibotson, Esq., B.A., of Grenville-street, Brunswick-square, to Matilda Sophia, daughter of Henry Brearey, Esq., Solicitor, York.

LOCKHART—BREBNER—On April 9, Lieut.-Colonel Lockhart, C.B., 78th Highlanders, second surviving son of the late Robert Lockhart, Esq., of Castlehill, Lanarkshire, to Emily Uday Brebner, daughter of James Brebner, Esq., Advocate, Aberdeen.

MOXON—FURBANK—On April 9, William Moxon, of Stone-buildings, Lincoln's-inn, and Wimbledon, Surrey, Esq., Barrister-at-Law, to Anne Furbank, of Fernhill, Shipley, Yorkshire, widow of the late Rev. Thomas Furbank, M.A., of Bramley.

PAUL—M'GREGOR—On April 2, William Paul, Esq., Advocate, Aberdeen, to Julia, daughter of the late Daniel M'Gregor, Esq., Walton-on-the-Hill.

WHYTE—HEARD—On April 4, Wm. Whyte, Esq., of West-bourne-park-terrace, to Emma, daughter of the late Henry George Heard, Esq., one of the six clerks of the High Court of Chancery, in Ireland.

WILKINSON—HILL—On April 9, William Matthew, only son of the late William Denison Wilkinson, Esq., to Frances Emily, second daughter of the late John Hill, Esq., Attorney-General for the Palatinate of Chester.

WOODCOCK—TRIMMER—On April 3, George Woodcock, Esq., Solicitor, of Coventry, to Caroline Tibbits, daughter of Edward Trimmer, Esq., of Gloucester.

DEATHS.

CROSS—On April 7, very suddenly, W. S. Cross, Esq., Barrister-at-law, of the Inner Temple.

ELLIS—On April 5, Thomas Flower Ellis, Esq., Barrister-at-law, aged 65.

GRAVES—On April 4, suddenly, of disease of the heart, John Samuel Graves, Esq., Barrister-at-law, aged 64.

HALL—On April 9, James Richmond, the infant son of Henry Hall, Esq., Solicitor, Ashton-under-Lyne, aged 15 months.

HESTER—On April 8, after a short illness, Jane, daughter of Mr. Hester, Town Clerk of Oxford, aged 27.

PENNEFATHER—On April 6, at Atrament, in the county of Wexford, Susan, widow of the late Right Hon. Edward Pennefather, formerly Lord Chief Justice of Ireland, aged 75.

POWER—On April 6, Caroline Mary, the infant daughter of David Power, Esq., Q.C.

SHERWOOD—On April 9, Thomas Sherwood, Esq., of the Common Pleas Office, London, in his 74th year.

STEWART—On April 2, Margaret Emily, widow of James Stewart, Esq., late Secretary to the Copyhold Commission.

STOKES—On April 5, Catherine Elizabeth, wife of Charles William Stokes, Esq., and daughter of the late Robert Colmer, Esq., Barrister-at-law, of Lincoln's-inn, and Yoxford, Suffolk.

TAYLOR—On March 30, Mr. Edwin Taylor, aged 50, many years clerk to — Shipton, Esq., Solicitor, Bristol.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

MUSTERS, JOHN GEORGE, Esq., Wiverton-hall, Notts, £1,117 6s. 4d. Consols.—Claimed by PHILIP HAMOND, the administrator de bonis non with the will annexed of the said JOHN GEORGE MUSTERS.

FITZROY, Hon. ELIZA, Widow, Harley-street, £20,000 Consols.—Claimed by EDMUND BARLOW, the acting executor.

English Funds and Railway Stock (Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	227	Shrs Stock Ditto A. Stock	105
3 per Cent. Red. Ann..	90	Stock Ditto B. Stock	130
3 per Cent. Cons. Ann..	91	Stock Great Western	71
New 3 per Cent. Ann..	90	Stock Lancash. & Yorkshire	111
New 2½ per Cent. Ann..	..	Stock London and Blackwall	61
Consols for account ..	92	Stock Lon. Brighton & S. Coast	118
India Debentures, 1858.	..	25 Lon. Chatham & Dover	47
Ditto 1859.	..	Stock London and N.-Westm.	96
India Stock	220	Stock London & S.-Westm.	94
India 3 per Cent. 1859..	100	Stock Man. Sheff. & Lincoln..	44
India Bonds (£1000) ..	..	Stock Midland	124
Do. (under £1000).....	..	Stock Ditto Birm. & Derby	98
Exch. Bills (£1000)....	5 dis.	Stock Norfolk	54
Ditto (£500).....	..	Stock North British	62
Ditto (Small) ..	..	Stock North-Eastn. (Brock.)	102
RAILWAY STOCK.		Stock Ditto Leeds	60
Stock Birk. Lan. & Ch. Junc.	82	Stock Ditto York	90
Stock Bristol and Exeter....	99	Stock North London.....	97
Stock Cornwall	6	Stock Oxford, Worcester, & Wolverhampton ..	..
Stock East Anglian	17	Stock Shropshire Union	49
Stock Eastern Counties	49	Stock South Devon	42
Stock Eastern Union A. Stock	39	Stock South-Eastern	63
Stock Ditto B. Stock	26	Stock South Wales	60
Stock Great Northern	111	Stock S. Yorkshire & R. Dun	97
		25 Stockton & Darlington	41
		Stock Vale of Neath	76

London Gazettes.

Windings-up of Joint Stock Companies.

FRIDAY, April 5, 1861.

LIMITED IN BANKRUPTCY.

UNION DISCOUNT COMPANY (LIMITED).—Creditors to prove their debts before Commissioner Evans, Basinghall-street, April 18, at 11.

UNION DISCOUNT COMPANY (LIMITED).—Commissioner Evans will proceed, on April 18, at 11, Basinghall-street, to settle the list of contributories of this company.

TUESDAY, April 9, 1861.

UNLIMITED IN CHANCERY.

ERA ASSURANCE SOCIETY.—Vice-Chancellor Wood peremptory order that a call of £1 10s. per share be made on all the contributories of this society, to be paid on or before April 26, to Henry Croydall, the Official Manager, 14, Old Jewry-chambers, London.

HERALD LIFE ASSURANCE SOCIETY.—Master of the Rolls peremptory order that a call of £1 10s. per share be made on all the contributories of this society, to be paid on or before April 13, to Frederick Whitney, the Official Manager, 5, Serle-street, Lincoln's-inn, Middlesex.

KENT BENEFIT BUILDING SOCIETY, also called THE KENT FREEHOLD LAND SOCIETY.—Vice-Chancellor Kindersley will, on April 24, at 12, proceed to make a call on all persons settled on the list of contributories of the said company, in respect of shares where the liability has not been limited, for £7 per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, April 5, 1861.

HARTON, LATHER, Gentlewoman, Great Berkhamstead, Hertfordshire. Doughty, Solicitor, 41, Montpelier-square, Brompton, Middlesex, S.W. May 4.

BODDINGTON, JOHN, Farmer, Meriden, Warwickshire. Troughton, Lea, and Kirby, Solicitors, 16, Little Park-street, Coventry. May 14.

CAZENOVE, JAMES, Official Assignee, formerly of London, but late of Liverpool and of New Brighton, Cheshire. Lacy & Bridges, Solicitors, 19, King's Arms-yard, London. March 5.

DENBY, WILLIAM, Victualler, Wolverhampton. Manby, Solicitor, Wolverhampton. June 2.

FANN, ELIJAH, HOSIER, Nottingham. Freeth, Rawson, & Browne, Solicitors, Nottingham. May 9.

CHURCHILL, MORT NOBLE GEORGE SPENCER, Duke of Marlborough, Blenheim. J. W. & G. Whateley, Solicitors, Waterloo-street, Birmingham. May 10.

PIDDECK, JOSEPH, Draper, Stourport. Cook, Solicitor, Stourport. June 24.

SMITH, JOSEPH, Publican, Penkridge, Staffordshire. Heane, Solicitor, Newport, Salop. May 25.

TUESDAY, April 9, 1861.

HAUGH, DANIEL, Cigar Manufacturer, Liverpool. Dodge & Wynne, Solicitors, 7, Union-court, Liverpool. June 1.

BELL, THOMAS, Merchant, formerly of Alexandria, Egypt. Williams & James, Solicitors, 62, Lincoln's-inn-fields. May 10.

BLACKLOCK, ELIZABETH, Point Pleasant, Wandsworth, Surrey. Madox & Wyatt, Solicitors, 30, Clement's-lane, Lombard-street, London. May 1.

BOOTH, RICHARD, Gent., Foleshill-road, near Coventry. Woodcock, Twist, & Woodcock, Solicitors, Bailey-lane, Coventry. May 1.

DAVY, WALKER, Farmer, Thoresway, Lincolnshire. Saffery, Solicitor, Market Rasen. May 1.

DICKMAN, JAMES, 4, Kimbolton-place, Finsbury-road, Middlesex, and formerly of North-terrace, Alexander-square, Brompton. Sawyer & Brettell, Solicitors, 2, Staple-inn, Holborn. June 10.

JOULES, FREDERICK, Gent., Henry-street, Portland-town, Middlesex. Forbes & Horwood, Solicitors, 8, Warrford-court, London. May 30.

KILGUSAN, ANNA, Widow, Bishop Auckland, Durham. Fenwicks & Fal-

conar, Solicitors, Newcastle-upon-Tyne; Harwood & Pattison, Solicitors, 10, Clement's-lane, Lombard-street. June 1.
KNIGHT, ELIZABETH, Spinster, Crawley, Sussex. Sadler, Solicitor, Horsa-ham, Sussex. May 27.
PARKER, WILLIAM, Farmer, Linwood, Lincolnshire. Saffery, Solicitor, Market Rasen. May 1.
PRIME, CORDELIA AIREY, Spinster, 23, Clapham-rise, Surrey. Hedges & Stedman, Solicitors, 9, Carey-street, Lincoln's-inn. May 6.
REES, JOHN, otherwise **JOHN OWEN REES**, Gent., formerly of Kingston-on-Thames, Surrey, but at the time of his death residing at Shelf Cottage, near Oswestry, Salop. Thos. & Chas. Minshall, Solicitors, Oswestry. June 1.
SHAW, LADY AMELIA, Widow, 8, Kensington Gore, London, and Tay Down House, Brighton. Bridges & Son, Solicitors, 23, Red Lion-square, London. June 1.
THOMAS, WILLIAM, Coal Master, Bedworth, Warwickshire. Woodcock, Twist, & Woodcock, Solicitors, Bailey-lane, Coventry. May 1.
WILD, WILLIAM, Dissenting Minister, 10, Fremantle-square, Bristol. Holden, Solicitor, Lancaster. May 6.
WOODS, GEORGE, late of Chatham, Kent, formerly a Clerk in her Majesty's Dockyard at Chatham, afterwards of Rose Cottage, Menai Bridge, Bangor, North Wales, and late of Elm Cottage, Charlton, Kent. Acworth & Son, Solicitors, Star-hill, Rochester. May 4.
WOOD, WILLIAM, Gent., Sowerby, near Thirsk, Yorkshire. Weatherill, Solicitor, Guisborough. May 10.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, April 9, 1861.

CLARK, MARY ROBBINS, Widow, St. John's-lane, Smithfield, Middlesex, and of New Maiden, Surrey. V. C. Stuart. May 3.

Assignments for Benefit of Creditors

FRIDAY, April 5, 1861.

BIDDLE, CHARLES ABRAHAM, Printer and Stationer, Alton, Southampton. March 25. *Sols.* C. & H. Trimmer, Alton.
BOOTS, BENJAMIN, Carpenter and Ironmonger, Robertabridge, Salehurst, Sussex. March 21. *Sol.* Tournay, Ticehurst, Sussex.
COX, JAMES, Builder, Highbridge, Somersetshire. March 16. *Sols.* Bevan, Girling, & Press, 3, Small-street, Bristol.
EASTICK, THOMAS, Saddler, 13, High-street, Camberwell, Surrey. March 8. *Sol.* Reed, 2A, St. Ann's-lane, General Post-Office, City.
HENDERSON, JAMES, Joiner and Builder, Newark-upon-Trent, Nottinghamshire. March 12. *Sols.* Tallents, Burnaby, & Griffin, Newark-upon-Trent.
HOLLINGS, JAMES, Cloth Finisher, Leeds. March 16. *Sols.* Upton & Yewdall, 5, Bank-street, Leeds.
HOWARD, ISRAEL, Barge Owner, South Benfleet, Essex. March 25. *Sol.* Woodard, Billericay, Essex.
LANNING, EDWARD JAMES, Hatter, Southampton. March 18. *Sol.* Weall, 5, Bell-yard, Doctors' Commons, London.
RANGER, JOSEPH, Draper and Outfitter, 5, Western-road, 42, North-street, and 85, King's-road, Brighton. March 8. *Sols.* Taylor & Jaquet, 15, South-street, Finsbury-square.
SHEARD, SAMUEL, Carrier, Hightown, Leeds. March 20. *Sol.* Maud, Leeds.
THOMAS, THOMAS, and **GEORGE GATCHELL SAUNDERS THOMAS**, Manure and Seed Merchants, Bridgend, Glamorganshire (Thomas & Son). March 8. *Sols.* King & Plummer, 5, Exchange-buildings East, Bristol.
YALOGOTTI, FRANCIS DE, Wine Merchant, 4, Muscovy-court, Tower-hill, London. March 9. *Sol.* Abrahams, 17, Gresham-street, London.

TUESDAY, April 9, 1861.

BROOKHALL, FRANCIS, & **WALTER ABBOTT**, Grocers, Gt. Hampton-street, Birmingham. *Sols.* Southall & Nelson, 3, Newhall-street, Birmingham. March 27.
CARTER, DAVID, Grocer & Draper, Slaithwaite, Yorkshire. *Sol.* Clough, Huddersfield. March 19.
CASSWELL, JOHN CUTHBERT, Miller, Baker, & Malster, Osbournby, Lincolnshire. *Sols.* Moore & Peake, Sleaford; Wiles & Chapman, Horbling. April 1.
ELLIS, JOHN, Mercer & Draper, Mansfield, Nottinghamshire. *Sol.* Woodcock, Mansfield. March 28.
GILBY, JOHN, Linendraper, Woburn, Bedfordshire. *Sols.* Davidson, Bradbury, & Hardwick, Weaver's-hall, 22, Basinghall-street. March 21.
HENZELL, THOMAS SMITH, Shipbuilder, Howdon, Northumberland. *Sols.* Leitch & Kewney, North Shields. April 2.
HILL, JOSEPH, Grocer, late of Westbromwich, Staffordshire, but then of Wyrley Wigern, Hales Owen, Worcestershire, Licensed Victualler. *Sols.* Southall & Nelson, 3, Newhall-street, Birmingham. March 25.
KNIGHT, HENRY, Hatter, Bristol. *Sol.* Pridesaux, Bristol. March 28.
MAY, SAMUEL, Chronometer Maker, 15, Upper Charles-street, Clerkenwell, Middlesex. *Sols.* Boulton & Sons, 21A, Northampton-square, Clerkenwell, Middlesex. March 18.
MORRISON, MARY ANNE, Lace Manufacturer, Nottingham (George Morrison). *Sols.* Campbell, Burton, & Brown, Nottingham. March 28.
PEATE, JOHN, Miller & Corn Dealer, Macabury Hall, Oswestry, Salop. *Sols.* T. & C. Mincham, Oswestry. March 19.
TURNER, JOHN, Butcher, Ipswich. *Sols.* Josselyn & Son, Ipswich. March 28.

Bankrupts.

FRIDAY, April 5, 1861.

CARTER, THOMAS DAWES, Livery Stable Keeper, Blue Anchor-yard, Coleman-street, London. *Com. Fane:* April 19, at 12; and May 17, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Sheppard, 24, Moorgate-street. *Pet.* Jan. 29.
CHAMBERS, GEORGE THOMAS, Umbrella Manufacturer, 3, Finsbury-pavement, and Green-street, Spitalfields, Middlesex (G. T. Chambers & Co.). *Com. Holroyd:* April 16, at 11.30; and May 21, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* March 25.
DEAN, ROBERT GEORGE, Lead, Glass, and Colour Merchant, Trig-wharf, Upper Thames-street, London. *Com. Evans:* April 16, at 11; and May 16, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Stacpoule, Finner's-hall. *Pet.* March 4.
IRLEN, NILA, & **FREDERICK DUGGESHREATH**, Ship Chandlers & Sail Makers,

82, and 53, Great Tower-street, London, and 3, Russell-street, Rotherhithe, Surrey (Nils Iren & Co.). *Com. Holroyd:* April 16, at 2.30; and May 21, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Marten, Thomas, & Hollams, Mincing-lane, London. *Pet.* April 3.
FITZPATRICK, TERENCE, Newark-upon-Trent, Nottinghamshire, & **BENARD FITZPATRICK**, Nottingham, Travelling Drapers. *Com. Sanders:* April 18, and May 9, at 11.30; Nottingham. *Off. Ass.* Harris. *Sols.* Cowley & Everall, Nottingham. *Pet.* April 1.
MOSS, WILLIAM, Boat and Shoe Manufacturer, Macclesfield, Cheshire. *Com. Jemmett:* April 18, and May 16, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Parrott, Colville, May, & Rudyard, Macclesfield. *Pet.* April 3.
ORMOND, CHARLES, Buyer and Letter of Thrashing Machines for Hire, and Corn Thrasher, Hemington, Northamptonshire. *Com. Fonblanque:* April 17 at 1.30; May 13, at 12; Basinghall-street. *Off. Ass.* Graham. *Sol.* Deacon, 14, King-street, Finsbury-square, London, and Peterborough. *Pet.* April 3.
RHODES, WILLIAM HURST, Licensed Victualler, Milton-next-Graveend. *Com. Goulburn:* April 15, at 11; and May 15, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Brutton, 27, Basinghall-street, London. *Pet.* April 4.
SCOTT, ROBERT, & WILLIAM THOMAS SCOTT, Tailors, Southampton (Scott Brothers). *Com. Fane:* April 19, at 1.30; and May 17, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Stocken, 61, Cornhill; or Lomer, Southampton. *Pet.* March 30.
WHITE, ROBERT, JAMES WHITE, & WILLIAM WHITE, Lace Manufacturers, Nottingham (White Brothers). *Com. Sanders:* April 23, and May 21, at 11.30; Nottingham. *Off. Ass.* Harris. *Sol.* Maples, Nottingham. *Pet.* March 26.

TUESDAY, April 9, 1861.

BRISTOW, JOHN, Licensed Victualler, Stourbridge, Worcestershire. *Com. Sanders:* April 22, and May 13, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Duignan & Edsworth, Walsall. *Pet.* April 3.
DUBROWS, JOSEPH, Cabinet Maker, Chesterfield. *Com. West:* April 20, and May 18, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Cutts, Chesterfield; or Smith & Burdekin, Sheffield. *Pet.* March 30.
COBB, JOHN, Currier, Great Yarmouth. *Com. Holroyd:* April 19, at 2; and May 21, at 12.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Storey, 6, King's-road, Bedford-row, London; or Chamberlin, Great Yarmouth, Norfolk. *Pet.* April 5.
MARSHALL, CHARLES, Saw Manufacturer, Sheffield. *Com. West:* April 20 and May 18, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Fernell, Sheffield. *Pet.* April 4.
MARTIN, JAMES MARK, Ironmonger, Brazier and Gasfitter, Chesterfield. *Com. West:* April 20, and May 18, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Smith & Burdekin, Sheffield. *Pet.* April 2.
POAD, WILLIAM PALMER, Draper and Mercer, Portsmouth. *Com. Fane:* April 19, at 11.30; and May 17, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Mardon, 99, Newgate-street. *Pet.* April 5.
WATSON, WILLIAM, Licensed Victualler, Tailors Arms Public-house, Gravel-lane, Southwark. *Com. Evans:* April 18, at 11.30; and May 16, at 11; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Dimmock & Busby, Suffolk-lane. *Pet.* April 5.
WOOD, PETER HENRY, Brewer, Manchester. *Com. Jemmett:* April 23, and May 14, at 12; Manchester. *Off. Ass.* Herpman. *Sol.* Lamb, Cooper-street, Manchester. *Pet.* March 30.
YRIGOTTI, FRANCIS DE, Wine Merchant, Muscovy-court, Tower-hill, London. *Com. Fane:* April 19, and May 17, at 2; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Abrahams, 17, Gresham-street. *Pet.* April 8.

BANKRUPTCIES ANNULLED.

FRIDAY, April 5, 1861.

HORNER, JAMES RICHARD, Corn Merchant, Ashton-under-Lyne. April 3.

TUESDAY, April 9, 1861.

PRITCHARD, EDWARD, Wine and Spirit Merchant, Liverpool. April 4.

MEETINGS FOR PROOF OF DEBTS.

FRIDAY, April 5, 1861.

BAXTER, WILLIAM ROBERT, & FREDERICK GEORGE BAXTER, Curriers & Leather Merchants, Constitution-hill, Birmingham (Baxter Brothers). April 29, at 11; Birmingham.—**BRAY, CHARLES**, Ironmonger, 14, Alfred-terrace, Queen's road, Baywater, Middlesex. April 30, at 12; Basinghall-street.—**COOK, WILLIAM**, Coachbuilder & Harness Maker, 9, King-street, Regent-street, Middlesex (Cook, Rowley, & Co.) April 26, at 12; Basinghall-street.—**DIMSDALE, FREDERICK**, Dealer in Iron, Share Dealer, & Scrivener, King's Arms-yard, Coleman-street, London. April 17, at 2.30; Basinghall-street.—**HEALD, JOHN**, sen., & **JOHN HEALD, jun.**, Shoe Makers, Tea Dealers, Grocers, & Farmers, Ekeington, Derbyshire (John Heald.) April 27, at 10; Sheffield.—**JOHNSON, JOHN, & CHARLES SECKLING GILMAN**, Boot & Shoe Factors, Manufacturers, & Merchants, Red Cross-street, Barbican, London, Hackney-road-crescent, Hackney-road, Middlesex, and Norwich (Johnson & Gilman.) April 26, at 12.30; Basinghall-street.—**KIFFAX, JOHN**, Watch Maker & Silversmith, East Bedford, Nottingham. April 27, at 10; Sheffield.—**MANSFIELD, ELIAS**, Boat Wright, Timber Dealer, & Publican, Chesterton, Cambridgeshire. May 9, at 11; Basinghall-street.—**NICHOLS, BENJAMIN HUMPHREY**, Innkeeper, Fox Inn, Wilbarston, Northamptonshire. April 30, at 11.30; Basinghall-street.—**SKEEN, ALFRED, & ARCHIBALD FREEMAN**, Timber Brokers, 79, Old Broad street, London (Skeen & Freeman.) April 17, at 2.30; Basinghall-street.

TUESDAY, April 9, 1861.

GOTCH, JOHN DAVIS, & THOMAS HENRY GOTCH, Bankers, Tanners, Curriers, Shoe Manufacturers, & Brewers, also surviving partners of John Cooper Gotch, deceased, Kettering and Rowel, Northamptonshire, and 43, Long Acre, Middlesex. April 30, at 12; Basinghall-street, joint estate. Same time, as surviving partners of John Cooper Gotch, deceased; same time, separate estate of John Davis Gotch; same time, separate estate of Thomas Henry Gotch.—**PAUL, ROBERT**, Coal Owner, Forest of Dean, Gloucestershire, and Grocer, Dover, Kent. April 30, at 1; Basinghall-street.—**RENNIE, WILLIAM, JAMES JOHNSON, & WILLIAM RANKIN**, Shipwrights, Liverpool (Rennie, Johnson, & Rankin.) April 29, at 11; Liverpool.—**RICE, JOHN**, Butcher, Lupus-street, Belgrave-road, Pimlico. April 30, at 11; Basinghall-street.—**ROWBOTHAM, JOHN, & JAMES SHAW**, Picture Dealers & Booksellers, Manchester. May 1, at 12; Manchester.—**STEWART, ROBERT**, Draper, Wells, Somersetshire. May 2, at 11; Bristol.—**YOUNG, WILLIAM WESTON, JOSEPH WESTON YOUNG, & GEORGE YOUNG**, Millers & Corn and Provision Merchants, Neath, Glamorganshire. May 2, at 11; Bristol. Same time, separate estate of William Weston Young.

THAMES-STREET AND BISHOPSGATE-STREET.

Valuable Freehold Estates, comprising the King's Arms Publichouse, Lower Thames-street, and a commanding Shop and Warehouse, Bishopsgate-street without, producing £285 per annum.

MESSRS. FAREBROTHER, CLARK, and LYE have received instructions to SELL, at GARRAWAY'S, on WEDNESDAY, MAY 1, at TWELVE, a valuable FREEHOLD ESTATE, comprising that well-known publichouse, the King's Arms, situate No. 61, Lower Thames-street, and 11, Water-lane, leased to Messrs. Courage, Brewers, for a term of 14 years from the 29th September, 1852, leaving only 54 unexpired, at the low rent of £190 per annum, and a capital and commanding shop and premises, with large warehouse in the rear, situate No. 85, Bishopsgate-street Without, let on lease to Mr. John Teede, Grocer, for 14 years from Lady-day, 1856, at a rental of, for the first seven years, £95, the remainder at £100 per annum.

To be viewed by permission of the tenants, and particulars had of F. N. DEVEY, Esq., No. 34, Ely-place, Holborn, E.C.; at Garraway's, E.C.; and of Messrs. FAREBROTHER, CLARK, and LYE, 6, Lancaster-place, Strand, W.C.

STAFFORDSHIRE.

Valuable Building Land, in the borough of Wolverhampton; also very desirable Building Sites, Lands, Dwelling-houses, and Cottages, in the parishes of Trysull and Wombourne.

MR. THOMAS LLOYD begs to announce that he has received instructions to offer for SALE by PUBLIC AUCTION, at the SWAN HOTEL, WOLVERHAMPTON, in the early part of the month of MAY, in lots, about nine acres of extremely valuable FREEHOLD BUILDING LAND, situate at Chapel Ash, in the borough of Wolverhampton; also several excellent plots of freehold land, admirably adapted for building purposes, commanding beautiful views of the surrounding country: arable and meadow land, dwelling-houses, cottages, and premises, containing altogether upwards of 100 acres of land, situate in the parish of Trysull, and in the liberty of Orton, in the parish of Wombourne, above five miles from Wolverhampton.

Full particulars will be announced in future advertisements, and in the meantime inquiries may be made of Messrs. BARKER, BOWKER, & PEAKE, Solicitors, Gray's Inn-square, London; and of the Auctioneer, Darlington-street, Wolverhampton.

YORKSHIRE.—FREEHOLDS, COPYHOLDS, AND BEDS OF COAL, LAKE LOCK, NEAR WAKEFIELD.

TO BE SOLD, pursuant to an Order of the High Court of Chancery, made in certain causes of "Hoyland v. Hemingway," and "Hoyland v. Hemingway," and by arrangement with the owners, with the approbation of the Vice-Chancellor Sir Richard Torin Kindersley, the judge to whose court the said causes are attached by Mr. EDWARD LANCASTER, the person appointed by the said judge, at the STRAFFORD ARMS HOTEL, in WAKEFIELD, in the county of YORK, on MONDAY, the 13th day of MAY, 1861, at TWO o'clock in the afternoon, in Six Lots.

Valuable Freehold and Copyhold Estates, situate at or near Lake Lock and Altofts, near Wakefield, in the county of York, containing FORTY ACRES or thereabouts, and now or late in the several occupations of Millington Crew, Robert Clegg, Henry Wilde, William Copley, John Craven, Mrs. Hamshaw, Thomas Bressley, Smith & Watson, Messrs. Charles worth, William Craven, and Michael Calvert.

Also the Beds of Coal and other Minerals under the old enclosed parts of the same, and other estates lately sold in the above causes, all late the property in equal moieties of Hopley Watson, Esq., deceased, and Edward Hemingway, Esq., deceased.

Printed particulars and conditions of sale and plans of the estate, may be had (gratis), in London, of Messrs. PERKINS & SON, Solicitors, 13, Great James-street, Bedford-row, and Messrs. FEW, Henrietta-street, Covent Garden; and in the country, of Mr. HOYLAND, Solicitor, Brierley, near Barnsley; Messrs. NELSON, BULMER, & NELSON, Solicitors, Leeds; Messrs. TEALE & APPLETON, Solicitors, Leeds; Mr. JAMES BULMER, Surveyor, York; Mr. LANCASTER, Barnsley; the Auctioneer; and at the place of sale.—Dated the 27th day of March, 1861.

CHARLES FUGH, Chief Clerk.

DEEPIING SAINT NICHOLAS, LINCOLNSHIRE.

TO BE SOLD by AUCTION, by Mr. PIKE (by direction of the devisees in trust of the late Thomas Oakes, Esq.), at the RED LION HOTEL, SPALDING, on TUESDAY, APRIL 23, 1861, at FOUR for FIVE o'clock precisely in the afternoon, in Two Lots, a valuable FREEHOLD FEN ESTATE of inheritance, this free, containing 562 acres, or thereabouts.

Lot 1.—A farm house, with barns, stables, and outbuildings, adjoining the Deeping Turnpike-road, and detached labourer's cottage, barn, and outbuildings, in the centre of the farm, together with fifteen pieces of rich arable land, lying and adjoining the farm house, containing 272a. 3r. 33p., and known as Green's Farm, bounded by lands of the Rev. William Fitz Hugh, on the north-east; by the Market Deeping Turnpike-road, south-east; by lot 2, south-west; and by the North Drove Drain, north-west; now in the occupation of the trustees of the late Mr. John Holland, and known as Green's Farm.

Lot 2.—A farm house, with barn, stables, and outbuildings, adjoining the Deeping Turnpike-road, and detached labourer's cottage, and barn, in the centre of the farms together with twelve pieces of rich arable land, lying and adjoining the farm-house, known as Exton's Farm, containing 277a. 3r. 31p., bounded by lot 1, on the north-east; by the Market Deeping Turnpike-road, south-east; by lands of Mr. William Brown, south-west; and by the North Drove Drain, on the north-west; now in the occupation of Mr. James T. Calthrop, and known as Exton's Farm.

Both lots are held under a lease, which will expire in October, 1864, at the low gross rent of £250, and which, from the improved drainage and railway communication, can, at the expiration of the lease, be greatly enhanced.

Particulars and conditions of sale, and plans of the estate, may be obtained of Mr. W. PIKE, the Auctioneer; Mr. J. G. CALTHROP, Solicitor, Spalding; Mr. APPELBY, Solicitor, 6, Harpur-street, Red Lion-square, London, W.C.; and at the principal hotels in the neighbourhood of Spalding.

ESSEX.

On the high road from London to Southend, and within 1½ mile of the Pitsea Station, on the London, Tilbury, and Southend Railway.—Very valuable Freehold Estates, land-tax redeemed, embracing an area of 32½a. 1r. 2p. of very productive Arable, Pasture, and Grazing Land, with Farm, Homesteads, and Two Cottages, situate in the parishes of Vange, Pitsea, and Basildon; also the Advowson and Next Presentation to the Rectory of Vange, together with a Rectory-house, tastefully laid-out Pleasure Grounds, all necessary Outbuildings, and 75a. 0r. 17p. of Glebe Land, the whole producing, at a moderate estimate, an income of upwards of £750 per annum.

MESSRS. BEADEL and SONS are instructed to offer for SALE by AUCTION, at the MART, Bartholomew-lane, on TUESDAY, MAY 7, at TWELVE for ONE, in Lots, MERRICKS or VANGE WHARF FARM, in the parish of Vange; comprising a residence, farm homestead, and 148a. 1r. 28p. of superior arable, pasture, and grazing marsh land, principally abutting upon the high road from London to Southend, together with the wharf, from which produce is shipped and manure landed, in the occupation of Mr. John Pocklington, a yearly tenant; the Hill Farm, in the parishes of Vange and Basildon, consisting of a comfortable farm-house, capital buildings, and 114a. 2r. 1p. of useful land, in the occupation of Mr. William Burchill, a yearly tenant; Felmoses Farm, in the parish of Pitsea, including a residence, farm buildings, and 61a. 1r. 1p. of capital land, in the occupation of Messrs. William and Abraham Wright, yearly tenants; the Advowson and Next Presentation to the Rectory of Vange, together with the rectory house and outbuildings, and 75a. 0r. 17p. of arable and grazing land.

Further particulars may be obtained of ORTON LUCAS, Esq., 50, Fenchurch-street, E.C.; at the Mart; and of Messrs. BEADEL and SONS, No. 25, Gresham-street, London, E.C., and Chelmsford, Essex.

The Reversion, expectant on the death of a lady, aged 70 years in May, 1861, in 14 Copyhold Houses at Limehouse, Freehold Manufacturing Premises, brick-built Dwelling-houses, Timber-yard, Workshops, Cottages, and other Buildings, with Wharfe to the river Lea, and on the high road from London to Stratford.

MESSRS. BEADEL and SONS are instructed to offer by AUCTION, at the MART, Bartholomew-lane, London, on TUESDAY, the 7th day of MAY, at TWELVE for ONE o'clock, in Three Lots, the REVERSION, expectant on the death of a lady, aged 70 years in May, 1861, in the following PROPERTY, viz.:—14 copyhold brick and tiled houses, being Nos. 1 to 12, and Nos. 15 and 16, Edward-street, Limehouse; the substantially erected freehold manufacturing premises, with workshops, manager's house, coach house, stable, packing rooms, lodge, and large yard, together known as Bell and Black's lucifer match manufactory, and let on lease to, and in the occupation of, Messrs. Bell and Black; two brick-built and slated dwelling-houses, large enclosed timber-yard, workshops, counting-house, large brick and timber-built warehouses, six-stall stable and loose box, let on lease to, and in the occupation of, Messrs. Cordery and Chance, situate on the high Essex road, near Bow-bridge; four freehold cottages, wheelwright's shop, granaries, stables, and enclosed yard, with wharfe on the river Lea, adjoining Bow-bridge, known as Woodstock-place, in the occupation of Messrs. G. P. Vale, A. Whipp, W. Smee, and J. Banner.

The premises may be viewed by permission of the tenants, and particulars, with lithographic plans and conditions of sale, obtained of Messrs. TAMPLIN & TAYLER, Solicitors, 159, Fenchurch-street; Messrs. G. & E. HILLEARY, 5, Fenchurch-buildings, Fenchurch-street; at the MART; and of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C., and Chelmsford, Essex.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £200,000, in 20,000 shares of £10 each. £3 per share paid.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. PATTESON & CORBOLD, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal, is 5 per cent.

LOANS.—Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained.

JOSEPH K. JACKSON, Secretary.

REVERSIONS AND ANNUITIES.

LAW REVERSIONARY INTEREST SOCIETY, 68, CHANCERY-LANE, LONDON.

CHAIRMAN—Russell Gurney, Esq., Q.C., Recorder of London.

DEPUTY-CHAIRMAN—Nassau W. Senior, Esq., late Master in Chancery.

Reversions and Life Interests purchased. Immediate and Deferred Annuities granted in exchange for Reversionary and Contingent Interests.

Annuities, Immediate, Deferred, and Contingent, and also Endowments, granted on favourable terms.

Prospectuses and Forms of Proposal, and all further information, may be had at the Office.

C. B. CLABON, Secretary.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profit. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

We cannot notice any communication unless accompanied by the name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, APRIL 20, 1861.

CURRENT TOPICS.

Of all the numerous Bills affecting the law and the interests of lawyers, the only one of any importance which has received the sanction of Parliament in the present session is the one which provides for increasing the facilities for the transfer of the public stocks and annuities. We stated last week the effect of the provisions contained in this statute. The Lord Chancellor's Bill to amend the law relating to trade marks has passed the House of Lords, and received a second reading in the House of Commons. Probably in the course of a few days it will be enacted; and we shall then be prepared without delay to commence a series of useful papers upon the general law of trade marks, and upon the new Act of Parliament. Sir Richard Bethell has also brought in a Bill upon a cognate subject, namely, Copyright in Works of Art. Should this become law, as most likely it will, we hope to present our readers with a useful and timely commentary upon the statute. The Statute Law Revision Bill, of which we gave a detailed account in a former number of this Journal, has been referred to a select committee of the House of Commons, and notwithstanding some opposition from Mr. Whiteside, is almost certain to receive the sanction of Parliament before the session closes. The Lord Chancellor's Lunacy Regulation Bill contains some useful provisions enabling the Lord Chancellor in certain cases to apply the property of a lunatic for his benefit in a summary manner without inquisition where the amount of the property does not exceed £500 in value. This Bill also contains some valuable provisions relating to the visitation of lunatics. Lord Kingsdown has just introduced a Bill to amend the law with respect to wills of personal estate. It proposes that every will made out of the United Kingdom by a British subject, shall, as regards personal estate, be admitted to probate if made according to the forms required "either by the law of the place where the same was made, or by the law of the place where such person was domiciled when the same was made, or by the laws then in force in any part of the United Kingdom." The Bill for enabling boroughs containing 25,000 inhabitants to provide for the appointment of stipendiary magistrates has not yet received any discussion, and not having been introduced by the Government is not very likely to be added to our statute book this year. The Trustees of Charities Bill has been lost in the House of Commons. Sir Richard Bethell's great bankruptcy measure has received a very rough handling in the House of Lords from Lord Chelmsford and Lord Kingsdown. The former noble lord was opposed especially to the transfer of bankruptcy jurisdiction to county court judges, one of his strongest reasons being that the registrar of a county court would be made to discharge, in addition to his present multifarious duties, those of an official assignee. Lord Kingsdown objected strongly to the abolition of the distinction between traders and non-traders, for the purposes of the Act; and also to the appointment of the new Appellate Judge. His lordship suggested that no persons could be more competent to hear appeals from the Bankruptcy Commissioners than the Equity Judges. Lord Cranworth also expressed his opinion against the appointment of a chief judge in bankruptcy; and, indeed, the opinion that no such new functionary is required is now becoming generally entertained.

The recent general order of Chancery relating to the mode of taking evidence in that court, came into operation on the first day of the present term; but does not appear to have yet produced any observable effect upon the practice of the Court. It is, however, rather too soon to judge of the extent or character of its operation, as the orders apply only to causes in which "issue is joined" on the first day of Easter Term or subsequently, and therefore none of these causes can yet have come on for hearing. It will require a few weeks longer to discover how far suitors are now availing themselves of their power to have their causes determined upon oral examination in open court. It may not have been generally noticed by practitioners, but it appears to be the fact, that the new order does not apply to causes coming on upon motion for decree, but only to those in which "issue is joined." The effect of this restriction will be very much to limit the application of the order, as in a very large proportion of causes replication is never filed and issue is never joined, but they are determined upon motion for decree according to the modern practice. It was, however, probably intended by the chancery judges to make the experiment of oral examinations in court upon a somewhat limited scale; but in case the new system should be found to work well there appears to be no reason why it should not be applicable to all chancery causes.

The question whether a clerk of the peace for a borough can exercise his functions by deputy is now under discussion in the Leeds Town Council; and as the point is one of some importance to many of our readers, we propose to devote a few lines to its consideration. There is no doubt that the clerk of the peace in counties may act by deputy, for the 1 W. & M., sess. 1, c. 21, s. 5, empowers him to execute his office in person, "or by his sufficient deputy;" and, accordingly, in some counties the clerk of the peace is in effect a mere sinecurist, pocketing an immense income, while all his duties are performed by the deputy. The Municipal Corporation Act, however, 3 & 6 Wm. 4, c. 76, s. 103, merely provides that "the council of every borough shall appoint a fit person to be clerk of the peace during his good behaviour," and says nothing of a deputy. The borough clerk of the peace, therefore, derives no power to appoint a deputy from the statute under which he himself is appointed; and the question seems to resolve itself into this—whether he has any such power at common law? Now it is laid down in the books that offices may be distinguished into offices of trust (comprising those which are judicial) and offices merely ministerial. The former cannot in general be performed by deputy, the latter usually may (3 St. Com. 18, 1st ed.). If this statement stood alone there would seem to be little doubt that the clerk of the peace of a borough might perform his office by deputy, as it appears to fall under the head of offices "merely ministerial." There is, however, a case of *Rez v. Gravesend*, 2 B. & C. 602, which casts considerable doubt upon the general proposition that a ministerial office may, as a whole, be deputed. In that case the sub-seneschal of a corporation created by charter, which also gave the corporation the power to elect the sub-seneschal, had appointed a deputy to perform on his behalf the several ministerial duties belonging to his office. The corporation refused to allow the deputy to act, and the Court of Queen's Bench held that they were right; Lord Tenterden observing that the admission of the deputy to do all ministerial acts would be to make him a corporate officer, and that the law of the land did not allow such an appointment, unless it was provided for by the charter. These expressions of Lord Tenterden's appear to be strongly against the right of a clerk of the peace, appointed under the Municipal Corporation Act, to appoint a deputy who would thus in his lordship's words become a corporate officer. If a ministerial

officer, appointed under a charter, cannot appoint a deputy without an express provision to that effect, it is difficult to see how a ministerial officer, appointed under the provisions of a statute, can do so. The very fact, moreover, that it was deemed necessary by the 1 W. & M., sess. 1, c. 21, s. 5, to give to the clerks of the peace then known to the law, an express power to act by deputy, seems to imply that *they* would not have possessed such power had it not been conferred upon them by statute.

It does not seem that any argument in favour of the power of a clerk of the peace of a borough to appoint a deputy can be drawn from the statute of William and Mary, as the clerks of the peace contemplated by that statute are wholly different officers from those appointed under the Municipal Corporation Act, and the appointment of a deputy under the former Act must be confirmed by the *custos rotulorum*, an officer who, *eo nomine*, at all events has no existence in corporations.

Although it appears to us very doubtful, for the reasons which we have stated, whether a clerk of the peace for a borough can appoint a deputy to exercise all his own functions, it is quite another question whether such a power might not be conveniently conferred upon him. We entertain very little doubt that it might, so far as the public are concerned. Judging from the debates in the Leeds Town Council, there seems to be no pretence whatever for saying that the duties of the clerk of the peace have not been efficiently performed by his deputy. Looking at the question, however, in a professional point of view, it is fairly open to argument whether the appointment of a deputy by such an officer as the clerk of the peace is desirable. When the office becomes vacant, by the death or resignation of the clerk himself, the council must then elect another clerk, and the gentleman who may for some years have acted as deputy, has a very superior chance of success as against all his competitors, so much so, indeed, that if he has performed his duties with average ability and diligence, it would seem almost invidious to elect a stranger. In fact, the appointment of a deputy by the clerk of the peace will virtually, in most cases, take the power of appointing his successor out of the hands of the council, and vest it in his own, thus making the office a kind of heir-loom in a family, or in a firm. As to whether such a course is advantageous to the profession as a whole, we hesitate to pronounce any decided opinion, and can only conclude with Sir Roger de Coverley—that much may be said on both sides of the question.

OUR COURTS OF APPEAL.

We should as soon think of composing a thesis in *laudem philosophiæ* as of entering upon any lengthened argument to prove the necessity that exists in every system of jurisprudence for well-constituted courts of appeal. The court of ultimate resort is the key-stone of the judicial arch. It should certainly possess an inherent superiority over the subordinate tribunals whose action it regulates. Not only are the lower courts dependent for efficient direction upon the appellate judicature to which they are subject; but the law itself, in all its departments, however excellent, considered abstractedly, very much owes its practical character to the manner in which it is administered by the highest tribunals. We cited *ante* (vol. 4, pp. 943, 951), a number of cases illustrating the abnormal character of our English appellate courts, and the uncertainty that often exists whether the final decision in any case may not be opposed to the opinions of the majority of the judges of Westminster Hall or Lincoln's-inn. This surely is a state of things which tends to encourage and prolong litigation in its most vexatious form.

The report of the Master of the Rolls and the Vice-Chancellors on the Law and Equity Bill of last year concludes by recommending "that no attempt should

be made to alter our tribunals, until a careful revision has been made of our whole law." This consummation, however, is a contingency somewhat too remote to be patiently waited for by those who seek a reform of our courts. Yet the observation we have quoted implies a principle which is not to be rejected even by those who, contrary to the opinion expressed in the report, advocate a speedy fusion of our systems of law and equity. That principle is the harmony that should exist between the constitution of tribunals, and the laws which they administer. All changes in the constitution of our courts, if intended to be permanent, should have a relation to the genius and spirit of those reforms which are likely to be realized, and anticipate their tendencies, so far as this can be effected without a sacrifice of present efficiency. It is almost idle now to discuss the comparative utility of distinct or united systems of equity and law. The fusion is not yet accomplished. But, perhaps, it is more nearly so than the majority of lawyers expect. Has not common law accepted the compulsory donations of equity contained in the Common Law Procedure Acts? and so, on the other hand, we find common law jurisdiction and procedure largely introduced of late into Chancery. The old exclusiveness of both systems has ceased to exist. Each, indeed, still seems disposed to extort concessions from the other without professing to desire a strict partnership. But these concessions and compromises are but the terms of an armistice which is certain some day to result in a thorough union. Reform, then, when applied to our appellate judicature, should note these tendencies and propose no innovation that will not provide both for present wants and probable emergencies of the future. The only division of labour which the nature of things recognizes as inherent in judicial administration is the division of causes into those of law and those of fact. We concur with the opinion expressed by Lord St. Leonards, in his report on the Chancery Evidence Commission last year, that a *Nisi Prius* tumult is not congenial to courts of equity, nor to any tribunal whose chief business is the determination of questions of law. But we see no difference in the conditions requisite to the effective working of a court of equity and those which are connected with a purely legal tribunal, such, for instance, as the Exchequer Chamber, which is exclusively concerned with questions of law. It is the same habit of mind, the same analytic reasoning, that is required to determine the difficult niceties of a recovery, an ejectment, or a remitter, and the equally subtle rules relating to equitable conversion or constructive notice. It is unnecessary for us, however, to discuss the alleged essential distinctions between law and equity, or to deny the analogy between the Roman Prætorian law and our Chancery. Our legislation, for the last ten years, has proceeded on the assumption that the existing distinctions are but the deductions of a technical sagacity, reasoning from erroneous or fictitious data. The tendencies of Reform being in the same direction, the barrier between the two systems, if it shall not be completely removed by a single statute, is sure to be levelled by successive assaults.

As our systems of law and equity have never had separate courts of final appeal, we may inquire, why should there not be a confluence of jurisdictions preliminary to the House of Lords? There is surely no *a priori* objection to the establishment of a court which should unite the present functions—although not the several constituent members—of the Courts of Appeal in Chancery, and of the Court of Exchequer Chamber, and which should be so constituted, both as to the number and rank of its judges, as to be calculated to give satisfaction to suitors. The Lord Chancellor, Lords Justices, and the chief common law judges, would, perhaps, constitute a court of the required efficiency. The Court of Appeal in Chancery in Ireland is, in principle, although not in its constitution, the model which we

propose for imitation. This Court adjudicates upon appeals both from the Irish Courts of Equity and also from the Landed Estates Court, which is a court both of law and equity. It has thus both a legal and equitable jurisdiction in all causes relating to land. It is defective, indeed, in point of numerical strength; but that objection might be easily obviated. One of the objects sought to be attained by the establishment of this court, was the rendering of appeals to the House of Lords unnecessary. This advantage, though not of equal urgency on this side of the channel, is, nevertheless, valuable as an impediment to protracted litigation, and as rendering the difficulties which oppose a reform of the Lords' Appellate Court less hurtful in their results. An effective appeal court should, of course, sit as continuously as the pressure of business would require; but the appeals to the Exchequer Chamber and to the Chancery Appeal Courts, if added together, scarcely transcend the amount of work capable of being transacted by a single court. The members of this tribunal could likewise, in rotation, attend their own courts, leaving however a sufficient quorum to sit as continuously as might be required.

Notwithstanding the theoretical distinctness of our judicial systems, cases are continually escaping from their original sphere, and, like so many comets, threaten mischief and confusion to the region in which they next present themselves. Thus in *Bateman v. Freeston*, 9 W. R. 311, a bankrupt was arrested under a *ca. sa.* issued upon a certificate granted by the Commissioner under the 12 & 13 Vict., c. 106, s. 257 (the Bankrupt Law Consolidation Act), and before the day appointed for the bankrupt's final examination, but after the day fixed for final examination, another creditor obtained a like certificate, upon which he also issued a *ca. sa.*, and lodged a detainer with the sheriff. The Court of Exchequer, in *Ochford v. Freeston*, and *Chapman v. Freeston*, 9 W. R. 315, had held the first arrest illegal, and the detainer under the second *ca. sa.* likewise invalid. The Court of Queen's Bench held in *Bateman v. Freeston*, that assuming the first arrest to be illegal, which was their opinion, the detainer by the second creditor was nevertheless valid. Now, *Hooper v. Lane*, 6 Ho. of L. C. 443; 6 W. R. 146; unanimously decided by all the law lords, expressly determines the contrary, and was relied on by the Court of Exchequer in the cases above cited. Finally, in *Ex parte Freeston*, 9 W. R. 321, the full Court of Appeal in Chancery decided in accordance with the decision of the Court of Exchequer. Thus was a decision in bankruptcy the subject of conflicting decisions at law and in equity, both classes of courts recognizing no common ligamen. While our appellate courts enjoy little inherent authority as distinguished from the necessarily conclusive nature of their judgments, we cannot feel so much surprised at the apparent rashness of the Court of Queen's Bench, from which we should have expected a sound judgment upon a question of *habeas corpus*, in overlooking the authority of *Hooper v. Lane*, which certainly seems to harmonize with the first principles of law as well as of common sense. It may be asked if an appellate court be constituted of the strength we recommend, where are we to get judges for the House of Lords, who will preponderate both in numbers and influence over the intermediate Court of Appeal? We shall now enter upon this stage of our review, premising that an intermediate Appellate Court of adequate strength would strongly tend to diminish the number of final appeals.

The existence of two distinct Supreme Courts of Appeal does seem to violate the theoretical harmony at which our legal system should aim. The House of Lords, as our readers are aware, adjudicates upon appeals in law and equity, and also upon those brought from the Courts of Probate and Divorce, while the province of the Judicial Committee of the Privy Council comprises all appeals from the

Isle of Man, the Channel Islands, and all foreign British possessions, as also appeals from the Admiralty and Ecclesiastical Courts. A single supreme court of appeal is, doubtless, the natural apex to a scientific system of judicature. If, however, the Lords' Appellate Court was calculated to give equal satisfaction with that given by the Judicial Committee of the Privy Council, this divided operation of our supreme appellate courts would be comparatively unimportant.

The transference of the judicial functions of the House of Lords to the Privy Council, though sometimes mooted, does not, we think, find general acceptance. The transference of the duties of the latter Supreme Court to the House of Lords has not been much discussed, simply because the Judicial Committee has been found to work exceedingly well, and all the members of that Court should be raised to the peerage before they could adjudicate in the Lords' Appellate Court. The Judicial Committee of the Privy Council is generally regarded as a model appeal court; the House of Lords, on the other hand, must be admitted to be frequently deficient in judicial force. The decision of a final court of appeal upon uncertain questions of law is equivalent to an Act of Parliament, the House of Lords never having, so far as we are aware, reversed its own decision upon the same state of facts. Now if we would not desire that a triumvirate of law lords should be substituted for the Queen, Lords, and Commons, in matters of legislation, why should we consider the number three as denoting an adequate attendance of lords at the hearing of appeals, the decisions upon which are the ultimate and only indisputable definitions of the law? The attendance of members of the House, except the Chancellor, is voluntary, and the average attendance of law lords is not considered adequate. In the session of 1855, for some weeks, only two law lords, the Lord Chancellor and Lord St. Leonards, sat to hear appeals, and upon some of these they differed and proceeded to a decision which operated as a confirmation of the judgment appealed against. This unsatisfactory state of things awakened the attention of Government to the necessity that existed for increasing the judicial force of the House. The system of life peerages was then unsuccessfully proposed, and we are now in the same predicament in which we were in 1855. We cannot, indeed, complain at present of appeals being heard only by one or two law lords; but, as the House is at present constituted, such a contingency is by no means unlikely to occur again. Of the various plans proposed for strengthening the judicial force of the House, none appears to us more efficacious, or less open to objection, than the expedient of giving the Crown power to confer life peerages upon the chief judges of our law and equity courts, or upon the members of the Judicial Committee of Privy Council, or upon a limited number of persons who have filled similarly high judicial offices. No doubt, all inroads upon the supposed primary principles of our constitution are to be avoided; but we do not see how the desire that the House of Lords should retain its present judicial functions, as this appears to be the public wish upon the matter, can be effectuated, and yet that these functions are to be effectively discharged, while the attendance of the law members of the House is as precarious as it is at present. That the power to create life peers might be abused by the minister of the day does not appear to us to be a strong objection to the measure, inasmuch as ministers of different principles would have each a control over appointments to the vacancies that might occur during his tenure of office. Unless the death of a life peer happened at a conjuncture when a vote in the Upper House would be a sufficient temptation to a minister to brave public opinion, and determine his selection on political grounds only, the temptation to make an improper choice does not appear likely to exist. Moreover, life peers might be expected to keep as much aloof from political discussions as lay members of the House do from interfering

with judicial adjudications. If, however, the system of life peerages be disapproved of as contravening supposed ancient usage, another remedy is available, which, although seemingly unconstitutional, is, nevertheless, of most undoubted antiquity. This resource is the calling upon judges or lawyers, not members of the House, and giving them the power of joining in the decisions. As constitutional precedent favours this course, is it not an obvious remedy for the existing defect to give such powers to the members of the Privy Council, or to the members of the Chancery Appeal Court? At all events, it is unreasonable to find fault both with the existing constitution of the Lords' Appellate Court, and also with every measure calculated to supply the existing defects. If the Lords' Appellate Court comprised an adequate amount of judicial strength, there would not, of course, be the present grounds for violating the symmetry of our legal system by the existence of two distinct supreme courts of appeal.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

IX. (Continued.)

The case of *Brook v. Brook*, referred to in my last article (on appeal, 9 W. R. 461), shows that Scotland for many purposes is a foreign country, and, as I have often had occasion to observe, especially in the case of domicil. This is well illustrated by the case of *Macaren v. Stainton*, 22 L. J., N. S., Ch. 274, & 26, *ibid.* 332. In that case Henry Stainton, who was domiciled in England, was the London agent of the Carron Iron Company, and was so at the time of his death, being then the holder of 101 shares in the company, worth £80,000. His personalty amounted to £182,000, and he was likewise possessed of large real estate in Scotland. His will was proved in England and Scotland, and the Carron Iron Company brought an action against his executors in the Court of Session for £100,000 alleged to be due on a balance of accounts, and the company obtained letters of arrestment against the real estate in Scotland. A bill was filed in England by the executors against the Carron Company to restrain that action, and the case coming on at the Rolls the Master of the Rolls granted the injunction, and afterwards dismissed a motion to dissolve it. On appeal to the House of Lords this decision was reversed. Another suit was then instituted by the executors, and an injunction similar to the other was moved for before the full Court of Appeal, when the Lord Chancellor and Lords Justices refused the motion with costs. This decision at first sight would seem to trench upon the rule that property is regulated by the law of the country in which a party dies domiciled; but, upon looking into the matter, it will be seen that it does not do so. This was a question of jurisdiction merely, and involved the right of the courts of one country to interfere with the proceedings of the courts of another country as relating to property in that country, not mere personalty, or moveable, but realty, and therefore a part of the soil. Now, the rule that I adverted to, applies, I imagine, exclusively to personalty, otherwise this evil would follow, that the mere fact of the owner of perhaps half the real estate in one country, gaining a domicil in another, would take away all the powers of the law of the country where the realty was situated, over that property upon so slight a circumstance, and deprive the Government of their dues; this could never have been intended, and therefore, the decision in the case of *Macaren v. Stainton* is perfectly in consonance with justice, although the judgment delivered by their lordships does not go fully into the principle.

There seems to have been at different times a question made with respect to the effect of gaining a domicil abroad, as regards the rights attached to the character of a native of a particular country, and it must be confessed there is some difficulty in dealing with such a question, because we are confused with words, and it is therefore necessary to go to the root of the matter to apply the principles of the law to it. It is a great principle of the English legislation that no native of this country should be ever without the means of sustaining life; and hence we have what is very properly called "a poor law;" and the fact that it is surrounded with official difficulties, sufficient sometimes to render it abortive, does not alter the case. At the same time we are not anxious to increase such a burthen, and therefore, if a man has no settlement here, although even then he may be temporarily relieved under the "casual pauper enactment," he must seek relief where he is settled. Where a man has no domicil he can have no settlement, although the same rule may not hold good as a converse proposition; for although in old times settlement and domicil were certainly identical words, domicil is now such a very uncertain thing that it cannot for a moment compete with the fact of a settlement. A domicil, moreover, is chiefly established to avoid government duties, or to gain some advantage under the shadow of a foreign law, whereas settlement would be rather forced upon our government officers than sought to be established by them, as they would lose and not gain by its proof. A domicil may take an English subject entirely beyond the reach of liability to our law in matters of impost, and virtually so in matters of debt. Indeed, it would be only by the permission of a foreign government that any species of legislative power could be exercised over a British subject domiciled abroad with no property in England. The process of naturalization is regulated by statute, and must therefore differ, as in fact it does, in different countries, and the civil rights thus conferred are very distinguishable from the liabilities to which the property of the naturalized person is subject by the fact of his being domiciled where he is naturalized; and, therefore, it follows that although a British subject naturalized abroad, or a Frenchman naturalized in England, may whilst they and all their property remain in that which to them is a foreign country, acquire certain civil rights there, yet, they do not *ipso facto* lose their nationality, but at any moment by returning regain them, if indeed, they have ever lost them. If therefore comes to this, that whilst a person is domiciled and resident abroad, so far as civil liabilities are concerned, our law cannot forcibly touch him; but there is nothing to prevent his return at any moment to England, when those liabilities to which every British born subject is liable would, I apprehend, attach; and if so, why should he not also be entitled to civil rights? not, of course, that that would be a *sequitur* in the case of a foreigner. The object of naturalization is to gain something; but like domicil it is only operative as between the object and the government by which the naturalization is granted, and does not, *prima facie*, abrogate nationality. Thus it was laid down in the case of *Duncan v. Cannan*, 18 Beav. 128 (13 Beav. 366) that there is no foundation for the argument or notion that a Scotchman by birth cannot acquire a domicil without repudiating his nationality; but it was doubted whether a foreigner could acquire a civil domicil in France without the authorization of the French Government. It was also decided that a Scotchwoman domiciled in England, might still give a receipt to the trustees of a settlement made upon her in the Scotch form. The fact is, that domicil affects the property rather than the person; and although a native of one country may by the proper legal forms acquire certain rights in another, those rights are not affected by the domicil, and a person may either lose or

acquire a domicile without such loss in the least affecting the rights he or she may have acquired by naturalization, or in any legal manner. With respect to the recognition of acts done in a foreign country, either by a party in his own right, or in right of another, the following appears to be the law. If a party applies for letters of administration in this country, to an intestate domiciled abroad, having already obtained a grant in the proper court of the country where the intestate was domiciled, it would seem that the ecclesiastical court in this country, generally speaking, will follow such grant. "*Williams' Executors*," 1—376. *In re Goods of Morgan*, 2 Roberts 415. But if the original administration be applied for in this country, in such case, where the deceased was a British subject or an alien, since in either event the distribution of his personal property is to be regulated according to the laws of the country of which he was a domiciled inhabitant at the time of his death, it appears to be a necessary consequence that the grant should be made to the person entitled to the effects of the deceased according to the law of that country; *ibid.* A foreigner dying in this country *in itinere*, the law of this country will not recognise the right of a foreign consul to take possession of his goods, 2 Curt. 274; *Atkins v. Smith*, 2 Atk. 63; *Barnes v. Cole*, Ambl. 416; *Doe v. Vardill*, 5 B & C. 451, s.c. 2 Cl. & Fin. 571, 7 *ibid.* 895, sub nom. *Birtwhistle v. Vardill*.

Where a party entitled to administration is resident abroad, he must have notice before administration can be granted to another person. *Goddard v. Creponier*, 3 Phill. 637. So in the West Indies, *Miller v. Washington*, 3 Hagg. 277; "*Williams' Ex.*" 1—385. If a foreigner dies intestate in the British dominions, administration will be granted according to the law of his own country. *In re Goods of Biggin*, 1 Add. 340; *In re Goods of Countess de Cunha*, 1 Hagg. 239; *In re Goods of Stewart*, 1 Curt. 904; *In re Goods of Rogerson*, 2 Curt. 656. In Scotland the same rule applies. The ambassador must certify the law of the country of which such foreigner is a native. *In re Goods of Dormoy*, 3 Hagg. 767.

If an intestate is domiciled abroad, or within the sovereign's dominions out of this country, and has left assets here, administration must be taken out here as well in the country of the domicile. *Le Breton v. Le Quesne*, 2 Cas. temp. Lee, 261; *Attorney General v. Bonwens*, 4 M. & W. 193.

CHAP. X.

OF RESIDENCE IN VARIOUS COUNTRIES.

We have seen the view which our law takes of the abandonment of either a domicile of origin, or an acquired domicile, in the simple and ordinary case of leaving a native country, settling abroad, so as to become a subject of a foreign state, and then returning to the domicile of birth, and there dying; but the case which involves the greatest difficulty is that in which the party has resided in an indefinite number of places, had establishments, perhaps in all, and even kept up several at the same time. Such a case is almost sufficiently difficult to baffle our endeavours to apply the well-known principles; and it is only by supposing a number of circumstances applicable to such cases, and considering the cases which have occurred, and upon which decisions have been come to, that we can arrive at anything like a conclusion. Every man must be possessed of some kind of property, and therefore, in such cases as that now under consideration, it is of importance to turn the attention to this point. Suppose a man having spent the greater part of his life in business, retires from his labours upon a competence, gives up housekeeping, disposes of his effects, and goes abroad, intending to devote the remainder of his life to change of scene, and the exploring of other countries, and to this end, travels from place to place, regulating his

sojourn in each according to his caprice, or the inducements he there finds to shorten or prolong it, and ultimately dies in one of these excursions; in such a case there can be no doubt that the domicile of origin has not been displaced, and the least article of property left behind him in his native country would be sufficient, I apprehend, to fix such as his domicile, in the absence, of course, of any fixed intention appearing to reside elsewhere. Thus, if furniture or goods be left in the country which is the domicile of birth or origin, and the owner of them travels from place to place abroad; but being charmed with some particular locality, determines there to locate himself, sends for such furniture and goods; takes a residence and there establishes himself for even two years or one year, though he should afterwards travel into other countries, even into his own, yet if he leaves his establishment and furniture in such foreign country, or until he actually abandons such residence by total sale of his property, and the giving up of his house, such residence will determine his domicile, and the domicile of birth or origin having been abandoned, and a new one acquired, the acquired domicile becomes the domicile until it is abandoned; and in the absence of any such settling, the domicile of origin must, I apprehend, be again had recourse to. Cases have occurred in which a party has abandoned his original domicile, has acquired another, has abandoned that, has acquired another, and has then travelled about the world, having entirely broken up his establishment in the last place where the domicile was acquired, except that a few personal effects were left in such place in the care of a friend, there being still property existing in the second and acquired domicile; and yet as it clearly appeared that the last domicile was left merely for the sake of health; it was decided almost in the absence of all other evidence that the last acquired domicile was that to be considered as prevailing at the period of his death.

One great principle that is always acted upon in the cases of numerous and uncertain residence in different countries, is that a new domicile cannot be acquired by mere intention, however clearly evident; and therefore, if every species of property possessed by a person is converted into *specie*, and forms a part of his baggage, or even if such property, so converted, should be transmitted through a banker, or otherwise to another country, where the intention was to finally settle, unless the party does so settle, and remain long enough to be regarded as an inhabitant, with intention to remain, no new domicile is acquired; and if so, it follows, that the abandonment is only such in case of such new acquirement, and ceases to be an abandonment in case the new acquirement does not take effect. To decide otherwise would be in effect to say, that a man may have no domicile, a state of things quite inconsistent with the policy of the law. Circumstances as well as facts must be regarded in the consideration of this branch of the subject. What I mean is this:—The possession of property is a fact; but there may be ties both of interest and regard which so link a person to a particular country as to make it in the last degree improbable that he will ever abandon it. Thus, if an individual proceeds abroad upon a speculation, and hires a residence for a limited term renewed from time to time, but his position is such that he may return at any moment to his native soil, though the residence abroad is amply sufficient to secure him in a new domicile, yet, it appears clear that a constant probability of return, more particularly if it be added to circumstances making it a matter of certainty that he will do so, although the exact period is uncertain, will have the effect of retaining the original domicile and preventing the acquirement of a new one.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

MIDDLESEX SESSIONS.

April 15.—The April adjourned sessions commenced this morning at Clerkenwell before Mr. Bodkin, Assistant Judge, and a full bench of magistrates.

Mr. John Locke, Q.C., M.P. for Southwark, has accepted the recordership of Brighton, rendered vacant by the recent retirement of Mr. Edwin James.

It is rumoured that Mr. J. B. Maule, of the Northern Circuit, has been appointed Recorder of Leeds, in the room of the late Mr. T. F. Ellis.

The Queen has been pleased to appoint George Hunter Cary, Esq., to be Attorney-General for the island of Vancouver.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, April 15.

LUNACY REGULATION BILL.

Their lordships went into committee on this Bill.

The LORD CHANCELLOR moved an amendment, that instead of two medical visitors there should be but one, who should devote his whole time to the discharge of his duties.

The Earl of SHAPTESBURY thought the amendment indicated by the noble and learned lord would operate most beneficially. It was necessary that the medical officer should devote his time exclusively to the discharge of the duties intrusted to him under the Bill.

The Marquis of WESTMEATH regretted that no protection was given by the Bill to lunatics, who, though not dangerous, were yet unable to take care of themselves or their properties.

After a few words from the LORD CHANCELLOR,

The House went into committee on the Bill, when the amendments suggested by the Lord Chancellor were agreed to.

Tuesday, April 16.

BANKRUPTCY AND INSOLVENCY BILL.

The LORD CHANCELLOR, in moving the second reading of the Bankruptcy and Insolvency Bill, expressed a hope that it would meet with the approbation of the House, as he believed that the objections formerly entertained against it by their lordships had been met by the Bill before them. His lordship then gave the history of the past and present state of the law of bankruptcy; and having briefly touched upon the state of the law of insolvency, the abolition of the distinction of traders and non-traders, and the proposed alterations, he proceeded to explain the object of the Bill, and entered at some length into its various details.

Lord CHELMSFORD thought that the Bill, without considerable alterations, would hardly acquire the confidence of the country. In his opinion, the Attorney-General in drawing up this Bill had listened too much to the Mercantile Law Amendment Society, who represented one party on bankruptcy, and, consequently, had run entirely counter to the views of the other. By so doing the interests of the smaller estates had been sacrificed to the larger, and the machinery which this Bill proposed to introduce would be found far too cumbrous for smaller bankruptcies. In the case of the larger bankruptcies there would be a struggle for the post of creditors' assignee, while in that of the smaller the creditors would decline to appoint an assignee, and the estate would be left to the official assignee. There was also some danger of a collision between the creditors and the official assignees, and in that case what would become of the estate? The result of the present measure, with its proposed system of accounts and checks, and the addition of the creditors' assignee, instead of diminishing, would increase the expenses, and lead by collision between the assignees to a complete deadlock. In regard to the abolition of the distinction between traders and non-traders, he strongly objected to the retrospective clauses, and hoped that the House would agree to the amendments which he intended to introduce to prevent such retrospective effect. He strongly condemned the idea of adding a jurisdiction in bankruptcy to the various duties of the county court judges. He had no objection to their having jurisdiction in cases of insolvency. In conclusion

he expressed a fervent hope that their lordships would not pass the Bill in its present state, but would, if a motion to the effect were made, refer it to a select committee.

Lord CRANWORTH thought the Bill contained many excellent provisions, and considered the mode in which it was proposed to abolish the distinction between traders and non-traders most satisfactory; and in regard to the retrospective power of these clauses he thought they were to a certain extent reasonable. As to the extension of the jurisdiction of the county court judges to bankruptcy cases, judging from the report of a commission which had been appointed to investigate the subject, he thought that it was impossible; on this subject, and also on the transfer of the duties of the official assignees, he should reserve his opinions. He also thought that the duties of the judge who was to preside over the new court required explanations. He could not think that the time of the chief judge could be occupied by the duties likely to devolve upon him; nor could he see the necessity for such a functionary with a salary of £5,000 a year, and a secretary of £300.

Lord KINGSDOWN examined the effects of the abolition of the distinction between traders and non-traders, and thought that while it was perfectly fair to give creditors summary powers in the case of the former, in the latter case it would lead to many hardships, especially in the case of inexperienced young men. He objected to the appointment of a judge, as he thought ten commissioners were quite capable of dealing with the matters brought before them. He asked whether it was becoming (as provided by the Bill) that the decision should rest with the judge whether or not he would permit his own ruling to be subjected to review. The Bill would lead to great confusion, and he did not expect that it would conduce to lessen the expenses of bankruptcy. The Bill, he hoped, would be considerably modified in committee.

The LORD CHANCELLOR briefly replied to the objections which had been raised. He opposed sending the Bill to a select committee; on going into committee he would answer at large the objections which had been brought against the Bill.

The Bill was then read a second time.

Thursday, April 18.

BANKRUPTCY AND INSOLVENCY BILL.

The Committee on this Bill was postponed until Friday, May 3.

HOUSE OF COMMONS.

Monday, April 15.

STATUTE LAW REVISION BILL (LORDS).

The ATTORNEY-GENERAL, in moving the second reading of this Bill, said that the duty formerly assumed by the Statute Law Commissioners having devolved upon the Lord Chancellor, it appeared that the best mode of proceeding to consolidate the statutes was to ascertain of what the statutes actually consisted. Inquiries were made backwards from the end of the year 1858 to the 11th of George III., and a vast body of statutes were discovered which were indicated in the columns of this Bill, which were no longer in force. The object to be attained was the formation of what he might call an expurgated edition of the statute law, which appeared to be a most desirable thing, before they dealt with the consolidation of the law. He hoped, therefore, to obtain the sanction of the House to a series of statutes which would have for their ultimate end the production of a new edition of the statute law, which at present was contained in 42 folio, or large quarto volumes, but which would be reduced to less than one-fourth of that compass. They would then proceed to consolidation and arrangement. He then moved that the Bill be referred to a select committee.

Mr. WHITESIDE protested against a measure so ponderous in its dimensions, and so complicated and difficult in its character, being referred to a select committee.

After a few words from Mr. HADFIELD, in approval of the Bill, it was read a second time, and referred to a select committee.

COPYRIGHT IN WORKS OF ART.

The ATTORNEY-GENERAL moved for leave to bring in a Bill to amend the law relating to copyright in works of fine art. The artists of all nations in the world were invited to bring their works of art to this country in 1862. We had entered into treaties with other countries and established international copyright, yet there was not in this country any law that gave protection to copyright in works of the mind, which,

above all others he considered were entitled to their protecting care.

Leave was then given to bring in the Bill, which was brought up and read a first time.

Wednesday, April 17.

COMMON LAW PROCEDURE ACT (1856) EXTENSION BILL.

This Bill was read a second time and passed.

ADMIRALTY COURT JURISDICTION BILL.

This Bill was read a second time.

TRUSTEES OF CHARITIES BILL.

On the motion of Mr. Selwyn this Bill was ordered to be committed this day six months.

The Bill was, therefore, lost.

Thursday, April 18.

CHARITABLE USES.

This Bill was read a third time and passed.

VOLUNTEERS TOLLS EXEMPTION BILL.

This Bill was withdrawn for the purpose of introducing another which would more precisely express the object of the measure.

PENDING MEASURES OF LEGISLATION.

LUNACY REGULATION.

A BILL INTITULED AN ACT TO FURTHER DIMINISH THE EXPENSE OF PROCEEDINGS IN LUNACY, AND TO PROVIDE MORE EFFECTUALLY FOR THE VISITING OF LUNATICS, AND FOR OTHER PURPOSES.

1. Act may be cited as "The Lunacy Regulation Act, 1861."

2. Act shall be read and construed according to the interpretations contained in the second section of 16 & 17 Vict. c. 70; and the provisions of the said Act (except so far as the same are altered by and are inconsistent with this Act) shall extend and apply to this Act.

3. This section gives power to the Lord Chancellor, where lunatic does not oppose application, and his property does not exceed £500 in value, to apply it for his benefit in a summary manner, without inquisition.

4. The Lord Chancellor may make orders for regulating the procedure to be adopted and the duties to be performed by the masters and officers in lunacy in carrying the objects of the last section into effect.

5. No person shall be entitled as of right to a traverse of any inquisition taken upon the oath of a jury, whereby any person shall be found lunatic, idiot, or of unsound mind; but any person desiring to traverse such an inquisition may, within three months next after the return of the same, present a petition for that purpose to the Lord Chancellor.

6. Provides that sects. 148 and 149 of 16 & 17 Vict. c. 70, shall not apply to cases within the last preceding section.

7. Prescribes the duties of visitors.

8. Provides that all lunatics in licensed houses shall be visited once a year, in addition to visits by commissioners, and that all other lunatics shall be visited twice a year.

9. Repeals sections 104 and 105 of 16 & 17 Vict. c. 70.

10. The visitors of lunatics and registrar in lunacy shall hold office during good behaviour, and may be removed therefrom by the Lord Chancellor.

11. Gives power to the Lord Chancellor to allow pensions to present visitors, if desirous of retiring, and to future visitors, if afflicted with permanent infirmity.

12. Provides for payment of pensions.

13. Declares that masters in lunacy shall not be members of the House of Commons.

14. The Accountant-General and all other persons, and the Governor and Company of the Bank of England, shall act upon all office copies of orders in lunacy purporting to be signed by the registrar in lunacy, and sealed with the seal of his office, in the same manner as such persons are by section one hundred and one of the said Act required to act upon office copies of reports confirmed by fiat.

Recent Decisions.

COMMON LAW.

MERCANTILE LAW AMENDMENT ACT, 1856, s. 5—PAYMENT BY SURETY OR CO-DEBTOR, EFFECT OF.

Batchellor v. Lawrence, 9 C. P., W. R. 373.

This case throws light upon the Mercantile Law Amend-

ment Act, 1856 (19 & 20 Vict. c. 97); several of the provisions of which require some such assistance, both as respects their object and the mode in which they are to be worked. That one which is the subject of discussion in the present case is contained in the 5th section, which, in effect, enacts that every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, shall pay such debt or perform such duty, "shall be entitled to have assigned to him, or to a trustee for him, every judgment, specialty, or other security which shall be held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security shall be or shall not be deemed at law to have been satisfied by the payment of the debt or performance of the duty."

Now, the first thing we learn from the present case is the object of this provision; and this appears, from the judgment of Mr. Justice Williams, to have been to remedy the hardship with respect to assignments of judgments according to the previous doctrines upon that subject which prevailed in the courts of equity. It seems, for example, that where a surety paid off the bond after the death of the principal debtor, and took an assignment of the security,—he was considered as a simple contract creditor only of the estate of the principal debtor, because the action on the bond so assigned must be brought in the name of the obligee, and payment by the surety would be an answer to the demand. This was so laid down by the Master of the Rolls in the case of *Jones v. Davids* (4 Russ. 277), and it was to remedy this defect that the clause in question was enacted.

Another point which arises on the section is, how is the right it gives to be enforced? It says, indeed, that the surety or person jointly liable who pays the debt or performs the duty shall be entitled to an assignment of the judgment or other security held by the creditor, but no special means are indicated for enforcing that right. But it appears by this case that an action will lie for the refusal or neglect to assign after request; and—that remedy existing—it seems to follow that the creditor could not be compelled to assign by force of the prerogative writ of mandamus, which lies only where an action will not; or, at least, where no effectual relief can be afforded thereby (see 3 Step. Com. 4th ed., p. 698). Whether the mandamus incidental to an action created by the Common Law Procedure Act, 1854 (as. 68—76), would be granted in a case like the present is a question of some nicety, as the judgments given in *Benson v. Paull* (6 Ell. & Bl. 373), and *Norris v. Irish Land Co.* (8 Ell. & Bl. 512), have left the law with regard to the scope of that writ in an unsettled and unsatisfactory condition. For in the case first named the Queen's Bench laid it down that the duty for the performance of which the writ was claimed must be such as might be enforced by the prerogative writ; but, in the other case, the same Court appears to have, to a certain extent, repudiated that proposition.

With regard to the precise question involved in the present case it may be shortly stated thus. The declaration charged that the plaintiff being jointly liable with A. B. to pay a certain sum to the defendants, and the defendants having recovered judgment for such sum against A. B. and the plaintiff, and having issued execution thereon, the plaintiff paid the whole sum recovered; whereupon he became entitled to an assignment of the judgment against himself and A. B., which the defendants refused to give him. To this the defendants pleaded, in effect, that by the payment made by the plaintiff while in execution under a *ca. sa.* the judgment against himself and A. B. had become satisfied; and the plaintiff, by demurring to this plea and succeeding on it, established that this fact, even if true, was no answer to the action—in other words, that the plaintiff was entitled to have the judgment assigned, even if it were perfectly useless to him—for that against the enforcement of his statutory right to that effect, it was no sufficient argument that with respect to the judgment so assigned he might have, in one sense, to sue himself as a joint defendant.

LIABILITY OF INNKEEPERS, LAW AS TO.

Morgan v. Ravey, Exch., 9 W. R. 376.

The law as to the peculiar responsibility of innkeepers as bailees of the goods of their guests while sojourning with them, is well known and easily justified. They are held answerable for such goods if they are lost, damaged, or stolen, except only where they are taken from the traveller's own person, or by his own servant or companion, or by his own gross negligence; and the reason is that travellers are, from the necessity of the case, compelled to come to inns, and place confidence in persons who keep them, with whom they may have had no previous dealing or acquaintance. The defence to the present case was an attempt to qualify this common law doctrine

by enabling the innkeeper by a notice to limit his responsibility, and to require his guests to use certain precautions themselves—as to fasten themselves into their bedrooms and to leave their more valuable property at the bar. This attempt was, however, unsuccessful. The Court was of opinion that, except in the cases above referred to, or in a loss arising from the act of God or the Queen's enemies, the innkeeper was liable, however he might seek to protect himself by a previous notice. The case of *Dawson v. Chamney* (5 Q. B. 168; 7 Jur. 1037) was, indeed, relied upon by the defendant as showing that, according to the opinion of the Queen's Bench, the question whether the negligence lay on the side of the innkeeper or the guest, was determinable in favour of the former if he could show to the satisfaction of a jury that he had taken all reasonable precautions for the security of the property entrusted to him. This case was commented on by the Court of Exchequer, and endeavoured to be distinguished in its circumstances from that before them. But it is evident that the barons were prepared, if necessary, to depart from the judgment delivered by Lord Denman, in so far as it might limit the responsibility of the innkeeper further than above mentioned.

PLEADING, RULES AS TO—EMBARRASSING PLEA, EFFECT OF.
Welland Railway Co. v. Blake, Exch., 9 W. R. 386.

This is an important exposition of the existing rules of pleading so far as they tend to prohibit an embarrassing plea; or, rather, it shows the proper construction of the 52nd section of the Common Law Procedure Act, 1852, which allows a pleading so framed as "to prejudice, embarrass, or delay the fair trial of the action" to be struck out or amended on the application of the opposite party.

The declaration charged the defendant with non-payment of certain calls authorised by, and made under, certain Acts of Parliament set forth therein; and the only plea placed by the defendant on the record was "never indebted." It was urged on behalf of the plaintiffs that this plea was "embarrassing," by reason of its putting them to an amount of expensive proof which would be unnecessary if the plea were confined to the denial of one or more allegations of fact in the declaration; but the Court replied that the plea of "never indebted" was a lawful one in an action arising on a simple contract, and that they had therefore no power to interfere. The Court added that they were of opinion that so far as the pleading rules of 1834 were not superseded by one or more of the pleading rules of Hilary Term, 1853, the former set of rules still subsisted in force. It is difficult, however, to understand how their express repeal in the preamble of the existing rules, is consistent with his view.

Correspondence.

"LAW STUDENTS' DEBATING SOCIETY."

Whilst the subject of education of attorneys and solicitors is being discussed, allow me to divert your attention for a while to sec. 2 of rule 1 of the above society, which is in these words, "Ordinary members, subscribers to the library or lectures of the Incorporated Law Society, clerks article to members of that society, and clerks who, having been article, are in the service of members of that society, shall be eligible for election as members of this society." And in addressing myself to this subject I may remark, *en passant*, that I think it would be more satisfactory and advantageous to the profession that the question whether, at the time of issuing the embryo rules regulating our examination, present or future article clerks should be bound to comply with, and be subject to them, should be settled with as little delay as possible, although I am quite willing to rest on my oars and abide the result of the combined deliberations of the Judges and the Incorporated Law Society; but after conning the subject "as worthy of cogitation," I cannot but think that only *future* students should be subject to *future* rules. And now as to the quoted rule of the Law Students' Debating Society I take exception to this rule on the ground that it imposes on an article clerk the necessity of being a subscriber either to the library or lectures of the Incorporated Law Society, or being article to, or in the service of, a member of that society. Why should I be compelled to pay for two articles when I only require one of them? And as to being a subscriber to the library or lectures, I do not object to the payment of the £1 a-year as being too much for either; but I would rather expend it in having a library of my own, as to that I can refer at all times. The advantages of attending lectures has been questioned; but before I venture to express myself on this, I wish to learn more,

and probably you may be kind enough, as a friend, to open your columns to suggestions hereon, which may be not only beneficial to myself, but to others, if those competent to judge would be so kind as to impart to us their better knowledge. Why should my master be compelled to become a member against his inclination? He is well to do, and a highly respectable practitioner. Yet I would not so insult him as to ask such a favour, as, were he so disposed, he would require no mention of it. There is an old saying that "One volunteer is better than ten pressmen," and that infallible tutor "Experience" has taught us that is so. I presume not one of the members of the Debating Society would say theirs is so exclusive and select that those unfortunate ones of my situation are not select or respectable enough to be qualified to join them! Why, then, should we be treated so inconsiderately? One would imagine a society springing from the heart of our governing body, would have shown more liberality, and an anxiety rather to extend than limit their sphere of action among the rising generation of the profession. It is too exclusive and too arbitrary, as it should be open to every article clerk, whether article to a member of the Incorporated Law Society or not; and I hope the former may so relax their rules as to make all article clerks eligible to be elected members, and all paying the same uniform rate of subscription, whether increased or as at present. John Locke says, "To prejudge other men's notions before we have looked into them, is not to show their darkness, but to put out our own eyes." On this guiding principle I would wish to act with the Law Students' Debating Society, and in return should anticipate similar treatment from them. Doubtless Mr. Marmaduke Mathews, their secretary, may be able to furnish some argument or reason against my objections, or if mine are incorrect, I am open to correction, and shall with pleasure await its perusal. I object to assist in supporting one thing for the advantages I may receive from another. I would rather pay twice the amount towards the support of the one from which I derived benefit. I shall support the Incorporated Law Society as representing the profession; but I shall not, although I wish to, support the Law Students' Debating Society if I am compelled to subject myself to the objections to which I have alluded. No one more than myself would wish to see our profession raise itself to the highest standard in public estimation; and towards the realization of such an object, "most devoutly to be wished," my constant aim and endeavours will be applied. I should, however, disregard and sacrifice my own feelings were I not to make my opinions known, and I should think and acknowledge him a friend who would point out and advise me how to mend my faults. If you can find a nook for these few remarks, you would gratify, and probably do a service to others as well as, your faithful servant,

A LIMB OF THE LAW.

EXAMINERS' OFFICE IN CHANCERY.

It is a very common complaint among practitioners in Chancery that the progress of a cause to a hearing is delayed by reason of no appointment being procurable at the examiners' office for, say, six weeks after application is made for the purpose. I have often been inconvenienced in the manner pointed out, and as it appears to me that a simple remedy is at hand, I ask permission, through the medium of your columns, to suggest that junior barristers of, say, five years' standing, be allowed to act as examiners on signifying to the senior registrar of the court their willingness to act, and handing in their names to be placed on a list to be kept at the registrar's office. Two obvious advantages would result from this. One, to the solicitors, in being able at all times to make their own arrangements with their witnesses for the examination to take place irrespective of any particular appointed day, as is now the case; and the other, to the barristers in being early brought into business communication with solicitors. The examiners' remuneration could be adjusted on a moderate scale by the Lord Chancellor, and I doubt not that plenty of young men would become candidates for the post of examiner especially as so little legal knowledge is required to fill it. The simple difficulty of providing accommodation for the examination to take place in, cannot, surely, be insuperable. I trust that you will advocate such a change as I have suggested.

W. B.

Ireland.

At the quarter sessions for the county of Tipperary, held at Clonmel on the 5th instant, Mr. Serjeant Howley, assistant-

barrister of the county, drew attention to the regulations made in pursuance of the Act passed in the session 23 & 24 Vict. c. 153, entitled "an Act to extend the law relating to the tenure and improvement of land in Ireland," which gives power (sec. 10) to the owners of land to make improvements thereon and (sec. 19) to charge the expenditure on such lands. The Act (sec. 25) also gives the owners of land power to grant building and other leases, under certain restrictions specified in the Act. The Act (sec. 36) also gives power to tenants to make improvements in the land occupied by them, and to charge the lands with the expenditure incurred thereby in manner in the Act expressed. He also alluded to an Act passed in the same session (cap. 154) entitled "an Act to consolidate and amend the law of landlord and tenant in Ireland," which enacts (amongst other things) that (sec. 8) leases may be renewed without surrender of under-tenancies; that (sec. 35) magistrates may issue precepts to restrain waste, that (sec. 4) actions for rent in arrear or (sec. 46) for use and occupation where the amount does not exceed £100, may be by Civil bill action in the court of the chairman of the county in which the lands are situate; and that (sec. 51) no distress shall be levied for more than one year's rent. For full particulars respecting the provisions of these important statutes, see *ante*, p. 9 and 30.

It has been stated that the sessional Crown solicitors have adopted a resolution to the effect that whenever vacancies occur in the office of assizes Crown solicitors, the Government should appoint the local Crown solicitors, with an increase of salary, to conduct the assizes business; and they state that this would effect a saving to the country of probably £1,200 per annum on each assize circuit.

THE SOLICITORS' BENEVOLENT ASSOCIATION.

The Sixth General Meeting of this Association was held on Wednesday, the 17th of April last, at the Law Institution, Chancery-lane, to receive the half-yearly report, and to transact other business. The following announcement had been previously circulated amongst the members:—"The directors, feeling the importance of commencing the relieving operations of the association as early as possible, desire to have the views of the general body as to the minimum amount of invested capital which shall be considered sufficient to justify them in entertaining applications for relief." Members who could not attend the meeting were invited to communicate their opinions.

Mr. JAMES ANDERTON having taken the chair, the half-yearly report was read by Mr. Eiffe, the secretary, from which it appeared that since the last half-yearly meeting, 140 new members had joined the association, making the aggregate number now enrolled 1,020, of whom 388 were members for life, and 632 were annual subscribers.

The subscriptions, donations, and dividends on invested capital within the same period, had amounted to £648 19s. 4d., out of which a sum of £486 12s. 6d. had been added to the invested fund, making the entire invested capital at the present time £4,603 17s. 5d. £3 per cent. Consols; besides which, there was a cash balance of £198 8s. 6d. Since the last meeting, the expediency of selecting a more remunerative investment than Consols for the society's capital had been a subject of consideration with the board, who were pursuing inquiries to ascertain the most productive mode of investment compatible with safety. The directors stated that they had received applications for assistance during the past half-year, which they had found it painful to be unable to entertain, and requested an expression of the views of the meeting in the terms above mentioned. From the balance-sheet for the half-year it appeared that the working expenses amounted to £183 13s. 4d.

In moving that the report be adopted, the CHAIRMAN said, that although the directors in their report had expressed their satisfaction that the association had had an accession of 140 members since the last general meeting, he was not satisfied. He thought that looking at the numbers of the profession and the objects of that institution, they ought to have had a great many more (hear, hear), he regretted there was not more charity in the profession, especially when it had been said that charity covered a multitude of sins, he knew of no one who ought to be more ready to take advantage of that protection than the lawyers (hear, hear). The chairman proceeded to read a letter from Mr. Wasbrough of Bristol, stating that Mr. Heaven of Bristol, and himself, had been

inviting several members of the profession in their neighbourhood to subscribe to the association, and as a result of their canvass he forwarded the names of eight annual and three life subscribers. Another letter was read from Mr. Morrell of Oxford, in which the writer stated he entirely concurred in the opinion that their capital ought to be largely increased before giving the assistance which it was the object of the society to give. Mr. Morrell added that feeling he had not been of much use hitherto as a director, he was willing to give £21 to assist the funds (hear, hear). The chairman observed that these letters were highly satisfactory. He recommended the directors to put their shoulders to the wheel during the next four months in order that when they came to meet at Worcester in the summer, they might be able to make a better report, and the society might then be in a situation to discuss the question of the distribution of its funds.

The motion was seconded by the deputy-chairman, Mr. Thomas Harrison, and carried; as was also a resolution expressing satisfaction at the progress of the society, which was moved by Mr. Stephen Williams, and seconded by Mr. C. Hall. A vote of thanks to Mr. Anderton, for his exertions in saving the association from expense by allowing them the free use of rooms at his chambers as offices, was moved by Mr. Benham, and seconded by Mr. Banner, and carried unanimously. A resolution of thanks to the directors was then put and carried, having been moved by Mr. Redpath, and seconded by Mr. Hart.

The question as to the investment of the capital of the association was then submitted to the meeting by Mr. C. A. Smith, who was followed by Mr. Torr, Mr. Stephen Williams, Mr. Banner, Mr. Henry Kimber, Mr. Redpath, and other speakers; but no resolution was moved, and the subject was postponed to a future occasion.

Mr. GIRAUD then moved the following resolution:—"That in the opinion of this meeting it is not expedient to commence granting relief until the funds of the society amount to £10,000." He observed that at present the expenses of the association exceeded 25 per cent. of their income.

Mr. STEPHEN WILLIAMS seconded the motion. He thought the institution would be incurring great expense if they began distributing alms whilst they were still in an infant state of existence.

Mr. TORR asked whether, in the event of the meeting being of opinion that the association should commence operations at once, if they were to put two or three annuitants on the list, and no personal applications were to be entertained, the chairman would still be willing to give them the advantage of having offices at his house as before?

The CHAIRMAN said he should be willing to continue to the association the use of his chambers until the business of the society became so large as to become a nuisance to him.

Mr. BANNER moved an amendment to the resolution. He said that in canvassing for the society, he was every day met with the objection—"You have been accumulating money now for two or three years, and you do nothing with it." If the association began giving relief, they would certainly get many more subscribers. That, at any rate, was the feeling at Birmingham, Hull, York, and elsewhere in the country. He contended that no increase of expenditure was to be anticipated, as all applications must be by letter, and would be answered by the secretary.

Mr. C. HALL seconded the amendment.

Mr. BENHAM opposed the amendment. He asked how the society could possibly do anything till it was supplied with funds? He thought an attempt should be made to raise a supply fund for expenses by donations and alms, so as to leave one fund free from any charge whatever.

The CHAIRMAN said that a circular had been sent round to all the members, asking for their opinion on this matter. To this inquiry twenty-two replies were returned. Six were in favour of the view that there should be £10,000 invested before any distribution took place; five thought that sums from £5,000 to £8,000 should be first invested; five were against commencing relief in the present state of the funds; five wished to commence giving relief at once; and one was neutral.

Mr. YOUNG said his opinion was against the amendment. It was surely speculative how long they might possess their present income. Whatever assistance the Chairman might now be giving them, he might any day want to re-occupy his rooms. He did not think the society's donations fell short in consequence of their not yet giving any assistance.

Mr. HARRISON said he had given this subject much consideration. He thought that if this amendment were carried, the meeting would be sowing the seeds of an early dissolution of

the society. Several of the members, who had also been members of the old society which was confined to London and its neighbourhood, must remember that that was a successful and well-conducted institution; and they came to the conclusion that it would not be safe to distribute their funds until they had £10,000 invested. The present association, with its extended area, ought to be possessed of £40,000 or £50,000. The Chairman might some day find his convenience too seriously invaded by the occupation of his rooms. Their expenses already were some £120 or £130 out of an income of £200; and those expenses were increasing. To meet these they were dependent upon casual annual subscriptions.

Mr. GIRAUD condemned the expensive working of the association.

Mr. H. KIMBER (one of the auditors) explained the grounds why the sum of £10,000 had been fixed upon.

Mr. REDPATH thought it would be most unwise to grant relief in the shape of five or six annuities, and then to be compelled to stop. The practice of the Governesses Society was never to grant an annuity unless they were able to invest it. Something, he thought, might be done to curtail the expenses.

Mr. C. A. SMITH observed that the objection to the society was, that they were only scraping money together. He thought it would be equally to the advantage of the poor and of the society to be doing something.

Mr. MACKRELL deprecated the expensive working of the society. He thought something might be done at once towards applying part of the society's income to the wants of their necessitous brethren.

Mr. SIDNEY SMITH, jun., supported Mr. Banner's amendment. He thought, however, the extent of the relief should be limited to the income of the invested capital, and should be confined to members and their families.

Mr. MACKENZIE said that if the question were one of whether they should distribute or should not, he was in favour of the more liberal course being taken.

Mr. COOKSON said he might, perhaps, be permitted to observe that the impression of the trustees was very strong that the relief of members should be the primary consideration, and that others should be assisted only out of their abundance. The association might be considered in the light of a mutual benefit society, whereby members might contribute to each other's relief, as they could not anticipate the reverses which might fall upon any one of themselves. He thought they would not be justified in extending relief to non-members, until a larger amount was contributed than they possessed at present.

The resolution was then put and negatived, and the following amendment was carried:—"That in the opinion of this meeting, the directors should commence granting relief immediately to members and their families; the extent of such relief not exceeding the income of the invested capital of the association."

The CHAIRMAN then moved that the thanks of the meeting be presented to the Incorporated Law Society for the use of their rooms free of expense. This was seconded by Mr. C. A. Smith, and carried; and with a vote of thanks to the Chairman, the proceedings terminated.

PROCEEDINGS OF THE FOURTEENTH ANNUAL GENERAL MEETING OF THE METROPOLITAN AND PROVINCIAL LAW ASSOCIATION, HELD AT THE INCORPORATED LAW SOCIETY'S HALL, ON WEDNESDAY, APRIL 17TH, 1861.

Mr. THOMAS KENNEDY in the chair.

The SECRETARY read the report and annual balance-sheet.

Resolved—1. On the motion of the CHAIRMAN: That the report of the committee of management be adopted, and that it be printed and circulated in the usual way.

Resolved—2. On the motion of Mr. SMITH, of Greenwich; seconded by Mr. ROSE: That the cordial thanks of the association be presented to the committee of management for their labours during the past year.

Resolved—3. On the motion of Mr. T. H. BOWER; seconded by Mr. DEVONSHIRE: That the following members of the association be elected chairman, deputy-chairmen, and committee of management for the ensuing year:—Chairman, Mr. J. S. Torr.—Deputy-Chairmen, Messrs. T. Avison, Liverpool; W. Shaen, M.A.—Metropolitan Solicitors, Messrs. J. Anderton, E. S. Bailey, Keith Barnes, J. Beaumont, William Bell, E. Banham, George Bower, T. Holme Bower, J. Bridges, James Burchell, E. F. Burton, Henry C. Chilton, J. M.

Clabon, W. S. Cookson, F. N. Devay, Charles Druce, T. Dry, E. W. Field, A. Hemsley, T. Kennedy, H. Lake, Edward Lawrance, C. H. Lovell, C. J. Palmer, W. H. Palmer, W. Shaen, M.A., J. S. Torr, John Young.—Provincial Solicitors, Messrs. T. F. Champney, Beverley; Arthur Ryland, Birmingham; J. Rawlings, ditto; W. Kennett, Brighton; H. Verrall, ditto; W. J. Williams, ditto; A. Cox, Bristol; J. Livett, ditto; H. S. Wasbrough, ditto; J. Greene, Bury St. Edmunds; T. Wilkinson, Canterbury; H. T. Sankey, ditto; John Nanson, Carlisle; T. Coombs, Dorchester; Herbert New, Evesham; R. T. Brockman, Folkestone; John Burrup, Gloucester; J. R. Rayner, Huddersfield; J. England, Hull; W. Henry Moss, ditto; J. Saxelbye, ditto; R. Wells, ditto; S. B. Jackaman, Ipswich; H. Sanders, Kidderminster; John Sharp, Lancaster; A. S. Field, Leamington; Robert Barr, Leeds; John Bulmer, ditto; J. H. Shaw, ditto; T. Avison, Liverpool; E. Banner, ditto; M. D. Lowndes, ditto; R. A. Payne, ditto; W. Radcliffe, do.; J. J. Ridley, do.; Jas. O. Watson, do.; J. W. Danby, Lincoln; J. Case, Manchester; J. P. Aston, ditto; J. F. Beever, ditto; J. Crossley, ditto; S. Heelis, ditto; W. H. Partington, ditto; James Street, ditto; J. Sudlow, ditto; G. Thorley, ditto; John Clayton, Newcastle-upon-Tyne; W. Crighton, ditto; R. R. Dees, ditto; G. W. Hodge, ditto; T. Scriven, Northampton; Sir W. Foster, Bart., Norwich; Messrs. William Skipper, ditto; H. B. Campbell, Nottingham; R. Enfield, ditto; H. Hunt, ditto; W. Minchin, Portsea; E. Ball, Perashore; Joseph Pears, Ruthin; E. P. Kelsey, Salisbury; J. Broughall, Shrewsbury; T. Brown, Skipton; C. E. Deacon, Southampton; T. Burn, jun., Sunderland; E. J. Hayes, Wolverhampton; T. M. Whitehouse, ditto; C. Pidcock, Worcester; J. Stallard, ditto; E. J. Pechalay, Wakefield; W. Beaumont, Warrington; T. Waters, Winchester; John Lewis, Wrexham; Thomas Hodgson, York; George Leaman, ditto; G. H. Seymour, ditto.

Resolved—4. On the motion of Mr. TORR; seconded by Mr. BENHAM: That the best thanks of the association be presented to Mr. C. A. Smith and Mr. J. Morris for their services as auditors, and that they be requested to accept the same office for the ensuing year.

Resolved—5. On the motion of Mr. RAWLINS, of Birmingham; seconded by Mr. TORR: That the best thanks of the association be presented to the Council of the Incorporated Law Society for their courtesy in lending one of their rooms for the purposes of the meeting.

Resolved—6. On the motion of Mr. ROSE; seconded by Mr. T. H. BOWER: That the best thanks of the meeting be presented to Mr. Kennedy, for his able conduct in the chair.

The meeting concluded with a vote of thanks to the Secretary, which was moved by the CHAIRMAN and seconded by Mr. TORR.

LAW STUDENTS' DEBATING SOCIETY.

We have received the last quarterly report of the Law Students' Debating Society. It is as follows:—

Gentlemen,—In reporting to you the proceedings of the society during the past quarter, I will pursue the course which has generally been taken, and notice the principal events that have occurred, and give a *résumé* of those matters which seem to me to call for remark during that period. There are some matters in connection with the support and progress of the society which I will venture to suggest, and to which I beg the consideration of members individually,—I mean their attendance at our meetings, and the avoidance of motions which take up much time without leading to beneficial results. We have held 12 meetings during the past quarter, at which 7 legal and 4 jurisprudential questions have been discussed. The average attendance of members has been 25 at each meeting, while that of the number of speakers has been more than 9, and those who have recorded their votes in the book kept for the purpose, and also at the conclusion of the debate very nearly 12. The time occupied by the proceedings shews an average of close upon 2 hours. A larger result might have been expected having regard to the interesting nature of the questions and to the fact that more than 20 new members have been elected since October; but it should be remembered that the debate on the legal question proposed for the first meeting was adjourned, so that these statistics may at least be considered as satisfactory. At the first meeting in January, on the announcement of Mr. Plaskitt's resignation as committee-man, a vote of thanks was passed for the very efficient manner in which he had discharged the duties of that office; and Mr. Dowse was subsequently elected to supply the vacancy. A resolution was also carried which virtually has the effect of

repealing part of rule 12, viz., that no member of this society, other than the opener of the debate, shall in future be permitted to speak on any question for a longer period than 20 minutes, the time allowed for speaking having been previously fixed at half an hour. In February a motion for calling on the debate on the legal question not later than eight o'clock, and a proposed amendment of rule 5, were negatived by the society. The following addition has been made to the rules, viz.—“That any member desirous of withdrawing from the society should signify his intention in writing to the secretary, who should thereupon enter such resignation in the books of the society.” I am happy to say that 9 new members have been elected during the quarter, making a total of 23 during the half-year. However, unless cause be shown to the contrary, it will become necessary to strike off the list the names of 7 gentlemen for non-payment of fines and subscriptions; these have been written to on the subject. I have also to report that six gentlemen have resigned. The thanks of the society were recently voted to Mr. Edward Lawrance, jun., for his having presented it with his “Handy Book on the Law of Principal and Surety,” and those who have looked through its pages will, I have no doubt, think it shows promise that Mr. Lawrance will one day be found among our most read and most readable legal authors. One of our members obtained a prize given by the Incorporated Law Society at the Hilary examination. Your committee have met twice, and carefully examined 12 questions, 6 of which, after lengthened discussion, were approved, and have appeared in the papers. They have also chosen those questions of a jurisprudential character which were considered most beneficial for the society to discuss, and in which the members would feel the greatest interest; but I must again urge most strongly upon all members the necessity of not neglecting the important essential of affording assistance to your committee in providing questions appropriate for discussion, as this difficulty was never more seriously felt than at the present time. It is also to be remembered that all members owe a duty to the society, which is to attend and take an active part in the debate as often as they possibly can; and although it may be extremely praiseworthy of gentlemen to devote a great portion of their time to the evening drills of their respective volunteer corps, yet the claims of this society are not the less important, affording as it does an arena for gentlemen to exercise their powers of thought, and by practice obtain command of language, at the same time providing a beneficial recreation to those whose thoughts are absorbed by private study, while it does not lead the mind away from those legal subjects that engross its attention. It is therefore to be hoped that the society will not so often find that members, and more particularly the old members, are engaged, or unable to attend on Tuesday evenings. It is also very desirable that gentlemen would make it convenient to stay to hear the president's summing up, as a pre-entertained opinion may sometimes be varied, and the judgment led to a more correct determination. The number of speakers would then, I venture to think, be very materially increased by insuring to every one an attentive hearing. Every well organized society must have some ruling and governing head whose duty it is to provide for its wants, and he always ready to give its best advice for the welfare of the society upon matters submitted to it. And I cannot help thinking that it would be better if gentlemen who bring on motions would previously endeavour to ascertain, by having discussed the merits of the motion with some friend, whether they will meet with the general approval of the society, or at least, be provided with a seconder; and not leave it entirely to chance, or to a sort of taken-for-granted love of litigious argument and discussion in a body of lawyers.

I beg to remain, gentlemen,
Your obedient servant,
GEO. L. WINGATE.

HINTS TO ARTICLED CLERKS.

No. III.

HIS COURSE OF PROFESSIONAL READING.

(Continued from p. 346.)

We now proceed, following up the plan sketched out at the commencement of these papers, to give some hints to the articulated clerk as to the course of professional reading which he should pursue. There are two dissimilar mistakes into either of which a young man may fall, and either of which may be almost equally prejudicial. He may skim over the pages of

a law book in much the same way as he would read a novel or a newspaper; or he may waste his time and energies and exhaust his patience by acting upon a resolute determination to leave behind him no subject which he has not thoroughly mastered. We know that the latter course has indeed often been recommended, but it has always seemed to us that if the student endeavours to act upon it, he must soon become disheartened. In the course of his reading he will meet with many propositions and illustrations which after the fullest consideration he can then give to them, will still appear misty and obscure. The author may have expressed himself unhappily, or his subject may be unusually crabbed and intricate. If our student resolves to halt in his course until he has completely cleared up his doubts, he will probably never advance a step further; and the wiser plan is, after devoting a reasonable amount of time and thought to the difficulty, and finding himself after all unable to solve it, to proceed, hoping in the words of Lord Coke, that “on some other day, at some other place, his doubts will be removed.” Many of our readers must remember that in the course of their school or college life, difficulties have occurred to them in their classical or mathematical studies which seemed and actually were insuperable at the time, which they might have hammered at for hours without success, but which a few weeks or months afterwards seemed perfectly clear. And this subsequent enlightenment has arisen, not always from the fact of the acquisition of further knowledge, but from the mind coming fresh to the subject.

As to the particular time of the day which the clerk will take for his reading, or the number of hours which he will devote to it, no precise rules are pretended to be given. Much must depend upon opportunity, much upon duty, and in the case of a *diligent* student, something upon inclination. If the clerk is articulated in an office where the practice is large, he will find that there must necessarily be considerable breaks in his course of reading; although we should advise him, except under very extraordinary circumstances, always to steal an hour each day for his books. Probably two, or at the most three, hours a day will be all that he will be able to devote to a regular course of study; and we can assure him that if he studies diligently for two hours out of the twenty-four, he will at the end of his clerkship, be in possession of a very large amount of legal information. He will not, indeed, be an accomplished lawyer, but he will have laid the foundation for becoming such. Those who advise the articulated clerk to study for five or six hours a day can know but little of the material of which articulated clerks are made, or of the calls upon their time arising from office work. When once the clerk has resolved upon reading, and has begun to read, any particular book, he ought not on any account to be diverted from it to another before he has finished the first. Desultory, incomplete reading is a bad habit in itself, but it is utterly fatal in the study of law; first, because a student who so reads, acquires a complete knowledge of no single subject, and secondly, because law, both in its study and in its practice, imperatively demands concentrated attention.

With these hints as to the mode of reading law, to which we must add the time-honoured maxim, *non multa sed multum*, as one always to be borne in mind by the law student, we proceed to suggest such a course of reading as seems to us best adapted for enabling the articulated clerk not merely to pass his examination with credit, but to lay deep and wide the foundations of future knowledge, to be acquired after the termination of his clerkship. The law student's first book continues to be one of the modern editions of Blackstone's Commentaries, or the New Commentaries of Mr. Serjt. Stephen, built upon Mr. Justice Blackstone's celebrated work. The New Commentaries are written in an interesting style, and may be thoroughly depended upon as containing an accurate, although necessarily concise, statement of the whole body of modern English law. Mr. Kerr's edition of Blackstone is also a useful book; but the student may take Serjt. Stephen as his first teacher with the greatest confidence. Serjt. Stephen appears to us to have arranged his work more philosophically, and to be as graceful a writer as his great master; while Mr. Kerr presents his well packed volumes to the legal public at a price which when contrasted with that of other law books, including that of Serjt. Stephen's, is exceedingly moderate—a consideration not without weight to most articulated clerks. Blackstone should be read in the first instance very carefully, but right through, and without paying more or less attention to one part of the work than to the other. The reader will thus acquire a general view of the subject upon which he is entering, and will possess an outline plan of English law which it will be the work of after years to fill up and render distinct and practical. In order, however, to make this his first perusal of a law book, as advantageous as possible, and

to impress upon his mind its most salient points, we should advise him to examine himself from time to time by the aid of Mr. James Stephen's Questions on the Commentaries, which, although compiled with special reference to the New Commentaries, may still be used by the reader of Kerr's Blackstone. By thus questioning himself as he proceeds, he will render his knowledge precise, sharp, and definite, will see how far his attention has been kept alive during his reading, and will learn how far he really understands the words over which his eye has passed.

After a general view of English law has thus been gained, the student will from his reading, and from the course of practice in the office, have learned that the subjects which mainly occupy the attorney's attention are:—1, Conveyancing (Rights of Things or Rights of Property); 2, Common Law; 3, Equity (Private Wrongs or Civil Injuries); 4, Criminal Law (Public Wrongs). Now, the attorney can hardly commence practice with satisfaction to himself or with a reasonable hope of doing justice to his clients, unless he has a knowledge of the principles and practice of each of these departments of our law. It is not, indeed, necessary that his knowledge of them should be extensive; but, so far as it goes, it should be precise, clear, and accurate. When he is once fairly launched in practice, it is most likely that he will find his attention pretty much confined to one or two of these departments; and when this is the case, the course of his *future* studies must be decided by his practice. But at the commencement of his career as a clerk, he cannot tell how his future course may shape itself; and he ought therefore, when he is first admitted, to possess such an amount of general knowledge as may enable him to acquit himself without discredit in any department in which his first essays may be made. The following suggestions as to books to be read are framed with a view to these considerations.

A knowledge of the law of property and conveyancing lies at the very foundation of all other legal studies; and we therefore advise the articled clerk to commence here by again reading the Second Book—"Of Rights of Property"—in the New Commentaries, or the analogous portion of Kerr's Blackstone, working it well into, and making it, as it were, a part of his mind. He read it before for the sake of getting a general view, but now he must leave no corner unexplored, and he should not finally lay it down, until he is satisfied that he could pass a very rigid examination in it. This should be followed by Mr. Joshua Williams' books on Real and Personal Property. They should be studied in the same way, and when they have been thoroughly mastered, the reader will find himself possessed of a very fair knowledge of property law, a foundation upon which hereafter, if occasion should arise, a very stately superstructure may be raised. Unless, however, the articled clerk should be quite sure that his practice as an attorney will be almost exclusively confined to conveyancing, we do not advise him to pursue his formal study of that subject any further during his clerkship. We say "formal study" because we do not by any means wish to deter our readers, but would rather urge them when any point of difficulty occurs in practice, which may not be solved by the help of the books we have mentioned, to hunt it down in any treatises to which they may have access. So also if they should be framing a draft with the help of Davidson or Jar. Byth., a perusal of the notes appended to their forms by those authors will often be of very great practical advantage.

The course of reading on common law may be commenced by again perusing so much of the New Commentaries as treats of Civil Injuries, or the analogous portion of Kerr's Blackstone, excluding so much as relates to Civil Injuries cognizable in courts of equity. This should be followed up by reading Mr. Prentice's edition of Smith's Action at Law, and Smith on Contracts. The articled clerk may, however, if he pleases, substitute for the works we have mentioned on the Action at Law and Contracts, Broom's Commentaries on the Common Law, which is the only book containing a complete synopsis of the principles and practice of our common law, digested and arranged for the use of students. Regarded as a scientific work it is perhaps defective, but we speak from experience when we say that it is readable and instructive. The only other work in the department of common law which we recommend to be read during clerkship is Best on Evidence, which is certainly a better student's book than even Mr. Taylor's, admirable as the latter work is and indeed indispensable to the practising lawyer.

Equity may be studied from that part of the New Commentaries which treats of Civil Injuries cognizable in courts of equity, from Smith's Manual of Equity Jurisprudence, —and from Ayckbourn's Chancery Practice. Mr. Smith's Manual is an admirable work, although it is so much condensed

that the articled clerk will find that it requires the closest attention and repeated reading in order that its learning may be thoroughly impressed upon his mind.

Criminal law should be read from the New Commentaries, from Broom's Commentaries, and from Jervis' Archbold's Pleading and Evidence in Criminal Cases edited by Welsby. The last named book, invaluable as it is to the practitioner, is wretchedly dry reading; and we do not therefore advise the student to read it through, but to content himself by mastering the whole of Book I. and so much of Book II. as relates to the offences of most ordinary occurrence, particularly simple larceny, false pretences and embezzlement.

There are divers heads of law upon which we have not touched, such as Poor Law, Summary Convictions and Orders, Bankruptcy, Election Law, and Divorce. These subjects can hardly be read systematically during clerkship; but whereas business arises in the practice of the office, which is referable to any of these heads, the clerk will do well to refer to some book on the subject, and so pick up what information he can concerning them.

It will, no doubt, appear to all our readers that the course which we have suggested comprises very few books, and that many standard works are omitted from it. We have been desirous, however, not to suggest a complete course of legal study, but only a course to be pursued during clerkship. The clerk must not think that when he has once been admitted his reading is to cease. The young attorney ought, besides reading the reports, always to have some standard book in hand relating to that branch of the profession in which he may find himself most generally occupied. He will then be able to carry on and to complete, so far as education can be completed, that course of study which he in fact only commenced during his articles. It will, too, we hope, have been sufficiently apparent from what has been said before, that the books mentioned are not to be read hastily, but as if the student was preparing for a school or college examination in them. He should feel when he takes his leave of each volume that he is thoroughly well up in it, that he has exhausted its information, and that he can learn nothing more from it. In a word, the books we have recommended are not merely to be read, but to be studied.

(To be continued.)

Admission of Attorneys.

Queen's Bench.

NOTICES OF ADMISSION.

[Candidates' names appear in Small Capitals, and Solicitors to whom articulated or assigned in Roman type.]

IN AND ON THE LAST DAY OF EASTER TERM, 1861.

ALLEN, GEORGE CHARLES GUY.—E. Clarke, 29, Bedford-row
BEER, PHILIP HENRY.—Edward Strick, Swansea.
PRICE, JOHN.—J. Strickland, Bristol; R. S. Gregson, Angel-court, city.
STOCKEN, WILLIAM.—William Medland, Dunstable.
WOOD, WILLIAM JOHN.—William Kinsey, 20, Bloomsbury-square, and 9, Bloomsbury-place.

LAST DAY OF EASTER TERM, 1861.

ATKINSON, JOHN, jun.—E. B. Steel, Cockermouth.
BARNARD, JOSEPH GEORGE.—G. E. Williams, Cheltenham.
BESWICK, GEORGE.—J. W. Blakeley, 26, Nicholas-lane, Lombard-street.
BOND, JOHN.—M. Myres, Preston.
BRADFORD, JOB.—R. Gardner, Leamington; R. S. Gregson, 8, Angel-cl., Throgmorton-st.; J. B. Allen, 20, Bedford-row.
BROWN, CHARLES ABRAHAM.—J. H. Todd, Winchester.
BURNAND, JOHN THOMAS NEWMAN.—E. E. D. Grove, 8, Angel-terrace, Islington; J. G. Hick, 13, Copthall-court.
COLLINS, HENRY.—P. S. Cox, 19, Coleman-street.
COLLINS, JOHN.—J. Atkinson, Whitehaven.
DIBB, CHRISTOPHER JENKINS.—W. Stewart, Wakefield.
DUMBLETON, HORATIO, B.A.—J. T. Bolton, Solihull, Warwickshire.
DUNN, GEORGE WHITLY.—L. P. Gibbon, Pembroke; E. F. Burton, 25, Chancery-lane.
EDENSOR, JOHN EDMONDS.—G. Edmonds, 16, Whittall-street Birmingham.
FOSTER, JAMES.—W. H. Hudson, Bradford, Yorkshire.
GARVEY, RICHARD EDWARD.—J. T. Tweed, Lincoln; E. Jones, 4, Millman-place, Bedford-row.

GIBSON, PHILIP ROBERT.—H. Gibson, Ongar.
 GOLDRICK, JAMES.—J. Rowe, Liverpool.
 HARRISON, ALEXANDER, jun.—H. Hawkes, Birmingham.
 JAMES, EVAN.—W. Williams, Bala, Merioneth; J. Morris, Bala.
 KISCH, SIMON ABRAHAM.—H. M. Daniel, 8, Lancaster-place, Strand.
 LANE, EDWARD.—W. C. Rule, 26, Milk-street.
 LITTLE, DAVID.—J. Taylor, Bradford, Yorkshire.
 MILLS, ALFRED THORNCROFT.—W. W. King, Brighton, and 25, College-hill, London.
 MINSTER, ARTHUR.—R. H. Minster, Coventry.
 NICHOLLS, SAMUEL THOMAS.—W. P. Gordon, Oldbury, Salop.
 PEACOCK, THOMAS FRANCIS.—J. Cutts, Chesterfield, and 10, South-square, Gray's-inn.
 PICKERING, GEORGE EDWARD.—G. Spink, Howden, Yorkshire; J. Woods, Howden, Yorkshire; R. M. Benson, Aylesbury.
 PIDCOCK, CHARLES FOLEY.—C. Pidcock, Worcester; A. Mason, 15, Furdial's-inn.
 RICHARDSON, WILLIAM GEORGE.—J. P. Bolding, 35, Fenchurch-street, and 17, Gracechurch-street; B. W. Simpson, 17, Gracechurch-street.
 ROWLANDS, RICHARD.—J. D. Pugh, Mold, and Wrexham; R. B. Griffith, Bangor.
 SCOTT, EDWARD.—E. Scott, Wigan.
 SHAROOD, CHARLES JAMES.—C. Sharood, Brighton.
 SMITH, HENRY.—H. T. Smith, Devonport; T. Baker, jun., 3, Dowgate-hill-chambers.
 SMITH, WILLIAM BINNS.—R. Smith, Holborn; R. Smith, jun., 298, Holborn.
 VINCENT, JACOB, jun.—J. Layton, 8, Ely-place.
 WATT, FRANCIS JAMES.—T. Scott, Bromsgrove; W. Gregory, 12, Clement's-inn.
 WHALLEY, HENRY STANLEY.—J. E. Swift, Blackburn; J. Bolton, Blackburn.
 WYATT, GEORGE HARVEY.—J. H. Hearn, Newport; J. A. Mew, Newport.

APPLICATION FOR RE-ADMISSION.

LAST DAY OF TRINITY TERM, 1861.

Longbourne, John Vickerman, 8, Taviton-street, Gordon-sq.

APPLICATIONS TO TAKE OUT OR RENEW CERTIFICATES.

MAY 9, 1861.

Arundell, James Whitton, 265, Gresham House, Old Broad-street; Plaistow; and 10, Guildford-street, Russell-square.
 Cooper, Robert, Norwich.
 Corbett, John Fletcher, Walsall.
 Daniell, Henry, Nayland, Suffolk.
 Dixon, Thomas, West Parade, Newcastle-upon-Tyne.
 Marshall, William, Salisbury.
 Newby, Charles John, 10, Granville-square.
 Toms, John Anstey, Tiverton.

Public Companies.

BILLS IN PARLIAMENT
FOR THE FORMATION OF NEW LINES OF RAILWAY IN
ENGLAND AND WALES.

The following Bills have passed through Committee in the House of Commons:—

CASTLETON AND GROS MONT.

CLEATON, WHITEHAVEN AND EOREMONT.

The preamble of the following Bill has been proved in Committee in the House of Commons:—

LIVERPOOL, (London and North Western lines), Salford to Manchester.

University Intelligence.

CAMBRIDGE.

The Downing Professor of the Laws of England will give a course of lectures during the present term on the following subjects:—"An Introductory Lecture on the Study of the Law;" "The Judicial Institutions and Laws of the Anglo-Saxons;" "The Feudal System;" "The Origin of the Superior Courts of Law;" "The Legal Relations between the Church and the State during the first century after the Norman Conquest." The succeeding lectures will refer to subjects of examination for

the degree of Bachelor of Law in December next—viz., "the Statute of Uses" and the "Law of Real Property." The first lecture will be given in the Law School on Saturday, the 20th of April, at 12 o'clock. Due notice will be given of the succeeding lectures, and of the day in October on which the examination for the professorial certificate with reference to this course will take place.

Court Papers.

Queen's Bench.

CROWN PAPER.—EASTER TERM, 1861.

Kent. The Queen on the Prosecution of S. Finn v. the Lords, Bailiffs, and Jurats of Romney Marsh.
 Towkesbury. The Queen on the Prosecution of the Churchwardens and Overseers of Towkesbury, Respondent; The Severn Navigation Commissioners, Appellants.
 Surrey. The Queen on the Prosecution of E. V. Brander and Others, Respondent; E. Rendle, Appellant.
 " The Queen on the Prosecution of the parish of St. Mary, Lambeth, Respondent; The Governor, &c., of the Licensed Victuallers Society, Appellant.
 Hampshire. The Queen on the Prosecution of the Mayo &c., of Southampton, v. The Commissioners acting in execution of the Act 43 Geo. 3, c. 21, and 50 Geo. 3, c. 168.
 Leeds. The Queen v. The Leeds, Bradford, and Halifax Junction Railway Company.
 Dover. Tucker, Appellant; Rees, Respondent.
 Cheshire. The Queen v. Pickford.
 Warwickshire. The Queen v. The Guardians of the Cambridge Union, and the Inhabitants of the parish of St. Edward.
 Chester. The Queen v. The Inhabitants of the parish of Ruyton of the Eleven Towns, Shropshire.
 Bedfordshire. Davis, Appellant; Toller, Respondent.
 Birmingham. The Queen on the Prosecution of the Town Council of Birmingham, Respondent; The Birmingham Waterworks Company, Appellants.
 Cheshire. Tunstall, Appellant; Lloyd, Respondent.
 Leeds. The Queen v. The Inhabitants of Aughton. Francies, Appellant; Smithies, Respondent.
 " Stephenson, Appellant; Taylor, Respondent.
 Surrey. The Queen on the Prosecution of the Toxteth Park Local Board of Health, Respondent; The Guardians of the Poor of Toxteth Park, Appellants.
 Lancashire. The Queen on the Prosecution of the Overseers of Sheffield and Others, Respondent; The Sheffield United Gas Light Company, Appellants.
 West Riding, Yorkshire. The Queen v. Firth.
 " The Queen v. The Isle of Wight Ferry Company.
 " The Queen v. The Rev. Charles Shrubbs, Clerk, and Another.
 Cardiff. Wadley, Appellant; Godwin, Respondent.
 Kent. The Queen on the Prosecution of the Churchwardens of Woolwich, Respondents; The Overseers of Toxteth Park, Lancashire, Appellants.
 Metropolitan Police District. Anderson, Appellant; Gutteridge, Respondent.
 Cheshire. Stretch, Appellant; White, Respondent.
 Surrey. Newton and Another, Appellants; Skeats, Respondent.
 West Riding, Yorkshire. } Thewlis, Appellant; Kay, Respondent.
 Yorkshire. }
 Staffordshire. The Queen v. The Undertakers of the Navigation of the Rivers Aire and Calder.
 The Queen on the Prosecution of the parish of Darlaston, Respondent; The South Staffordshire Waterworks Company, Appellants.
 Great Yarmouth. The Queen on the Prosecution of Francis Worship and Others, Respondents; Harrod, Appellant.

Sussex.	The Queen v. The Inhabitants of Brighton
Leeds.	The Queen on the Prosecution of the Overseers of Leeds, Respondent; The Overseers of Holbeck, Appellants.
Gloucestershire.	The Queen v. The Great Western Railway Company.
Middlesex.	The Queen v. Pott.
"	The Queen v. Elrington and Another.
West Riding, Yorkshire.	The Queen v. The Inhabitants of Bramley.
Anglesea.	The Queen on the Prosecution of the Churchwardens, &c., of Llangeinwen, Respondent; The Rev. William Williams, Clerk, Appellant.
Yorkshire.	The Queen v. The Inhabitants of Lundale.
"	The Queen on the Prosecution of the Churchwardens of Bridlington v. The Churchwarden of Speeton.
Staffordshire.	The Queen v. The Inhabitants of Leominster, Herefordshire.
"	The Queen v. the Inhabitants of West Bromwich.
Birmingham.	The Queen v. The Inhabitants of Birmingham.
East Riding, Yorkshire.	The Trustees of the Sunk Island Turnpike Road, Appellants; The Surveyor of the Highways of the parish of Ottringham, Respondents.
"	The Trustees of the Sunk Island Turnpike Road, Appellants; The Surveyors of the Highways of the parish of Patrington, Respondent.
West Riding, Yorkshire.	Glover, Appellant; Booth, Respondent.
Oxfordshire.	Horwood, Appellant; Powell, Respondent.
Lancashire.	Taylor, Appellant; Carr and Another, Respondents.
Warwickshire.	The Queen on the Prosecution of the Churchwardens, &c., of Birmingham, Respondent; Wheeler, Appellant.
Durham.	Robinson, Appellant; Humble, Respondent.
Newcastle-on-Tyne.	The Queen v. The Burial Board for the parishes of St. John Westgate and Elswick.
Manchester.	Onley, Appellant; Gee, Respondent.
Staffordshire.	Cureton, Plaintiff in error, v. The Queen, Defendant in error.
Metropolitan Police District.	The Vestry of St. Luke's, Appellants; Lewis, Respondent.
Middlesex.	The Queen v. The Vestry of the parish of St. Luke, Chelsea.
Lancashire.	The Queen v. The Churchwardens and Overseers of the parish of St. Mary Arches, Exeter.
Devon.	Leatt, Appellant; Vine, Respondent.

ENLARGED RULES.—EASTER TERM, 1861.

To the first day of Term.

Betts v. Menzies (enlarged till after the decision of the House of Lords.)
Neill v. Leatham (to come on for argument with Special Case.)
The Queen v. The Overseers of the parish of Walcot.
The Queen v. The Overseers of the parish of Walcot St. Swithin.

SPECIAL PAPER.

FOR ARGUMENT.

Demurrers.	Shrubb v. Eyre (to come on for argument with the Special Case.)
"	Scott and Others v. Pilkington and Others.
"	Munroe and Others v. Pilkington and Another.
"	Aubert v. Gray.
Special Case.	Cazenove and Another, Assignees, &c. v. Lister, P. O., &c.
"	The Great Indian Peninsular Railway Company v. Saunders.
Demurrer.	Holmes v. Pemberton.
"	Langley v. Ponsford.
Co. Ct. Appeal.	Cox v. Allen.
"	Cope v. Norton.
Demurrers.	Shadforth v. Cory and Others.
Special Case.	Prior and Another v. Laming.

Demurrer.	Gorton v. Hall.
Co. Ct. Appeal.	Smith, Wo. and Others, Executors, &c. v. Bailgar.
Demurrer.	Langdon v. Heath.
Award.	Garton and Another v. The Bristol and Exeter Railway Company.
Demurrer.	Seaward and Others v. Rolt.
"	Harris and Wife v. Conner and Wife.
"	Lee and Another v. The Anglo French Steam Ship Company (Limited.)
"	Wood and Another v. White.
"	Smeed v. Bunn.
Special Case.	Greenhalgh and Another v. Clayton.
Demurrer.	Bellingham, Administrator, and Another v. Clarke.
"	The South Eastern Railway Company v. The London, Chatham, and Dover Railway Company.
Sp. Case on Award.	Drake v. The Amicable Society for a Perpetual Assurance Company.
"	Neill v. Leatham, Administratrix.
Demurrer.	Wright v. Kitchen.
"	Davis v. Harward.
"	Thornhill and Another v. The London, Brighton, and South Coast Railway Company.
"	Davenport and Another v. Rickard and Another.
Co. Ct. Appeal.	Winder v. The Manchester, Sheffield, and Lincolnshire Railway Company.
Special Case.	Candlish and Another v. Simpson and Another.
Demurrer.	Bond v. Rosling.
Co. Ct. Appeal.	Donnor v. Saul and Another.
Special Case.	Young and Another v. Turner.
"	Poulton v. Readinge.
Demurrer.	Day v. Hemings.
"	Mason v. The Glamorgan Canal Company.
"	Bartley v. Hodges.
"	Matthews and Another v. Edmonds.
"	Matthews and Another v. Bloxsome.
Special Case.	Turner v. Lane.
Demurrer.	Tweddle v. Atkinson, Executor, &c.
"	Honblen v. The Epping Railway Company.

NEW TRIAL PAPER.—MICHAELMAS TERM, 1858.

FOR ARGUMENT.

Cornwall.	Lyle v. Richards and Others.
	EASTER TERM, 1860.
	Tried during Term.
Middlesex.	Payne v. Revans.
"	Romillio v. Halahan.
"	Lloyd v. Shaw.
"	Stevens v. Taylor.
London.	Cook and Others v. Wright.
	TRINITY TERM, 1860.
Middlesex.	Dixon and Wife v. Bush.
"	St. Albyn and Wife v. The London General Omnibus Company (Limited.)
"	Wood v. Smith.
London.	Mitchell v. Hall.

MICHAELMAS TERM, 1860.

Middlesex.	Saward v. Walleden.
"	Mackley v. Pattenden.
London.	Lane and Others v. Tindal.
"	Paterson v. Harris.
"	Tamvaco v. Lucas.
"	Somes and Others v. Ford and Another.
"	Lowrie v. Parker.
"	Lane v. Seymour.
"	Pow v. Davis.
Surrey.	Moody v. The London, Brighton, and South Coast Railway Company, and Others.
York.	The Queen v. Bayes (p. h.)
Liverpool.	Mayer v. Spence and Another.
"	Mayer v. Firth and Others.
Hants.	Pennell and Others v. Logan.
Wilts.	Scammell v. Glass.
	Tried during Term.
Middlesex.	Benchimol v. Gallagher.
London.	Wood and Ux v. Bosanquet, Treasurer, &c.

HILARY TERM, 1861.	
Middlesex.	The Queen v. The Board of Works of Strand Union.
"	Lee v. Griffin, Executor, &c.
"	Prideaux v. Darby.
"	Boutle v. Richards.
London.	Clarke and Others v. Smallfield and Others.
"	Blenkiron v. The Great Central Gas Consumers Co. (stands over)
"	Masters v. Barnes.
"	Arber v. Carrington.
Liverpool.	Cusack and Others v. Robinson.
"	Firth and Another v. Brooks.
"	Robertson v. Aspinwall.
<i>Tried during Term.</i>	
Middlesex.	Sichel v. Ninot.
"	Colburn v. Jones and Another.
London.	Homewood v. Chaplin.
"	Bradwell v. Guerin and Others.

Exchequer of Pleas.**SITTINGS IN BANCO.—EASTER TERM, 1861.**

Monday,	April 22...	Special Paper.
Wednesday,	" 24...	Special Paper.
Saturday,	" 27...	Criminal Appeals.
Monday,	" 29...	Special Paper.
Wednesday,	May 1...	Special Paper.

ERRORS AND APPEALS.**FOR JUDGMENT.**

Appeal.	Watts v. Shuttleworth.
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FOR ARGUMENT.

Error on Bill of Exceptions.	} The Mersey Docks and Harbour Board v. Penhallow and Others, part heard.
Error.	
	Barrow v. Tootal. To stand over till Sitting after Trinity Term next.
Appeal.	Trew and Another, Executrix and Executor, &c. v. The Railway Passengers' Assurance Co.
Error.	Swinfen v. Bacon.
"	Swinfen v. Lewis.
Appeal.	Castle v. Sworder.
"	Johnson v. Simcock and Another.
"	Greenwood v. Seymour, Administratrix, &c.

SPECIAL PAPER.**Cases heard and standing over.**

Demurrer.	Tregelles v. Sewell. To stand over till after issues in fact tried.
"	Oxenham v. Smythe. To stand over till after the Argument of the Rule in the New Trial Paper.

FOR ARGUMENT.

Demurrer.	Brewer v. Dimmack and Another, part heard. Standing over for arrangement.
"	The London and North Western Railway Co. v. The Great Western Railway Co. Standing over for arrangement.
"	The Anglo-Californian Gold Mining Co. v. Lewis. Ordered to stand over.
"	Fresart v. Lawrence, sued with others. To stand over till issues in fact tried.
"	Rogers v. Hadley, part heard. Rule for New Trial to come on with Demurrer.
Special Case.	Waller and Another v. The Mayor, &c. of Manchester.
Appeal under the 20 & 21 Vict.	Shiel, Appellant v. The Mayor, &c. of Sunderland, Respondents.
"	Shiel, Appellant v. The Mayor, &c. of Sunderland, Respondents.

NEW TRIAL PAPER.**FOR JUDGMENT.**

Chester.	Plant and Another v. Taylor and Others.
"	Plant and Another v. Taylor and Others.
Liverpool.	Bradley v. Danipaca.

FOR ARGUMENT.

Guildford.	Oxenham v. Smythe.
Gloucester.	Rogers v. Hadley.
Middlesex.	Atkinson v. Denby.
"	The British Land Co. (Limited) v. Jupp.

Middlesex.	Smith and Others v. Rudhall.
"	Giddings v. Wood.
London.	May v. Smith.
"	Durrell v. Evans and Others.
"	Hoskins v. Smurthwaite.
"	Williams v. The Great Northern Railway Co.
"	Undell v. Atherton and Another.
Liverpool.	Colquhoun and Another v. Bowen.
Middlesex.	Aston v. Preston.
"	Winkworth v. Adamson and Others.

Court of Probate.

AND

Court for Divorce and Matrimonial Causes.**EASTER TERM, 1861.****Sittings at Westminster at eleven o'clock.**

No causes for dissolution of marriage, without juries, will be taken after No. 39 on the list.

FULL COURT.

April 22, 23, 25, 26, and 27.

Probate causes with juries, and causes for judicial separation and dissolution, with common juries, April 29, 30, May 2, 3, 4, 6, 7, 9, 10, 11, 12, and 14.

On every Wednesday during the sittings of the Court, the judge will sit in chambers to hear summonses at eleven o'clock, and in court to hear motions at twelve o'clock.

Papers for motions to be left with the clerk of the papers before two o'clock on Fridays.

Births and Deaths.**BIRTHS.**

CROSSFIELD—On April 15, the wife of A. Crossfield, Esq. Solicitor, of a son.

D'OYLY—On April 12, the wife of the Rev. C. J. D'Oyly, Chaplain of Lincoln's-inn, of a son.

FORD—On April 12, the wife of William Ford, Esq., 4, South-square, Gray's-inn, of a son.

HALL—On April 12, the wife of William Champaign Hall, Esq., of Lincoln's-inn-fields, Solicitor, of a daughter.

DEATHS.

CLARKE—On March 17, at Haynes-hill, Barbadoes, West Indies, Mary Ogle, aged 16, daughter of the Hon. Sir R. Bowcher Clarke, C.B., Chief Justice of Barbadoes and the Windward Islands.

COBBOLD—On April 15, in her 23rd year, Louisa Anne, the wife of Henry Chevallier Cobbold, Esq.

COLLIS—On April 17, Joseph Collis, Esq., late Senior Registrar of the High Court of Chancery.

ELDERTON—On April 13, George, son of Edward M. Elderton, Esq., of the Temple, in the 18th year of his age.

JERVIS—On Feb. 15, at Hawthorne, Melbourne, Victoria, Janet Martin, aged 29, wife of John Chester Jervis, Esq., and daughter of Thomas Young, Esq., Solicitor, Hobart-town, Tasmania.

MOSS—On April 12, at Hull, the infant daughter of W. H. Moss, Esq., Solicitor, aged 2 days.

NICHOLSON—On April 11, George James Nicholson, Esq., 5, Raymond-buildings, Gray's-inn, aged 73.

STEPHEN—BEDFORD—On Feb. 7, at Sydney, New South Wales, Eleanor Elizabeth, daughter of Sir Alfred Stephen, Chief Justice, aged 21; and, shortly afterwards, on the same day, Eleanor Martha Bedford, mother of Lady Stephen.

WILLES—On April 11, Anne, daughter of the late Edward Willes, Esq., Barrister-at-Law, and granddaughter of Judge Willes, aged 68.

YOUNG—On Jan. 31, at his station, Darling Downs, Queensland, Mr. Robert Young, aged 35, son of Thomas Young, Esq., Solicitor, Hobart-town, Tasmania.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

PARSONS, JOHN, Esq., Albany, and SHARON TURNER, Esq., Red Lion-street, £129 6s. 1d. New Three per Centa.—Claimed by ALFRED TURNER, surviving executor of John Higford, formerly John Parsons, who was the survivor.

London Gazettes.

Windings-up of Joint Stock Companies.

FRIDAY, April 12, 1861.

UNLIMITED IN CHANCERY.

AGRICULTURIST CATTLE INSURANCE COMPANY.—Petition to wind up, presented 11th April, will be heard before the Master of the Rolls, on April 20. Miller & Horn, Solicitors for Petitioners, 7, St. Martin's-place, Trafalgar-square, London.

CAMERON'S COALBROOK STEAM COAL AND SWANSEA AND LOUTHOR RAILWAY COMPANY.—The Master of the Rolls purposes, on April 22, at 12, to proceed to make a call in order to provide a fund for payment of the debts proved and admitted to be due from the Company, upon all the contributories of the said Company settled upon the list, and that such call shall be for £5 per share.

CAMERON'S COALBROOK STEAM COAL AND SWANSEA AND LOUTHOR RAILWAY COMPANY.—The Master of the Rolls purposes, on April 22, at 12, to proceed to make a call, in order to provide a fund to meet the costs, charges, and expenses, incurred by the Official Manager, upon contributories of the Company upon the list, settled since June 3, 1854, for £3 4s. per share.

KENT BENEFIT BUILDING SOCIETY, also called **THE KENT FREEHOLD LAND SOCIETY.**—Vice-Chancellor Kindersley will, on April 24, at 12, proceed to make a call on all persons settled on the list of contributories for £7 per share.

RISCA COAL AND IRON COMPANY.—Creditors to prove their debts before the Master of the Rolls on or before May 3.

LIMITED IN BANKRUPTCY.

EUROPEAN WINE GROWERS ASSOCIATION (LIMITED).—Petition for winding up, presented April 4, will be heard at Basinghall-street, on April 20, at 11.30. Childley, Solicitor for the Petitioner, 25, Old Jewry, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, April 12, 1861.

HUCKVALE, JAMES, Gent., London-place, St. Clement's, Oxford. Tilsley & Wilkins, Solicitors, Chipping Norton. May 1.

MOREL, THOMAS ANNET LEWIS, Wine Merchant and Italian Warehouseman, 210 and 211, Piccadilly, and 20, Ladbrooke-villas, Daywater, Middlesex. Surman, Solicitor, 11, New-square, Lincoln's-inn. May 20.

PICKERELL, HORATIO, Ship Broker, 37, Cannon-place, Brighton, and 28, Fenchurch-street, London. Thomas & Hollams, Solicitors, Mincing-lane, London, E.C. June 1.

RICE, DAVID, Surgeon and Apothecary, Stratford-upon-Avon, Warwickshire. Hobbs, Solicitor, Stratford-upon-Avon. June 21.

ROBINS, THOMAS CORWAY, Gent., Wells, Somersetshire. Hobbs & Alder, Solicitors, Wells. June 24.

SMITH, JOSEPH, Publican, Penkridge, Staffordshire. Heane, Solicitor, Newport, Salop. May 23.

TUESDAY, April 16, 1861.

BALLS, MARY ANN, Widow, Wortham, Suffolk. Browne, Solicitor, Diss, Norfolk. May 31.

BULLOCK, JONATHAN, Esq., Faulkbourne Hall, Essex, and Bryanstone-square, Middlesex. Stevens & Beaumont, Solicitors, Witham, Essex. Sept. 29.

EVERSHED, WILLIAM, Sen., Gent., Arundel, Sussex. Auckland & Hillman, Solicitors, Cliffe, near Lewes, Sussex. June 12.

JEFFERY, STEPHEN, Tea Dealer and Grocer, late of Bloomfield-road, Plumstead, Kent, but formerly of 127, Crescent-road, Plumstead, Kent. Patrick & Underwood, Solicitors, 89, Chancery-lane, London. June 13.

JOHNSON, MARY, Widow, Holy Trinity Church-yard, Guildford, Surrey. Capron, Solicitor, Guildford. May 18.

KING, JAMES, Farmer, Donnington, Herefordshire. Piper, Solicitor, Ledbury, Herefordshire. June 1.

LARKING, SIDNEY, Coach Builder, formerly of 28, Wellington-street, Southwark, Surrey, and 17, Lambeth-road, Surrey, but late of Four Elms, Haver, Kent. Cowburn, Solicitor, 10, Lincoln's-inn-fields, London, W.C. May 31.

MANDEVILLE, JOHN HENRY, Esq., heretofore Her Majesty's Minister Plenipotentiary to the Argentine Confederation, afterwards of Chapel-street, Grosvenor-square, and late of Rutland-gate, Hyde-park, Middlesex. Thomas Staveley, Esq., Southborough, near Tonbridge Wells, Kent; the Rev. James Hutchinson, Rector of Great Berkhamstead, Herts, and Henry Bingley Clark, Esq., Merrow, Surrey, Executors. June 13.

PRICE, JAMES DENNISON, Master Mariner, late of Russell-street, Bermondsey, Surrey, formerly of 52, Ernest-street, Bermondsey, and theretofore of Eday Orkneys, North Britain. Scarborough & Alderson, Solicitors, 5, Bloomsbury-square, London, W.C. May 18.

PULLIPS, JOHN, Gent., Lincoln. Moore, Solicitor, Lincoln. May 13.

WALSH, FREDERICK, Book Keeper, Calcutta. Christian & Cropper, Solicitors, 5, Harrington-street, Liverpool. May 31.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, April 12, 1861.

EATON, JAMES, Farmer, Leacroft, Cannock, Staffordshire. Duignan & Allen, V. C. Stuart. May 10.

PINE, THOMAS, Gent., Maidstone, Kent. Pine & Ellis, M. R. May 6.

WHEATCROFT, HENRY, Gent., 5, Brewer's-green, Westminster, Middlesex. Woodroffe & Barry, V. C. Kindersley. May 10.

ZELLER, JOHN VAN, Merchant, Liverpool. Van Zeller & Van Zeller, M. R. May 23.

TUESDAY, April 16, 1861.

DAVIES, MATTHEW, Attorney and Solicitor, Bolton, Lancaster. Dryden & Lawes, V. C. Stuart. May 23.

FELLOWS, SIR CHARLES, Knight, 4, Montague-place, Russell-square, Middlesex. Janson & Fellows, M. R. May 21.

GASS, DAVID, Gent., Surbiton, Surrey. Harden & Gass, M. R. May 21.

GRAHAM, ROBERT HAY, Esq., M.D., Eden Brown, Cumberland. Graham & Graham, V. C. Stuart. May 3.

HALL, ROBERT, Common Brewer and Maltster, Ansty, Hulton, Dorsetshire. Woodhouse & Hall, V. C. Stuart. May 23.

MANNELL, WILLIAM HENRY, Carrier, White Horse-yard, Friday-street, London. Mannell & Bethell, V. C. Stuart. May 21.

NOBLE, GEORGE, Brewer and Porter Merchant, Seaham Harbour, Durham. Meux & Vaux, V. C. Wood. May 10.

TURTON, WILLIAM, Merchant and File Manufacturer, Brixton, Surrey. Turton & Mappin, V. C. Wood. May 10.

Assignments for Benefit of Creditors

FRIDAY, April 12, 1861.

ATHRETON, JAMES, Publican, Salford, Lancaster. March 25. Sol. Henwood, 32, Cross-street, Manchester.

BERKSFORD, JAMES, Licensed Victualler, Macclesfield. March 13. Sol. Norris, Macclesfield.

COLLINS, JAMES, Tailor and Draper, 101, City-road, Middlesex. March 22. Sol. Marlon, 99, Newgate-street, London.

DYSON, WILLIAM, Haberdasher and Berlin Wool Dealer, 87, Castle-street, Bristol. March 19. Sol. Reed, 3, Gresham-street, London.

FIELD, SAMUEL, Baker, Banbury, Oxfordshire. April 6. Sol. Looker, Banbury.

FRANCE, JOHN, Carpet Manufacturer, Dewsbury, Yorkshire. March 21. Sol. Watts, Dewsbury.

GOLDING, FRANCES, Milliner and Dress Maker, Bury St. Edmund's, Suffolk. March 20. Sol. Salmon, Bury St. Edmunds.

GRAY, HENRY GEORGE, Merchant, Fenchurch-street, London. March 13. Sols. Lawrence, Smith, & Fawdon, 12, Broad-street, Cheapside.

SCHLESINGER, MORRIS, Tobacconist, Plymouth, Devonshire. April 9. Sol. Gard, Devonport.

SMITH, WILLIAM DEATON, Cabinet Maker and Upholsterer, Stockton, Durham. April 5. Sol. Thompson, Stockton.

TURNER, EDWARD, Joiner and Builder, Great Freeman-street, Nottingham. March 14. Sols. Cowley & Everall, St. Peter's Church-walk, Nottingham.

WOODWARD, JOHN, Silk Manufacturer, Derby. March 20. Sol. Shaw, 36, Full street, Derby.

WYATT, WILLIAM, Saddler and Harness Maker, Stratford-upon-Avon, Warwickshire. April 6. Sol. Hobbes, Stratford-upon-Avon.

TUESDAY, April 16, 1861.

BEASANT, THOMAS, Coachmaker, Hungerford, Berks. April 11. Sol. Astley, Hungerford.

CLARK, WILLIAM, Grocer, Horsham, Sussex. April 1. Sols. Lawrence, Flews, & Boyer, 14, Old Jewry Chambers.

ELLIS, HENRY, Tailor and Draper, Folkestone, Kent. April 5. Mason, Sturt, & Mason, 7, Gresham-street, London.

LISTER, SARAH, Grocer, Millbridge, Bristol, Yorkshire. April 1. Sol. Schofield & Oldroyd, Dewsbury.

MCBETH, ALEXANDER, Publican, Newport, Monmouthshire. March 28. Sol. Matthews, Church-street, Cardiff.

MCINTOSH, MARGARET, Widow, 50, Torrington-square, St. Pancras, Middlesex. March 30. Sol. Chester, 1, Winchester-buildings, Great Winchester-street, London.

TRIGGER, WILLIAM, Grocer and Draper, Westham, Sussex. March 22. Sol. Sturt, 7, Gresham-street.

WHEELER, JOSEPH, Grocer, Great Yarmouth. April 5. Sol. Palmer, Great Yarmouth.

WILSON, DAVID, Coal Merchant and Carrier, Cranbrook, Kent. April 10. Sol. Williams, Cranbrook.

Bankrupts.

FRIDAY, April 12, 1861.

AUSTIN, HENRY, Manufacturing Chemist, Druggist, and Drysalter, 125 and 126, Bermondsey-street, Bermondsey, Surrey. Com. Evans: April 25, at 1.30; and May 23, at 11; Basinghall-street. Off. Ass. Johnson. Sol. Waller, Coleman street. Pet. April 9.

BARRATT, GEORGE FREDERICK, Ironfounder and Smith, 23, Baker's-row, and 15, Guildford-place, Bagnigge-wells-road, Clerkenwell, Middlesex. Com. Goulburn: April 22, at 2.30; and May 27, at 12; Basinghall-street. Off. Ass. Pennell. Sol. Southey, 16, Ely-place, London. Pet. April 9.

CALVERLEY, JOHN, Builder, 24, Portadown-road, Maida-vale, Middlesex. Com. Fane: April 25, and May 24, at 11; Basinghall-street. Off. Ass. Whitmore. Sols. Boulton & Sons, 21a, Northampton-square, Clerkenwell. Pet. April 9.

JACKSON, JOSEPH, Hatter, 23, Western-road, Brighton, Sussex. Com. Holroyd: April 23, at 2.30; and May 21, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Treherne, 17, Gresham-street, London. Pet. Dec. 4.

KING, JOHN, Hatter and Clothier, 3, Shepard's-terrace, West India Dock-road, Limehouse, Middlesex. Com. Evans: April 26, at 1; and May 23, at 2; Basinghall-street. Off. Ass. Bell. Sol. Solomons, Minsbury-place. Pet. April 5.

KNOTTON, JOHN, Licensed Victualler, Nottingham. Com. Sanders: April 25, and May 16, at 11.30; Nottingham. Off. Ass. Harris. Sol. Cooke, Nottingham. Pet. April 9.

LAKE, JOHN, Builder, 4, Hawthorn-grove, Fenge, Surrey. Com. Fane: April 25, at 12.30; and May 24, at 11; Basinghall-street. Off. Ass. Cannan. Sols. Howard, Halse, & Trustram, 66, Paternoster-row. Pet. April 9.

NORRIS, HENRY, & WILLIAM NORRIS, JUN., Builders, Mare-street, Hackney, Middlesex (Norris, Brothers). Com. Fonblanque: April 24, at 2; and May 23, at 12.30; Basinghall-street. Off. Ass. Stanfield. Sol. Childley, 25, Old Jewry, London. Pet. April 9.

PEZZALI, DEMETRIUS STEPHEN, & GEORGE STEPHEN PEZZALI, Merchants, 93, Great Tower-street, London (S. Pezzali, Sons, & Co.). Com. Goulburn: April 24, at 2; and May 27, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Marten, Thomas, & Hollams, Mincing-lane, London. Pet. April 10.

ROBERTS, PHILEMON, Grocer and Corn Dealer, Darlaston, Staffordshire. Com. Sanders: April 26, and May 17, at 11; Birmingham. Off. Ass. Kinnear. Sols. Smith, Birmingham; or Sheldon, Wednesbury. Pet. April 9.

ROBINSON, JOHN, Plumber, Painter, & Glazier, Liverpool. Com. Perry: April 24, and May 13, at 11; Liverpool. Off. Ass. Morgan. Sols. Dodge & Wynne, 7, Union-court, Castle-street, Liverpool. Pet. April 9.

WARR, SAMUEL, Builder, Sudbury, Suffolk. Com. Goulburn: April 22,

and May 27, at 2; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Chilton, Burton, & Co., 25, Chancery-lane, London; or Gooday, Sudbury, Suffolk. *Per.* April 9.

WEBB, WILLIAM JAMES, Mat and Rug Manufacturer, King Henry's-walk, Ball's Pond-road. *Com.* Evans: April 25, and May 23, at 1; Basinghall-street. *Off. Ass.* Bell. *Sol.* Treherne, 17, Gresham-street. *Per.* April 10.

WESTON, JOHN, Tailor and Draper, Leek, Staffordshire. *Com.* Sanders: April 24, and May 13, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Suckling, Birmingham; or Reece, Birmingham. *Per.* April 9.

WILLIAMS, ALFRED EDWARD, Cooper, Stainsby-road, Limehouse, Middlesex. *Com.* Holroyd: April 26, and May 28, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Per.* Feb. 27.

WOODRUFF, GEORGE, Butcher and Cattle Dealer, 307, Stretford-road, Tamworth-street, Hulme, Manchester. *Com.* Jemmett: April 26, and May 15, at 12; Manchester. *Off. Ass.* Fraser. *Sol.* Boote, Brown-street, Manchester. *Per.* April 4.

WYNN, SAMUEL, Contractor, Brickmaker, and Farmer, Upper Tranmere, Chester. *Com.* Perry: April 26, and May 17, at 11; Liverpool. *Off. Ass.* Bird. *Sol.* Yates, Jun., Liverpool. *Per.* March 27.

YOUNG, JOHN JAMES CHRISTOPHER, Licensed Victualler, Duke of Wellington Public-house, Stonebridge-common, King'sland, Middlesex. *Com.* Fonblanque: April 24, at 1.30; and May 22, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Dimmock & Burbey, 2, Suffolk-lane, City, London. *Per.* April 5.

TUESDAY, April 16, 1861.

BOOKMAN, RICHARD KNIGHT, Cattle Dealer, Marden, Kent. *Com.* Goulburn: April 29, and May 29, at 12, Basinghall-street. *Off. Ass.* Pennell. *Sols.* Hughes, Hooker, & Buttonsaw, 1, St. Swithin's-lane, London. *Per.* April 13.

BREEKE, EDWARD, Grocer and Provision Dealer, Brierley-hill, Kingswinford, Staffordshire. *Com.* Sanders: April 26, and May 17, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* E. & H. Wright, Birmingham; or Homer, Brierley-hill. *Per.* April 3.

CHOWN, HENRY CHARLES, Shoe Dealer, Sheffield. *Com.* West: April 27, and May 18, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Smith & Burdakin, Sheffield. *Per.* April 2.

COWDEROY, JAMES, Innkeeper, late of White Hart Inn, Acton, and of Clifton Cottage, Brentford-lane, Acton, Middlesex, but now of the Crown Inn, Peckham, Surrey. *Com.* Fonblanque: April 24, at 2.30; and May 28, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Smith & Son, 6, Barnard's-inn, Holborn, London. *Per.* April 15.

DUFFIELD, JOHN, & WILLIAM RISPIN DAUBER, Grocers, Sheffield. *Com.* West: April 27, and May 18, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Bond & Barwick, Leeds. *Per.* April 12.

GREENHALGH, SAMUEL, Confectioner, Bury, Lancashire. *Com.* Jemmett: May 1 & 29, at 12; Manchester. *Off. Ass.* Pitt. *Sols.* Watson, Bury. Higson & Robinson, Manchester. *Per.* April 10.

HAMBURGH, WILLIAM HENRY, Upholsterer, 91, High-street, Poplar, Middlesex. *Com.* Fonblanque: April 23, at 12.30; and May 28, at 12; Basinghall-street. *Off. Ass.* Graham. *Sol.* Wells, 47, Moorgate-street, London. *Per.* April 8.

JENKINS, EDWARD THOMAS NASH, Cigar and Snuff Manufacturer, 17, Victoria Park-square, Bethnal Green, Middlesex. *Com.* Fane: April 26, at 12.30; and May 31, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Pocock & Poole, 58, Bartholomew-close. *Per.* April 15.

LEVITT, ISAAC, & MORRIS THOMAS LEVITT, Chronometer and Watch Manufacturers, 31, Minories, Middlesex (J. & M. T. Levitt). *Com.* Evans: April 30, at 1.30; and May 30, at 12; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Lumley, 2, Moorgate-street, City. *Per.* April 18.

MILLS, JOHN, Cotton Manufacturer, Royton, near Oldham, Lancashire. *Com.* Jemmett: April 30, and May 28, at 12; Manchester. *Off. Ass.* Hernandez. *Sols.* Slater and Myers, Manchester. *Per.* April 10.

PUTNAM, WILLIAM ALFRED, Glass and China Dealer, 435, New Oxford-street, Middlesex. *Com.* Evans: April 25, at 2; and May 23, at 1.30; Basinghall-street. *Off. Ass.* Bell. *Sol.* Treherne, Gresham-street. *Per.* April 10.

RAE, ENEZER, Commission Agent and Merchant, 31, Eastcheap, London. *Com.* Holroyd: April 30, and May 28, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Peek & Downing, 10, Basinghall-street, London. *Per.* April 11.

BANKRUPTCIES ANNULLED.

FRIDAY, April 12, 1861.

DANIEL, THOMAS BLAVER, Ironmonger and Blacksmith, 71A, High-street, Poplar, Middlesex.

VINGOE, JOHN, Builder, 9A, Westbourne-grove, Bayswater, Middlesex. April 11.

MEETINGS FOR PROOF OF DEBTS.

FRIDAY, April 12, 1861.

ARNOLD, BENJAMIN PAIV, Manufacturer & Warehouseman, New Cannon-street, Manchester. May 7, at 12; Manchester.—ATTWOOD, JESSE, Licensed Victualler & Corn Dealer, Bull Inn, Newington, near Sittingbourne, Kent. May 3, at 12; Basinghall-street.—BROOKS, GEORGE, Provision Dealer & Salesman, Leadenhall-market, London, and 93, Finsbury-street, Windsor. May 3, at 12; Basinghall-street.—COOKE, JOHN, Glass Manufacturer, 4, 5, 6, and 7, Raven-row, Spitalfields, Middlesex, and Hall-street, City-road. May 3, at 2; Basinghall-street.—CRAVEN, GEORGE, Merchant & Commission Agent, Liverpool. May 3, at 11; Liverpool.—FLETCHER, JOHN FLETCHER, Surgeon & Apothecary, Long Sutton, otherwise Sutton St. Mary's, Lincolnshire. May 9, at 11; Nottingham.—FLOWER, EDWARD, Silversmith & Jeweller, Bold-street, Liverpool. May 8, at 11; Liverpool.—FREEMAN, JOHN, Chemist & Druggist, 13, Blackfriars-road, Surrey. May 3, at 11.30; Basinghall-street.—GRIMES, ROBERT GREEN, Licensed Victualler, Queen's Arms Public-house, High-street, Poplar, Middlesex, and Goat Public-house, Golden-lane, Old-street, Middlesex. April 23, at 1; Basinghall-street.—HARVEY, HENRY, Lamp & Chandelier Manufacturer, 39, Hatton-garden, Holborn, Middlesex (Henry Harvey & Co.). May 3, at 1; Basinghall-street.—INNOCENT, THOMAS, Wholesale & Retail Grocer & Tea Dealer, 40, Bedford-street, Covent-garden, Middlesex. May 1, at 1.30; Basinghall-street.—JOHN, WILLIAM, Grocer, Draper, & Dealer in Provisions, Pontypriid, Glamorganshire. May 9, at 11; Bristol.—MURLEY, JOHN, Carriage & Cab Builder, St. Chad's Wells, Gray's-inn-road, Middlesex. May 3, at 11; Basinghall-street.—PADMORE, GEORGE, Jun., Shoe Manufacturer, Northampton. May 3, at 1; Basinghall-street.—

PINKERTON, GEORGE, & ERNEST HAWKINS, Metal Brokers, 34, Great St. Helens, London (Pinkerton & Co.). April 24, at 1; Basinghall-street.—PLANE, DAWSON, Draper, King's Lynn, Norfolk. May 3, at 1; Basinghall-street.—POWELL, LEWIS, Builder, Plumber, Glazier, & Decorator, 3, Chapel-place, Cavendish-square, Middlesex (Lewis, Powell & Co.). May 3, at 11; Basinghall-street.—REA, ROBERT DAVIS, Horse Dealer & Commission Agent, Great Central Horse Repository, St. George's-road, Southwark, Surrey. May 3, at 1; Basinghall-street.—RHODES, BENJAMIN, & GEORGE RHODES, Brassfounders & Machinists, Mansfield-road Nottingham. May 9, at 11; Nottingham.—ROSELL, EDWARD, Leather Merchant, 138, Long-lane, Bermondsey, Surrey. May 3, at 1; Basinghall-street.—SMITH, EDWARD, Woolstapler, 116, Russell-street, Bermondsey, Surrey. May 3, at 1; Basinghall-street.—SMITH, TILDEN, JAMES HILDER, GEORGE SCRIVENS, & FRANCIS SMITH, Bankers, Hastings (Smith, Hilder, Scrivens, & Smith.) May 3, at 1.30; Basinghall-street.—SMITH, WILLIAM, & WILLIAM FRANCIS PATIENT, Tanners & Leather Merchants, Bermondsey New-road, Surrey (Smith, Patient, & Smith.) May 3, at 11.30; Basinghall-street.—SOMERVILLE, MATHEW, Joiner & Packing Case Manufacturer, Liverpool. April 24, at 1; Liverpool.—SPLETT, SAGAR HOLDER, Sail Maker & Ship Chandler, formerly of Salthouse-buildings, Liverpool, also late of Commercial-road East and Stepney-green, Middlesex, but now of 379, Strand, Middlesex. May 3, at 2; Basinghall-street.—VINCENT, SAMUEL, Butcher & Cattle Salesman, Long Sutton, Lincolnshire. May 9, at 11; Nottingham.—WALTON, GEORGE EDWARD, Victualler, Woodborough-road, Nottingham. May 9, at 11; Nottingham.—WRIGHT, JOSEPH, Cotton Spinner & Manufacturer, Heaton Mill, Heaton Norris, Lancashire, and Forge Mill, Caton, Lancashire. May 7, at 12; Manchester.

TUESDAY, April 16, 1861.

ALLANSON, WALTER, Australian Merchant, 31, Castle-street, Holborn, London (W. Allanson & Co.). April 26, at 12.30; Basinghall-street.—BLAKEWAY, JOHN, Lamp Manufacturer, Edgbaston-street, Birmingham, and Hall-green, Yardley, Worcestershire. May 17, at 11; Birmingham.—CLEGG, ROBERT DAWSON, & FREDERICK ANGERSTEIN, Dealers in Atmospheric Clocks, 44, Friday-street, Cheapside, and 78, Fleet-street, London. May 7, at 1; Basinghall-street.—FOSTER, WILLIAM GEORGE, Corn and Coal Merchant, Penny-street, Portsmouth, Hants. May 7, at 12; Basinghall-street.—GODDARD, JAMES, & HOLLAND GODDARD, Bankers, Market Harborough, Leicestershire. June 28, at 11; Birmingham.—GWILLIM, WILLIAM, Miller, Factor, & Farmer, Michael Cwmdu, Breconshire, and Abergeenny, Monmouthshire. May 9, at 11; Bristol.—LEWITT, JAMES WINDEVER, Willden, Worcestershire. WILLIAM HENRY PARTRIDGE, Birmingham, & EDMUND LEWITT, Stourport, Worcestershire, Iron and Tinplate Workers (Willden Iron and Tinplate Company). June 21, at 11; Birmingham.—MOORE, BENJAMIN, Dealer in Machines, 133, High Holborn (B. Moore & Co.), and Warehouseman, 38, Basinghall-street, London. May 7, at 12; Basinghall-street.—NICHOLSON, THOMAS, Coal Merchant, Lydney, Gloucestershire. May 9, at 11; Bristol.—SHIPLEY, JOHN, GEORGE, Saddler & Harness Maker, joint Proprietor of the Sporting Life and Eclipse Newspapers, and sole Proprietor of the Court Circular Newspaper, 179, and 181, Regent-street, Middlesex. May 7, at 12.30; Basinghall-street.—SPENCER, JOSEPH, Ironfounder & Engineer, Bilston, Staffordshire. May 10, at 11; Birmingham.—STABOUD, EDWARD, Butcher, Thatcham, Berkshire. May 9, at 1; Basinghall-street.—TOMES, JOHN, Printer, Stationer, & Wine Merchant, Birmingham. May 17, at 11; Birmingham.—YOUNG, WILLIAM WESTON, JOSEPH WESTON YOUNG, & GEORGE YOUNG, Millers & Corn and Provision Merchants, Neath, Glamorganshire. May 9, at 11; Bristol.

MAYFIELD, SUSSEX.

A compact and valuable Freehold Farm, most eligibly situated in the parish of Mayfield, in the beautiful vicinity of Tunbridge-wells, comprising about 308 acres of arable, pasture, meadow, hop, and wood land, free of great tithes and land-tax redeemed, offering an eligible opportunity for investment or for occupation if desired.

MR. MARSH has received instructions to **SELL by AUCTION**, at the MART, in JUNE next (unless previously disposed of by private contract), a valuable FREEHOLD ESTATE, distinguished as Pennybridge Farm, situated in the parish of Mayfield, within eight miles of Tunbridge-wells, and five miles from the Wadhurst Station on the Tunbridge-wells and Hastings Railway. It consists of a convenient farmhouse, with all requisite agricultural buildings, in a good state of repair, and about 208 acres of land, of which about 8 acres are hop garden, 25 acres of woodland (affording abundant cover for game), and the remainder arable and pasture. In the occupation of Mr. James Stevenson (who and whose father have in succession occupied the property for the last 50 years), at a net rental of £170 per annum. The lessee pays all rates, taxes, and charges and repairs.

The property may be viewed on application to the tenant, who will show the estate, of whom particulars and conditions of sale, with plans, may be obtained; also of H. G. BRYDONE, Esq., Petworth; of T. D. CALTHROP, Esq., Solicitor, 8, Whitehall-place, S.W.; at the Sussex and Kentish Hotels, Tunbridge-wells; at the hotels at Lewes and Hastings; at the Mart; and at Mr. MARSH'S offices, Charlotte-row, Mansion-house, London.

STAFFORDSHIRE.

Valuable Building Land, in the borough of Wolverhampton; also very desirable Building Sites, Lands, Dwelling-houses, and Cottages, in the parishes of Trysil and Wombourne.

MR. THOMAS LLOYD begs to announce that he has received instructions to offer for SALE by PUBLIC AUCTION, at the SWAN HOTEL, WOLVERHAMPTON, in the early part of the month of MAY, in lots, about nine acres of extremely valuable FREEHOLD BUILDING LAND, situated at Chapel Ash, in the borough of Wolverhampton; also several excellent plots of freehold land, admirably adapted for building purposes, commanding beautiful views of the surrounding country: arable and meadow land, dwelling-houses, cottages, and premises, containing altogether upwards of 100 acres of land, situated in the parish of Trysil, and in the liberty of Orton, in the parish of Wombourne, above five miles from Wolverhampton.

Full particulars will be announced in future advertisements, and in the meantime inquiries may be made of Messrs. BARKER, BOWKER, & PEAKE, Solicitors, Gray's-inn-square, London; and of the Auctioneer, Darlington-street, Wolverhampton.

THAMES-STREET AND BISHOPSGATE-STREET.

Valuable Freehold Estates, comprising the King's Arms Publichouse, Lower Thames-street, and a commanding Shop and Warehouse, Bishopsgate-street without, producing £253 per annum.

MESSRS. FAREBROTHER, CLARK, and LYE have received instructions to SELL, at GARRAWAY'S, on WEDNESDAY, MAY 1, at TWELVE, a valuable FREEHOLD ESTATE, comprising that well-known publichouse, the King's Arms, situate No. 61, Lower Thames-street, and 11, Water-lane, leased to Messrs. Courage, Brewers, for a term of 14 years from the 29th September, 1852, leaving only 5½ unexpired, at the low rent of £190 per annum, and a capital and commanding shop and premises, with large warehouse in the rear, situate No. 83, Bishopsgate-street Without, let on lease to Mr. John Toede, Grocer, for 14 years from Lady-day, 1856, at a rental of, for the first seven years, £95, the remainder at £100 per annum.

To be viewed by permission of the tenants, and particulars had of F. N. DEVEY, Esq., No. 34, Ely-place, Holborn, E.C.; at Garraway's, E.C.; and of Messrs. FAREBROTHER, CLARK, and LYE, 6, Lancaster-place, Strand, W.C.

CHARING-CROSS HOSPITAL, West Strand.—

This Charity has now entered the 45th year of its existence, and the Governors indulge the hope that its operations will always be found worthy of adequate support.

Its exertions comprehend the relief annually of from 16,000 to 17,000 sick and disabled poor, including 3,000 cases of accident (many of great severity and danger), and constant accommodation for upwards of 100 in-patients in the wards. The annual cost is about £3,000. The following contributions are thankfully acknowledged:—

G. F. Heneage, Esq. £10 10 0 | Mrs. E. C., add £50 0 0
Mrs. F. C., add 50 0 0 | H. Cunliffe, Esq. 40 0 0

CHILDREN'S WARDS.

To render the Hospital still more efficient, the Council are anxious to bring into useful operation the Wards for Children, hitherto unoccupied for want of funds; a measure which alone remains to complete the designs of the founders. It has been estimated that the addition of £330 annually to the income of the Hospital would suffice for its accomplishment, an addition which it is earnestly hoped public benevolence will supply.

A generous benefactor has commenced a subscription for the purpose by a donation of £500, to which the following liberal contributions have been added, and the Council anxiously solicit the assistance of other supporters to the good work.

W. Stuart, Esq. £500 0 0	R. Few, Esq. £100 0 0
Dr. Golding 10 10 0	Ditto 2 0 0
J. Greenwood, Esq. 5 5 0	J. Wilkinson, Esq. 5 5 0
H. Wainman, Esq. 50 0 0	Ditto 1 1 0
T. Tison, Esq. 20 0 0	Charles Few, Esq. 50 0 0
Rev. R. H. Cooper 3 0 0	James Parker, Esq. 10 10 0
R. Cobbett, Esq. 10 10 0	Surplus of Subscription
Ditto 1 1 0	for a Testimonial to
E. Wilder, Esq. 10 10 0	Dr. Golding and Mr.
Lord Egerton of Tatton 50 0 0	Robertson 60 12 0

ENDOWMENT FUND.

To ensure the permanence of the useful objects of the Hospital, and to assist in providing against the serious losses which it sustains with painful frequency by the death of kind supporters, a Permanent Endowment Fund has been established, which, when further promoted by benefactions or bequests, will afford some steady source of income, in addition to that arising from casual and therefore uncertain subscriptions. The dividends from this source will substantially assist the regular disbursements of the Hospital, while the invested principal will be held intact and inviolate.

Very valuable assistance has been rendered by the legacies of deceased benefactors, and as upon this source the continued welfare of the Hospital must in great part depend, it may be respectfully stated to those benefactors who may be desirous to endow, by benefaction or bequest, a ward, or one or more beds, to bear in perpetuity the name of the donor, or of one whose memory he cherishes and would wish to identify with a permanent work of charity, that such desire can be fulfilled in accordance with the regulations of this Hospital.

The following additional contributions are thankfully acknowledged:—

Thomas Raymond Barker, Esq., add., £35,	The Rev. A. Clissold, £50 0 0
making up £100 0 0	Messrs. Gale & Co. add. 5 5 0
	Messrs. Cox & Co. 100 0 0

Donations for the current objects of the Hospital, or for the Children's Wards, or the Endowment Fund, will be thankfully received by the Secretary, at the Hospital; and by Messrs. Coutts, Messrs. Drummonds, Messrs. Hoare, and Messrs. Herries; and through all the principal bankers.

April, 1861.

JOHN ROBERTSON, Hon. Sec.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

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CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. PATTESON & COBBOLD, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

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LOANS.—Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained.

JOSEPH K. JACKSON, Secretary.

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(Established 1825) Incorporated by Royal Charter.

CAPITAL, £600,000.

President—His GRACE JOHN BIRD, LORD ARCHBISHOP OF CANTEBURY.

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Amount Accumulated from Premiums £765,000

Annual Income 77,000

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CHARLES M. WILlich, Secretary and Actuary.

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DEPUTY-CHAIRMAN—Nassau W. Senior, Esq., late Master in Chancery.

Reversions and Life Interests purchased. Immediate and Deferred Annuities granted in exchange for Reversionary and Contingent Interests.

Annuities, Immediate, Deferred, and Contingent, and also Endowments granted on favourable terms.

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C. B. CLABON, Secretary.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

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TWELVE HOURS TRANSCENDENTLY BRILLIANT LIGHT AT THE COST OF ONE PENNY. This incomparable household boon is obtained by the use of the New Lamp, sold at the Stella Lamp Depot. Light equivalent to three candles. Larger light, equivalent to a pound of dips, and superior to gas, at the cost of about Five Farthings per night. Cost of Lamp, 3s. to 5 Guineas.

STELLA LAMP DEPOT, No. 11, Oxford-street, adjoining the Star Brewery.

SIR W. BURNETT, Director-General of the Medical

Department of the Navy, recommended BORWICK'S BAKING POWDER in preference to every other, for the use of her Majesty's Navy, because it was more wholesome—more effective—would keep longer—and was in all respects superior to every other manufactured. Pleading testimonials as to its superior excellence have also been received from the Queen's Private Baker; Dr. Hassall, Analyst to the *Lancet*; Captain Allen Young, of the Arctic yacht "Fox," and other scientific men. Sold everywhere in 1d., 2d., 4d., and 6d. packets; and 1s., 2s. 6d., and 5s. boxes.

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JOURNAL and WEEKLY REPORTER is prepared to bind any volumes which subscribers may send to him, neatly, expeditiously, and strongly. Orders sent to the office will be immediately attended to, and in town volumes will be fetched and returned when bound without any expense.—Half Calf, 4s. 6d., and Cloth, 2s. 6d. per volume.—Office, 59 Carey-street.

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We cannot notice any communication unless accompanied by the name and address of the writer.

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THE SOLICITORS' JOURNAL.

LONDON, APRIL 27, 1861.

CURRENT TOPICS.

A clause introduced into the Bankruptcy and Insolvency Bill, now before the House of Lords, and passed by the House of Commons without comment, requires more attention than it has hitherto to all appearance received. We refer to the 86th clause of the Bill as amended, which is as follows:—

"Wherever the goods and chattels of a debtor are sold under an execution upon any judgment recovered in any action or suit brought for the recovery of a debt, money demand, or damages against any debtor, such goods and chattels shall in all cases be sold by the sheriff by public auction, and not by bill of sale or private contract, and such sale shall be publicly advertised by the sheriff on and during three days next preceding the day of sale."

The subject of this clause is one with which few members of the Legislature, legal or otherwise, are familiar, which circumstance may probably account for the silence under which it was passed; but by the majority of solicitors its operation will be sufficiently understood, and we therefore invite their serious attention to it. It appears to us that the clause if passed would produce much inconvenience and loss to both debtor and creditor, without any adequate advantage to either. We will illustrate our meaning by putting the following simple instances which may have, probably, occurred to some of our readers.

There are many clergymen, small landed proprietors, or traders living in remote parts of the country, who have, by marriage, bequest, or otherwise, become proprietors of shares in banking or trading companies, and thereby exposed themselves in case of the failure of such companies, at least in the first instance, to heavy personal liability. There is in such cases nothing to prevent a judgment being entered up and execution issued against such a person for an amount exceeding his ability to pay, and as a consequence of such execution his furniture may be seized by the sheriff. It frequently happens that the pressure is only temporary, and that there is a prospect of the difficulties being surmounted. In such a case, as the law is at present, it is a common thing for a third party to intervene and purchase the goods or furniture from the sheriff at their full value, so as to retain them in their existing state until a settlement can be arrived at. The creditor thus gets the full value of the property he has seized, and the debtor gets the advantage of a reasonable time to prevent his house from being dismantled, and his stock-in-trade or other effects lost and dispersed, and probably sold at an undervalue. But if the clause in question becomes law, these arrangements, which are of frequent occurrence, can no longer take place, and the sheriff will be bound to realise the value of the goods by public auction. Either, therefore, the debtor must pay the whole debt, which he may be unable to do, or he must submit to have his establishment broken up. The proceeds of furniture or stock-in-trade when sold by auction are in most cases much less than their value to the owner, and generally the owner is, from the circumstance of his station in society, or of his trading connexions, or from personal feelings, willing to pay or secure much more than the intrinsic value of his goods, if allowed to retain them: but the clause in question is imperative; when once the goods have passed into the

hands of the sheriff, they must be dispersed and sold, unless the sheriff is willing to take upon himself the responsibility of violating the statute. There appears no good reason why that this clause, which is in no way connected with procedure in bankruptcy or insolvency, but rather with the general law of debtor and creditor, should be inserted in its present place, and its omission would in no way interfere with the operation of the measure. But as it has already passed the Commons it is important to consider its probable operation; and we think it advisable to call the attention of our readers to the subject.

We are indebted to a learned correspondent for the following remarks upon some features in the Attorney-General's Bankruptcy and Insolvency Bill, which do not recommend the Bill to lawyers:—

I beg leave to draw attention to the following points:—

In the Bill there are sections	246
By reference to schedule G, and the Acts therein specified, it will be seen that the following sections of Acts are retained:—	
Of 1 & 2 Vict. c. 110	22
Of 7 & 8 Vict. c. 96	26
Of 10 & 11 Vict. c. 102	1
Of 12 & 13 Vict. c. 106 (unless they can be shown to be inconsistent with the proposed Act)	210
Of 15 & 16 Vict. c. 77	13
Of 17 & 18 Vict. c. 119	16

Total 534

In order, therefore, to construe the Bill, consideration must be given to 534 sections, without reference to any other statutes, and parts of statutes, which have not been repealed; see particularly the schedule to 12 & 13 Vict. c. 106. By the 7th & 8th Vict. c. 96, s. 74, and the 12th & 13th Vict. c. 106, s. 1, and the 24th section of the new Bill, and schedule G (by which the repeal of certain Acts, or parts of Acts, has been, or is intended to be, effected), the repeal is not express but by enactment that certain statutes, or parts of statutes, inconsistent with particular statutes, or parts of statutes, shall be repealed. It is plain that by such a course of legislation there is an impossibility of arriving at any definite conclusion as to the meaning of the Legislature. The Lord Chancellor, speaking in the House of Lords, on the 28th of February last, on the Statute Law Revision Bill, said, "No lawyer, however laborious had been his studies, could take upon himself to state what statutes were now in force, and what had been repealed, particularly after the vicious mode of passing Acts of Parliament by which statutes were repealed, not expressly, but by simply enacting that all statutes inconsistent with that particular Act should be repealed. The difficulty, of course, was to decide what statutes were inconsistent with it."—*Hansard*, vol. 161, p. 1058. The House of Commons, with a laugh, received the information given to them by the Attorney-General on the 11th of February last on introducing the Bill, that it was less by one-half than the Bill of last session; but if the result shall be the necessity of reference to 534 sections of Acts of Parliament, and to other Acts relating to the subject which have not been repealed, although the members of the House of Commons may laugh at being relieved from considering a long bill, the people will have to contend against great length, and, according to the opinion of the Lord Chancellor, almost insuperable difficulty of construction from the vicious mode of repeal I have mentioned. It should be remembered that the House of Commons have had, according to the views of the Attorney-General, their way against his judgment, which he stated he had surrendered, his sentiments and feelings being in favour of a consolidating measure; see his speech on the 11th of February last.

In the personal history of Lord Bacon, p. 34, is the following:—"Bacon tells a house full of Queen's serjeants and utter barristers that the laws are made to guard the rights of the people, not to feed the lawyers. The laws should be read by all, known to all. Put them into shape, inform them with philosophy, reduce them in bulk, give them into every man's hand." I commend this passage to those of our legislators who undertake the amendment of our bankruptcy laws.

The *Saturday Review* of last week contains a sensible and well-timed article upon the subject of the appointment of recorders, which was suggested by the recent vacancies at Leeds and Brighton. We extract the following observations:—

Recorderships are given as a field of trial and as a step in promotion to men of two sorts. There are many barristers who become first notorious, and then famous, by doing a rather inferior and questionable style of business—who are supposed to be somehow not exactly on the square—who are, perhaps, burdened with debt, have their paper in the market, and are at the mercy of merciless creditors; or who have in some way compromised their reputation and are rather shunned, although no one has any definite charge to adduce against them. Such men are often possessed of real ability, and even if their gifts are not of a high kind, yet they know how, by the arts of pleasing or annoying, to make themselves felt by those who have a voice in the distribution of good things. When recorderships are given to such men, an opportunity is secured of observing how they really stand in the estimation of the public and the profession. There is enough of the judicial dignity attaching to the office to make an appointment in some degree serve as a certificate of judicial capability; and yet there is no great harm done, nor does any great scandal ensue, if the recorder, instead of showing that he is more nearly fit for the bench than was thought, only enhances his previous bad reputation, and sinks lower and lower. It is only a kind of mimic judgeship that is being degraded by its holder. Sometimes, also, the office is conferred on young men who promise to rise to greater things, and who have impressed some influential person with a sense of their power of mind, application, and fitness to administer criminal law. It is not very often that appointments are made in this way, as the young recorder must ordinarily have done something more than inspire a good opinion of himself, and must have enjoyed an opportunity of rendering some service that has brought him under the special notice of a powerful friend; and the occurrence of such an opportunity is necessarily fortuitous. But when it so happens that such a man has the opportunity, and profits by it, to get a recordership early in his career, the appointment is at once a great encouragement to the individual and beneficial to the public. The actual experience of a judge's work is a rich source of instruction to a rising barrister, and acts as a check on the meaner passions and coarser feelings apt to prevail in criminal courts; and everything which tends to raise the character of the bar is a public benefit. If they did nothing else recorderships would be very useful as permitting those entrusted with the appointment occasionally to give men of doubtful position a new chance of respectability, and to encourage, and at the same time in some small degree improve, men of promise while still struggling with the difficulties that encompass a man who holds the humble position of a sessions junior. Recorderships serve, it must be owned, a much higher purpose when they are offered to such men as Mr. Ellis. The English bar derives much of its reputation from numbering in its ranks men who only attain moderate professional success, but who are known widely beyond the limits of their profession.

The manner in which the minor judicial patronage of the Government is distributed concerns the public even more than the legal profession. On a former occasion we felt called upon to offer some criticism upon the appointment to some vacant recorderships of gentlemen who had no other claim or qualification for the office of recorder than aristocratic and powerful connections. Mr. Henry Wyndham West, of the Northern Circuit, and of the West Riding, Yorkshire, and Leeds Borough Sessions, has within the present week been appointed to the Attorney-Generalship of the Duchy of Lancaster, an office which has been rendered vacant by the lamented death of Mr. Flower Ellis, a very learned and able lawyer and accomplished gentleman. Now we know nothing whatever of Mr. West, except what we learn from the *Law List*, and from a contemporary which is devoted to the interests of city companies, and delights in chronicling the honours attained by the liverymen of the city. The *City Press* informs us that Mr. West has been for some years a revising barrister for the West Riding of Yorkshire, and that he is also recorder of Scarborough, and junior counsel to the Admiralty. These three appoint-

ments might well have been considered a fair allowance for gentleman who was called to the Bar only in 1848, and who has never, either upon circuit or by his contributions to legal literature, made himself a name which is much known in the profession. At all events it is not strange that the nomination of Mr. West as Attorney-General for the Duchy of Lancaster should cause some surprise on a circuit numbering nearly 200 members, the majority of whom may fairly be supposed to possess personal qualifications for the office equal to those of the fortunate pluralist who has been appointed. Pluralism in the Church has been almost put down by the strong feeling of public indignation, which was brought to bear upon it for some years; and, perhaps, we ought to be thankful that our profession is not more frequently scandalized by such exhibitions of favouritism as the public has just witnessed in the case of the recent appointment in the Duchy of Lancaster.

The very singular case of *Wing v. Taylor*, which was argued on Tuesday in the Divorce Court, affords a curious and important illustration of the complications of our ancient statute law, and of the extreme difficulty attending any attempt at its authoritative revision. Two distinct questions were raised in that case. We are at present concerned only with one of them—namely, whether, according to the statute law of England, a marriage in all other respects good is, in fact, null and void if the man had previous carnal knowledge of any woman within the prohibited degrees of affinity towards his wife; whether, for example, as in the case of *Wing v. Taylor*, the petitioner was entitled to have a decree of nullity of marriage, because, as he alleged, he had, previous to the marriage, connection with the mother of the person whom he married. The statute law upon this subject appears to stand thus:—The 28 Hen. 8, c. 7, settled the prohibited degrees of affinity, and enacted that “if it chanced any man to know carnally any woman, that then all and singular persons being in any degree of consanguinity or affinity as is above written to any of the parties so carnally offending shall be deemed to be within the cases and limits of the said prohibitions of marriage;” and it enacts that from thenceforth no person shall marry within the prohibited degrees. This enactment was entirely repealed by the 17th section of the 1 & 2 Ph. & M. c. 8, which was passed to repeal all articles and provisions made against the See of Rome during and since the latter part of the reign of Henry VIII. The object of the very first Act of the reign of Elizabeth, however, being to restore to the Crown its jurisdiction in ecclesiastical and spiritual matters, there arises a question whether the particular enactment in the Act of Hen. 8 which we have quoted above was revived by the statute of Elizabeth; and on the decision of this point will probably depend the judgment of the Court, which has been reserved. It is a curious circumstance that for three centuries this question should never have been distinctly raised, although there are reported cases in which it might have been; but we now allude to it not merely on account of its intrinsic importance, but as an example of the difficulties which lie in the way of the consolidation of our statute book. Those of our readers who may wish to acquaint themselves more fully with the law upon the point raised in *Wing v. Taylor*, will find much useful and interesting information about it in *Harrison v. Burwell*, Vaughan's Reports 206, and *Hill v. Good*, *ib.* 302, two cases which do not appear to have been cited in the argument of *Wing v. Taylor*.

Another very singular case upon the law of marriage has recently been discussed in the House of Lords, and was decided on last Monday. In *Beumish v. Beumish* the question was simply whether a clergyman could perform a valid marriage between himself and another person. The Court of Exchequer Chamber in Ireland decided that he could do so, and this judgment has been reversed in the House of Lords mainly upon the ground

that the House was bound by its own decision in *The Queen v. Millis*. The effect of the recent decision is that a marriage by a clergyman to be valid must be celebrated by a third person *in facie ecclesie*.

The Cambridge University Volunteer Corps has invited the Inns of Court Volunteer Corps to a field day at Cambridge in the approaching month of May, and we believe that a large number of the members of the latter corps have signified their willingness to accept the invitation. It is expected that the 18th of May will be the day for the excursion, and that not less than 300 members of the Inns of Court Corps will muster on the occasion.

It is said that the Lord Chancellor has decided upon yielding to the request of Lord Chelmsford and the other Law Lords to have the Attorney-General's Bankruptcy Bill referred to a Select Committee of the House of Lords. If this rumour should prove correct it is by no means unlikely that considerable changes may be made in the part of the Bill which relates to the constitution of the proposed new Court of Appeal, as a majority of the Law Lords appear to be in favour of continuing the appeal in bankruptcy to the Chancery Judges, and, therefore, opposed to the appointment of a Chief Judge in Bankruptcy.

LORD CRANWORTH'S BILL TO AMEND THE LAWS RELATING TO CHARITABLE USES.

The Mortmain Acts may be regarded in three distinct phases—according as we consider their contravention of the rule against perpetuities; the nature of the property to which they relate; or the administration and judicial procedure best adapted to the effective working of corporate or charitable institutions. The present observations are intended to apply only to the second of these heads of inquiry. The distinction of property into real and personal, which runs throughout our entire jurisprudence, has been, perhaps, in no branch of law more productive of inconvenience than in that of which we are now treating. This complication has been in a great measure owing to the spirit in which the judges have endeavoured to carry out the provisions of the Mortmain Acts, and the astuteness which they have consequently shown in bringing cases within their purview, notwithstanding that the general leaning of the Court is against a wide application of the doctrine of equitable conversion. But the main cause of the intricacies of the laws of mortmain is to be attributed to the difficulties that always attend the application of this doctrine. The Mortmain Acts apply only to donations of real estate, or of property savouring of realty. Pure personalty is left, as at common law, wholly in the power of its owner, to be granted by will, or by a transaction *inter vivos*, without any ceremony being required to perfect the grant except what the law may require in case the donation were made to a private individual. Very many cases, however, have occurred in which land has been directed to be converted into money, or, *e converso*, in which money has been directed to be invested in land, and great difficulty has thus arisen in applying to such cases the equitable doctrine of conversion, and determining whether the subject matter of the donation were sufficiently impressed with the character which the donor intended to impart to it. If money were directed by a testator to be laid out in the purchase of land for charitable uses, the sum so bequeathed became, in the eyes of equity, real estate, and the bequest was, therefore, void. The direction as to its conversion into realty, however, might not be sufficiently imperative to alter the legal incidents of the subject of the grant; and hence great litigation has frequently arisen between the representatives of the

donor and the declared objects of his bounty. Moreover, a donation might have been intended to be made out of personalty; but, if it becomes necessary to resort to the real estate of the donor, so far the gift fails. Before directing the attention of the reader to the remedy for these evils, a brief statement of the origin and development of the mortmain laws, and of some of the cases in which their application has been found most difficult, may facilitate a right comprehension of the necessity, as well as of the efficacy, of the remedy we propose. This is, indeed, almost too obvious to require much advocacy, were it not so long overlooked. It appears to us to consist in the abolition of the distinction of possessions into real and personal, so far as the Mortmain Acts are concerned, and the enactment of a single comprehensive measure which will apply equally to all descriptions of property.

Corporations had at common law a capacity to take lands, but not without a license both from the lord of the seignory and from the Sovereign, the lord paramount of all estates in the kingdom. Under the feudal law, the lord of a seignory was entitled to certain services or fines upon the succession of the heir, or the marriage of the daughter, of his tenant; and if the latter attempted to settle or alien the land in any manner that would abridge these privileges of the lord, the latter could enter for a forfeiture, the tenant having thus committed a breach of fealty, in violation of the terms of the feudal compact. But a corporation had no daughters upon whose marriage the lord could obtain the usual reliefs, nor heirs, since in construction of law it never died, and "*Nemo est hæres viventis*." The alienation of lands to such a body being thus a virtual renunciation of all seignorial claims, a license from the lord and from the Crown was necessary even at common law. A similar dispensing power existed in the civil law, which ordained that a special privilege was indispensable to enable a corporation to take lands. *Collegium, si nullo speciali privilegio subnixum sit, hæreditatem capere non posse, dubium non est*, Cod. 6, 8, 24. The English legislature added other restrictions, upon the ground that lands thus alienated were removed from the active uses of commerce for a period beyond that allowed by the rule against perpetuities. The true reason, however, why alienations in mortmain were discountenanced by the feudal nobility of the middle ages is probably to be ascribed, not so much to the regard which the aristocracy of that period entertained for the interests of commerce, as it is to their losses of aids, reliefs, &c., before-mentioned, and also to their jealousy of the growth of ecclesiastical power. Of the many explanations of the primary sense of the word Mortmain offered by Sir Edward Coke, 1 Inst. 2, the most probable is the one preferred by Blackstone, viz., that religious persons being dead in law, lands holden by them were *in mortuâ manu*. The term is at present used to denote all the possessions of corporations, whether these be religious or lay, and is used chiefly to express the dead and unserviceable character of such possessions, so far as the purposes of commerce are concerned. Our readers are, of course, aware that most of the peculiar complications of English law, and its administration in the distinct channels of law and equity, have arisen from the conflict for pre-eminence that has so long existed between the common and the civil law. The statutes which directly or indirectly affect alienations in mortmain indicate, like so many legal epochs, the successive stages of this juridical contest, and illustrate the gradual development of our present law of real property.

Magna Charta (9 Hen. 3, c. 36) was the first mortmain statute. It forbids the giving of lands to religious houses, which were almost the only corporations then in being. The statute 7 Ed. 1, c. 2, extended the prohibition to grants made to the secular clergy. Notwithstanding this statute, however, grants to such corporations are only voidable and not void, unless they

be made for charitable uses, within the meaning of the statute of 9 Geo. 2, c. 36, in which case they are absolutely void. A lease for twenty, or even ninety-nine years, appears not to be within the former statutes, but the law is otherwise as to a lease for a long term. The statute 13 Ed. 1, provided that religious corporations should derive no benefit from recoveries, and the same bodies are excepted in the statute *Quia Emptores*, 18 Ed. 1, c. 1, by which tenants obtained full power to alien their lands. The 15 Rich. 2, c. 2, likewise exempts religious houses from the benefit of trusts. This statute was the first Mortmain Act passed in respect to lay corporations; it extended to these the provisions of the statute 7 Ed. 1, c. 2. The statute 23 Hen. 8, c. 10, which is the first Act against superstitious uses, prohibits alienations of land made for devotional purposes to non-corporate bodies, such as churchwardens, &c. Such donations, it appears, were not within the previous statutes of mortmain, and were not void, although constituting a perpetuity. This was allowed probably on the ground of the prevalence of the custom. The statute 9 Geo. 2, c. 36, completes our list of the Mortmain Acts. The object of that Act, however, is not to prevent alienations in mortmain, but to prescribe certain formalities to grants of land for charitable purposes. Alienations in mortmain were not made void by the statutes passed prior to this Act, so as to let in the grantor or his heirs, but amounted to a forfeiture of the lands to the superior lord. Mesne lords, however, as also the sovereign, the lord paramount, could dispense with their own privileges—*Quilibet potest renunciare juri pro se introducto*. A license from these was, therefore, efficacious, notwithstanding the mortmain statutes. After the feudal tenures were abolished by the statute 12 Car. 2, c. 24, the value of a seignior became much diminished. Moreover, few mesne seigniories existed even at that period, owing to the long operation of the statute, *Quia Emptores*, which has prevented subinfeudation. The statute 7 & 8 Will. 3, c. 37, accordingly, has vested in the Crown alone full powers to dispense with the statutes of mortmain. But, as at common law, no devise of lands was good, and as corporations are expressly excepted in the statute of wills, 32 Hen. 8, c. 1, no devise of lands to a corporation was valid until the statute 43 Eliz. c. 3, allowed such devises in cases of charities. This exception has been greatly narrowed by the statute, 9 Geo. 2, c. 36. The first section of this statute enacts that no manors, lands, or hereditaments, chattels, or sums of money to be laid out in the purchase of lands, shall be given or granted to any person or body politic for the benefit of any charitable uses whatsoever, unless the conveyance be by deed indented, sealed, and delivered in the presence of two witnesses, twelve months before the death of the grantor, and enrolled within six months next after its execution. The same section also enacts that donations of stock, to be valid, should be completed by an actual transfer six months before the death of the donor, and that all grants of land and of money or stock to be laid out in the purchase of land, be made to take effect immediately in possession for the intended charitable use, and be without any power of revocation or reservation whatsoever for the benefit of the donor. The second section exempts grants for valuable consideration from the previous provisions as to the sealing and delivery of the deeds of grant and as to the transfer of stock at the specified periods, respectively, before the grantor's death. Such deeds, however, are equally as liable to all the other formalities required by the Act, as if they comprised merely voluntary grants. The third section of the Act provides that all deeds, not in accordance with the prescribed formalities, shall be null and void. The fourth section exempts from the purview of the Act the two Universities and the colleges of Eton, Winchester, and Westminster.

A general impression having prevailed that all the

conditions prescribed by this Act were waived by the second section as to cases of purchases made by charities, a general disregard of *all* the formalities prescribed by the first section frequently occurred in such cases of purchase. The Act 9 Geo. 4, c. 85, was passed to remedy some of these mistakes. It does not apply to deeds which contain a reservation in favour of the grantor, and it has only a retrospective operation. The chief object of Lord Cranworth's Bill, which is now before Parliament, is to dispense in future, in cases of purchase, with most of the formalities required by the Act of George 2. The first section of the Bill proposes that no deed or assurance hereafter to be made for charitable uses, shall be deemed void within the meaning of the Act of George 2, by reason of not being indented, nor by reason of reserving to the grantor a nominal rent, mines, easements, covenants as to repair or enjoyment, or a right of entry on breach of such stipulations; nor, as regards copyholds and customary freeholds, for want of a deed; nor, in cases of a purchase for full consideration, by reason of the consideration consisting of a rent reserved to the vendor or to any other person, provided that in all reservations the owner or vendor shall reserve the same benefits for his representatives as for himself. The second section provides that when the uses of a deed of conveyance are declared by a separate deed, the enrolment of the latter alone is in future to be sufficient. The third section validates all past deeds made for full value, under which possession is now held, if such deeds were made to take effect immediately in possession, without any power of revocation, and if such shall be enrolled (if not so already) within twelve months after the passing of this Act. The fourth section provides that if the uses of such deeds have been declared by separate deeds, the enrolment of the latter alone will be sufficient. The fifth section provides that the Act is not to invalidate any deed otherwise good, nor to apply to deeds already avoided or sought to be avoided in due course of law. The acknowledgment of deeds thirty years old, and of any other deeds, which it is impossible to have acknowledged within twelve months after the passing of the Act, is also declared unnecessary prior to enrolment. The last section of the Bill exempts from its provisions, Ireland, Scotland, the two Universities, and the colleges of Eton, Winchester, and Westminster.

The case of *Jeffries v. Alexander* (7 Jur. N. S. 221), decided by the House of Lords last session, illustrates very clearly the various complications to which the present state of the law of mortmain has given rise. In this case a deed of covenant was executed by A. B. five years before his death, whereby he agreed that he would in his lifetime, or that his executors should within twelve months after his decease, but subject to the payment of his debts and legacies, invest a certain sum of money in Consols, in the names of trustees, for certain charitable uses. Part of the property left by the covenantor at his death consisted of personalty savouring of the realty. The House of Lords (Lords Cranworth and Wensleydale dissenting), held, reversing the decision of the Lords Justices, who had reversed that of Sir J. Romilly, M. R., that the deed of covenant, so far as the chattels real were concerned, was within the meaning of the third section of the Mortmain Act, and, therefore, void, although the deed did not *ex facie* violate the provisions of that statute. Where the proceeds of an estate devised to be sold were bequeathed in trust for charitable purposes, Lord Hardwicke held the bequest void, although such a bequest had no tendency to bring the lands into mortmain; *Attorney-General v. Lord Weymouth* (Amb. 25). On the other hand, if a testator whose assets consisted exclusively of a bond due from a deceased obligor, were to make any charitable bequest, the real estate of the obligor would be resorted to if necessary for the purpose of discharging the bequest, *Foone v. Blount*

(Cowp. 464). The principle of this case, however, which was cited by Lord Cranworth in support of his dissent in *Jeffries v. Alexander*, appears to be easily distinguished from that affirmed by the latter case, inasmuch as the resort to realty for satisfaction of the bequest in *Jeffries v. Alexander*, was rendered necessary by the donor's own acts; but in *Foone v. Blount*, this necessity was owing to the nature of the property of a party who had nothing to do with the bequest, and who could not, therefore, be affected by the Mortmain Act. In *Harrison v. Harrison* (1 Russ. & M. 71), a vendor's lien for unpaid purchase-money was held to be an interest within the meaning of the Mortmain Act: inasmuch as the vendor, like a mortgagee, had the legal estate, until a conveyance was perfected.

Assets are never marshalled in favour of charities: *Mogg v. Hodges*, (2 Ves. 53). Such bequests, moreover, fail in the proportion in which, if valid, they should have been paid out of realty, or out of personalty savouring of realty, such as mortgages, leaseholds, &c., *Attorney-General v. Tyndal* (2 Eden. 207). But a testator may direct his charitable bequests to be paid exclusively out of his pure personalty, and the Court will give effect to his intention; *Robinson v. Geldard* (3 Mac. & G. 735.) In *Tempest v. Tempest*, 5 W. R. 402, a testatrix by her will gave her real estate to trustees upon certain trusts, and amongst divers specific and pecuniary bequests bequeathed to the same trustees such a sum of money as when invested in consols would produce a certain clear annual income upon trust for certain specified charitable uses. She also directed that the said charitable bequests should be paid in precedence of other pecuniary legacies bequeathed by the same will out of such part of her personal property not specifically bequeathed as was by law applicable for charitable purposes, and she gave the residue of her personal property to the said trustees upon the trusts in the will mentioned. By an order of Wood, V.C., on further consideration it was declared that the debts and funeral expenses of the testatrix, and the costs of the suit for administering her estate, were primarily payable out of her personal estate savouring of the realty. The ground of this decision would appear to be that the general rule against marshalling in favour of charities was neutralized in this case by the demonstrative character of the charitable bequests; demonstrative legacies not being liable to abate rateably with general or pecuniary legacies on a deficiency of assets. (*Vide* "Smith's Com. Real and Per. Pro.," 826.) On appeal from this order, the Lord Chancellor held that the testatrix did not indicate an intention of exempting the pure personalty from its usual liability to contribute rateably with the personalty savouring of the realty to the debts and funeral expenses of the testatrix, and that, therefore, the charitable bequests could be enforced only against the portion of the pure personalty which remained after such a deduction. The principle of this decision appears to be that the rule against marshalling in favour of charities is not to be waived, except upon the expression of a clear intention in a will to that effect, and that a bequest of a demonstrative legacy out of a fund of pure personalty is not a sufficient indication of such an intention. These cases, and especially the judgments in *Jeffries v. Alexander*, clearly depict the complications which the distinction of property into realty and personalty has produced in this branch of law.

The laws and procedure relating to the administration of charities are in a very unsatisfactory state, notwithstanding that the reports of commissioners on the subject fill twenty-eight volumes folio, and cover 28,000 pages. Upon this branch of the laws of charities we do not offer any comments at present. We merely suggest, that, while the administration of charitable funds is, no doubt, wholly distinct in its juridical relations from the laws which should regulate charitable donations and bequests, yet we would gladly see the

whole mechanism, as well as the theory, of charities provided for by a single comprehensive enactment. Partial legislation is seldom desirable. By the Endowed Schools Act of last session, trustees of schools were bound to open them to Dissenters, without imposing any conformity to the Church of England. As an alleged corollary to this Act, the Trustees of Charities Bill, lately before Parliament, proposed that the appointment of the trustees of schools should be made without reference to religious qualifications. This Bill, if passed, might have been also found to be unequal even to the object of its author, as also wanting in harmony with the other parts of the system. But if the administration of charities was provided for on the same principles, and by the same statute that regulated charitable donations and bequests, the chances of an incongruity between the theory and the working of these institutions would be greatly obviated. We regret that Lord Cranworth does not propose to deal with the whole law of mortmain, and submit a single comprehensive measure, which would be calculated to obviate the existing causes of difficulty. We do not see why purchases made by charitable institutions should be subjected to peculiar restrictions as to the formalities of conveyancing. If the accumulation of wealth by charitable corporations should be discountenanced upon grounds of public policy, let the law declare this. But it is somewhat absurd to allow these corporations to take as much personalty, and buy as much realty, as they can, but subject to restrictions which are necessarily troublesome and almost frivolous.

The main cause of the intricacies of the laws of mortmain is, doubtless, to be referred to their applying merely to grants of realty. The first Mortmain Acts applied only to donations of land, as the personal property in the kingdom in those times was comparatively trivial, and incapable of conferring political power upon its possessors. The subsequent Mortmain Acts followed in the same track, and thus, in the Act of George the Second, we find no mention of personal property, except such as is directed to be converted into realty, although at that period the personalty of British subjects was of very considerable value. If the principle, then, of the Mortmain Acts be politic, they should, surely, apply to that description of property which at present constitutes so large a portion of the national wealth. The importance of extending their provisions to personalty is still greater than can be indicated by any estimate of the relative value of the personalty and the realty of British subjects, since the real estate which is not tied up in family settlements, and which alone can be granted to charitable or any other uses, is the only realty which the Mortmain Acts can affect. This amount of realty is, we may assume, at any given time, not a very large proportion of the whole landed wealth of the kingdom. On the other hand, the proportion of the whole personalty of British subjects, which is not out of the reach of transfer or donation, is always very great, and it is with this amount the proportion of disposable realty is to be compared. The laws of mortmain, then, have provided only for that part of the national wealth which, in respect to our present inquiry, is far the less valuable; while the distinction between realty and personalty, which these laws recognise, have been, as we have shown, productive of immense litigation. Land, indeed, affords, by reason of its indestructibility, a basis of peculiar value for the adjustment of political rights, and for securing an independence for an unborn generation; and to this limited extent we consider that the distinction which our law takes between real and personal property, has had very beneficial results. But when we find this distinction unnecessarily maintained in other branches of law, we should recur to first principles, and not perpetuate an undue extension of antiquated and subtle rules in a state of society and of national wealth, to which those distinctions were not

originally intended to apply. Our mortmain laws, then, it is obvious, should equally relate to personalty and realty. Moreover, the equitable doctrine of conversion has so confused the boundaries of real and personal estate, that unless the former species of property greatly preponderated in value over the latter, the expensive distinction should be abrogated. It has not been our intention to have discussed in this paper the political phases of the laws of mortmain. The present principle of these laws is perhaps sufficiently sound, as after a license is obtained by the intended donee, the subject has full power to grant away all his property during his life, or at least before the period likely to precede the approach of his last illness. The law ordains, wisely, we think, that a testator should not selfishly enjoy his property during life, and then, on his death-bed, with a view to his own spiritual good, cheat his relations or expectant heirs, or other relatives. This rule of public policy is not likely to conflict with the religious opinions of any class. But, whatever may be the principles of public policy which the legislature shall adopt for its guidance as to the laws of mortmain, it is, we think, an indispensable condition to the salutary operation of those laws, that they should make no distinction between grants of real and of personal property.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

X. (Continued.)

It has been made a matter of argument, though never hrown out even as a *dictum* by a judge, but indeed an opinion expressed to the contrary, that a sojourn in a foreign country for the sole purpose of amassing property, when such a result occurs, will cause a reverter of the domicil of origin without the *factum* of arrival at, and residence in, that original domicil, the abandonment of the acquired domicil, and the dying *in itinere*, being sufficient to re-vest the old domicil, if I may use the expression; but this is so manifestly open to objection that it cannot be supported. Were it the law, the effect would be that every departure from one place with an intention to proceed to another would *ipso facto* cause a new domicil to be acquired in that other place, in which case the true ingredient would be wanting, namely, the party being so far a subject of that country that his property can be dealt with by the laws of that country, into which he has not even set his foot. Upon this point the question naturally arises, whether a man can have more than one domicil? But that I have before considered and is easily answered; for the very fact of its being necessary that he should either abandon one domicil before he can acquire another, or acquire another before he can abandon the first, shows that the law considers him as incapable of having more than one. (See *Somerville v. Somerville*, 5 Ves. 791.) If the domicil is in a foreign country, our law, of course, cannot deal with it *quoad* property, except according to the law of such country, and, therefore, it is upon the question, whether it can deal with it or no that the fact of the domicil mainly turns.

A case may be supposed where a domicil of origin is totally abandoned, and sojourns made in a variety of places during the whole remainder of the party's life, and in such a case the point would rest between the domicil of birth or origin, and the circumstances attending the other different residences, and whether in the course of such wanderings any preference was shown to any particular place, such a residence being retained there, etc., and it would be difficult to say in such a case which would preponderate, although the domicil of birth would certainly

be entitled to every possible degree of weight, and could not be displaced, except, first, by a sufficient residence in the other supposed locality sufficient to fix a domicil, and an express intention to return to it, although at an unknown and unfixed time. Possession of property, more particularly if it consists of houses or furniture, is always sufficient to preponderate, the true test, indeed, being, that wherever there is a manifest intention permanently to reside, there is the domicil. In the case of discursive movements from place to place, evidence is a most important portion of it, and the habits, turn of mind, and the intention of the person must be the guides in weighing such evidence; for where all is involved in such a degree of uncertainty, the slightest circumstance will be of consequence.

From all this it follows, that there is scarcely a case, be it ever so complicated, that cannot receive some kind of determination by the application of the general principles laid down upon this subject; and it must always be borne in mind that except in the case of domicil of birth or origin, where residence would be insufficient, the *animus* and the *factum* must be proved, that is the residence and intention to remain, without which no domicil can exist. Having said thus much as the result of the cases, let us examine the cases themselves. The case of Sir Charles Douglas (see *Ommaney v. Bingham*, cited in a note to *Munroe v. Douglas*, 5 Madd. 379) is very strongly illustrative of this subject. In 1741, Sir Charles Douglas left Scotland (his native country), when only twelve years old, and entered the navy. When he attained the rank of captain, and not until then, did he return to Scotland, but left it again, married in Holland, where he had an establishment, and again came to Scotland for the purpose of introducing his wife to his friends and connections, and remained there about twelve months. He commanded in the Russian navy, and was then in the Dutch service, and when he visited Scotland it was only temporarily, meantime having a residence at Gosport, where his wife and family lived; and lastly, being appointed to the Halifax station, he came to Scotland and died there. During all this time he never had a house of his own in Scotland having made his will describing himself as of Gosport; and yet, upon the case being tried in Scotland, the Court of Session determined the domicil to be Scotch, merely upon the circumstances of the domicil of origin being Scotch, and his having died there; although he had expressed himself to a near relative as never meaning to settle there. There was no doubt that this decision was quite contrary to the present state of the law, whatever it might then have been, and accordingly we find that the case was appealed to the House of Lords, when their lordships reversed the decision of the Court below, and held that the domicil was English and not Scotch, upon the very obvious and rational ground that his home, where he had settled with his wife and family and where he really lived whilst on shore, was at Gosport. Moreover, he had actually lived in other countries, and therefore, having acquired the rights and liabilities of a subject there, unless he had actually acquired a domicil in England, any one of those might have been preferred to Scotland, his domicil of origin having been abandoned, unless he had totally lost all those, the distinction between abandoning and losing being very great; for although abandonment may result in loss, yet mere abandonment is not synonymous with loss, unless it is followed up by subsequent acquirement of domicil elsewhere. *Lord v. Colvin*, 7 Weekly Reporter, 250; *In Re James Muir deceased*, *ibid.* 361.

With reference to the subject of residence in various countries, the case of *Bempde v. Johnstone*, 3 Ves. 198, is important, the decision there was on the ground that here had been no acquirement of a fresh domicil, although

the habits of the party were very discursive; and the Lord Chancellor considered it as settled that where there were two equal domicils, (supposing that possible,) the domicil of birth or death must preponderate, and not the *lex loci rei sitæ*; and it was made a question by the Master of the Rolls in *Somerville v. Somerville*, 5 Ves. 760-1, which would prevail, and he seemed to think that the domicil of death would prevail, as you might suppose a case in which a person came from no one knew whither, but died in a particular country, so that at all events, that was certain. Now, no doubt, that rule would be a very convenient one, and might be adopted in case it could not be ascertained where the *forum originis* was; but I think the bearing of the law at present would be in favour of the domicil of origin, because the law absolutely recognizes the one, and does not *ipso facto* recognize the other, that is, it is silent on the subject. Whereas a man must have a domicil of origin, that is, he must have a domicil, whatever country he is born in, by birth merely, although not perhaps by reference to his parents; for, as was observed in the argument in the case last referred to (*vide* 5 Ves. p. 761), even if a man is born on board of a ship, he has a *forum originis* by reference to the country to which the ship belongs, for it either takes him to that country, or it has not taken him to any other. In *Bruce v. Bruce* (elsewhere referred to), intention was held not to prevail, but actual residence; and there, the party being by origin a Scotchman, gained a domicil in England and in India, or rather, had he ever abandoned one, would certainly by his acts have acquired another. The Court of Session there decided on the *lex loci rei sitæ*, but Lord Thurlow took the ground of domicil, and decided on that, though, as it was said, unwillingly. Where a person resides in different countries as a servant of Government, discharging duties of a temporary character, it has been thought to be the law of Europe that such employment does not change the domicil; whereas, if the duty is permanent, it has that effect; and this latter rule would probably apply to the case of any office where the retention depends upon the conduct of the person holding it, and is exercised in a fixed locality, or at all events, within the limits of the same country; whereas, it seems clear that an office or calling which compels residence in various countries, such as that of a soldier or a sailor on duty, does not either prevent a domicil being acquired in the ordinary way, or necessarily take away a domicil of origin, not being included strictly in the cases of necessary domicils. To illustrate this, it continually happens that a man holding a military or more usually naval commission forms a matrimonial connection in England, takes a house and sets up an establishment, and resides there, whenever he can obtain leave of absence, his wife constantly residing there, and yet, although he may himself actually reside for a lengthened period at a time in many different countries in succession, there can be no doubt that his domicil is English; and this, being so common a case, that most persons must have known many instances of it, is a fair test. (Denisart, Dictionnaire, 2; letter D. p. 165.) In the case of half-pay, where leave of absence is constantly applied for, and obtained through a long course of years, the original domicil would remain, open, of course, to some circumstance, showing a decided probability that were the question tried the party would abandon the *forum originis*, and throw up the half-pay. The case of *Attorney-General v. Dunn*, 8 M. & W. 511, was a singular one. The original domicil was English; but the whole of the property being removed from this country, a foreign marquisate was purchased along with a chateau, which was put into a state of repair, the house being furnished, the grounds laid out, and an establishment of servants placed in it; but the improvements not being complete, the party had never actually resided there, but had lived in lodgings in various towns in the vicinity, or in some instances at some

distance, although returning to it from time to time to inspect the progress of the works, and dying before the repairs and embellishments were completed. Under these circumstances, it was held that the domicil remained English, because the ingredient of residence in a permanent abode was wanting to complete the acquirement of a domicil. This was a very strong case, for it established the principle that it is not necessary to possess any property whatever in the country in which the domicil is retained. I have gone so fully into this part of my subject that I shall only refer to one or two more cases, because they embrace almost every principle upon which a decision can be come to. The first case I shall mention is that of *Somerville v. Somerville*, 5 Ves. 760, which was most elaborately argued, and is most fully reported, and considering that this kind of law was then comparatively in its infancy, I suppose no case could be found where so much is embraced in one view. The question related to the personal estate of the late Lord Somerville, the great mass of it being in England, and the family estate in Scotland, Lord Somerville having been extremely uncertain and various in his movements. He was born in Scotland, in June 1727, either at the family mansion, or a house occupied during the time it was repairing, but which was uncertain; he was at school at Dalkeith and Edinburgh, and afterwards in Gloucestershire. He was then sent to Westminster School, which he left at Christmas 1743. From thence he went to Caen in Normandy, where he remained until the year 1745, when the rebellion breaking out in Scotland he returned to that country at his father's request, joined the Royal Army, and was present at the battles of Culloden and Preston Pans; he remained with his regiment until 1763, when he returned to Scotland and had an annuity settled upon him by his father. He then went to the Continent, but his father being taken ill, he returned in 1765, and was present at his funeral, remaining in Scotland for some months afterwards. He then applied for the same apartments as his father was in the habit of occupying in Holyrood house, but such application failing of success, he went to London, where he usually passed the winter, coming to Somerville House in Scotland during the summer. In 1779, he took a lease for twenty-one years of a house in Henrietta-street, Cavendish-square, where he was assessed to and paid taxes, and being elected one of the sixteen peers attended the duties following upon such election. The two establishments were carried on in this manner, viz., in Scotland he kept up his full establishment, but in London two female servants only, when not resident, and brought servants with him when he came from Scotland; he lived, besides, in a very retired manner, seldom dined at home, and his establishment of servants was on board wages, and the house was not kept up upon a liberal scale; when sold, the furniture realized £140 only, and it appeared by the evidence that he himself considered Scotland as his home, and his house in London only as a temporary resting place. He died suddenly in 1796 in London intestate, leaving real estates in Scotland and in England, and a large sum of money in the English funds being described in the bank books as of Henrietta-street, Cavendish-square; and the question of domicil was, therefore, one of great moment.

(To be continued.)

Parliament and Legislation.

HOUSE OF LORDS.

Monday, April 22.

WILLS OF PERSONALTY BY BRITISH SUBJECTS BILL.

Lord KINGSDOWN, in moving the second reading of this Bill, explained at considerable length that the object of the

measure was to amend the present law respecting wills of British subjects abroad. The Bill proposed that any future will good with respect to real estate should also be good with respect to personal estate, be the domicile what it might.

The LORD CHANCELLOR and Lord CRANWORTH supported the Bill.

Lord WENSLEYDALE and Lord ST. LEONARDS opposed.

Lord KINGSDOWN having briefly replied to the objections raised against the Bill,

The Bill was read a second time.

Tuesday, April 23.

ADMIRALTY COURT JURISDICTION BILL.

The LORD CHANCELLOR stated that the House of Commons had agreed to this Bill, but had added a clause to give the Admiralty Court jurisdiction in reference to disputes which might arise between co-owners of ships, in order to prevent the necessity of an application to the Court of Chancery. He recommended their lordships to agree to the amendment adding words to confine its operation to disputes between co-owners.

The Commons' amendment thus restricted was then agreed to.

LUNACY REGULATION BILL.

The LORD CHANCELLOR moved the insertion of words requiring the Lord Chancellor to see a lunatic before deciding whether he should give his consent or not to a new trial.

The Bill was read a third time, and, as amended, passed.

Thursday, April 25.

BANKRUPTCY AND INSOLVENCY BILL.

The LORD CHANCELLOR laid on the table the amendments he proposed to move in this Bill, and hoped Lord Chelmsford would also lay on the table his proposed amendments, so that their lordships might be better able to come to a decision on the motion to refer the Bill to a select committee. If the amendments extended beyond mere details to important clauses, he thought it would be highly objectionable to refer the Bill to a select committee.

Lord CHELMSFORD said that the amendments which he intended to propose were not confined entirely to details. He would lay them on the table as soon as possible, but he should not be able to do so before Monday or Tuesday next.

HOUSE OF COMMONS.

Friday, April 19.

COURTS OF JUSTICE.

Mr. COWPER moved for leave to bring in a Bill to enable the Commissioners of her Majesty's Works to acquire a site for the erection of courts of justice and of various offices belonging to the same.

Leave granted, and the Bill brought in and read a first time.

Thursday, April 25.

SALMON FISHERIES.

In reply to a question from Mr. Hopwood,

Sir G. LEWIS stated that a Salmon Fisheries Bill for England and Wales was in course of preparation, and no time would be lost in producing it.

PENDING MEASURES OF LEGISLATION.

A BILL TO AMEND THE LAW WITH RESPECT TO WILLS OF PERSONAL ESTATE MADE BY BRITISH SUBJECTS.

1. Every will and other testamentary instrument made out of the United Kingdom by a British subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be made according to the forms required either by the law of the place where the same was made or by the law of the place where such person was domiciled when the same was made, or by the laws then in force in any part of the United Kingdom.

2 Every will and other testamentary instrument made within the United Kingdom by any British subject (whatever may be the domicile of such person at the time of making the same or at the time of his or her death) shall as regards personal estate be held to be well executed, and shall be admitted in England and Ireland to probate, and in Scotland to confirmation, if the same be executed according to the forms required by the laws for the time being in force in that part of the United Kingdom where the same is made.

3. No will or other testamentary instrument shall be held to be revoked or to have become invalid by reason of any subsequent change of domicile of the person making the same.

4. Nothing in this Act contained shall invalidate or affect any will or other testamentary instrument as regards personal estate which would have been valid if this Act had not been passed, except as such will or other testamentary instrument may be revoked or altered by any subsequent will or testamentary instrument made valid by this Act.

5. This Act shall extend only to wills and other testamentary instruments made by persons who die after the passing of this Act.

Recent Decisions.

EQUITY.

LEGACY TO EXECUTOR.

Algermann v. Ford, M. R., 9 W. R. 512.

It was laid down in *Harrison v. Rowley*, 4 Ves. 212, that if a legacy is given to a man as executor, whether expressed to be for care and pains or not, he must, in order to entitle himself to the legacy, clothe himself with the character of executor. But it is sufficient if the executor has shown his intention to act, although he may not have proved the will; and therefore, in the above case, where an executor died before probate, shortly after the testatrix, he, having concurred with the other executors in directions for the funeral, and in paying some small sums on that occasion, was held entitled to a legacy given for his care and loss of time in the execution of the trusts of the will. Another case to the same effect was that of *Brydges v. Wotton*, 1 V. & B. 134, where a trustee, dying nineteen months after the testatrix, without having acted, was held entitled to a legacy given as a token of regard and a recompense for his trouble, no refusal or neglect to act, where necessary, appearing. It is to be observed that this was the case of a trustee, whose duty would not, like that of an executor, arise immediately upon the death of the testator. It is also to be observed that in both these cases the legacies were given expressly in recompense for trouble; but it is clear from *Reed v. Devaynes*, 2 Cox 285, that no such expression is necessary to create the obligation of proving or acting under the will. In that case the testator appointed executors of his will, "desiring them to accept £100 each as a mark of my gratitude for the friendship they have shown me." One of the executors claimed to be entitled to his legacy, although he declined to prove the will. The Court said that he must prove, and on his doing so, after the hearing of the cause, he was allowed his legacy.

In the case now before us a testator gave all his real and personal estate to A. and B., whom he appointed his executors and trustees, upon trust to pay his debts, &c., and also to pay to B. a legacy of £1,000 "for his own use and benefit," and to invest the residue upon trusts, one of which was to pay an annuity. The testator died in 1852, and his will was proved in 1853 by A. alone, B. having renounced probate, but not having disclaimed the trusts of the will. A large part of the estate was not got in until 1859, in which year B. retracted his renunciation, and probate was granted to him. This suit was commenced shortly afterwards for the administration of the estate against A. and B. The legacy of £1,000 had been allowed by the chief clerk to B., and the propriety of this allowance was now questioned. The Master of the Rolls said that B.'s right depended on whether he *bonâ fide* took on himself the duty of an executor. He noticed that the principal burden of administration had to be performed after B. proved the will. B. had been made a defendant and had duly accounted in the suit. In this state of circumstances his Honour could not take into account the greater or less time during which he had renounced. If he proved at any time before the real business of the trust was concluded, that was enough to entitle him to the legacy. This case goes rather further than *Reed v. Devaynes*, where the executor had declined to prove, but had not formally renounced. The Master of the Rolls gave interest only from the day on which B. took probate.

COMMON LAW.

LAW OF COPYRIGHT—HOW AFFECTED BY 9 ANN. C. 19—DRAMATISING A NOVEL.

Roade v. Conquest, C. P., 9 W. R. 434.

There are, perhaps, not many topics connected with the law

so universally interesting as that of copyright. Almost every one has written or may write a book; or is, or hopes to be, the author of some design of art, in the beneficiary production of which he is desirous of protection, and of understanding the extent to which that protection is afforded him by law. It will, therefore, perhaps not be unacceptable to our readers if we attempt to give here some account (though necessarily succinct and imperfect) of the right of copyright as now existing in this country—a theme for which the present case of *Reade v. Conquest* supplies an apt text. "Copyright" is that right which an author possesses with respect to exclusively printing and reprinting, publishing and re-publishing, his own original work; and, to a certain extent, it has always doubtless existed as part of our legal system—copyright being, in fact, only a species of an incorporeal chattel, and, as such, forming part of that property in which rights can be claimed. Accordingly, in the discussion which arose in the great case of *Miller v. Taylor* (of which more will be said presently) it was taken as clear law that it formed part of this common law right (whatever its whole scope might be) that no person other than, and contrary to the will of, the author could publish for the first time an original manuscript. The case just referred to (which is the leading one among the earlier decisions upon this branch of the law) arose about fifty years after the passing of the statute 9 Ann. c. 19, before which Act (strange to say) the rights of authors as such had never been ascertained or otherwise interfered with by the Legislature; and one of the questions determined in *Miller v. Taylor*, and in the subsequent case of *Donaldson v. Beckett* (connected with it, and reported in the same volume of reports), was as to the effect of this Act of Queen Anne—whether it was declaratory or in abrogation of an author's rights; and whether an author now possesses any copyright independently of the protection afforded to him by that Act. In the first of these cases (*Miller v. Taylor*, 4 Burr. 2303) the Court of King's Bench determined that an author not only has a perpetual and exclusive right to publish for the first time the fruits of his own brain, but recognised to a certain extent the truth of the proposition contended for before them, that even with respect to a published work the author had a copyright therein, exclusive of the protection afforded by the statute of Anne. But in *Donaldson v. Beckett and Others* (4 Burr. 2408), which was in effect the same case as *Miller v. Taylor*, though in different names, this judgment was solemnly reversed in the House of Lords; who decided that the only basis on which any claim to copyright could rest since the date of that statute was, upon its enactments; and that, consequently, such copyright then, at all events, (whatever might have been the case prior to that Act) only protected an author's work for a limited period after its first publication.

Upon the foundation of this statute the right of copyright now stands,—as very recently again determined in the House of Lords in the case of *Jeffreys v. Boosey*, hereafter more particularly referred to. The statute of Anne, indeed, is not now itself in force, having been superseded by later enactments. The period of protection for fourteen years originally established by it, was afterwards (by 54 Geo. 3, c. 156) extended to twenty-eight years, or the term of life if the author survived that number of years. And by the Act on this subject now in force (5 & 6 Vict. c. 45) this protection is again enlarged, and is fixed to endure for the minimum term of forty-two years. But this period is susceptible of being in fact increased, as the Act provides that the copyright shall not, in any event, expire during the life of the author and for the term of seven years afterwards.

Since the statute of Anne a similar protection (known under the same name of copyright) has been also extended by the Legislature, to a variety of productions of genius which would not come under the term of "books," with which that Act alone dealt. Accordingly, exclusive privileges for a limited period, the same description in general as those enjoyed by authors of books, are now given by statute with respect to engravings, prints, sculptures, models, copies, and casts (4 Geo. 2, c. 13; 7 Geo. 3, c. 38; 17 Geo. 3, c. 57; 38 Geo. 3, c. 71; and 54 Geo. 3, c. 56); and (by the Designs Acts of 1842, 1843, 1850, 1851, and the Protection of Inventions Act, 1851) to any descriptions of articles, whether of ornament or utility.

Protection in this country is also now afforded, under certain conditions, to literary and other productions, though first published in a foreign country, either by foreigners or British subjects. This subject of international copyright is now regulated by 7 & 8 Vict. c. 12, and 15 & 16 Vict. c. 12, which provide machinery for protecting books, prints, dramatic pieces, musical compositions, articles of sculpture, and other works of art first published abroad, from being pirated in this country—provided the foreign country where the first publication took place,

affords reciprocal protection to parties interested in works first published in this country.

A variety of points have arisen upon the Copyright Acts above referred to. Some of these are, comparatively speaking, unimportant as affecting only the manner in which those Acts are worked; and others, again, involve questions of principle, and are, consequently, of greater interest. Among this last class may be mentioned the cases of *Ollendorf v. Black* (20 L. J. Ch. 165) and *Jeffreys v. Boosey* (24 L. J. Exch. 81), which ascertain the law as to the acquisition by foreigners of copyright in this country; and establish that such can only be acquired by them with regard to works first published in this country, where the author is resident here at the time of publication. Another is the case of *Novello v. Suddow* (12 C. B. 177), which shows that copyright may be violated even by a gratuitous distribution of the work of its author if unauthorised. And to these may be well added the present case, in which the Court of Common Pleas have, on the other hand, unanimously held that a copyright is not violated by an unauthorised dramatizing and causing to be acted on the stage, a story written and published by another. For in order to establish the case of the author of the story and his right to an action against the dramatist, it would be necessary to reverse the decision of the House of Lords in *Donaldson v. Beckett* (as recently affirmed in *Jeffreys v. Boosey*); and to rely upon the existence of copyright independent of any statute, as thought to exist by the majority of the Queen's Bench in *Miller v. Taylor*. And the reason for this necessity is, that to dramatise a story is not a "publication" within the Copyright Acts (see *Coleman v. Walker*, 5 T. R. 249, and 5 & 6 Vict. c. 45, s. 2).

Finally, it may be observed that, from the current of the authorities already referred to, it seems fully established that the only common law right which authors now possess with reference to their works, is that a right of action attaches upon an invasion of their copyright (see *Beckford v. Hood*, 7 T. R. 620); and that a right of action also attaches if a work is pirated before it is published by its author; but after it has been once published, the work is only protected by virtue of the Copyright Acts, and subject to their provisions.

Correspondence.

LAW STUDENTS' DEBATING SOCIETY.

Sir,—It is not often that the members of the Law Students' Debating Society indulge in the luxury of a paper controversy. They are, as a rule, perfectly content with the somewhat barren honours which are always to be reaped under the roof of that noble institution where their debates have been carried on for upwards of a quarter of a century. If, therefore, through one of their officers, they now enter the lists, it is only because they feel that a charge publicly made should be as publicly met and refuted. We have always been so anxious to increase our numbers and extend the influence of our society, and are ever willing to strain a point for the admission of any one desirous of joining us, that we are naturally surprised that any "Limb of the Law" should taunt us with a want of liberality, and insinuate that we are "too exclusive" or "too arbitrary." It is clear, however, that "A Limb of the Law," in his "linked sweetness long drawn out," has not taken any pains to inform himself of the object of the rule in question, and of which he complains; but he is not the less entitled to the explanation which he asks.

When our society was first constituted, the Council of the Incorporated Law Society with great liberality not only offered us the use of one of their arbitration rooms, with the usual appurtenances—such as fire, gas, &c.—in which to hold our debates, but also allowed us access to their valuable library (upon which I am sorry to see that "A Limb of the Law" sets so little value), without which the other privileges would have been utterly useless. All that they asked in return for this was that no one should be entitled to enrol himself amongst our members who did not in some way, either directly or indirectly (i. e. by himself or his employer), contribute to the funds of the Incorporated Law Society. Was this unreasonable or exacting? What, then, is "the head and front of our offending"? That "A Limb of the Law" cannot obtain admittance to our society. I accept the compliment offered to us. But is there not a remedy? "No," says "A Limb of the Law;" for my master is not a member of the Incorporated Law Society; therefore I am not admissible to the library, and cannot qualify for the "Law Students' Debating Society." "I would not so insult him as to ask such a favour." And yet "he is well to do

and a highly respectable practitioner." Really, the latter phrase requires no comment, but, in my humble judgment, carries with it its own condemnation. But where's the "insult?" If it be an "insult" to ask a man to become a member of the Incorporated Law Society, might I not reasonably infer that it is a disgrace to belong to it? But why not subscribe to the lectures? "The advantages of attending lectures has been questioned," says "A Limb of the Law." Granted. But can he not use them as a means to an end? If the "consummation devoutly to be wished" is, in truth, an admittance to our society, will it be too dearly purchased by a subscription to one of three courses of the annual lectures for one year only. But he objects "to support one thing for the advantages to be derived from another." Is not this—to adopt a vulgar saying—very like "cutting off one's nose to be revenged on one's face"? In conclusion, if what I have said should fail to induce "A Limb of the Law" to make a desperate effort to obtain the wished-for goal, I shall be sorry, for he is evidently well armed for the fight, and must soon become a star of the first magnitude. It is far from our desire to "limit" our "sphere of action." On the contrary, we have room enough for all; but we do not go into the highways and "compel them to come in." Nor is it our wish or our intention to break faith with the Council of the Incorporated Law Society by a relaxation of the rule in question. Our members are volunteers, not pressmen. Should, however, "A Limb of the Law" come amongst us, I prophesy that the advantage he will derive will be so great that he will not long remain "A Limb of the Law" only, but will, with both limbs, at no distant period, "bestride the narrow world like a Colossus." He will find us neither "exclusive" nor "arbitrary." We shall all gladly welcome him—myself amongst the number; and not the less so because I have the honour to be, what I now subscribe myself,

THE TREASURER OF THE LAW STUDENTS'
DEBATING SOCIETY.

14, Old Jewry-chambers, London, E.C.,
April 25, 1861.

In reply to your correspondent, "A Limb of the Law,"* I would recommend him to sacrifice his prejudices to the small extent of subscribing to the lectures at the Law Institution, in order to qualify him if he desires to join the Law Students' Debating Society. He will then be better able to judge the propriety of the rules and advocate any alteration that he may think desirable. It is impossible to make arrangements which will suit all opinions, and your correspondent will understand the difficulty of adopting every suggestion that may be made. The advantages of the Debating Society are intended to be confined to those connected with the Incorporated Law Society, from which many benefits are derived.

GEO. L. WINGATE.

9, Copthall-court, E.C., 24th April.

Review.

The Province of Jurisprudence Determined. Second Edition. By the late JOHN AUSTIN, Esq., Barrister-at-Law. London: John Murray. 1861.

The life of John Austin offers peculiar difficulties to the student of character. He was gifted with extraordinary powers of mind, capable of mastering all the stores of classical and philosophical literature, and endowed with a retentive memory which yet was quite subsidiary to his critical judgment. Impelled by taste to investigate the most secret depths of the science of jurisprudence, and qualified in every sense to exercise that taste to the satisfaction of himself and to the great benefit of his fellow creatures, after giving to the world a few chapters introductory of his anticipated researches in the Province of Jurisprudence and suggestive of the rich veins of science to be there explored, he turned away from the brilliant prospect which he had just revealed to view, and ceased for ever from his labours at the moment when he appeared on the eve of most important discoveries. He beheld from a distance the riches of the promised land, which from some unaccountable reason he was destined never to enter. Mr. Austin published "The Province of Jurisprudence Determined" in 1832, and died in 1860, in the seventieth year of his age, not only without having made any further attempt to advance his favourite science, but having persistently refused to sanction a reprint of the work by which alone the world could become

acquainted with his philosophy. The peculiarities of temperament which blighted the fruit of so great learning and genius are among the secrets of private life, and can be fully judged of only by his most intimate friends. The preface to the present edition, written in the most affectionate and reverent terms by his widow, though supplying many interesting particulars, serves rather as an apology than an explanation. The object of the writer is stated to have been "to show what were the circumstances by which he was forced out of the track on which he had entered, and in which his whole mind and soul were engaged; and why it was that he seemed to abandon the science to which he had devoted his singular powers with so much ardour and intensity."

Mr. Austin, it appears, disappointed the expectations of his legal friends, who confidently predicted for him the highest honours of his profession. His diffident and nervous temperament, combined with his scrupulous habit of thought, totally unfitted him for the rough and ready disputations and practice of the bar. This failure, however, caused him but little regret; for his faculties, though unsuited for business, were especially adapted to the study of his choice. In the chair of Jurisprudence at University College, he obtained a position congenial above all others to his peculiar tastes and talents; and how efficiently he filled the office his published course of lectures abundantly testify. He here fully estimated the value of being compelled by the requirements of his duty to reduce philosophical speculations to the test of clear and intelligible exposition. Another opening was subsequently afforded him as lecturer on jurisprudence at the Inner Temple. But the English school of jurisprudence proved to be a school only in name. The emoluments of its professors, dependent on the fees of the students, were inadequate to secure the required leisure of the professor; and poverty, it is alleged, in Mr. Austin's case compelled a retirement to the continent, and operated as an insuperable obstacle to the exercise of his peculiar talents and to the progress of his studies. "Slow rises worth by poverty depressed." The writer of that line, however, was an eminent instance of how surely, though slowly, worth can force its way through poverty, and how, where talents are invested with the pride of self-consciousness, poverty may operate more forcibly to animate than to hinder. The consciousness of weighty matter, and the feeling of its unsuitableness to a practical world, appear to have rather oppressed than animated Mr. Austin; and, if he did not abandon his chosen vocation in despair, he appears at least to have thought it useless to endeavour to assimilate his philosophy to the requirements of the world. Yet the fame of his teaching might have satisfied his ambition; the select band of pupils, comprising the names of Lord Clarendon, Mr. C. F. Villiers, Sir G. C. Lewis, and Lord Belper, might have animated his zeal; the rapid sale of the first edition of his work, and the earnest and repeated solicitations both from friends and strangers for a second, might have given fair promise of remuneration; and these circumstances combined might have shown that even as a teacher of jurisprudence he had some ground for hope. It is quite true, however, that the lectureships on jurisprudence in this country, which would exact the labour and thought of a life for their adequate fulfilment, are endowed in the same scale with the mere journeyman work of lectures on practical law, the materials of which are ready to every hand. Moreover, the absolute requirements of the profession create a demand for the latter, and ensure a support which the mere abstract love of science cannot be expected to equal. If it be really the case that Mr. Austin was diverted by the small emoluments of his office from exercising his noble faculties in that vocation for which he was so pre-eminently fitted, we are now suffering the irreparable consequences of an unworthy treatment of one of the most important branches of science.

The following passage from the preface offers, at least, a more adequate kind of explanation of Mr. Austin's abandonment of his researches in the province of jurisprudence:—"It was this very ardour and intensity, this entire absorption in his subject, which rendered it impossible to him to resume, at any given moment, trains of thought from which his mind had been forcibly diverted. It belonged to the nature of his mind to grapple with a question with difficulty, almost with reluctance. It seemed as if he had a sort of dread of the labour and tension to which, when it had once taken hold on him, it would inevitably subject him. . . . He could work out a subject requiring the utmost stretch of the human faculties, with a clearness and completeness that have rarely been equalled. But he had no mental agility. When he gave himself up to an inquiry, it mastered him like an overwhelming passion. And for the same reason, when his mind had once

* See ante, p. 438.

loosened its grasp of a subject, it could with difficulty recover its hold." Mr. Austin appears to have possessed powers of concentration in a high degree, but to have found great difficulty and reluctance in their exercise. May this not have arisen in some measure from the want of sufficiently definite material to employ them upon? The practical side of his mind seems to have been deficient in many respects. The world, as he found it, seems to have been thought unworthy of the application of his philosophy. If he had dispensed his speculations more abundantly, it is probable, from the style of the example before us, that it would have required a long intermediate process to assimilate it to the public digestion. Doubtless, the prophet must occasionally retire into the wilderness to foster the germs of inspiration; but he must keep alive his connection and sympathy with men of worldly minds, in order to convey to them his revelations in an intelligible and profitable manner. If we agree with Mrs. Austin, that "there was no one to do the work he could have done, as an expounder of the philosophy of law," we the more fully concur with the regret expressed by Guizot, "Quel dommage qu'il n'ait pas un employeur tout ce qu'il avait, et montror tout ce qu'il valait!"

The present volume, besides the interesting preface by Mrs. Austin, alluded to above, contains what has been so long desired by all lovers of legal philosophy, and which the author's death has alone at length rendered possible, a reprint of "The Province of Jurisprudence Determined," comprising the preliminary lectures delivered at University College, together with the outline of a course extending over the whole of jurisprudence, of which the lectures published form the first item. There remain unprinted, of Mr. Austin's labours, the rest of the lectures at University College, the short course delivered at the Inner Temple, and some other fragments relating to jurisprudence; these are promised in, as nearly as possible, the same state in which their author left them, in a succeeding volume.

In studying Mr. Austin's philosophy of law, it should now be remembered that he wrote at a time when the doctrines of Bentham were in the highest favour, and may be said to have become the current philosophy of the day. At least, the feeling of antagonism to that system, though widely spread, was not prepared with any definite scheme to oppose it. Mr. Austin was the first occupant of the chair of jurisprudence in an institution avowedly designed to extend the Benthamite spirit of thought throughout all branches of philosophy. Mr. Austin was animated with a fervent zeal in the cause, and enforced the principles of the school with a strictness, and carried them to an extent, which even the master himself does not seem to have contemplated. Mr. Austin, therefore, appears as an eminently scholastic teacher, with little tolerance for the variances of rival theorists. His style of writing rather betokens the expectancy of opposition, and is calculated to defy it. His positions are laid down with every defensive precaution, and within their limits appear unassailable. But their very limitations are, in one sense, their defect, as leaving unexplored a vast territory filled with questions of the deepest interest, and from which speculation cannot be excluded. His views are bounded by the horizon of human vision, in the sense of an exclusion for all practical application of everything beyond, and his edifice is restricted to foundations based on experiences which are too palpable to be denied.

It may prove interesting to recall to mind the leading doctrines of Mr. Austin's philosophy. *Superiority* signifies *might*, the power of affecting *inferiors* with evil or pain, and of forcing them, through fear of that evil, to obey the commands of the superior. God is emphatically the superior of man, because His power of affecting with pain, and forcing a compliance with His will, is unbounded and resistless. A command which obliges through fear of the evil is a *law*; the evil is the *sanction*. Bentham had extended the term sanction to conditional good as well as to conditional evil, to reward as well as to punishment; but in this it seems he is too indulgent to human weakness; and Mr. Austin, notwithstanding his habitual veneration for Bentham, finds this extension of the term "pregnant with confusion and perplexity." The only laws, strictly so called, that is to say, which satisfy the above definition, are the laws of God, and some human laws; all other applications of the term law are improper, analogical, or metaphorical.

Of the divine laws some are *revealed*; the word of God, signified, through the medium of language uttered by God, directly or by servants sent by Him to announce them. Others of the Divine laws are *unrevealed*. The *index* of the Divine laws which are not the subject of revelation, has been explained

according to various theories, which may be referred to two general sources; the one based on a *moral sense, practical reason, common sense, &c.*, according to the various ways of expressing it; the other, the theory of the *greatest human utility or happiness*. A principal object of Mr. Austin's work is to denounce the former set of theories, and to uphold the latter. According to him the benevolence of God, combined with the principles of general utility, is our only index to His unrevealed law. God in His benevolence designs the happiness of his creatures, and, accordingly, enjoins or forbids actions according to their tendencies. Man, by his judgment concerning the tendencies of his actions, discerns the commands of God.

It remains to ascertain the test or index of human laws. One of the essentials imported in a command, and therefore in a law is that it flows from a *certain determinate* source, either a single rational being or a determinate body of rational beings. Laws deficient in this essential are so called improperly and by analogy only. Mr. Austin considers that the laws of God as explained above sufficiently satisfy this requirement. Human laws, on the other hand, are tested and distinguished according to the sources from which they spring; and therefore it becomes necessary to analyse these sources with precision. This may be called the second principal object of Mr. Austin's work. He expounds at great length, and with much elaboration of detail, the distinguishing marks of *sovereignty* and *independent political society*. The essential character of a positive law, strictly so called, is that it is a command emanating from the sovereignty to members of the independent political society wherein its author is supreme. Positive laws satisfying this condition constitute the *province of jurisprudence*, and the final object of the work—to determine this province—is thus accomplished. Laws so called improperly, in consequence of analogies or likenesses more or less striking to laws properly so called, do not satisfy strictly the above requirements, and are mentioned and explained for the purpose of distinction. They comprise laws set by indeterminate bodies and laws with imperfect sanctions—as the moral law, the law of general opinion, the laws of honour and of fashion. The science of jurisprudence is concerned with positive laws without regard to their goodness or badness; and the divine law and positive law are not otherwise connected than inasmuch as the former is the standard to which the latter ought to conform in respect of quality.

The above sketch gives but a faint idea of Mr. Austin's work, in the course of which he undertakes to analyse and denote by their essential differences all the practical meanings which pass under the name of law. This he accomplishes with much exactness of observation and accuracy of language; and if occasionally unusual he is always clear and unmistakable. He examines with painful minuteness the external conditions of laws by which they manifest themselves to our experience, and thus attains an empiric generalisation of laws into classes of marked characteristics. He does not pass beyond this into the region of theory, or attempt an induction from the results thus collected of any *a priori* necessary principles; and, indeed, the impression left by a perusal of his work is rather that he considers any attempts of the kind to be vain and useless. The province of jurisprudence is determined, and determined by definite landmarks; but into the creative source of jurisprudence and the original development and settlement of its province we are not invited to inquire.

Yet on reviewing his work we cannot fail to be struck with some very strong assumptions of a strictly *a priori* character, assumptions quite as arbitrary as the much abused moral sense or practical reason. The Divine laws, we have seen, are tested by their material results—they are the dictates of utility; while human laws are tested by their source—they are the command of the determinate body which satisfies the conditions of political sovereignty, and are attended by the material sanctions of legal compulsion. Of the former we have no empirical test in respect of their source, or of their sanction. Indeed, Mr. Austin's doctrines of divine law, though under the guise of fact, or at least of assertion, are matters of pure theory. Thus, it is matter of theory that the source of divine commands is certain and determinate; that the Creator wishes and designs the utility and happiness of His creatures in this world; that human experience of the tendencies of actions is the index of His commands, and that He affects these commands with a sanction of threatened evil. This theory, judged by Mr. Austin's principles of adhering strictly to the indications of fact, stands out as mere assumption, and one of the boldest kind. The only matter of fact upon which it rests is that men can test the useful or pernicious tendencies of their actions by experience; and if Mr. Austin had left the principle of utility to stand on its own basis of human experience, he would have

been more consistent, perhaps at the risk of being mistaken or opposed by the general sentiments respecting religion. To say that human experience discovers the laws of God is equivalent, in the absence of some *à priori* explanation, to saying that man imposes these laws, and the additional conception of God as a test of the law, is therefore useless. Mr. Austin's doctrine of the sanctions of Divine law, in particular, is carefully abstracted from all basis of experience. Bentham found a *physical or natural* sanction for the dictates of general utility in the actual consequences which certainly followed a deviation from them. These consequences, according to Mr. Austin, follow as mere natural effects, and are not suffered as the consequences of not complying with the desires of an intelligent rational being; therefore, they do not satisfy his criterion of a law proper, and can be called sanctions only in a metaphorical sense. Hence Mr. Austin's doctrine of a Divine sanction or threatened evil is a matter of pure faith; and when he states that the Divine law and the human civil law equally satisfy his definition of a law proper, the term sanction, as annexed to the former, points to something very different in kind from the palpable fine, imprisonment, and compulsion which attends upon infringements of the latter. Again, the part of the theory which assumes that the design of the Creator is directed to the ultimate happiness of mankind in this world is far from being generally conceded; some of the greatest philosophers of ancient and modern times have felt so little satisfied that the present order of things can designedly or possibly tend ultimately to human happiness, that they have felt that the hopeless prospect of reconciling the incongruities of fortune in this life constituted one of the strongest arguments of a future state of ultimate perfectibility, which must be taken into account combinedly with, if not independently of, the present state.

The following passage may be quoted as a specimen of Mr. Austin's views on the points here referred to:—"The divine laws may be styled good in the sense with which the atheist may apply the epithet to human. We may style them good or worthy of praise inasmuch as they agree with utility considered as an ultimate test. And this is the only meaning with which we can apply the epithet to the laws of God. Unless we refer them to utility considered as an ultimate test, we have no test by which we can try them. If the laws set by the Deity were not generally useful, or if they did not promote the general happiness of His creatures, or if their great author were not wise and benevolent, they would not be good or worthy of praise, but were devilish and worthy of execration."

Mr. Austin's style of composition, though laboured with the utmost care and circumspection with the view of guarding the matter from all risk of ambiguity, is, as is well known, studiously negligent of any arrangement or grace which might facilitate its reception by the reader. The nature of his task—that of analysing and disavowing the minute shades of distinction which lie concealed in popular language—is, to a great extent, a justification; but his style or manner of writing, and perhaps of thinking, appears to have become habitual, and to have been carried beyond what was necessary to serve the purposes of accuracy. The usual modes of abbreviating discourse by the use of pronouns, conjunctions, and adverbs, and by elliptical expressions, are sedulously avoided; and long repetitions and periphrases are employed instead. The reader is never credited with the capacity of observing the most obvious differences, conducting the simplest train of thought, or carrying on the argument a single step. The plainest distinctions are carefully explained, and every new position is approached by a full and guarded review of all the preliminary steps.

Mr. Austin's tone towards dissentients from his opinions is calculated to afford yet more serious ground of offence. Those whose views do not coincide with his on certain points belong to the family of "Noodle," and are members of "the formidable confederacy of fools." Montesquieu's exposition of law as an universal conception, is pronounced "incomparably more obscure than the term which it affects to expound." Hooker's sublime opening chapter on law is disposed of as "fustian." It really seems to us, however, just as philosophical to adopt, as these great writers have done, *uniformity of action* as the essential characteristic of law, and to consider moral and political laws as metaphorical uses of the term, by reason of the mere tendency to uniformity through the imperfection of human obedience, as to consider, with Mr. Austin, the latter the strict use of the term, and the former as the metaphor, upon precisely the same ground of resemblance in uniformity. The term law is certainly used in both senses, and perhaps sometimes not without the latent idea that the two senses may ultimately coincide; but in the meanwhile, even "noodle" comprehends the distinction, and no elaborate disquisition is

necessary to explain it. The objections raised to the definitions of sovereignty given by Grotius and by Bentham may be pointed to as another instance of this spirit in the author. Bentham defines sovereignty by the habitual obedience of subjects; Grotius, by the independence of superior command. Mr. Austin avails himself of the two elements in combination to form a complete definition, but objects to each on account of its oneness. When we remember, however, that Bentham treated of the relations between sovereigns and subjects, and Grotius of the relations between different independent sovereignties, we find that each defines the conception accurately and sufficiently in respect of the quality for which he employed it, properly rejecting the other qualities by which it might be distinguished as superfluous for the occasion. Mr. Austin's objection, therefore, seems captious; and it certainly is not worthy of a philosopher to draw unnecessary distinctions, or to quibble about mere words, where the sense is not at stake.

While we have ventured to point out a few questionable points in Mr. Austin's doctrine and in the manner and spirit of his writing, we wish to pay a full tribute of acknowledgment to the substantial merits of his work. It is a very important step in the philosophy of law. Here are laid out with the most critical accuracy of description all the materials and facts, so to speak, of which the province of jurisprudence is composed. Their external form and condition are presented to view with a plainness which cannot be mistaken, and a reality which cannot be denied. Sovereignty is the test of positive law, and a most complete and interesting analysis of sovereignty is given. Whoever seeks to establish a theory of jurisprudence must first become thoroughly acquainted with the facts thus presented to his observation; he must build within the limits of this foundation: and his theory must adequately account for all the phenomena here presented, or it must be rejected as inadmissible.

LONDON AND PROVINCIAL LAW ASSURANCE SOCIETY.

The annual general meeting of this society was held on Saturday, the 20th instant, Mr. Hope Scott, Q.C., in the chair. The report of the directors to the Annual General Meeting stated that during the year 1860, 179 policies were issued, assuring the sum of £220,640—the premiums upon which amounted to £8,296 2s. 10d. Nine of these policies, assuring £27,200, were effected against special contingencies, by payment of single premiums amounting to £2,132 17s. 6d. The remaining policies represented a new annual premium income of upwards of £6,000, which exceeded that of any former year. The average amount of the new policies exceeded £1,200, proving the high class of business transacted by the society. The claims paid during the past year were twelve in number, amounting, inclusive of bonuses, to £16,826, of which upwards of £5,000 had accrued during the year 1859. Against these claims was to be set off a sum of £750 received under a re-assurance policy. The society's income during the past year exceeded £47,000, and the assets had been augmented by a sum of very nearly £19,000.

The report was unanimously adopted.

The directors and auditors retiring by rotation having been re-elected, the meeting was made "extraordinary" for the purpose of declaring a bonus for the year 1860.

The report of the directors prepared for the Extraordinary General Meeting stated that the first division of profits embraced a period of ten years; the present was in respect of five years only; and the future divisions would also be quinquennial. The new premiums received during the last five years had amounted to £26,138 14s. 11d., being at the rate of £5,227 15s. per annum. The total new premiums in the previous ten years amounted to £29,191 7s. 10d., being at the rate of £2,919 2s. 10d. per annum. The renewal premiums amounted in the five years to £120,662 5s. 6d. The claims paid on policies had amounted altogether to £74,401 11s. 3d., of which the sum of £53,534 14s. was paid during the past five years. The total number of policies issued from the foundation of the society to the 31st December last, was 1,667, assuring £1,675,276 16s. 10d., at annual premiums amounting altogether to £50,269 17s. 1d. The policies remaining in force were 1,094, assuring £1,158,030 15s. 8d., and contingent annuities for £905 per annum. The annuity business of the society had been profitable, though not very extensive. Of twenty-five annuities, amounting altogether to £1,480 9s. 8d., eleven for £584 0s. 11d. had fallen in, leaving in force fourteen annuities, amounting to £896 8s. 9d. The

investments of the society produce an average rate of interest of £4 10s. 4d. per cent. The balance sheet annexed to the report showed that the total assets amounted to £237,300 7s. 7d.; that the Proprietors' Fund amounted to £67,003 3s. 7d.; that the present value of liabilities under policies and annuity contracts was £121,881 19s. The total amount of profits then divisible was £42,785 6s. 10d. Of this last sum, according to the provisions of the deed of settlement, one-fifth, or £8,557 1s. 2d., would be added to the Proprietors' Fund, which would be increased thereby to £75,560 4s. 9d. This was equivalent to an addition of 9s. 4d. per share, which would make the amount considered as paid up in respect of each share £4 1s. 10d. During the last five years the proprietors have received 3s. per share in each year—being $7\frac{1}{2}$ per cent. on their original paid up capital of £2 per share. The annual dividend during the next five years, arising from the interest of the Proprietors' Fund, would be at the rate of 3s. 8d. per share—or 9 per cent. upon the original paid up capital. The remaining four-fifths of the divisible surplus, being the sum of £34,228 4s. 8d., belong to the assured, and, according to the provisions of the deed of settlement, would be added in the form of equivalent reversionary bonuses to the policies entitled to participate in profits. The total amount of the reversionary bonuses would be about £55,000, equivalent on an average to 52 per cent. on the premiums paid upon the participating policies during the quinquennial period. The reversionary bonuses might be commuted for an equivalent present cash payment, or for a reduction of the future premiums. The directors also offer to the assured the option of the extinction of all premiums at some future age, which it was hoped would be agreeable to many of the assured.

This report was unanimously adopted.

Votes of thanks to the board of directors and to the chairman having been passed, the proceedings of the meeting terminated.

CONCENTRATION OF COURTS OF JUSTICE.

With reference to the plan of the Attorney-General, for concentrating all the courts of justice—Law, Equity, Divorce, Probate, and others—in one place, the *Observer* of the 14th instant remarks that our building operations have never attained much success. The old courts of law, the Houses of Parliament, the British Museum, the National Gallery, the Post Office, and other buildings that could be named, have not been found very appropriate or adequate for the purposes for which they were intended. There is some danger that Sir Richard Bethell may be constrained to propose a plan of an inferior or less costly description, if he be not reinforced by public opinion, and by the warm support of the more intelligent members of the House of Commons. It will not do to erect a building simply to last our time, and to encumber the earth afterwards. As the funds of the court are to be burthened—at least in the first instance—with the payment, our posterity should have the advantage as well as the cost of the erection. In the present state of our judicial arrangements we have no great facilities for instruction in legal science. The basis of our operations, and the operations themselves, of our municipal code, are dependent more than is supposed upon a knowledge of the law of nature, the law of nations, and constitutional law—the law civil and the law general affect all other branches of the law of modern constructions in all its phases and relations. Some time ago a paper was read before the Law Amendment Society, propounding a scheme for a Law University of a very practical kind, and making reasonable propositions of compromise to meet the claims and jealousies, the pride and prejudice, of existing institutions. It was shown that a comprehensive legal education was necessary, not for lawyers only, but for all classes of statesmen, magistrates, officers abroad and at home, in foreign countries and in the colonies, and how a proper knowledge might often have saved us from many difficulties and escapades into which we have been brought by the too common ignorance of our employes. It is not too much to ask that in the proposed architectural arrangements a corner may be found for the use of professors and of those employed in the teaching of the law. The plan of incorporating the Inns of Court and the Law Society into a Legal University is worthy of consideration. There are abundance of funds applicable to such a purpose, and a large amount of property wasted on personal objects in a manner not unworthy of the London Corporation itself. The Inns of Court have vast libraries that might be made available, and halls that could be turned to some better account than discussing the usual number of dinners and the legal modicum of port wine. A general library, comprising a comprehensive and systematic

collection of law books, would assist in establishing the materials and basis of a general consolidation of the law, and in the mean time form a good substitute for a want that is so generally felt. Such a concentration would also tend to bring together the men practising in the different courts, who now seldom meet on common ground, for the courts and offices are spread all over the town, and the authority of Westminster Hall is narrowed within bounds quite incommensurate with the demands of modern times. The system of meeting at dinner in so many various halls is sadly at variance with the usages and conveniences of modern times. It is good so far as it goes, but it does not go the length of concentrating or of instructing. The men who govern, and who administer justice, should be something more than *nisi prius* lawyers, pleaders, or conveyancers. These considerations ought to have some weight in the proposed arrangements, as well as the more obvious and practical necessity of bringing all the offices connected with the practice of the law round a central locality. The great increase of business, and the crowded state of the streets, render such a concentration necessary, to say nothing of the chances of improving the architectural beauty of the great metropolis, and pulling down the unsightly obstruction of Temple Bar. Sir Richard Bethell has added much to his fame as a statesman and jurist by his efforts to procure the fusion of law and equity, and he will do much to regenerate both by bringing them together in a noble pile of buildings, constructed for moral as well as material effect. The several failures already made in modern London architecture forbid us to be too sanguine. But if a site sufficiently capacious can be cleared between Fleet-street and Lincoln's Inn, and the enterprise entrusted to able and intelligent hands, we do not despair of seeing a series of unique and convenient buildings, that will be an ornament to the locality, and a great convenience to the practitioners and the public. If, in addition to these obvious advantages, a provision can be made hereafter for a higher class of legal and general education, a still nobler and more lasting result will be accomplished in a manner the most natural and just.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Railway Bills have passed through committee in the House of Commons:—

KEADLEY EXTENSION.
MOLD AND DENBIGH JUNCTION.
RHYL HARBOUR BRIDGE AND RAILWAY.
VALE OF CLWYD.

The following Bill has passed through committee in the House of Lords:—

RUMNEY RAILWAY.

The preamble of the following Bill has been proved in committee in the House of Commons:—

OSWESTRY, ELLESMERE, AND WHITCHURCH.

TESTIMONIAL TO MR. EDWARD BURKITT.—We have always felt a very great pleasure in announcing any honour conferred upon, or testimonial presented to, any member of the profession; and we would take this opportunity of requesting the favour of communications from our readers, of any particulars respecting such an interesting subject. A short time since the markets committee of the corporation of London presented to Mr. Edward Burkitt, of Curriers' Hall, solicitor, their late chairman, a very elegant French dining-room clock, striking the hours and half hours, with escapement in front. The clock is set in a black marble case, inlaid with malachite, which bears the following inscription:—"Presented to Edward Burkitt, Esq., by the Markets Committee of the Corporation of London, as a mark of their respect and esteem for the able and judicious manner in which he performed the duties of chairman of that committee, the zeal and ability, the firmness and impartiality he displayed in conducting the business, and his kind, courteous, and friendly demeanour upon all occasions."

The Right Hon. Sir George Grey, Bart., M.P., Chancellor of the Duchy of Lancaster, with the approval of her Majesty, has been pleased to appoint Henry Wyndham West, Esq., to the important and responsible office of Attorney-General of

the Duchy Court of Lancaster, vacant by the death of Thomas F. Ellis, Esq. Mr. West (who is the eldest son of Martin John West, Esq., commissioner in bankruptcy for the Leeds district and recorder of Lynn), has been for some years revising barrister for the West Riding of Yorkshire, is recorder of Scarborough, and junior counsel to the Admiralty. We have much pleasure in recording the appointment, as he is also a citizen of London, and like Mr Lush, Q.C., and various other members of the Bar, a liveryman of the Carriers' Company.—*City Press*.

Births, Marriages, and Deaths.

BIRTHS.

FIELD—On April 19, at Ashleigh Anfield, near Liverpool, the wife of Samuel Field, Esq., Solicitor, of a son.
HALL—On April 19, at Park-parade, Ashton-under-Lyne, the wife of Henry Hall, Esq., of a daughter.
HARRISON—On April 24, at Southampton-street, Bloomsbury, the wife of F. J. Harrison, Esq., of a son.
NELSON—On April 23, the wife of Albert O. Nelson, Esq., of Doctors'-commons, of a son.

MARRIAGES.

BARKER—PARKER—On April 23, Charles Henry Barker, Esq., of Gray's-inn-square, to Annie, daughter of the Rev. W. Parker.
BACHELOR—JONES—On April 23, Albert W. Batchelor, Esq., of 29, Connaught-terrace, Hyde-park, to Emma, daughter of William J. Jones, Esq., M.R.C.S., of Lincoln's-inn.
BROMLEY—WINTER—On April 24, N. Warner Bromley, Esq., of the Middle Temple, Barrister-at-Law, to Henrietta Martha, daughter of T. Bradbury Winter, Esq., of Brighton.
COOPER—HATFIELD—On April 23, Thomas Cooper, Esq., Solicitor, of Mossley House, Congleton, to Fanny Elizabeth, daughter of Thomas Hatfield, Esq., of St. Martin's, Stamford.
LLOYD—HATHWAY—Recently, at St. Martin's-in-the-Fields, Edward Lloyd, of Lincoln's-inn, Esq., Barrister-at-Law, to Julia, widow of the late Henry Hathway, Esq.
FURNISS—DOBIE—On April 18, John Eyre Furniss, Esq., Solicitor, to Elizabeth Maria, daughter of Alexander Dobie, Esq., of Hyde-park-terrace.

DEATHS.

CALROW—On April 23, Mrs. Calrow, relict of the late Joseph Calrow, Esq., of Lincoln's-inn-fields, in the 73rd year of her age.
CORNISH—On April 15, at Malaga, Thomas Charles Cornish, Esq., aged 48, son of the late John Cornish, Esq., Solicitor, Bristol.
DAX—On April 19, Anne Elizabeth, relict of the late Thomas Dax, Esq., Senior Master of the Court of Exchequer.
DEWSNAP—On April 20, Mark, the infant son of Mark Dewsnap, Esq., of Lincoln's-inn, Barrister-at-Law, aged eight months.
HILLIER—On April 23, W. J. Hillier, Esq., Solicitor, Portsea.
JONES—On April 17, Isaac Jones, Esq., Solicitor, Llanfyllen, North Wales.
KEENE—On April 18, George John Keene, Esq., Solicitor, 147, Marylebone-road.
MARSDEN—On April 21, at Edmonton, James Edward, son of J. D. Marsden, Esq., aged 11.
NEWBON—On April 17, Jane, relict of the late James Newbon, Esq., of Doctor's-commons, in her 84th year.

London Gazette.

Professional Partnership Dissolved.

TUESDAY, April 23, 1861.

SMITH, SAMUEL, & SAMUEL PEARMAN SMITH, Attorneys & Solicitors, Walsall (Smith & Son.) April 23, by mutual consent.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, April 23, 1861.

RISCA COAL AND IRON COMPANY.—The Master of the Rolls has appointed James Edward Coleman, 16, Tokenhouse-yard, London, Accountant, to be official liquidator of this company.

FRIDAY, April 26, 1861.

UNLIMITED IN CHANCERY.

AGRICULTURIST CATTLE INSURANCE COMPANY.—The Master of the Rolls order to wind up on April 20.

AGRICULTURIST CATTLE INSURANCE COMPANY.—The Master of the Rolls will, on May 8, at 3, appoint an official manager.

AGRICULTURIST CATTLE INSURANCE COMPANY.—Creditors to prove their debts before the Master of the Rolls on May 22, at 3, and for appointing an official manager.

RISCA COAL AND IRON COMPANY.—The Master of the Rolls will proceed, on May 6, at 11, to settle the list of contributories.

LIMITED IN BANKRUPTCY.

CARDIFF AND CARMARTHEN IRON COMPANY.—Commissioner Fonblanque will, on May 7, at 12.30, at Basinghall-street, proceed to make a call on all contributories.

CARDIFF AND CARMARTHEN IRON COMPANY.—May 7, at 12.30, at Basinghall-street for proof of debts before Commissioner Fonblanque.

GENERAL STRAID PRINTING AND PUBLISHING COMPANY (LIMITED).—Commissioner Holroyd will proceed, on May 8, at 1, at Basinghall-street, to settle list of contributories.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

FRIDAY, April 19, 1861.

ATKINSON, CHRISTOPHER, Gent., Poulton-by-the-Sands, Lancashire. Clark, Solicitor, Lancaster. May 13.

BAKER, JANE, Widow, Arundel, Sussex. French, Solicitor, Littlehampton. May 25.

BOWMAN, JOSEPH, Merchant, 18, Hackney-terrace, Hackney, Middlesex. Jones, Solicitor, 15, Sise-lane, London. June 10.

CHAMBERS, LANCELOT, Esq., Morden, Surrey. Drummonds, Robinson, & Till, Croydon, Surrey. July 1.

CHAMBERLAYNE, JOHN, Esq., a retired Captain in Her Majesty's Navy, 8, Buckingham-street, Strand, Middlesex, and Berkeley Lodge, Shirley, Southampton. Church, Langdale, & King, Solicitors, 38, Southampton-buildings. June 20.

ESDELL, JOHN WARMINGTON, Attorney & Solicitor, St. Matthew's Lodge, Ipswich, Suffolk. Nash, Solicitor, Ipswich. June 1.

GREEN, WILLIAM GARNER, Gent., formerly of Camberwell, Surrey, afterwards of Bedford-square, Mile End Old Town, Middlesex, but late of Stratford-villa, Camden Town, Middlesex. Gibson, Solicitor, 19, Grace-church-street. May 10.

MILLER, ISAAC, Fish Merchant, Great Yarmouth, Norfolk. Palmer, Solicitor, Great Yarmouth. Aug. 1.

SURMAN, JOHN, Gent., Crawford-cottage, Twickenham-common, Middlesex, afterwards of Munster-terrace, Fulham, but late of Gunnersbury-place, Turnham-green, Middlesex. J. & J. Hopgood, Solicitors, 14, King William-street, Strand. May 16.

WILKINSON, HENRY JOSEPH, Innkeeper, Loughborough. H. & W. H. Toone, Solicitors, Loughborough. June 1.

TUESDAY, April 23, 1861.

HILL, HARRIET, Widow, formerly of Upper Seymour-street, Portman-square, Middlesex, and then of Budleigh Salterton, Devonshire, and late of Slough, Berks. Field & Roscoe, Solicitors, 36, Lincoln's-inn-fields, Middlesex. June 1.

KING, CHARLES, Esq., 62, Grand-parade, Brighton, and formerly of Southampton. Attree, Clarke, & Howlett, Solicitors, 8, Ship-street, Brighton. June 1.

MONTGOMERY, MARY, Widow, Castle View, Derby-road, Bootle, Lancashire. Evans, Son, & Sandys, Solicitors, Liverpool. May 20.

NEWTON, CHARLES, Gun Manufacturer, Birchfield, Staffordshire, and of Birmingham. Partridge & Woodward, solicitor, 61, Ann street, Birmingham. July 20.

WILLIAMS, JOHN PENNY, Esq., Abercrombie, Brecon. Whitelock & De Gex, Solicitors, 8, Serle-street, Lincoln's-inn, London. June 1.

WITHAM, FRANCES ELIZABETH, Widow, 54, Eaton-square, Middlesex, and formerly of Fair Mile House, near Henley-on-Thames, Oxfordshire. Parkin & Pagden, Solicitors, 5, New-square, Lincoln's-inn. May 31.

FRIDAY, April 26, 1861.

ALLEN, WILLIAM, Solicitor, Shipston-on-Stour, Worcestershire. Morton, Solicitor, Shipston-on-Stour. June 30.

BARNED, ISRAEL, Esq., 100, Gloucester-terrace, Regent's-park, formerly Banker, Liverpool. Sampson, Samuel, & Emanuel, Solicitors, 31, New Broad-street. June 1.

BRIGHT, ROBERT, Plumber, Wandsworth, Surrey. Corsellis, Solicitor, Wandsworth. June 8.

BUSCH, MARIA, Widow, Maye-street, Manchester. Chester, Staple-inn, Agent for Marriott, Solicitor, 28, Brown-street, Manchester. June 11.

DAWSON, THOMAS, Yeoman, Seacroft, Whitkirk, Yorkshire. Payne, Edmondson, & Ford, Solicitors, 70, Albion-street, Leeds. June 1.

GRAY, JOHN, Stationer, 3, East Assembly-lane, Rose-street, Edinburgh. Knox, Accountant, 75, Princes-street, Edinburgh.

GRAY, ROBERT, formerly Coach Proprietor, Bolt in Tun, Fleet-street, London, and late of Champion-place, Grove-lane, Camberwell, Surrey. Holmes, Solicitor, 25, Great James-street, Bedford-row. June 1.

GRINT, GEORGE, Corn Dealer, Wandsworth, Surrey. Corsellis, Solicitor, Wandsworth. June 8.

GOODINGS, WILLIAM, Esq., 2, Lee-place, Upper Clapton, Middlesex. W & R. B. Baker, Solicitors, 3, Crosby-square, Bishopsgate, London. July 31.

GUGGIARI, CHARLES, otherwise GUGGIARI, Carver and Gilder, Digbeth, Birmingham. Hodgson & Allen, Solicitors, 13, Waterloo-street, Birmingham. June 1.

HEAD, JOHN, Gent., 41, Sydney-street, Brompton, Middlesex. Andrew, Atkins, & Irvine, Solicitors, 5, White Hart-court, Lombard-street, E.C. June 22.

JACKSON, JOSEPH, Esq., late of Orpington, Kent. Clutton & Ade, Solicitors, High-street, Southwark. June 1.

LLEWELLYN, HENRY, Gent., formerly of Noble-street, London, late of 3, Coburg-place, Old Kent-road, Surrey. Barr, Solicitor, 12, Fete-moster-row, London. June 15.

PEIRCE, RICHARD, Gent., Passenham, Northamptonshire, late of Akely, Bucks. Parrott, Solicitor, Stony Stratford, Bucks. June 10.

SWIFT, WILLIAM, Draper, Smethwick, Staffordshire. Hodgson & Allen, Solicitors, Birmingham. June 1.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, April 19, 1861.

ABBOTT, WILLIAM, Jun., Doctors' Commons, London. Abbott v. Abbott, M.R. May 22.

GUNNING, MATTHEW, Lieutenant-Colonel, Gloucester-place, St. Marylebone, Middlesex. Gunning v. Gunning, M. R. May 23.
 HOLL, HENRY, Chemist & Druggist, formerly of Newton, Montgomeryshire, late of Bishop's Castle, Salop. Evans v. Starr, M. R. May 6.
 GEORGE, RIGHT HONOURABLE, Fifth Earl of Jersey. Jersey v. Jersey, V. C. Stuart. May 3.
 LEE, MARGARET, Widow, Goodwick, Pembroke. Rowe v. Rowe, M. R. May 21.
 NEWTON, WILLIAM, Draper formerly of Taunton, Somersetshire, then Gent. Keynsham, then of the Wood Pavement Company, London, afterwards of Stratford-upon-Avon, Warwickshire. Linendraper, then of Melbourne, Australia, and late of 22, Southampton-street, Bloomsbury, Middlesex. Newton v. Newton, M. R. November 2.
 OGILVY, JANE, & FANNY OGILVY, Sisters & Spinners, 1, Victoria-terrace, Bayswater, Middlesex. Campbell v. Palmer, V. C. Kindersley. May 18.
 SHADFORTH, ELLEN, Widow, Belle Vue-terrace, Kingston-upon-Hull. Shadforth v. Burton, V. C. Stuart. May 24.
 SOCKENITH, WILLIAM, Carr-lane, North Brierley, Bradford. Sucksmith v. Sucksmith, V. C. Stuart. May 25.
 WALLACE, THOMAS, Farmer, Nantorton-upon-Trent, Nottinghamshire. Selby v. Wallace, M. R. May 9.

TUESDAY, April 24, 1861.

CHAPMAN, CHARLOTTE CAROLINE, Spinster, 13, Craven-place, Old Kent-road, Surrey. Darnes v. Howard, V. C. Wood. May 22.
 FULLER, ROBERT, sen., Gent., late of Hales, Norfolk, and afterwards of Gillingham, Norfolk. Dodds v. Fuller, V. C. Wood. May 23.
 WHITMAN, THEODORE WILLIAM, Barrister-at-law, lately of Melbourne, Australia, and formerly of the Temple, London, as to creditors in England, May 10; and as to creditors in Australia, November 2, V. C. Wood.

FRIDAY, April 26, 1861.

BURY, ROBERT, Esq., Bentley, Southampton. Bury v. M'Whinnie, V. C. Stuart. May 23.
 COTTAM, ADAM, Machine Maker, Manchester. Newton & Cottam v. Cottam, V. C. Wood. June 1.
 GRIFFIN, JANE, Licensed Victualler, 31, Aldergate-street, London. Griffin v. Fisher, V. C. Wood. May 21.
 MOORE, JOSEPH, Carpenter & Builder, Surbiton, Surrey. Moore & Walker v. Moore, V. C. Stuart. May 25.
 NORTON, JOHN, Yeoman, Buxton, Derbyshire. Hoult v. Mycock & others, V. C. Stuart. May 28.
 NORTON, WILLIAM, Builder, Uxbridge, Middlesex. Page & Another v. Norton, V. C. Stuart. May 24.
 PHILLIPS, ELIZABETH, Widow, St. Woolos, Monmouthshire. Sawtell v. Williams, V. C. Wood. May 24.
 ROBERTS, FLEMING THOMAS, Esq., Brighton. Whippy & Another v. Roberts, V. C. Kindersley. May 24.
 WILLAN, EDWARD, Gent., 35, Bedford-row, Middlesex. Willan & Others v. Maples, M. R. May 21.

Assignments for Benefit of Creditors

FRIDAY, April 19, 1861.

BATES, PETER, Draper, North End, Croydon, Surrey. April 2. Sol. Jones, 18, Sise-lane, London.
 BOYD, DAVID OGILVY, Stove Grate Manufacturer, 9, Conduit-street, Regent-street, and 267, Euston-road, Middlesex. April 17. Sol. Pitman, 9, Great James-street, Bedford-row, Middlesex.
 BURNS, PHILIP, Cordwainer, Liverpool. April 16. Sol. Yates, jun., 22, Fenwick-street, Liverpool.
 DAVIS, WILLIAM HENRY, jun., Nurseryman & Florist, Greenham, Thatcham, Berks. April 12. Sols. Finner & Sons, Newbury, Berks.
 JENES, JOHN, Innkeeper, Grazier, & Lime Merchant, Bedford. April 10. Sol. Eagles, Bedford.
 JONES, JOHN, Boot & Shoemaker, Kingston-upon-Hull. April 8. Sols. Eaton & Belby, Kingston-upon-Hull.
 LOCKLEY, JESSE, Cutler, 81 & 83, Upper East Smithfield, Middlesex. April 10. Sol. Watson, 27, Worship-street, Finsbury, London.
 MARTIN, GEORGE, & RICHARD MARTIN, Shoe Manufacturers, St. Gregory's, Norwich. March 26. Sol. Sadd, jun., Theatre-street, Norwich.
 SCULLARD, GEORGE, Builder, Whitchurch, Southampton. Sol. Rawlins, Winchester. March 28.
 SIMPSON, ROBERT, Ironmonger, Sunderland. Sols. Ranson & Son, Sunderland. March 27.
 SYMONS, WILLIAM, General Shopkeeper, Bilbrooke, Old Clove, Somersetshire. Sols. Warden & Ponsford, Barton, near Taunton, Somersetshire. March 25.
 VIRGOE, JOHN, Builder, 9A, Westbourne-park, Bayswater, Middlesex, Sol. Girdwood, 14, Old Jewry Chambers, London. April 11.

TUESDAY, April 23, 1861.

ADAMS, JOHN, Ironmonger, Thorne, Yorkshire. April 6. Sol. Beckett, Thorne.
 BURNLEY, SAMUEL, & JACOB BURNLEY, Woollen Manufacturers, Batley, Yorkshire. March 27. Sols. Walker, Dewsbury; and Schofield, Batley.
 BUSBY, WILLIAM, Grocer, Leigh, Essex. April 3. Sol. Brutton, 27, Basinghall-street, London.
 COOKE, LANE, & MATTHEW COOKE, Paper Manufacturers, Moorsley Banks Paper Mill, Durham. April 16. Sol. Watson, Durham.
 COCKREIN, HENRY, Innkeeper, Cinderford, East Dean, Gloucestershire. March 26. Sol. Carter & Gould, Newnham.
 GOOS, HENRY, Haberdasher, 6, Slater-street, Bold-street, Liverpool: March 15. Sols. Green & Payne, 3, St. James's-square, Manchester.
 HALL, WILLIAM, & JOHN HALL, Machinists, Ashton-under-Lyne. April 4. Sols. Brooks, Marshall, & Brooks, 99, Stamford-street, Ashton-under-Lyne.
 HRAVE, JANE, Widow, Kempster's-buildings, Shrewsbury. April 4. Sol. Gard, Guildhall, Shrewsbury.
 LAMSON, GEORGE FREDERICK, Linen Draper, 1, Grosvenor-place, Commercial-road, East, Middlesex. April 15. Sol. Loxley, 80, Cheapside, London.
 PRAT, FRANCIS, Grocer, Tea Dealer, & Provision Merchant, Bridgnorth, Salop. April 16. Sol. Hardwick, Bridgnorth.
 SADLER, AMOS, Baker & Flour Dealer, Liscard, Chester. April 2. Sol. Yates, jun., 22, Fenwick-street, Liverpool.
 SCOTT, JOHN, Coal Merchant, Shrewsbury. April 13. Sols. C. D. & A. S. Craig, the Crescent, Shrewsbury.
 STALLING, HENRY WALLER, & MONTIMER STALLING, Chemists, 33, Charing-cross, Middlesex. March 25. Sols. Hare & Whitfield, 1, Mitre-court, Temple.

TURNER, EDWARD, Silk Manufacturer, Derby. April 12. Sol. Haywood, Derby.
 UNDERWOOD, DANIEL, Draper & Grocer, Langford, Somersetshire. March 30. Sol. Pridaux, Bristol.
 WILLOUGHBY, HENRY, Clothier & Boot & Shoe Maker, Lichfield-street, Wolverhampton. April 5. Sol. Langman, High-green, Wolverhampton.

FRIDAY, April 26, 1861.

BUNTING, WILLIAM, Miller & Farmer, Grimstone, Norfolk. April 20. Jarvis, Solicitor, King's Lynn.
 CAMPION, WILLIAM, Farmer, Maidford, Northamptonshire. April 1. Roche, Solicitor, Daventry.
 FOTHERGILL, THOMAS FAWCETT, Slate Merchant, Boston, Lincolnshire. April 16. York, Solicitor, Boston.
 HATTERSLEY, HENRY FRANCIS, Barton-upon-Humber, Lincolnshire. April 8. England, Solicitor, Kingston-upon-Hull.
 HARTLEY, GEORGE, Common Brewer, St. John's Brewery, Sheffield. April 12. Sols. Rodgers & Thomas, Sheffield.
 JONES, JOHN, Victualler, New Farmer's Arms-inn, Llangucke, Glamorganshire. March 30. Sol. Lewis, Llandilo, Carmarthen.
 KINGSTON, RICHARD THOMLINSON, Common Brewer, New Malton, York-shire. April 18. Sol. Jackson, New Malton.
 LEWIS, EDMUND, & WILLIAM BELTUM, Carpet Warehousemen, 4 & 5, Noble-street, Cheapside, London. April 2. Sol. Weeks, 1, Falcon-square, London.
 MARTIN, GEORGE, & RICHARD MARTIN, Shoe Manufacturers, St. Gregory's, Norwich. March 26. Sol. Sadd, Norwich.
 MAJOR, GEORGE, Builder & Timber Merchant, Swindon, Wilts. April 16. Sol. Kinnier, Swindon.
 SMITH, REBECCA ANN, Widow, carrying on business in the name of Ann Butcher, Earthenware Dealer, St. Leonard's-road, Bromley, Middlesex. Jan. 9. Sol. Todd, 75, Newgate-street, London.
 TAYLOR, DAVID, Tailor, 16, Poland-street, Oxford-street, Middlesex (Taylor & Son). April 20. Sol. Taylor, 19, Old Burlington-street.
 THOMAS NATHANIEL, Upholsterer, Gilbert-street, Grosvenor-square, Middlesex. March 15. Sol. Treheime, 17, Gresham-street, London.
 THWAITES, THOMAS, WILLIAM BURY WESTALL, & OTTO HENRY KAMELACK, Merchants & Brokers, Blackburn and Manchester, Lancashire. April 13. Sols. J. & W. Norris & Wood, 7, St. James's-square, Manchester.
 WILLIAMSON, JAMES, Grocer, Kidsgrave, Staffordshire. March 13. Sol. Sherratt, Talk-on-the-Hill, Stafford.

Bankrupts.

FRIDAY, April 19, 1861.

ADAMS, FREDERICK WILLIAM, Carver, Gilder, Picture-frame Manufacturer, & Dealer in Pictures, 9, King-street, Covent-garden, Middlesex. Com. Evans: May 2, at 11.30; and June 6, at 11; Basinghall-street. Off. Ass. Bell. Sol. Gibson, 19, Gracechurch-street. Pet. April 18.
 BECHIN, LOUIS, Merchant, 34, St. Mary-at-Hill, London. Com. Goulburn: May 1, at 12; and 29, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Ellis, Bannister, & Robinson, 12, Clements-lane, London. Pet. April 16.
 BRAIN, WILLIAM, Grocer & Brick Maker, Risca, Monmouthshire. Com. Hill: April 30, and May 28, at 11; Bristol. Off. Ass. Acraman. Sols. Greenway & Bytheway, Pontypool; or Bevan, Girling, & Press, Bristol. Pet. April 9.
 COPELAND, ELIZABETH, Widow, Grocer, & Druggist, March, Cambridge-shire. Com. Fonblanque: April 30, and May 28, at 1; Basinghall-street. Off. Ass. Staunfeld. Sols. Lawrence, Smith, & Fawdon, 12, Bread-street, London; or Wise & Dawbarn, March, Cambridge. Pet. April 15.
 DIGNY, THOMAS, Tailor, Ottery St. Mary, Devonshire. Com. Andrews: May 1 & 29, at 12; Exeter. Off. Ass. Hirtzel. Sol. Fryer, St. Thomas, Exeter. Pet. April 16.
 FREEMAN, HENRY, Merchant & Commission Agent, 110, Lendenhall-street, London. Com. Holroyd: April 30, at 2; and June 1, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Waldron, 18, Red Lion-square, Holborn, London. Pet. April 18.
 GILBERT, EDWARD RALPH, Mantle Manufacturer, Cripplegate-buildings, London. Com. Goulburn: April 29, and May 31, at 11; Basinghall-street. Off. Ass. Pennell. Sol. Treherne, 17, Gresham-street, London. Pet. April 18.
 GOUGH, JAMES BURGYN, Timber Merchant, 5, Theberton-street, Liverpool-road, Islington, Middlesex. Com. Fane: May 3, at 1.30; and May 31, at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Brown & Godwin, 21, Finsbury-place. Pet. April 16.
 HEMMING, WILLIAM THOMAS, Bill Broker & Scrivener, 37, Old Broad-street, London. Com. Evans: May 3, and June 6, at 12; Basinghall-street. Off. Ass. Johnson. Sol. Runnacles, Elgin-chambers, Ironmonger-lane, London. Pet. April 16.
 LEWIS, ARTHUR CHARLES, Tailor & Draper, 1, Northumberland-buildings, Bath. Com. Hill: April 29, and May 27, at 11; Bristol. Off. Ass. Miller. Sols. Huson & Parker, 4, King-street, Cheapside, London; or Bevan, Girling, & Press, Bristol. Pet. April 3.
 LYON, SIMON, Cabinet Maker & Upholsterer, 23, Frederick's-place, Hampstead-road, Middlesex (James Simon Lyon). Com. Fane: May 3, at 12.30; and May 31, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sol. Reed, 2A, St. Anne's-lane, City. Pet. April 18.
 M'KAY, GORDON GILCHRIST, Ships' Stores Dealer, Liverpool. Com. Perry: April 29, and May 23, at 11; Liverpool. Off. Ass. Bird. Sol. Barrell, Lord-street, Liverpool. Pet. April 16.
 MILLS, JOSEPH, Builder & Timber Dealer, Stratford-upon-Avon, Warwickshire. Com. Sanders: May 3, and 24, at 11; Birmingham. Off. Ass. Whitmore. Sols. Hodgson & Allen, Birmingham; or Lane, Stratford-upon-Avon. Pet. April 12.
 PARKINSON, THOMAS, Stock & Share Broker, Halifax. Com. West: May 3, and June 7, at 11; Leeds. Off. Ass. Young. Sols. Robson & Suter, Halifax, or Carras & Cudworth, Leeds. Pet. April 12.
 PARSONS, WILLIAM, Draper, Brill, Bucks. Com. Goulburn: May 1, at 11.30, and June 3, at 12; Basinghall-street. Off. Ass. Pennell. Sols. Mason, Sturt, & Mason, 7, Gresham-street, London. Pet. April 18.
 PETTIT, CHARLES RICHARD, Corn Dealer & Seedsman, Marlborough, Wilts. Com. Hill: April 29, and May 28, at 11; Bristol. Off. Ass. Miller. Sol. Malcomb, Marlborough, or Henderson, Bristol. Pet. April 10.
 PIPER, JOHN, Wine Merchant, 73A, Clarendon-street, Pimlico, Middlesex. Com. Harrold: April 30, at 2.30, and June 1, at 12; Basinghall-street. Off. Ass. Edwards. Sol. King, 25, College-hill, Cannon-street West, London. Pet. April 16.
 TALLIS, JOHN, Printer & Publisher, 199, Strand, and Water-street, Strand,

Middlesex. *Com. Evans*: May 3, at 12.30, and June 6, at 2; Basinghall-street. *Off. Ass. Bell. Sols. Sole, Turner, & Turner, Aldermanbury, or Lawrance, Plewa, & Boyer, Old Jewry.* *Pet. Sept. 28.*

TUESDAY, April 23, 1861.

ANDREWS, JAMES, Butcher & Cattle Dealer, 15, Desborough-place, Harrow-road, Paddington, Middlesex. *Com. Fonblanque*: May 7, at 1; and May 29, at 12; Basinghall-street. *Off. Ass. Graham. Sols. Stopher, 36, Coleman-street, City, London; and Becke, Northampton.* *Pet. April 11.*

BLAGG, WILLIAM, Baker & Confectioner, Bakewell, Derbyshire. *Com. West*: May 4, and June 15, at 10; Sheffield. *Off. Ass. Brewin. Sols. Allenby, Birmingham; or Bond & Barwick, Leeds.* *Pet. April 16.*

BULLMORE, RICHARD, Baker, Grocer, & Draper, Boon Gate & New England, Peterborough. *Com. Fane*: May 10, at 11.30; and June 7, at 12; Basinghall-street. *Off. Ass. Cannan. Sols. Deacon & Taylor, Peterborough, and 14, King-street, Finsbury-square.* *Pet. April 15.*

DOUST, DAVID HENRY, Omnibus Proprietor, 1, Pomeroy-place, Pomeroy-street, New Cross, Surrey. *Com. Evans*: May 3, at 11.30; and June 4, at 12; Basinghall-street. *Off. Ass. Bell. Sols. Sole, Turner, & Turner, Aldermanbury.* *Pet. April 22.*

DODLEY, WILLIAM, Licensed Victualler, Butcher's Arms, Metropolitan Market, Islington, Middlesex. *Com. Fane*: May 3, at 2; and June 7, at 1; Basinghall-street. *Off. Ass. Whitmore. Sols. Laurence, Smith, & Fawdon, 12, Broad-street, Cheapside; or Hammond, 16, Farnival's-inn, Holborn.* *Pet. April 20.*

GLADY, GERARD, Ironmaster, Leeswood, near Mold, Flintshire. *Com. Perry*: May 7 and 29, at 11; Liverpool. *Off. Ass. Turner. Sols. Bagshaw & Son, King-street, Manchester; or Fletcher & Hull, 6, Cook-street, Liverpool.* *Pet. April 9.*

GORGE, JAMES BURGIN (and not James Burgin Gough, as formerly advertised), Timber Merchant, 5, Theberton-street, Liverpool-road, Islington, Middlesex. *Com. Fane*: May 3, at 1.30; and May 31, at 1; Basinghall-street. *Off. Ass. Whitmore. Sols. Brown & Godwin, 21, Finsbury-place.* *Pet. April 16.*

HICKES, GEORGE, Cotton Manufacturer, Portwood, Stockport. *Com. Jemmett*: May 10 and 31, at 12; Manchester. *Off. Ass. Hernaman. Sol. Atherton, Manchester.* *Pet. April 19.*

HILL, SAMUEL, Furniture Dealer, Tailor & Draper, Hanley, Stoke-upon-Trent, Staffordshire. *Com. Sanders*: May 3 and 24, at 11; Birmingham. *Off. Ass. Whitmore. Sols. Sale, Worthington, Shipman, & Seddon, Manchester; or Hodgson & Allen, Birmingham.* *Pet. April 17.*

HUGHES, THOMAS, Licensed Victualler, Talbot Inn, Digbeth, Walsall, Staffordshire. *Com. Sanders*: May 6 and 29, at 11; Birmingham. *Off. Ass. Whitmore. Sols. E. & H. Wright, Birmingham.* *Pet. April 20.*

KIRKPATRICK, GEORGE HAMILTON, Draper, 39, Lord Nelson-street, Liverpool. *Com. Perry*: May 3 and 27, at 11; Liverpool. *Off. Ass. Turner. Sol. Husband, 9, James-street, Liverpool.* *Pet. April 20.*

MOORE, ABRAHAM, Chemist & Druggist, Wednesbury, Staffordshire. *Com. Sanders*: May 6, and June 3, at 11; Birmingham. *Off. Ass. Kinnear. Sols. Whitehouse, Wolverhampton; or James & Knight, Birmingham.* *Pet. April 15.*

NESOM, JOHN, Miller & Coal Merchant, Aylsham, Norfolk. *Com. Evans*: May 3, at 1; and June 4, at 12.30; Basinghall-street. *Off. Ass. Bell. Sol. Treherne, 17, Graham-street.* *Pet. April 22.*

NORFOLK, HENRY JAMES, Builder, Great Yarmouth. *Com. Fane*: May 2, at 12; and June 7, at 11; Basinghall-street. *Off. Ass. Cannan. Sols. Storey, 6, King's-road, Bedford-row; or Chamberlain, Great Yarmouth.* *Pet. April 20.*

OWENS, THOMAS, Baker, Grocer, Flour & Provision Dealer, Stanley-street and Cross-street, Holyhead. *Com. Perry*: May 7 and 29, at 1; Liverpool. *Off. Ass. Morgan. Sol. Eytan, Flint.* *Pet. April 22.*

SHEPLEY, SAMUEL, Chemist & Druggist, Chesterfield. *Com. West*: May 4, and June 18, at 10; Sheffield. *Off. Ass. Brewin. Sols. Clayton, Chesterfield; or Smith & Burdick, Sheffield.* *Pet. April 11.*

SWIFT, THOMAS, & ROBERT WIGFALL, Coal Merchants, Manchester (Thomas Swift & Co.). *Com. Jemmett*: May 3 and 31, at 12; Manchester. *Off. Ass. Frazer. Sols. Cobbett & Wheeler, Manchester.* *Pet. April 11.*

THRENGETT, FRANCIS, Miller, Upton Helons, Devonshire. *Com. Andrews*: May 8, and 29, at 12; Exeter. *Off. Ass. Hirtzel. Sols. Langdon, Crediton; or Fryer, St. Thomas, Exeter.* *Pet. April 22.*

TRICKETT, GEORGE, Metal Merchant, 5, Great Winchester-street, London. *Com. Evans*: May 2, and June 4, at 11; Basinghall-street. *Off. Ass. Johnson. Sols. Sewall, Sewell, & Edwards, Gresham House, Old Broad-street.* *Pet. April 19.*

WADE, SAMUEL WHELEY HANDY, Wine & Spirit Merchant, & Produce Merchant, Leeds. *Com. Aytton*: May 6, and June 10, at 11; Leeds. *Off. Ass. Hope. Sols. Neal & Martin, Liverpool; or Cariss & Cudworth, Leeds.* *Pet. April 4.*

FRIDAY, April 26, 1861.

ALLEN, JOSEPH, Smallware Manufacturer, Irwell Foundry, Radcliffe-bridge, Lancashire. *Com. Jemmett*: May 10, and June 4, at 12; Manchester. *Off. Ass. Hernaman. Sol. Storer, 89, Fountain-street, Manchester.* *Pet. April 18.*

BALLARD, JOSEPH TAYLOR, Draper, Leicester. *Com. Holroyd*: May 7, at 1; and June 11, at 12; Basinghall-street. *Off. Ass. Edwards. Sol. Jones, 15, Sise-lane, Bucklersbury, London.* *Pet. April 10.*

BARTLETT, WILLIAM SMITH, Grocer & Provision Dealer, Oldbury, Worcestershire. *Com. Sanders*: May 9, & 30, at 11; Birmingham. *Off. Ass. Whitmore. Sols. Plunkett & Shakespeare, Westbromwich; or James & Knight, Birmingham.* *Pet. April 22.*

BATES, PETER, Draper, Croydon, Surrey. *Com. Goulburn*: May 6, at 12.30; and June 10, at 12; Basinghall-street. *Off. Ass. Pennell. Sol. Jones, 15, Sise-lane, London.* *Pet. April 20.*

CLARK, WILLIAM, jun., Timber Merchant, 1, Southwark-bridge-road, Southwark, and 12, Rockingham-row, New Kent-road, Surrey. *Com. Fonblanque*: May 8, at 2; and June 5, at 1.30; Basinghall-street. *Off. Ass. Graham. Sol. Wright, 123, Chancery-lane, London.* *Pet. April 24.*

GIBSON, WILLIAM, Provision Merchant, Leeds. *Com. West*: May 10, and June 7, at 11; Leeds. *Off. Ass. Young. Sols. G. A. W. Embley, Leeds.* *Pet. April 24.*

GODDARD, JAMES, Draper, Earl Soham, near Framlingham, Suffolk. *Com. Fonblanque*: May 8, at 2.30, and June 5, at 12; Basinghall-street. *Off. Ass. Graham. Sols. Mason, Sturt, & Mason, 7, Gresham-street.* *Pet. April 19.*

HAYNES, PHILIP, Silk Manufacturer, 10, James-street, Old Bethnal-green-road, Middlesex. *Com. Evans*: May 9, at 1; and June 13, at 12; Basinghall-street.

singhall-street. *Off. Ass. Johnson. Sols. May & Son, 2, Princess-street, Spitalfields.* *Pet. April 24.*

JOCKES, JOHN, jun., Manufacturer of Patent Furnaces, Standard Factory, Wharf-road, City-road, Middlesex. *Com. Goulburn*: May 8, at 1; and June 17, at 12; Basinghall-street. *Off. Ass. Pennell. Sols. Harrison & Lewis, 6, Old Jewry, London.* *Pet. April 25.*

MOTT, THOMAS, Cabinet Maker & Upholsterer, Salisbury, Wilts. *Com. Fonblanque*: May 8, at 1.30; and June 6, at 1; Basinghall-street. *Off. Ass. Stansfeld. Sols. Venning, Naylor, & Robins, 9, Tokenhouse-yard, London; and Cobb & Smith, Salisbury.* *Pet. April 24.*

PETERSON, THOMAS PEXTON, Scrivener, Dealer in Horses, Cattle, Corn, & Timber, Bristol, and lately also of Downend, Gloucestershire. *Com. Hill*: May 6, and June 10, at 11; Bristol. *Off. Ass. Acraman. Sol. Harris, Bristol.* *Pet. April 22.*

SANDERSON, FREDERICK, Coach Maker, 34, Dominick-street, Dublin, Ireland, and 12, Tottenham-street, Fitzroy-square, Middlesex. *Com. Fonblanque*: May 7, at 12, and June 5, at 2.30; Basinghall-street. *Off. Ass. Stansfeld. Sol. Watson, 18, Cannon-street, London.* *Pet. April 17.*

TOKES, JOHN, Victualler, Tonk's Hotel, Hill-street, Birmingham. *Com. Sanders*: May 9 & 30, at 11; Birmingham. *Off. Ass. Kinnear. Sol. Sackling, Birmingham.* *Pet. April 18.*

MEETINGS FOR PROOF OF DEBTS.

FRIDAY, April 19, 1861.

ALLCOCK, JOSEPH, jun., Miller, Ilford, Essex. May 16, at 11; Basinghall-street.—ARNOLD, PHILIP, and JOHN ARNOLD, Straw Plait Merchants, Luton, Bedfordshire. May 10, at 12, Basinghall-street.—BINKS, WILLIAM, Painter & Paper Hanger, Kingston-upon-Hull. May 29, at 12; Kingston-upon-Hull.—BLAD, SAMUEL JAMES, Brewer, Weston, near Bath, Somersetshire. May 10, at 11; Bristol.—BOTTING, EDWIN, Grocer, Brighton. May 1, at 2, Basinghall-street.—BROWN, HENRY, & BROOK HODGSON, Velvet Manufacturers, Halifax, Yorkshire (Henry Brown & Co.). May 10, at 11; Leeds.—CLARKE, SAMUEL, Broker & Commission Agent, Kingston-upon-Hull. May 29, at 12; Kingston-upon-Hull.—FAIRY, WILLIAM, Provision Merchant, Grocer, and Tea Dealer, Bedford. May 1, at 11; Basinghall-street.—GOLDSCHMIDT, EDWARD, & HERMANN BOAS, Wholesale Stationers, Nottingham (Edward Goldschmidt & Co.). May 21, at 11; Nottingham.—HARTLEY, JOSEPH, Cloth Manufacturer, Calverley, Yorkshire. May 10, at 11; Leeds.—HARRING, WILLIAM, Confectioner & Spice Merchant, Liverpool. May 13, at 11; Liverpool.—HILLS, WILLIAM, Draper, Sandgate, Kent. May 10, at 11.30; Basinghall-street.—HORNCASTLE, JOSEPH, Seed Merchant, Glamford Briggs, Lincolnshire. May 29, at 12; Kingston-upon-Hull.—HUNT, EDWARD, Hop Merchant, 6, Three Crown-square, Southwark, Surrey. April 30, at 2; Basinghall-street.—JONES, JOHN, Wine and Timber Merchant, Chepstow, Monmouthshire. May 10, at 11; Bristol.—KEMP, HENRY FRIDINGTON, & WILLIAM SKET, Distillers, Louth, Lincolnshire. May 29, at 12; Kingston-upon-Hull.—LAWLEY, THOMAS, Grocer, Beverley. May 29, at 11; Kingston-upon-Hull.—MUSCOTT, JOHN, Engineer, Miller, Farmer, & Brick and Tile Maker, Pembroke, Herefordshire. May 13, at 11; Birmingham.—RANDALL, JOHN DAVIS, & GEORGE THOMAS DICKS, Leather Sellers, Greek-street, Soho, Middlesex. May 11, at 12; Basinghall-street.—SHIPLEY, JOHN GEORGE, Saddler & Harness Maker, 179 & 181, Regent-street, Middlesex. April 20, at 1.30; Basinghall-street.—THRELFALL, WILLIAM, Iron Merchant, Preston. May 14, at 12; Manchester.

TUESDAY, April 23, 1861.

ALLCOCK, JOSEPH, jun., Miller, Ilford, Essex. May 16, at 11; Basinghall-street.—BAYLIS, RICHARD CASTLE TONNER, Shoe Mercer, 3, Lilly Pot-lane, and 36, Jewin-street, London. May 18, at 12.30; Basinghall-street.—BROOKSBANK, JOHN, Brush Board Cutter, 33, King-street, Clerkenwell, Middlesex. May 16, at 11.30; Basinghall-street.—BROWN, JOSEPH DODSWORTH, Cabinet Maker, Bristol. May 17, at 11; Bristol.—DALGLISH, WILLIAM, Spirit Merchant, Liverpool. May 14, at 11; Liverpool.—HALL, JOSEPH WILLIAM, Dealer in Agricultural Implements, Cardiff, Glamorganshire. May 17, at 11; Bristol.—KELLAND, GEORGE, jun., Grocer & Tea Dealer, Lancaster. May 14, at 12; Manchester.—NASH, GEORGE, Bricklayer & Builder, Leighton Buzzard, Bedfordshire. May 15, at 1; Basinghall-street.—ORMESHER, JAMES, & WILLIAM ORMESHER, Silk Manufacturers, Manchester, also of Blackley, Lancashire (James & William Ormesher.) May 15, at 12; Manchester.—PRINGLE, ELADON, Ship Owner, Southport, Lancashire. May 17, at 11; Liverpool.—SHERATT, PETER, Silk Manufacturer, Macclesfield, Chester. May 16, at 12; Manchester.—SPICER, THOMAS, Oil & Colourman, 2, Little Britain, London. April 30, at 12.20; Basinghall-street.—STONBART, JOSEPH, Draper, North Leach, Gloucestershire. May 24, at 11; Bristol.—WARBURTON, GEORGE, & JOHN ORMESHER, Silk Brokers and Merchants, Manchester (Warburton & Ormesher.) May 17, at 12; Manchester.—WILLIAMS, WILLIAM, Iron Manufacturer, Pentwyn Gwynos and Pontnewynydd, Monmouthshire (William Williams & Co.) May 17, at 11; Bristol.—WYATT, JOHN, Licensed Victualler, Chipping Campden, Gloucestershire. May 16, at 11; Bristol.—YOUNG, SAMUEL, Licensed Victualler, Racket Court Inn, Bath-street, Birmingham. May 23, at 11; Birmingham.

BANKRUPTCY ANNULLED.

FRIDAY, April 26, 1861.

FISCHBECK, HENRY, Builder, Horncastle, Lincolnshire.

FRIDAY, April 20, 1861.

ABBOTT, GEORGE, & FRANCIS STEVENS, Northampton Carriers & Leather Sellers, Earl's Barton. May 21, at 1.30; Basinghall-street.—CHARLTON, CHARLES HENRY, Solicitor & Scrivener, 4, Garden-court, Temple Middlesex. May 1 at 1; Basinghall-street.—FLETCHER, RICHARD, WESTLEY, & JOSEPH, Merchants, Saddlers, Ironmongers, Walsall, Stafford. June 3, at 11; Birmingham.—GIBBS, BENJAMIN, Leather Merchant, 87, Remondsey-street, Southwark. May 17, at 12.30; Basinghall-street.—HOAD, WILLIAM DANIEL, Shipbuilder, Merchant, Watchbell street, Rye, Sussex. May 17 at 12; Basinghall-street.—HYMAN, LEONARD, London Merchant & Commission Agent, 22, Mincing-lane. May 21, at 11; Basinghall-street.—LOCK, FRANCIS, Miller, Corn Dealer, West Bow Mills, Bridgewater. May 23, at 12; Exeter.—NUTT, JAMES, 23, Leadenhall-street, London. May 17, at 11; Basinghall-street.—OSMOND HENRY, General Dealer in Cheese and Butter, Sturminster, New Castle. May 8, at 1; Basinghall-street.—PEARMAN, WILLIAM, Market Gardener, Suffolk. May 6, at 1; Basinghall-street.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal, an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

** * Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, MAY 4, 1861.

CURRENT TOPICS.

The lengthened debate on the Budget in the House of Commons has postponed nearly all those measures before Parliament which are interesting to lawyers. Almost the only exception is, however, the most important measure of all. The Bankruptcy Bill, having passed the House of Commons, is at present out of the region of political strife, and has to contend, in the House of Lords, with such difficulties only as inherently belong to it. In a Parliamentary paper which has just been issued we find that the Lord Chancellor has given notice of a number of amendments, most of which, however, are of a merely formal character; but Lord Chelmsford, in the same paper, signifies his intention to move a number of amendments, the mere notice of which occupies five pages, so that at all events there will probably be considerable delay before the measure is ready to receive the Royal sanction. Indeed, now that the rumour of the Bill being referred to a select committee, which we announced last week as not being improbable, has turned out to be true, it becomes somewhat doubtful whether, after all, the Bill may not eventually share the fate of its predecessor of last session.

Lord St. Leonards' Constructive Notice Bill has for the present yielded to the opposition which it has met from some lawyers in the House of Commons, and stands referred to a select committee of that House.

The Bill on Fraudulent Trade Marks has been postponed longer than was expected, by the debates on the Budget. There is little doubt, however, of its becoming law in the course of a week or two; and we shall commence in our next number a series of papers upon the law of trade marks generally, with the view of elucidating a subject of great interest to the mercantile community as well as to lawyers in the manufacturing districts.

Mr. Hodgkinson's Recovery of Debts Bill has met the fate which we predicted for it when it was introduced to Parliament. We altogether agree with the observations made by Mr. Walpole, on Wednesday, upon Lord St. Leonards' Constructive Notice Bill, as to the necessity for the consideration by the law officers of the Crown of all Bills affecting the administration of the law, before they are introduced to Parliament. There is something so manifestly absurd in the attempt of a private member like Mr. Hodgkinson to revolutionize the proceedings in actions at law, that the wonder is how the absurdity remained undiscovered until the

Bill had arrived at the stage of going into committee. Mr. Hodgkinson stated his object to be the prevention of frivolous and fictitious defences to actions for the recovery of debts, and for this purpose he proposed to enable the plaintiff to prevent the defendant from even entering an appearance until he had made an affidavit that he had a good defence to the action, or some part of it, or had obtained leave from a judge at chambers to defend it. The effect of the Bill, if it became law, would unquestionably have been to increase very unnecessarily the cost of litigation, and the chances in favour of dishonest plaintiffs; while it would have placed no impediment whatever in the way of unscrupulous defendants, who would seldom make much difficulty in swearing that they believed they had a good defence either of fact or law—meaning only by the latter such as might succeed in the final result.

The Attorney-General has so frequently placed upon the notice paper of the House of Commons a notice of his intention to introduce a Bill having for its object the concentration of all our courts of law, and the appropriation of a fund for the purchase of a site, and the erection of buildings, that we begin to despair of even seeing the Bill in print before the end of the Session, although the *Times* of Thursday last came out with an article strongly in favour of the project, and also of Lincoln's-inn-fields "as the natural site for this national edifice." Our readers are already in possession of whatever can be said in favour of this site as opposed to that recommended by the Commissioners' Report, and preferred by the Office of Works. A Bill which may be regarded as preliminary to Sir Richard Bethell's measure, has been brought in by Mr. Cowper, the Chief Commissioner of Works, to enable the Commissioners to acquire a site for the new palace of justice—the question of the particular site being left in abeyance. The Bill is merely intended as a formal forerunner of the measure which is to be propounded to the House by Sir Richard Bethell. The site of Lincoln's-inn-fields has found a very able and uncompromising advocate in Mr. Harvey Gem, but the great majority of the metropolitan members of the profession—as far as we have the means of judging—are decidedly in favour of the site facing the Law Institution, and extending from Lincoln's-inn to the Strand. We agree with the *Times*, that whatever is to be done should be done quickly, as there has been already quite as much consideration and discussion of the subject as it can possibly require.

A private meeting of the leading members of the Bar and Benchers of the Inner Temple was held on the 30th ult., in the Library Room, Westminster Hall, to take into consideration the present position of Mr. Edwin James, Q.C., and his relation to the bar. There was a very numerous attendance of Queen's Counsel, but the result of their deliberations was not allowed to transpire.

LORD KINGSDOWN'S BILL RELATING TO WILLS OF PERSONALTY.

The rule of English law which requires that the will of a British subject should, as to the personalty comprised in it, conform to the law of the domicile of the testator at the period of his death, although abundantly fruitful of inconveniences, would have been perhaps a still more prolific source of abnormal results as to the devolution of the property of testators with a foreign domicile, if the exclusive jurisdiction as to wills of personal estate had not been from a very remote period exercised by the Ecclesiastical Courts in England. These courts administered justice according to the rules of the canon and the civil law, and not according to those of the common law. The canon and the civil law form a large por-

tion of the juridical system of the continent; while in Sweden and Norway Ecclesiastical Courts have an exclusive jurisdiction over all testamentary causes. The great and common influence of the canon and civil law upon the jurisprudence of the continent and our own, as to questions of moral duty, intention, relationship, and personal *status*, and especially as to the mode in which personality should be transmitted upon the death of its owner, has thus, in a great measure, deprived the law of domicile of those anomalous results which an extension of the same law to realty would have certainly produced. The natural feelings of affection for relatives, and the boundaries of degrees of kindred, have also tended to mould the jurisprudence of personal rights, both on the continent and in England, so that these do not require the sweeping reforms which the doctrines of tenure have so often urgently demanded. Although, therefore, our law, in construing a will made abroad, regards only the domicile of the testator, while the different countries in Europe take into account not only the law of such domicile, but also the law of the place where the will is executed, yet the actual complications which have arisen by reason of this conflict of laws would probably have been much more intricate but for these features of resemblance to each other which the civil law has impressed upon the testamentary laws of every state in Europe. The devolution of personality, upon the intestacy of its owner, is adjusted in general throughout Europe on principles not very different from those which regulate its administration in like cases in England. The comparative facility with which the law of personal property may be dealt with may be illustrated by the following brief review of its development as regards title by relationship or by will.

At common law the subject had power to dispose only of one-third of his personality, in case he left a wife and issue. The widow was entitled, as of inalienable right, to a third, and the children, in like manner, to the remaining third. If the testator left either his wife or children, but not both, surviving him, then he could dispose of a moiety of his personal estate. This law or custom, which was at first general, became, in the course of time, confined to a few districts, from which it was finally expelled by various statutes; Wales, the province of York, and the City of London being the last to which this change was extended. An oral, or, as it was termed, a nuncupative, will was sufficient, without any writing, to bequeath personal estate, including chattels real, until the Statute of Frauds (29 Car. 2, c. 3) placed nuncupative wills, if they comprised personal estate of upwards of £30 in value, under so many restrictions that from that period they gradually fell into disuse. The last Wills Act (1 Vict. c. 26) has rendered all nuncupative wills invalid except those made by soldiers or mariners, and has prescribed the same forms of execution, as also similar rules of construction, for all wills alike, whether they relate to realty or to personality. The formalities which were always necessary for wills of realty were owing to their statutory origin, no devise of lands being valid at common law. When the Statute of Wills (32 Hen. 8, c. 1) conferred, and the Statute of Frauds (29 Car. 2, c. 3) confirmed, the power of devising lands, these statutes necessarily determined the mode in which alone such a power could be exercised. But bequests of personality having been always allowed—at least, to the extent we have stated—prior to the period mentioned, no document was necessary for such gifts.

As personality is supposed capable of following the person of its owner in a manner that immoveable estate does not admit of, it has been always treated by jurists as regulated by the law of the domicile of the owner, and by the personal status conferred upon him by such domicile, and not by the *lex loci rei sitæ*, unless so far as the forms of process of the latter country require a strict conformity to their provisions. This rule of international law is applicable to contracts *inter vivos*, as well as

to wills relating to personality. The law of domicile has been thus so readily established in the comity of nations by reason, perhaps, of the comparative inferiority, both in value and political importance, of personal property as compared with realty in feudal times. Each country willingly suffered the personality within it to be obedient in this respect to foreign law; since, in so doing, it was cutting off no source of revenue of its own—land at that period bearing, with the exception of heriots, all political and seignorial burdens. But now that legacy duty is made a source of revenue, a consideration of the law of domicile is not without its attractions, for the statesman as well as for the international jurist. The similarity between foreign customs and our own as to the course of the transmission of personal property upon the intestacy of the owner—and, consequently (as express dispositions frequently follow something like the order indicated by law and custom) by his will also—has probably been one of the causes to which an inattention to the unsatisfactory state of the law of domicile is to be ascribed. But the main cause of the omission of this law from all programmes of reform is to be attributed to the recent origin of the state of facts which now so urgently demands a change of this law, both as regards testamentary and consensual rights. Forty years ago, the number of British subjects who resided, or even travelled, abroad was not very considerable. But at the present day the number of British subjects resident or travelling abroad is very considerable indeed. The attention of the Legislature, therefore, has not been too soon directed to the mischievous operation of the law of domicile upon wills relating to personal estate.

Domicile may be defined to be a permanent residence—the home in which a person keeps his heirlooms, if he has any, and all the *indicia* that such is the residence which he wishes to be considered as his official, political, commercial, or social abode. Actual residence with an intent to continue such occupation are, therefore, essential elements of the idea of domicile. But even the bare fact of residence may not in all cases be readily determined so as to afford grounds for applying the law. A gentleman may have various residences on either side of the Tweed, and, like the Lord Chancellor of England, be in doubt in what manner he ought to contract marriage, or make his will, so as to alter the distribution which the law might otherwise possibly make of his property. *Lucanus an Appulus anceps*: the Lord Chancellor recently declared in the House of Lords, with an apparent appreciation of the mazes of the legal Babylon over which he presides, that he did not know whether his domicile was in London or in North Britain. There is really room to doubt whether Lord Campbell is not merely on a visit with us as far as domicile is concerned. The Chancellor, *Cancellarius*, is supposed, indeed, to attend the person of the Sovereign; but such an attendance must not be conclusively presumed to be given at all times, like that of the Lord Chief Justice of England, at Westminster. The mere fact of being a member of the Government would, doubtless, be held not sufficient to determine the place of domicile of such member. If the very poor man have no home, the rich man's home is, on the other hand, sometimes equally uncertain. The main cause of complication in this branch of law, however, is not the difficulty of proving the fact of residence, but the intention to remain. Proof of an intention is always extremely difficult, especially if the intention is to be regarded not as a motive to do a direct act, but the result of a preference, choice, or predilection, which may be influenced by so many circumstances. The reader is aware of the great and varied litigation which has been occasioned by the regard which the law shows to the intention of testators as a means of construing the written instrument.

In questions of domicile the Court is often obliged

to review the whole career of a life, its leading and its petty incidents. After perusing some of the cases which illustrate the complexity of this law, and which have more of interest than of edification as to its juridical completeness, the reader may be tempted to consider this law of domicile as merely an effort to give to "airy nothing a local habitation and a name." Lord Kingsdown on introducing his Bill, stated that the preliminary expense of determining the question of domicile in *Lord v. Colvin*, 7 W. R. 251, amounted to £30,000, and that the validity of the will itself was not yet determined. In *Bremer v. Freeman*, a lady, the daughter of a gentleman who had amassed a large fortune in India, married an Italian gentleman. She went to France in 1842, and in her will which she made there according to the English form, bequeathed a legacy of £10,000 to a person named Freeman. At the time when she made this will her domicile was English, and her will, consequently, good in English law. But it was contended that she subsequently acquired a domicile in Italy, and afterwards in France. The questions raised were, first, whether the will had complied with the forms of the French law, as to execution, attestation, &c.; and, secondly, whether it was so worded as to pass the bequest effectually to Freeman. Eight French advocates were brought over to give evidence as to what the French law was upon this state of facts, and these differed from each other in their opinion of the case. This incident in the suit has perhaps had some influence in suggesting the Foreign Law Ascertainment Bill now before Parliament. After an aggregate expense of £5,500 the bequest was held invalid, although the intention of the testatrix admitted of no doubt.

Lord Kingsdown's Bill, which is now before Parliament, promises to remove most of the difficulties occasioned by the present law of domicile. The first section provides that every will and other testamentary instrument made out of the United Kingdom by a British subject, (whatever may be his domicile at any period), shall, as regards personality, be held to be well executed and admitted accordingly to probate in England or to confirmation in Scotland, if it be made according to the forms required either by the law of the domicile of the testator, or by the law of the place where it is executed, or by the law of any part of the United Kingdom. If then, according to this Bill, an English subject, who is domiciled in France makes in Spain a will, which bequeaths personality situated in England, probate will be granted (if the Bill becomes law), in case the will conform to the law of either of these three countries. As the law at present stands, the law of France alone is material as regards such a will. The second section provides that every will made within the United Kingdom shall be likewise deemed valid, if it be executed according to the terms required by the laws for the time in force in that part of the United Kingdom where it is made. This section appears to have been intended to preclude the assumption that has been often acted upon—of Scotland being a foreign country as regards the devolution of property by the will, or upon the death, of its owner. The third section provides that no will shall be revoked or become invalid by reason of any subsequent change of domicile of the person making the same. This section will prevent a will once valid according to the Act, as, for instance, a will made under the circumstances mentioned in *Bremer v. Freeman*, from being defeated, as might be the case at present, if the testator's domicile at the time of his death was in Russia or Naples. The fourth section provides that the Act is not to invalidate any will which would have been valid if this Bill had not become law, except as such will or other testamentary instrument may be revoked or altered by any subsequent will, &c., made valid by this Act. The fifth section declares that the Act is to have no retrospective operation.

The reader will observe that this Bill will render the

future law of England still more pliant than that of Continental Europe. The latter admits only the law of the domicile of the testator, or of the place where the will was made, but not, it appears, the *lex loci rei sitæ*, as a rule of interpretation, either as to the validity or meaning of the will. This Bill renders the codes of these three districts equally conclusive standards of interpretation as to forms of execution. America, we may add, follows the present rule of English law as to wills made abroad; while Scotland adopts both the criteria allowed in the law of Continental Europe. Any will, good as to realty situated in England, will in future, if Lord Kingsdown's Bill passes, be good also as to personality; and, moreover, it may be sufficient to pass the latter description of property in cases in which it will fail to affect the realty. It is, doubtless, eminently desirable that the law of England should conform to the general law of Europe in this respect, especially as leaseholds are classed in continental jurisprudence as immovable property. Lord Wensleydale, indeed, in his place in the House of Lords denied the existence of any such international law as we have mentioned, and as was stated by Lord Kingsdown; but the merits of the Bill are independent of this question. Questions relating to domicile are likely to recur, notwithstanding this Act, as it only applies to the forms, and not to the rules of the interpretation of wills. Moreover, as regards testators who have resided for any considerable time in India, the beneficiaries under wills made by such will have a motive to show that their testators had acquired a legal domicile there, as in such cases the bequests would not be liable to legacy duty. This rule, it would appear, is not sought to be affected by the present Bill. Lord Wensleydale and Lord St. Leonards have opposed this measure, and it has only received a qualified support from the Lord Chancellor and Lord Cranworth. Lord St. Leonards expressed his disapproval of the measure upon the ground that Englishmen should not be thus encouraged in acquiring foreign domicils. A domicile, indeed, should not, and cannot legally, be changed for the fraudulent purpose of obtaining an advantage by evading the rule of law (3 Meriv. 80). But this objection applies only to acts done in direct violation of the law, and not to efforts to have inconvenient laws altered. Lord St. Leonards' objection is equally applicable to every measure of reform ever yet propounded. It would appear, on the contrary, desirable that a testator who makes his will abroad should be allowed to insert a clause in it to the effect that it should be construed, both as to its validity and meaning, according to the law of any country he might choose—or, at all events, according to the law of England. On the whole, we highly approve of Lord Kingsdown's Bill as a measure of much-needed reform, and one very likely to obviate the difficulties which it is intended to remedy.

It is a patent error to suppose that Lord Kingsdown's Bill in any way conflicts with the principles which have hitherto regulated the comity of nations. These principles have not an unbending force as regards private international law. In fact, the law of domicile itself implies that sovereign States have relinquished their natural territorial rights, and suffered personal property to be exempt from the laws of its *situs*, in order that a testator may not have the trouble of making himself acquainted with the laws of as many countries as he may have property situated in, or to which his commercial transactions may extend. Thus, this law is not a sacrifice of private rights to public law, but, on the contrary, it implies that sovereign States have in this respect varied their prerogatives of determining the devolution of the property situated within their respective territories, and taxing it with legacy duty, &c., in order that the intention of testators may be the more readily carried into effect. No amendment or alteration of this law can, therefore, affect the recognised prerogatives and individuality of sovereign States. Public

law is regulated by very different principles, and is connected in theory with politics rather than with civil law. It sometimes, therefore, becomes necessary that nations should come to an express agreement upon rules of public law, lest any one State should ignore the rights of another. Thus the rights of neutrals were expressly guaranteed a few years ago by the treaty of Paris. But, if all States concurred in an agreement that a will should in all cases be construed according to the domicile of the testator, the result would be that all tourists should make their wills before setting out from home, unless at the imminent risk of having a will drawn according to the law of one country, and interpreted according to the law of another—of having a will drawn in Spain, for instance, interpreted according to the law of France, Italy, or England. As rays of light, when brought into direct collision with each other, may be made to produce darkness, so the result of the conflict of laws in the case we have put would be, doubtless, utter confusion, the probable invalidity of the limitations in the will, and certain expense to the beneficiaries under it. Such an international law would not be an advantage to any State, while it would be a source of direct annoyance to the subjects of each. Indeed, as the public law of Europe at present stands, the law of the domicile of the testator is not the only criterion of the validity of his will. The law of the place where it is executed is equally potent in this respect. Now, how can the law of domicile be considered as of settled international force, since it can be evaded by the sojourn of a testator for a single hour in a foreign land? That the present law of every State in Europe is to this effect admits but of little doubt. The 999th section of the *Code Civile* expressly recognises the law of the place where a will is executed, as well as the domicile of the testator, as a criterion of the validity of the instrument. Lord Kingsdown's statement, that the law of all Europe corresponds with this enactment, is, therefore, upon this ground, as well as its intrinsic authority, exceedingly likely to be correct. We think, therefore, that his Bill, while it cannot conflict with any international rule of policy, is eminently recommended by its positive merits.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn,
Barrister-at-law.)

X. (Continued.)

In a case such as *Somerville v. Somerville*, which we are now considering, of course, the evidence was the guide to determine the question, and so far as the expressions of the intestate could be collected, this was of a somewhat conflicting character, for he had been heard to regret that he was not more in Scotland, and yet spoke of his connections and education being English, and seemed to have a leaning towards England. As the case was argued, the question was made with regard to the two countries only, England and Scotland, although he had certainly resided in other countries; but that was merely whilst on service, and that seemed to be assumed to be immaterial on the question of domicile. This might be considered more the case of two equal domiciles, than of residence in various countries; but when investigated the difference of conduct with respect to each appears to be sufficiently great to bring it within the heading of this chapter, as the principle governing those cases was certainly that gone upon in this. The rules of the civil law, "*Ubique Larem rerumque ac fortunarum suarum constituit*," and "*Eam domum unicuique nostrum debere, existimari, ubiqueque sedes et tabulas habere, suarumque rerum constitutionem faceret*."—Cod. Lib. 10, tit. 39, l. 7; Dig. lib. 50, tit. 16, l. 203, were fully recognised; and *Somerville House* in Scotland being undoubtedly

his principal establishment, Scotland was held to be his domicile. Three great rules were then laid down by the learned judge which have ever since been recognized, and are now acted upon, namely, first, that the succession to the personal estate of an intestate is to be regulated by the law of the country in which he was a domiciled inhabitant at the time of his death. Secondly, that although for some purposes there might be two domiciles, yet for the purpose of succession a man can have but one. And, thirdly, that the domicile of origin must prevail, until the party has acquired another by actual abandonment as well as acquisition. From these propositions, the following deductions flow; that in considering the domicile, the place of birth or death, or the situation of the property, does not affect the domicile, but the *animus* and *factum*. That it is absurd to suppose two domiciles to be co-existent for the purposes of succession, and that the domicile of origin, although it may be the domicile of birth, is not necessarily so.

From what has been observed, I think it follows, that whatever difficulty there may be in determining the question of domicile where the habits of the individual have been so desultory as to bring the circumstances attending his movements in many different countries into question, yet, if the principles upon which the courts act be well and clearly understood, there is little or no difficulty in applying them. Cases of this kind depend very much upon the evidence, and peculiarly require every particle of information to be brought forward that can possibly be obtained. If the evidence is sufficiently distinct and full, of course the difficulty is lessened, if it be scanty, or, as is sometimes the case, almost wholly wanting, the chief difficulty is to consider the *probabiles conjecturae*, as so much must necessarily be presumed, and in doing this, it often happens that there is a balance of probabilities, and no doubt very difficult questions might thus arise; but where there is really such evidence as distinctly shows the course of a party's whole life, if the principles be understood and kept in mind the inference must follow. There is scarcely a single case in which the rules applying to the whole subject have not, to a certain extent, been brought into discussion, and therefore, however we may sub-divide, and endeavour to classify and systematize the different branches, much will be found in each applying to the other, and it is only for the greater convenience of immediately turning to such points as especially apply to a particular branch that a classification is adopted. As the most important questions of domicile arise upon the residence in various countries, I have devoted more considerable space to that portion, but the general law will be more properly found under the consideration of what actually constitutes a domicile.

I must now refer to one or two modern cases too important to omit considering. In *Hoskins v. Matthews*, (20 Jur. 196; 26 L. T. 110, and 4 W. R. 216), Robert Matthews was born at Bath in 1778; became a captain in the Swedish service, and in 1810 returned to England, where he married an English lady, and remained in England until 1822, when he was appointed to the British Consulate in Spain, and resided at Cadiz. He was afterwards consul in Portugal, and returned to England in 1833, living upon a retiring pension of £500 a-year, to continue until he should be re-employed; which never happened, and he received his pension until his death. From 1833 until 1838, he lived in England; in 1834, 1836 and 1837, he made visits to the Continent for the education of his children, and for his own health; but he never had any house of his own in England, but lived in lodgings at Bath, and in London, and it appeared that he had once contemplated purchasing an estate in England. In 1836 he was attacked by a spinal disease, and in 1838, his wife died at Worthing, where he then was, but which place he then left and determined to go abroad to take the

baths in Germany, where he travelled and went to Florence, stayed a month, and proceeded to Naples and Rome, returning to Florence in the Spring of 1839, living at hotels for a few weeks, and then purchased a villa called the Villa Lorenzi with the furniture, gardens, &c., for £2,800. A correspondence took place between Robert Matthews and his solicitor, which was in evidence, showing his attachment to England, in which this passage occurred, "he supposed that Mr. Turner had not found a house for him, or he would have mentioned it." Until the 30th of July, 1850, he resided at Florence, except three or four months, which he passed in England, and from 1846 till and exclusive of 1850, he annually visited the German baths. At different times he purchased and endeavoured to purchase land at Florence, and in the mountains of Tuscany for change of air, where he also obtained oil. His health, however, declined; and being attacked by paralysis, he went to England and consulted Sir Benjamin Brodie, who strongly advised his return to Florence. The letters written by him sometimes spoke of Florence as "his home," but on another occasion he said, "my mind is on a spring cable looking towards England." In August, 1843, he made a Tuscan will, and thereby disposed of his Tuscan property; and alluded to his being buried there. This instrument was executed according to the law of Tuscany; but on the 24th of July 1846, he made an English will not valid according to the law of Tuscany, whereby he disposed of property not in Tuscany for the benefit of his younger children, on condition that they did not interfere with his Tuscan will. His property consisted of £60,000 stock in the English funds, French Rentes, in the Dutch funds, and English railway shares; and having no real property except the Villa at Florence; he had three bankers in London, and deposited his papers and the English will with Mr. Turner in England.

The testator had eleven children, most of the sons and one daughter being educated in England, for which he seemed to entertain a great attachment, being a Protestant, and greatly disliking Roman Catholics. He had no business in Tuscany, and was never naturalized there, but had permission to reside paying the tax upon foreigners, and said he would return to England had his health permitted. Probate of both wills was granted by the Prerogative Court of Canterbury; and the question was whether the domicile of Matthews when he executed the two wills and at the time of his death was English or Tuscan? This case, it must be admitted, presents almost as great a complication of circumstances as can be imagined, and no doubt there was great difficulty in applying the well-known principles of the law of domicile to it, and after a very elaborate discussion and able arguments, Vice-Chancellor Wood thought that the testator had lost his English and acquired a Tuscan domicile. This decision being appealed from, Lord Justice Turner acquiesced in that opinion, and decided accordingly, and although Lord Justice Knight Bruce differed from him it had the effect of affirming the judgment of the court below. This difference of opinion in the case of such eminent judges not only shows the extreme difficulty raised by the circumstances and conduct of the party, but leaves it the more open to comment; and some observations made by Lord Justice Turner are worthy of special reference. His lordship said that it was a case which turned upon the *animus* of the party; and no doubt, the purchase of a Florentine villa and land in Tuscany were strong circumstances in favour of the acquirement of a Tuscan domicile, more particularly when such act was further confirmed and strengthened by the fact of residence; for there were both the *animus* and *factum* the two necessary ingredients to the acquirement of a new domicile. On the other hand, there was much to show that he had an hankering after his native country, and added to the circumstance of the

extent and position of his property in England, it might be a question whether some act, showing a clear intention to abandon the Tuscan domicile would not have operated as a reverter of his English domicile of origin; but the thing favouring such a reverter was the coming to England for medical advice, and the attempt he had evidently been making through his confidential adviser Mr. Turner, to obtain a residence in England. There was, therefore, very much to support the decision come to; but when it is considered that so able a lawyer as Lord Justice Knight Bruce was of a contrary opinion, or rather did not concur in the opinion arrived at by his coadjutor, it naturally tends to a consideration of the conclusiveness of the result arrived at. As is usually the case where one judge of appeal (out of two) differs from the other, the dissentient seldom thinks it requisite to express reasons in detail for such non-concurrence, but in the case before us, two expressions used by the learned judge of appeal who did express his opinion might be grounds *inter alia* for such non-concurrence. The expressions I refer to are, that the case turned "upon the question of *animus*," and that the case was "not one of compulsory residence on account of ill-health." I shall not comment on these expressions, but leave them to the consideration of the learned reader; and refer him to the case of *Johnstone v. Beattie*, 10 Cl. & Fin. 42 & 139. In *Bremer v. Bremer*, (1 Deane Eccles. Rep. 192. General Calcraft, an officer in the East India Company's service, being resident in the West Indies in 1795, a daughter (the party in question) was born there. In 1805 she came to England in company with her mother and sister, her father subsequently coming to this country also, and they all resided together until 1825, when her mother dying, she left England and went to France with her governess, proceeded to Rome, and other parts of Italy, and it was said, that whilst in Italy she had married an Italian named Allegri; but this fact rested only upon the evidence of the party herself oral and written, which fixed the event as having taken place in 1830, but it was not communicated to her relations until 1840 or 1841, when her father was no more, he having died in 1835. In 1840, her sister, who at the death of her father had gone to reside with her in Paris, died, and she then went by the name of Allegri; her sister having denied that such marriage had ever taken place. She then resided in Paris for fifteen years in furnished lodgings in the *Boulevard des Capucines*, and elsewhere renewing from time to time the terms of three or six years for which she held those apartments, where she died in September 1853, having purchased a grave in the cemetery of *Père La Chaise*, in which her sister was buried, and where she wished her own remains to be deposited. The apartments in Paris were furnished with her own furniture, and she adopted the religion of the country, Roman Catholicism; but she never obtained letters of authorization from the French sovereign. With respect to the alleged marriage, it appeared that, upon being pressed by Mr. Freeman, her solicitor, with respect to the fact upon the transaction of some legal business, she was considerably agitated, and she admitted to him that she was not married; although in her will she described herself as "Fanny Allegri nee Calcraft," and executed the will in the same words. By this instrument she dealt with £300 per annum which she possessed in India, considerable property in England; and except some charitable legacies to institutions in Paris, the will which was made in English disposed of all this property in favour of English persons, and appointed English executors. Upon these facts the questions were in what country the deceased was domiciled when she made her will, and at the time of her death, and what the nature of her domicile, and the legal effect thereof was upon her testamentary acts.

(To be continued.)

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.

(Sittings in Banco before Lord Chief Justice COCKBURN, and Justices CROMPTON and BLACKBURN.)

April 27.—*Stephenson, app. v. Taylor, resp.*—This was a case stated by Mr. G. O. Elliott, one of the police magistrates of the metropolis, for the opinion of this Court, as to whether volunteers in uniform, returning from drill, in a cab, were liable to pay toll at a turnpike-gate.

It appeared that on the 2nd of June last the 1st Surrey Rifles were assembled at Kennington, by regimental orders, for "marching out drill," and were afterwards dismissed at the head quarters of the regiment at Hanover-park, Peckham. One Mr. Hodgkins and two other members of the corps then hired a cab, and proceeded towards home, and to do so it was necessary to pass through Kennington-gate. There was no one else in the cab, and the three volunteers were dressed in their uniform, and had their arms and accoutrements, according to the regulations of the corps. The toll collector, Taylor, demanded 3d. for toll, and Hodgkins claimed exemption; but, as the collector refused to allow the exemption, Hodgkins paid the amount demanded. The collector having been summoned by Captain Stephenson, the commander of the corps, for illegally demanding toll, the magistrate decided that the exemption claimed did not extend to carriages used by members for their own private ease and convenience, but was limited to carriages performing some public duty requiring the use of a carriage. He accordingly declined to convict the toll collector, and Captain Stephenson appealed to this Court.

Lord Chief Justice COCKBURN said he thought the decision of the magistrate was erroneous: that he ought to have decided in favour of the complainant, and that the case should be remitted. His Lordship was of opinion that if a carriage was *bonâ fide* employed in the conveyance of volunteer infantry to their place of exercise, or in bringing them back, it was entitled to exemption; but a carriage in order to enjoy that immunity, must be employed, his Lordship would not say exclusively, but substantially, for the conveyance of volunteers. The mere fact of volunteers riding in a vehicle plying for hire, and not exclusively used for volunteers, would not entitle it to exemption. On the other hand, where a carriage was hired and used for the carriage of volunteers, his Lordship did not think that the mere accidental circumstance that another person rode without paying for his seat would deprive the vehicle of exemption from toll. But the mere fact of volunteers riding in a carriage plying for hire would not entitle it to exemption.

Mr. Justice CROMPTON, and Mr. Justice BLACKBURN, were of the same opinion.

The business of this Court has been very seriously interfered with in consequence of the absence of one of the judges at the Divorce Court. On the 25th ult. the Bail Court did not commence business until 12 o'clock, because Mr. Justice Wightman was sitting in the Divorce Court. On the 26th ult., Mr. Justice Hill sat in the Nisi Prius Court at Guildhall, because Mr. Justice Wightman, whose turn it was to have sat in that Court, was sitting in the Divorce Court; and Mr. Justice Hill was compelled to close the Guildhall Court before two o'clock, in order to attend at chambers, because Mr. Justice Wightman was sitting in the Divorce Court.

COURT OF COMMON PLEAS.

(Sittings in Banco, Easter Term, before Lord Chief Justice ERLE and Justices WILLES and BYLES.)

April 26—*Cahill v. London and North-Western Railway.*—This was an action brought by the plaintiff, who is a commercial traveller, to recover the value of a box of samples of perfumery and other articles. The box was put into a luggage van as the personal luggage of the plaintiff and was lost in the transit. It was covered with a black cover and legibly on the outside marked "glass." The defendants contended that the box was not personal luggage but merchandise, and that as they were not paid for its conveyance they were not liable to make good the loss. At the trial of the action in 1858 a verdict was found for the plaintiff, subject to a special case for the opinion of the Court.

The LORD CHIEF JUSTICE was of opinion that the defendants were entitled to the judgment of the Court. The action was brought by a passenger who took a passenger's ticket

and who complained of a breach of duty on the part of the railway company in losing his luggage; but the article lost was merchandise entirely, and did not contain anything which came within the description of personal luggage.

Mr. Justice WILLES and Mr. Justice WILDE concurred.

COURT OF EXCHEQUER.

(Sittings in Banco, before the LORD CHIEF BARON, and Barons MARTIN, BRAMWELL, and WILDE.)

April 30.—The honorary post of tubman in the Court of Exchequer, which carries with it a right of pre-audience, as well as a particular seat or "pew for one," having been resigned by Mr. Ogle, of the Home Circuit, Mr. Charles Pollock, who had been appointed to succeed him, was requested by their Lordships, at the sitting of the Court this morning, to take his seat within the tub accordingly.

MIDDLESEX SESSIONS.

May 1.—The May general sessions of the peace for the county of Middlesex commenced this morning at the Sessions-house, on Clerkenwell-green, before Mr. Bodkin, assistant-judge; Mr. Payne, deputy; Mr. Pownall, chairman of the bench, and a large number of magistrates.

Mr. Locke, Q.C., has been appointed recorder of Brighton, which office became vacant by the resignation of Mr. Edwin James, Q.C.

Her Majesty has been pleased to appoint Mr. Sholto Pemberton to be Chief Justice of the island of Dominica.

Mr. George Osgood, Registrar of the Sheriff's Court, Guildhall-buildings, Basinghall-street, London, and of 24, Chalcoot-villas, Adelaide-road, Haverstock-hill, Middlesex, has been appointed a London Commissioner to administer oaths in the High Court of Chancery, the Courts of Queen's Bench and Common Pleas.

Parliament and Legislation.

HOUSE OF LORDS.

Friday, May 3.

THE BANKRUPTCY BILL.

On the motion of the LORD CHANCELLOR that their lordships should go into committee on this Bill,

The Earl of DERRY moved that the Bill be referred to a select committee. He began amidst some laughter by alluding to a statement he had seen with surprise that the Government had, compelled by his "powerful influence," agreed to allow this Bill to go into a select committee, and disclaimed the idea that any question connected with this Bill could be a party question. He made this motion because he thought it better that the Bill should be considered by a small and select number of their lordships rather than in a full House, where it could not receive the attention it deserved. (Left speaking)

HOUSE OF COMMONS.

Friday, April 26.

COUNTY COURTS PROCEDURE.

Mr. M'MANON moved for leave to bring in a Bill to consolidate and amend the statutes relating to the procedure of county courts.

Leave given, and Bill brought in, and read a first time.

LAW OF FOREIGN COUNTRIES.

The amendments to this Bill were considered and agreed to.

Wednesday, May 1.

RECOVERY OF DEBTS BILL.

On the motion for going into committee on this Bill,

Mr. M'MANON moved, as an amendment, that the House should resolve itself into committee upon that day three months. He stated that the Bill had been brought forward without the authority of the law officers of the Crown. If such a Bill were to be introduced at all it ought to apply to all courts, and should be extended to Ireland.

Mr. HODGKINSON supported the Bill.

Mr. MELLOR and Mr. MONTAGUE SMITH, opposed.

Mr. HADFIELD supported.

Mr. ROEBUCK appealed to the Secretary of State whether piecemeal legislation of this description was not very injurious to the law of England. Alterations such as those now proposed ought to have the sanction of the law officers of the Crown, and to be brought forward under their responsibility. Moreover, the Bill was based on a false assumption—namely, that every debtor was a rogue, and every creditor an honest man.

Mr. COLLIER also thought such a Bill, if introduced at all, should come before them upon the authority of the Government.

Mr. HENLEY opposed the Bill. He had a weakness for trial by jury, and did not wish to see a system of trying cases by affidavit introduced into our courts of law. It would only tend to encourage hard swearing.

The House then divided, and the numbers were—

For going into committee	...	...	...	23
Against	...	...	...	121

Majority 98

The Bill was therefore lost.

CONSTRUCTIVE NOTICE AMENDMENT BILL.

Mr. WALPOLE said that he had been so much struck by the remark which had fallen from the hon. and learned member for Sheffield as to the necessity for all reforms which affected the administration of law and equity being proposed with the sanction and authority of the law officers of the Crown, that, as he was informed by the Attorney-General that there were many parts of this Bill—although it contained only one clause—which would require much and careful consideration, he would, instead of moving that the speaker should leave the chair, propose that this Bill, the object of which was to alter a rule of the courts of equity, should be referred to a select committee.

After a few words from Sir F. GOLDAMID, who had given notice of his intention to move the rejection of the Bill,

The order for the committal of the Bill was discharged, and it was ordered to be referred to a select committee.

Thursday, May 2.

CRIMINAL PROCEEDINGS OATH RELIEF.

Mr. LOCKE moved for and obtained leave to bring in a Bill to give relief to persons who may refuse or be unwilling from alleged conscientious motives to be sworn in criminal cases.

PENDING MEASURES OF LEGISLATION.

A BILL TO ENABLE THE COMMISSIONERS OF HER MAJESTY'S WORKS TO ACQUIRE A SITE FOR THE ERECTION OF COURTS OF JUSTICE, AND OF THE VARIOUS OFFICES BELONGING TO THE SAME.

1. This Act may be cited for all purposes as "The Courts of Justice Building Act, 1861."

2. The persons for the time being occupying the offices of Commissioners of her Majesty's Works and Public Buildings shall be incorporated for the purposes of this Act by the name and style of "The Commissioners of her Majesty's Works and Public Buildings," and by that name shall have perpetual succession and a common seal, to be by them from time to time altered as they think fit, with power to hold lands for the purposes and subject to the provisions of this Act.

3. The purposes of this Act are the acquisition in the same neighbourhood of a convenient site for the accommodation of the Superior Courts of law and equity, the probate and divorce Courts, and the Court of Admiralty, and the various offices connected with them, and of such other courts and offices for the public service as may from time to time be prescribed by the Commissioners of her Majesty's Treasury, and the erection on such site of suitable buildings, with all proper furniture and conveniences, and the constructing and doing such works and things as are conducive to the attainment of the above purposes, or any of them, or incidental thereto.

4. Gives power to commissioners to purchase lands.

5. Gives power to commissioners to enter on lands.

6. Incorporates Lands Clauses Act with this Act.

7. Errors in plans not to affect commissioners' powers.

8. Relates to the extinction of rights of way and other easements.

9. The limit for the compulsory purchase of lands under this Act shall be five years.

10. Gives power to commissioners to execute works.

11. No purchases to be without the authority of the Treasury.

12. Notices may be given on behalf of commissioners by their solicitor or secretary.

13. Orders concerning money paid into court may be made at chambers.

14. Imposes penalty for obstructing commissioners.

15. No deed, bond, or other instrument made for the purposes of this Act shall be subject to any stamp duty.

16. Directs that deeds be enrolled in Court of Exchequer.

17. Plans signed by Commissioners of Treasury to be deposited in the office of works, &c. and to be open for inspection on payment of a fee of one shilling.

Recent Decisions.

EQUITY.

LIABILITY OF WIFE'S SEPARATE ESTATE TO DEBTS.

Johnson v. Gallagher, L. J., 9 W. R., 506.

In *Owens v. Dickinson*, Cr. & Ph. 48, certain freehold property was, by settlement made on the marriage of M., conveyed to two persons to such uses as she should by deed or instrument in writing or by will from time to time appoint, and in default of appointment in trust to permit her to receive the rents and profits for her life, for her sole and separate use, independent of her then intended husband, and after her death to the use of her son by a former marriage, T., and his issue, with remainder over. By the same settlement certain stock in trade, furniture, and other effects of M. were assigned to the same persons, in trust for her sole and separate use during her life, and after her death for T. absolutely. Part of the property included in the settlement consisted of a freehold public-house, with the fixtures and furniture thereto belonging. After the marriage M. agreed with the plaintiff that he should take the public-house as her tenant, at a yearly rent, and should purchase the license, fixtures, &c. for £210, and that on his quitting the premises this sum should be repaid to him. A memorandum to this effect was signed by M. The plaintiff occupied the premises until after the death of M., which happened in the lifetime of her husband. By her will, duly executed under the power, M. appointed her real estate to trustees upon trusts for the benefit of her son T. and other persons, and she charged her real estate with the payment of her debts. Upon quitting the premises, the plaintiff claimed the £210 as due to him from the estate of M., and brought this suit to enforce payment. Lord Chancellor Cottonham, in giving judgment, said that M., having signed a document which recognized the £210 as a debt which, in certain circumstances, she was to be liable to pay, made her will charging all her debts upon property which she had power to dispose of. The document which she had signed alone would have been operative upon M.'s separate estate, "but not by way of the execution of a power," although that expression had been inaccurately used in cases where the Court had enforced the contracts of married women against their separate estate. "It cannot be an execution of the power, because it neither refers to the power nor to the subject matter of the power; nor, indeed, in many of the cases has there been any power existing at all." Besides, claimants under such instruments would be paid *pari passu*, whereas, if the instruments took effect as appointments, they would rank according to their dates. Again, the transaction had been treated as "a disposing of the particular estate;" but the contract was silent as to the separate estate, and it was not consistent with correct principles to say, that a contract to pay was to be construed into a contract to pay out of a particular property, so as to constitute a lien on that property. His Lordship considered the view taken by Lord Thurlow in *Hulme v. Tennant* (1 B. C. C. 16), to be more correct. "According to that view, the separate property of a married woman being a creature of equity, it follows that, if she has a power to deal with it, she has the other power incident to property in general, viz. the power of contracting debts to be paid out of it; and, inasmuch as her creditors have not the means at law of compelling payment of those debts, a court of equity takes upon itself to give effect to them, not as personal liabilities, but by laying hold of the separate property, as the only means by which they can be satisfied." His Lordship then went on to notice the argument which had been urged upon him, that a married woman could not be considered as having creditors, and, therefore, that the direction in her will for payment of them could not be carried into effect. "But," said he, "all

the cases suppose she can have creditors." Upon the case before him he held the debt to be proved, and as by her will the testatrix had charged her separate property with the payment of her debts, therefore the liability of the separate property to pay this debt was established. But there must be an inquiry as to other debts, "and the authorities were very vague as to what were to be considered debts in this sense." It seemed strange that there should be any difference between a contract in writing and a verbal promise to pay, but upon that point his Lordship gave no opinion.

This case was followed by *Tullett v. Armstrong*, 4 Ben. 319, in which a married woman was entitled, for her separate use for life, to a copyhold and leasehold estate, subject to a prior life estate. There was no restraint against anticipation. The husband granted an annuity on the wife's life, and he assigned the leaseholds and covenanted for the surrender of the copyholds to secure the same. The wife executed the deed, but neither joined in the operative part, nor in the covenants. The tenant for life had died, and the validity of the charge on the wife's separate estate was now disputed. Lord Langdale said that, if the wife had been a covenanting party, this deed would clearly have created a charge upon her separate estate; and even if the deed had recited an agreement that she should be a surety for her husband, and that her separate estate should be made liable to the annuity, he apprehended that the deed would have bound the wife's separate estate without formal words. His Lordship went on to say, "it is perfectly clear that when a woman has property settled to her separate use, she may bind that property without distinctly stating that she intends to do so. She may enter into a bond, bill, promissory note or other obligation, which, considering her state as a married woman, could only be satisfied by means of her separate estate; and, therefore, the inference is conclusive that there was an intention, and a clear one, on her part, that her separate estate, which would be the only means of satisfying the obligation into which she entered, should be bound." On the case before him Lord Langdale held that, though the wife was a party to the deed, there was nothing in it which showed, on her part, an intention to bind her separate estate, and therefore such estate was not bound by it.

In the later case of *Vaughan v. Vanderstegen*, 2 Drew. 165; s. c., 2 W. R. 293, Vice-Chancellor Kindersley stated his view of the law thus:—"The engagements and contracts of a married woman, having property settled to her separate use, at least such of them as are in writing, are to be regarded as debts, or in the nature of debts, and her property so settled is liable to the payment of them as such; and this principle is entirely founded on the doctrine of courts of equity by which she is constituted a *feme sole* as to that separate property. It has not yet, indeed, been made the subject of positive decision that the principle embraces her verbal engagements or cases of common assumpsit." His Honour went on to notice the observation of Lord St. Leonards, that the prevailing opinion about 1845 was that the wife's separate estate was not liable to general demands upon her, and he stated his own expectation that when that question arose it would be decided in the affirmative.

Without attempting to refer to the numerous older cases on this subject, we think we shall have said enough to show how this important question stood when a case depending on it came lately before the Lords Justices. In this case of *Johnson v. Gallagher*, the plaintiff was the assignee of certain upholsterers at Liverpool, who, previous to 1856, had been in the habit of supplying goods to the defendant Jane Gallagher, knowing that she was a married woman living at Liverpool separate from her husband, who lived at Manchester. The whole amount due in respect of such goods was paid by Mrs. Gallagher. In 1856 a deed of separation was executed between Mr. and Mrs. Gallagher and a trustee, whereby, after reciting that Mrs. Gallagher had for some time past been carrying on, in her own name, with the assent of her husband, the business of a wine merchant at Liverpool, and that they had agreed to live separately, it was witnessed that Mr. Gallagher assigned to the trustee all the money, stock in trade, &c., which Mrs. Gallagher had acquired, and all debts due in respect of the said business, to hold the same upon trust for such persons and for such purposes as Mrs. Gallagher should, notwithstanding her coverture, appoint; and in default of and until such appointment, and so far as the same should not extend, in trust for Mrs. Gallagher for her sole and separate use. Subsequently to this deed the same upholsterers supplied Mrs. Gallagher with goods and received from her sums on account, leaving a large balance due to them. Mr. Gallagher died in 1858, and in 1859 the upholsterers' assignee filed a bill against Mrs. Gallagher and the trustees to recover the above

balance out of what had been the separate property of Mrs. Gallagher. Subsequently to the filing of the bill Mrs. Gallagher executed a bill of sale by which the whole of the property to which she was entitled under the separation deed was assigned to a mortgagee, to secure previous advances.

Lord Justice Knight Bruce, in giving judgment, said that Mrs. Gallagher did not become indebted for the goods furnished to her, for she was incapable of any such contract during the marriage, and she did not so contract after her husband's death. If she had never been a married woman, and the other facts had been as they were, she would not have become indebted to the furnishers of the goods on a written contract, or otherwise than simply for the price of goods sold and delivered. If it was necessary for the plaintiff to prove an express mortgage, or appointment, direction, agreement, or declaration of Mrs. Gallagher, charging, or purporting, professing, promising, or contracting to charge, her separate property, his case had failed; for there was no documentary evidence, and the other evidence, if writing were assumed to be unnecessary, appeared to his Lordship to be of no account. The plaintiff's case, therefore, must rest on the mere fact that when Mrs. Gallagher bought the goods she was a married woman having separate property and living apart from her husband, who was not liable to the sellers. "Such a state of circumstances," said his Lordship, "whether the sellers, when selling, were aware or unaware that she had property settled to her separate use, is, in my judgment, insufficient to charge her or it." We see, therefore, that the Lord Justice has distinctly declined to make the farther step, beyond the cases to which we have referred, of holding that a married woman can make her separate estate liable without writing and by the mere contracting of a debt under circumstances which would probably raise in ordinary minds the inference that credit was given to her in respect of that separate estate.

Lord Justice Turner stated in an elaborate judgment the reasons which led him to an opposite conclusion. After referring to the cases which showed that the bonds, bills of exchange, and promissory notes of married women were payable out of their separate estates, he said that it had been a more disputed, and was a more doubtful, question, whether the separate estates of married women were liable for their general engagements, such as tradesmen's bills, and claims of that description. Looking at this question without reference to authority, it was difficult to see upon what ground debts of this class could be distinguished from debts of the class before referred to—what distinction there could, for this purpose, be between debts by specialty and debts by simple contract; and, still more, what distinction there could be between simple contract debts of different descriptions. And if no sound distinction could be drawn between the different classes of debts, the authorities which applied to the one class must, as it should seem, govern the other. It was true there had been three decisions that the consideration money paid to a married woman for the purchase of an annuity void under the statute could not be recovered against her separate estate; but then the right to recover such consideration money proceeded upon an implied assumpsit independent of the actual contract, and it might well be that equity would not follow the law to that extent, although it would hold the separate estate liable for the married woman's actual engagements. After referring to the later cases his Lordship said, "The weight of authority, therefore, seems to me to be in favour of the liability; and I think, too, that the principle on which all the cases proceed—that a married woman, in respect of her separate estate, is to be considered as a *feme sole*—is also in favour of it; and upon the whole I have come to the conclusion that not only bonds, bills, and promissory notes of married women, but also their general engagements, may affect their separate estates, except so far as the Statute of Frauds may interfere, where the separate estate is real property. I am not prepared, however, to go the length of saying that the separate estate will, in all cases, be affected by a mere general engagement. . . . There must be something more than the mere obligation which the law would create in the case of a single woman. What that something more may be must, I think, depend in each case upon the circumstances. What might affect the separate estate in the case of a married woman living separate from her husband might not, as I apprehend, affect it in the case of a married woman living with her husband. What might bind the separate estate if the credit be given to the married woman would not, as I conceive, bind it if the credit be not so given. . . . According to the best opinion which I can form on a question of so much difficulty, I think that, in order to bind the separate estate by a general engagement, it should appear that the

engagement was made with reference to and upon the faith or credit of that estate, and that whether it was so made or not is a question to be judged of by this Court upon all the circumstances of the case.*

Applying these principles to the facts of the case before him, his Lordship observed that Mrs. Gallagher, at the time when the goods were furnished, was living separate from her husband, and the evidence showed that the tradesmen who supplied the goods believed that she had separate estate, and dealt with her upon that assumption. So far, therefore, as they were concerned, the dealing was on the footing of separate estate. How was it on the part of Mrs. Gallagher? She was living separate from her husband and had separate estate; "and I think that when, under such circumstances, a married woman contracts debts, the Court is bound to impute to her the intention to deal with her separate estate, unless the contrary is clearly proved. The Court cannot impute to her the dishonesty of not intending to pay for the goods which she purchases. The circumstances preclude the inference that she expected her husband to pay; and in this particular case it is impossible that she could so intend, as she was actually supporting her husband. How, then, could she intend that the payment should be made otherwise than out of her separate estate?"

As the result of this lucid and instructive argument, Lord Justice Turner held that there was a contract affecting the separate estate; but he further held that the separate estate had been taken out of the reach of this contract by the bill of sale executed by Mrs. Gallagher after her husband's death, and after bill filed, to a mortgagee. His Lordship thought there was power to assign, notwithstanding the bill filed, and there was sufficient consideration for the assignment; and the legal title being in the mortgagee, and there being possession under it, the Court could not disturb his title. It appeared that this bill of sale was given to secure previous advances, but it did not appear that these advances were made during the existence of the separate estate, nor did the Lord Justice proceed on the supposition that they were so made. The observation, therefore, suggests itself that Mrs. Gallagher on her husband's death became entitled to hold what had been her separate property as a *feme sole*, and to alienate it so as to confer a legal title; but she only acquired this right through the intervention of equity, and therefore it might perhaps have been expected that equity would not allow her to defeat claims on what had been her separate estate by the exercise of a right which equity had conferred upon her. Upon this point we could have wished for a further explanation of the reasons which led the Lord Justice to a conclusion different from that of the Vice-Chancellor of the County Palatine of Lancaster, from whose court the appeal came. The property in question in this case was personalty, and as a gift of personalty to separate use confers upon the married woman the power of absolute disposition, the right of her creditors, if they have a right, would appear to be coextensive with her interest. But where a married woman has a separate estate for life in realty, and has also a power of appointment over the fee, the reason which would make such life estate liable to her debts, does not appear applicable to the fee. The case of *Owens v. Dickinson*, from which we started, suggests this difficulty under one of the many aspects which it assumes according to the nature of the limitations which accompany the power given to the wife. Perhaps on another occasion it may be worth while to examine this branch of the subject in reference to the three classes of cases upon powers enumerated by Lord Justice Turner in the judgment from which we have so largely quoted.

Correspondence.

THE NEW LAW LIST.

Your notice of the *Law List*,* induces me to call your attention to a very unaccountable omission in the volume just published, which seems to have escaped your attention. The *Law Lists* for former years contained a list of the perpetual commissioners under the Fines and Recoveries Act in London and its vicinity, which I need hardly say was of great convenience (see *Law List*, 1860, p. 708). Now, in the *Law List* for 1861 this list is *entirely omitted* (see index at p. 947). According to the advertisement at the commencement of the book the publishers announce that the information is supplied "by inserting the words 'perp. com.' against the name of each

perpetual commissioner in the list of London attorneys," which is of course a very different thing, and fails to supply what is really needed. But what are we to think of the useless and bungling manner in which this has been done when we find, on comparing the list of perpetual commissioners in 1860 with the names of London attorneys in 1861, that in no less than 20 instances in a list of 119 names the words "perp. com." are left out.
A SOLICITOR.

Observing in a recent number of the *Solicitors' Journal* a review of the new *Law List*, I would call your attention, and through you that of the compiler, to an important defect which exists in it. It appears to be the practice of some solicitors to insert their names as practising attorneys at places where they have no regular offices, but only give a casual and perhaps irregular attendance. At first sight this may seem a matter of no moment, and it is so to residents in the districts in question who know all the circumstances of each case. To correspondents at a distance it is, however, a very serious inconvenience, and may be attended with loss. It was but the other day that a telegram was addressed to a firm professedly practising here, but who live many miles away. As a matter of course, it was impossible to deliver the message, the expense of which was simply money thrown away. We have, according to the *Law List*, several practising attorneys in this place, whereas in point of fact the last firm in the list alone have offices, and are, in the common acceptance of the term, in practice in the place. If a plan could be devised for preventing such an abuse of a list coming out with an official sanction for the future, it would greatly add to the utility of the work.

SUBSCRIBER.

LAW STUDENTS' DEBATING SOCIETY.

Although I cannot vaunt of having borne the brunt of the world for half-a-century, I can say this subject has drawn me from a privacy I have heretofore maintained, being content as a silent observer, unless a hardship is, or attempted to be, exercised; and when one undertakes a task he must or should have a preconceived idea that he would be enabled to carry it out; and having drawn attention to the exclusive rule of the above society, I harboured the idea that it might have some consideration from its members; but having no desire to "indulge in the luxury of a paper controversy," especially when it can terminate in no beneficial or satisfactory result to the claims I can but faintly and inadequately advocate, I at once throw up the gauntlet, although I cannot but feel that a jury would have given me a verdict, and condemned the Treasurer in costs.

A man who yields against his will
Is of the same opinion still.

A few words more, and I have done. I was not aware, before being informed by "The Treasurer of the Law Students' Debating Society," of the "great liberality," in a pecuniary point of view, of the Council of the Incorporated Law Society, by granting them the use of one of their arbitration rooms, fire, gas, &c., with access to "their valuable library," being only compensated by compulsory contributions to its funds. Having a regard to their own interests, most assuredly a very proper and laudable condition; but can it be called "liberality"? The Treasurer will, I know, allow me to correct him as to my setting "so little value" on the library, as I did not—neither did I wish to—depreciate its value, but rather question its use to individual members. And again, the Treasurer, in the profundity of his knowledge and astute reasoning, passes over the argument, takes up the "insult," and puts the saddle on the wrong horse. "A means to an end" should be such as one could exercise without sacrificing his principles; and, were it otherwise, I should not adopt it. The compliments heaped upon me by the Treasurer I can return him double-fold, as he is evidently "the right man in the right place," and one who is or will be an honour to the profession, and whose voice and knowledge I should like to grasp—but a bar intervenes. Mr. Wingate charges me with holding "prejudices," but I think I can, with greater force, return the compliment; and then, in effect, says—patronize an evil to accomplish a good. Now, reasoning after this fashion is repulsive to a sensitive nature; and I would rather say, patronize a good to cure an evil, as in this case you are not subject to that influence and contamination that generally accompanies such an association; but rather, by seeing the ill effect at a distance, you can, with an even mind, better judge of the consequences that arise on the particular subject on which its influence is allowed to play.

A society or club having for its object the dissemination of

* See ante, p. 411.

legal knowledge—as the Law Students' Debating Society—if there is not already, should be, established, making all *articled clerks* eligible to be elected members, by which a more prosperous and instructive society would be the result, as being the means of imparting knowledge to the many instead of to the few. While regretting the result, I thank you for your courtesy in permitting me space in your columns; and hope at any future time a similar favour may be allowed.

A LIMB OF THE LAW.

ATTORNEYS AND SOLICITORS ACT, 23 & 24 VICT. c. 127.

By sect. 10 of 23 & 24 Vict. c. 127, it is enacted "that no person hereafter bound by articles of clerkship to any attorney or solicitor shall, during the term of service mentioned in such articles, hold any office or engage in any employment whatever other than the employment of clerk to such attorney or solicitor in the business, practice, or employment of an attorney or solicitor, save as by the first hereinbefore-mentioned Act or this Act otherwise provided."

A local building society on a small scale is in course of formation by the solicitor to whom I am articled. The business will be conducted in his office, and there will be no other place of business of the society, except, perhaps, for the receipt of subscriptions. The business will, in fact, be conducted by a clerk in his office, but it will be necessary, in the constitution of the society, to have a secretary, who will be paid by a small salary; and it is proposed to appoint me the secretary. The effect of this appointment will be that I shall be secretary by name, but whether so appointed or not I shall be employed in exactly the same manner in the business of the society.

The question, however, has been raised whether, should I be appointed secretary, I should "hold an office" within the meaning of the above section. I am not inclined to incur any risk upon the point; and I shall be very glad if you or any of your readers will give me an opinion whether it would be such an appointment as would jeopardize my admission if it was brought to the notice of the Incorporated Law Society.

QUERY.

PLURALISM IN THE LAW.

I was much pleased with the article in your last number hereon, and I am of opinion that when a barrister is appointed to a superior office to that which he holds, he should resign the inferior one. There is an attorney residing in the borough in which I reside, holding the following offices:—town clerk, clerk to the borough magistrates, clerk to the county magistrates, clerk to the turnpike trustees, clerk to the Lord Lieutenant, and registrar of the county court, and although laden with all those offices, he was greedy enough the other day to accept the appointment of solicitor to a freehold land society, and to contract to prepare conveyances and mortgages for the society at one guinea each. This will shew the truth of the old saying, that "a covetous man is never satisfied." He is also clerk to the burial board; *cum multis aliis*.

I should be delighted to see an Act passed rendering it illegal for a barrister or attorney to hold more than one public office at a time, so that barristers holding no office should have a chance against the pluralist at the bar, as well as your obedient servant and others amongst the pluralist attorneys.

A NON-PLURALIST ATTORNEY.

REGISTRY OF JUDGMENTS.

"A Solicitor" must, I think, lodge the writ of execution in the sheriff's hands before it can charge the leaseholds of the debtor, as regards purchasers, mortgagees, &c. The Act of Lord St. Leonards neither facilitates, nor abridges, the remedies of judgment creditors whose judgments were obtained prior to the 23rd July, 1860. It does not apply to such, as it has not any retrospective operation whatsoever. M.

RIGHT OF ROAD.

A right of road has for sometime past existed over the premises of A. to premises belonging to B. Lately B. has not only used such road for the purpose of passing and repassing, but has allowed his carts, &c., to remain upon it whilst unloading, to the great annoyance and inconvenience of A. What course can A. adopt to rid himself of this nuisance?

H. M. C.

* See ante p. 410.

Ireland.

SOCIAL SCIENCE CONGRESS.

A meeting convened to make arrangements for the reception, in August next, of the Association for the Promotion of Social Science was held on the 13th ult., at the Mansion-house, Dublin, the Lord Mayor in the chair. The attendance was very numerous. Amongst those present we observed the Very Rev. Dean Graves, Dr. Lloyd (President Royal Irish Academy); Judge Lynch, General Sir T. Larcom (Under Secretary for Ireland); the Solicitor-General, Sir Thomas Deane, Sir Robert Kane, Mr. Walshe, Q.C.; Dr. Heron, Q.C.; Mr. Orpen and Mr. Barlow (President and Vice-President Incorporated Law Society); W. Haughton (Chairman Great Southern and Western Railway); G. F. Shaw, F.T.C.D.; J. Lemaigre (Inspector-General of Prisons); J. Hatchell (Private Secretary to the Viceroy); Mr. G. W. Hastings (General Secretary to the Association); &c. &c. After some preliminary observations from the chairman, his lordship called on Mr. Hastings to make his statement.

Mr. G. W. HASTINGS said that it gave the council of the association sincere pleasure to have received at their Glasgow meeting last autumn an invitation from the Royal Dublin Society to hold their next annual meeting (the fifth) at Dublin. They had met at four of the chief towns of England and Scotland, and now naturally desired to experience in Ireland the hospitality for which this country was famous, as also of receiving valuable information from the various learned societies and institutions in Dublin. It was gratifying to remember that the Viceroy (Lord Carlisle) was himself a member of their society, and as a vice-president at the Liverpool meeting, had delivered a valuable address, and, as he had assured him (Mr. Hastings) that morning, continued to take a deep interest in their proceedings. Although Lord Carlisle would not be able to preside at the forthcoming meeting of the association, he intended to give it his presence and encouragement in every way. The association was established to investigate the principles, and aid in the establishment of a social science or science of society. The question what such a science could effect, was often asked by persons ignorant of the writings of Quetelet and other writers in France and Belgium; but all persons who had studied the subject were convinced that there was as clearly a science of society as there was a science of the forces which rule the material universe; that the relations of men were as much under laws as the movements of the heavenly bodies. During the short existence of the society (since 1857) valuable facts had been collected by them and by individuals working with them, with a view to elucidate the laws governing society; and as their labours progressed, and their collection of facts increased, better means would exist for forming a real science, which would be of use in legislation as in other branches. The objects of the association were two-fold, as he always considered—theoretical and practical. First, they endeavoured to collect facts as a basis for their new science. But they did not confine themselves to abstruse inquiries. Their second object was the practical mitigation of public evils, and the furtherance of the ends of philanthropy. To accomplish these objects their society was divided into several sections. The first section (*Law and Jurisprudence*) had already achieved much. A Bankruptcy Bill had been suggested and its details arranged by them, more especially by a committee comprising both lawyers and mercantile men; and on this Bill the present measure of Sir R. Bethell was modelled. By no other means than the appointment of a mixed committee of their society, could the conflicting views entertained on this subject have been harmonized. These valuable results were owing to their broad basis, and the impartiality with which their deliberations had been conducted. Hence their agreement on the details of a measure which would soon reform the bankruptcy law of England. The English and Scotch members of the association might derive some very valuable hints from Ireland; for in many particulars Ireland was some years ahead of the sister countries. The bankruptcy system in Ireland was a better one than the present system in England. Then there were more complete modes of procedure both in common law and equity, and there was also that great experiment the Landed Estates Court, which had been successfully tried in Ireland, but to obtain which efforts had hitherto been in vain in England. In the department of education they had had very valuable discussions, and especially one on the Scotch schools, which would he hoped lead to important practical results. The subject of reformatory schools had been exhaustively considered by them, and there was now no difference of

opinion anywhere upon it. Differences of opinion, however, still existed as to the punishment of adult convicts; and the greatest benefit would ensue when the society had the opportunity of seeing, near Dublin, the working of the Irish convict system, under the supervision of Captain Crofton, C.B., an example which would doubtless be sooner or later followed throughout the empire. In the *public health* section the greatest interest had everywhere been taken. All the large towns had been aroused by a feeling of emulation, each to be foremost in improving the sanitary state of the population—ventilation, drainage, and water-supply. It is as worthy of observation that the first public notice of drinking fountains occurred at their Liverpool meeting, where Mr. Melly read a paper describing those erected by him at his own cost. This paper, with a small illustrative drawing, was circulated, and within twelve months drinking fountains had sprung up in all the large towns in England. Here was a remarkable instance of the good that might follow from one of their discussions. An idea reposes in one mind and is, perhaps, limited in its working to one locality, and the general public are none the better for it; but at a meeting of this kind, where men assemble to inquire and gain information, ideas are rapidly dispersed through the whole community: for each member returns to his own locality and distributes there the knowledge gained by him at the meeting. The fifth section, *social economy*, had a very wide range, including all questions arising out of the relations of labour and capital, and also comprehended the improvement of the homes of the poor, and of the management of workhouses. The volume on "Strikes" affords conclusive proof that this section has not been idle; for in no other place and by no other persons had a mass of similar information ever been collected. This information was not easily obtained, and a Parliamentary committee would have utterly failed to obtain it. The society had only succeeded by uniting employers and labourers on one committee, with other persons impartial between the two, and so obtaining the confidence of all and collecting facts and statistics otherwise unattainable, and which render the book really exhaustive of the subject. As to the dwellings of the working classes, every possible information that could be gathered at home or abroad, has been brought together in Mr. Roberts's paper published in the transactions. The subject of workhouses had received great attention, and the "Workhouse Visiting Society" had been formed, which had already accomplished much, and will, as was hoped, accomplish far more. The sixth department—that of *Trade and International Law*—was a new one, and would meet in Dublin for the first time. It arose at Glasgow, where a large number of delegates from foreign countries were assembled, and where resolutions were arrived at which would form the bases of legislation here and in other countries. But from this followed a general desire that other opportunities should be found of discussing international topics; and hence this new department of the society was formed, which would be the occasion of many foreign delegates again meeting at the approaching congress in Dublin, where they would assuredly meet with a hearty reception. It has been objected by some persons that the meetings are "all talk," but even were it so something valuable would result. Nothing is more necessary in this empire than that men differing in religion and politics, and belonging to different societies and institutions, should meet together to exchange experience and knowledge and devise means of co-operating for common objects; and if it did no more, it shows men that they really differ in opinion less than they imagine, and it shows them that although they do differ they may yet work together heartily for many objects in which they are united. Men, indeed, often came together ready to quarrel, and, after hearing what was to be said on both sides, separated in a more reasonable frame of mind. But we might accomplish far more than this—we might establish permanent relations with the philanthropists of Dublin, and leave behind us in the remembrance of those who attend our meetings a belief that our association is not a body merely for pleasant discussions, but also an institution calculated, under the Divine blessing, to do great good for the inhabitants of this empire. (Loud applause.)

Dr. WALLER (one of the local secretaries) stated the nature of the arrangements that had been made. The association would meet some time towards the end of August, and the "Four Courts" would be the place of meeting, a building (or collection of courts round a central hall) so admirably adapted for the congress that, if built for the express purpose, it could not be more suitable. This had been placed at their disposal by the benchers. The Incorporated Society of Attorneys and Solicitors had also very handsomely placed their building at

the disposal of the association. Other public bodies had assisted. First might be mentioned with gratitude the cordial and prompt co-operation of a society in a great degree cognate with them—the Dublin Statistical Society. The Royal Irish Academy and the Royal Dublin Society also entered fully into the scheme. Dr. Waller then made some remarks on the excellent reception given a few years since in Dublin to the British Association and to the importance of gaining the assistance of the ladies.

Dean GRAVES, in an able address, proposed the nomination of a "Reception Committee" for receiving the members of the association in Dublin.

The SOLICITOR-GENERAL, in seconding the motion, assured Mr. Hastings that a warm and hearty welcome would await the members of the association who might attend the meeting at Dublin. And a not less hearty welcome awaited the subjects they would bring under discussion; for an audience of this city was fully capable of appreciating the truths which the association brought forward. It was with pleasure that he (the Solicitor-General) heard the venerable name of Archbishop Whately mentioned as one of the "Reception Committee," for he was the father of economic science in this country. When the archbishop came over here thirty years since, political economy was unknown in Ireland; but he had founded a Professor's chair in Trinity College, and had educated a class of men capable of fully understanding that science. It was natural and proper that the Social Science Congress should be invited here, and that they should have accepted the invitation. No country in the world presented a better field for investigating and solving social problems than did Ireland. Therefore, benefit might be expected to follow from the presence of the association here, to it, as well as to Ireland.

Mr. FOOTE proposed and Sir THOMAS DEANE seconded the next resolution, by which Mr. N. Hancock, LL.D., Dr. Waller, and Mr. Lentaigue were appointed the local secretaries, and Mr. Benjamin L. Guinness, the local treasurer. Several other resolutions of a formal character were also passed.

Dr. HANCOCK submitted an estimate of the expense of the meeting. Looking to the cost of the meeting of the British Association in Dublin where 2,005 persons attended, and of the Social Science Congress in Glasgow, where 2,872 members assembled, he estimated the expense at £1,200, all of which was desirable to defray by local contributions; so that the members' guinea subscriptions might go intact into the treasury of the central society, where the large expenses of printing the volume of transactions, &c., had to be met.

A vote of thanks was then passed to Mr. Hastings for his kindness in attending that meeting, and for the explanation he had given of the objects of the association; and a vote of thanks to the Lord Mayor for presiding concluded the business of the meeting.

Reviews.

An Elementary View of the Proceedings in an Action at Law.

By JOHN WILLIAM SMITH, Esq., late of the Inner Temple, Barrister-at-Law, Author of "Leading Cases," "A Compendium of Mercantile Laws," &c., &c. 7th edition, adapted to the present practice. By SAMUEL PRENTICE, Esq., Barrister-at-Law, Editor of "Chitty's Archbold's Practice." London: V. & R. Stevens & Sons; H. Sweet; and W. Maxwell. 1860.

An Action at Law: being an Outline of the Jurisdiction of the Superior Courts of Common Law, with an Elementary View of the Proceedings in Actions therein. By ROBERT MALCOLM KERR, LL.D., Barrister-at-Law; now Judge of the Sheriff's Court of the City of London. 3rd edition, prepared for the press by BASSETT SMITH, Esq., of the Middle Temple, Barrister-at-Law. London: Butterworths. 1861.

The late Mr. J. W. Smith's little manual upon the proceedings in an action at law has long been considered as the type and model of a book upon such a subject for students. Last year it reached its 7th and last edition, which was brought out under the editorship of Mr. Prentice, who is well known at the common law side of Westminster Hall, not only as a practitioner, but as the editor of other and more important works than that to which we now allude. This edition is, therefore, as might have been expected, all that beginners can desire as an introduction to the study of common law procedure. So many changes during the last ten years have been made in the practice of the courts at Westminster Hall, that it was necessary of course in some measure to re-model Mr. Smith's work, and accordingly we find that Mr. Prentice has throughout incorpo-

rated the provisions of the Common Law Procedure Acts, and other recent statutes, and also noted up some of the more important recent decisions affecting procedure. The book, however, still preserves its elementary character, and has not yet been equalled for the ease and simplicity of its style, and for its general suitableness for young beginners.

Mr. Kerr's treatise has reached its third edition, and is, therefore, sufficiently known to make it unnecessary for us to give any detailed account of it. But for the sake of those who are only just commencing the study of law, and are therefore unfamiliar with legal authors, we may state that Mr. Kerr's treatise is divided into three parts, the first of which gives an account of the superior courts of common law including the House of Lords, and of the auxiliary tribunals such as courts at Nisi Prius, and sheriffs and borough courts. The second part describes injuries cognizable in courts of common law, namely, those that affect the right to real property, and those that affect the right to personal property. The third part gives an account of the ordinary, summary, and equitable, jurisdiction of the superior courts of common law, their sittings and proceedings, their process, forms of action, pleadings and procedure generally. It will be seen by this statement that Mr. Kerr has followed to a considerable extent the classification of Sir William Blackstone, and Mr. J. W. Smith. Mr. Kerr's book, however, is more full and detailed than that of Mr. J. W. Smith, and is, therefore, better adapted for those who desire to obtain not merely a general notion but also a practical acquaintance with common law procedure.

The Law relating to the Probate, Legacy, and Succession Duties in England, Ireland, and Scotland, including all the Statutes and the Decisions on those Subjects, with Forms and Official Regulations. By LEONARD SHELFORD, Esq., Barrister at Law. 2nd Edition. Butterworths, 1861.

Examples of Administration Bonds for the Court of Probate: exhibiting the Principle of various Grants of Administration, and the correct Modes of preparing the Bond in respect thereof; also Directions for preparing the Oaths, and full Examples of Oaths in some particular Cases; arranged for Practical utility: with Extracts from the Statutes, Rules, and Orders; and also various Forms of Affirmation prescribed by Acts of Parliament. By SAMUEL CHADWICK, one of the principal Clerks of Seats of her Majesty's Court of Probate. London: Butterworths, 1861.

It is no recommendation of a legal text-writer, that whatever subject he touches, he also adorns; but it is some praise for such an author to be able to say that however dry and complicated may be the subject which he takes in hand, it will be all the more interesting and intelligible when it has been taken to pieces and classified, and put together again by him. Mr. Shelford, more perhaps than any other living writer, is entitled to say this. He has produced admirable and (if the word be not wholly inapplicable in all such cases) pleasant text-books upon such subjects as Lunacy, Mortmain, and the Law of Railways; and some time ago he could not resist the temptation of bringing his peculiar genius to bear upon that novel and tempting field which has of late been opened up by the Legacy and Succession Duties Acts. This work, of which a second edition has been recently published, is an attempt to classify and methodize the statutory authorities and reported cases relating to the Probate, Legacy, and Succession Duties throughout the United Kingdom; and Mr. Shelford, in his preface, states, we believe correctly, that all the decisions reported on the subjects of this work down to the period of publication, are incorporated in the present edition. The book is written mainly for solicitors. They are practically concerned more than the other branch of our profession with the statutes relating to the Probate, Legacy, and Succession Duties; and Mr. Shelford has accordingly planned his book with careful regard to its practical utility and daily use.

Mr. Chadwick's work is compiled for the express purpose of shewing the mode of preparing the ordinary printed forms of administration bonds for execution, the information upon the subject being conveyed by means of a series of Examples. The work is principally designed to save the profession the necessity of obtaining at the registries information as to the preparing or "filling up" of bonds; and to prevent grants of administration, and administration with the will annexed, being delayed on account of the defective filling up of such instruments.

The Law Magazine and Law Review; a Quarterly Journal of Jurisprudence; for May, 1861. London: Butterworths.

The last number of the *Law Magazine* contains an article

upon the case of Anderson, the fugitive slave, in which the entire law of the subject is exhaustively treated. It also devotes some space to a criticism upon the now famous "Essays and Reviews," considered in relation to the "legal liabilities of the writers." The object is to exhibit the bearing of the canon law upon clergymen and laymen respectively who impugn the Articles of the Church of England. The writer considers at length the effect of the fifth and thirty-sixth canons, which are those containing the ecclesiastical law on this head; and also the effect of the statute of 13 Eliz. c. 12, which forbids, under certain penalties, the "advised and direct contradiction" by ecclesiastics of any of the Articles. He also discusses at some length the case of the Rev. Mr. Stone (*Bishop of London v. Stone*, 1 Hag. Rep.), against whom proceedings were instituted under Canon V., and also the recent well-known case of Archdeacon Denison (4 Ell. & B. 309), under the Church Discipline Act, 3 & 4 Vict. c. 86, which is the present statute under which such proceedings are taken against ecclesiastics. The conclusion arrived at by the writer is that the ecclesiastical lawyers can make out no legal case against the essayists, and he claims to have shown that "the latitude in the National Church which the law allows affords the true latitude which each Englishman may claim. The idea of diversity of opinion includes that of degree of error; for truth can only be one, and in no way susceptible of degree or modification."

In another article the merits and demerits of some recent works on the statutory jurisdiction and general orders of the Court of Chancery are fully discussed, mainly for the purpose of showing that the new Text-book on Chancery Practice by Mr. Homersham Cox was not called for by the requirements of the profession, a conclusion in which we fully agree.

There are also articles upon the case of the *Emperor of Austria v. Day and Kossuth*, the Bankruptcy and Insolvency Bill of the Attorney-General, and reviews of Mr. Hepworth Dixon's "Personal History of Lord Bacon" and Mr. Mayne's recent book on ancient law, of which we also hope to give some account in our next number. Upon the whole, the present number of the *Law Magazine* well maintains the reputation it has acquired under its new editorship, and is in itself a strong appeal for support to the profession generally.

HINTS TO ARTICLED CLERKS.

No. IV.

HIS COURSE OF PROFESSIONAL READING.

(Continued from p. 441.)

Although it appears to us that the books mentioned in our last article are amply sufficient to occupy the attention of ordinary students during the period of their clerkship, and to give them a thorough grounding in the principles and practice of their profession, we will mention a few other works, which a student possessing more than average powers of application may add to the list, or which he may take in hand after his articles have expired. We recommend him, however, in no instance to take up any of the books which we are about to specify, unless he has previously made himself master of those mentioned in our former article. With this caution the *addenda* which we recommend to him are "Smith's Compendium of the Law of Real and Personal Property," "Smith's Leading Cases," and "White and Tudor's Leading Cases in Equity." "Smith's Leading Cases" may now be regarded as a legal classic, and it is the best introduction to a knowledge of case law, as contained in the reports of the various courts. What has been done by Mr. Smith and his editors for the student of common law, has been equally well done by Messrs. White and Tudor for the student of equity; and it would be difficult to find anywhere two books which contain more valuable knowledge, arranged in a more perspicuous manner, or better calculated to fix their learning upon the mind of the student.

Perhaps one or two additional hints may not be out of place here as to the best method of imprinting the learning of the books we have mentioned upon the memory. We can only suggest, however, plans which have been found useful by other students, leaving it to the reader to adopt that one or a combination of them which seems to him upon experiment to answer best in his own case. Repeated reading is the most obvious, and, indeed, whatever other plan may be followed in addition to it, is indispensable. The late Mr. W. D. Lewis, the eminent conveyancing counsel, at the commencement of his legal studies, transcribed the whole of the second volume of "Blackstone's Commentaries," with the view of impressing that foundation of a knowledge of real property firmly upon his mind. The writer

adopted a similar course with regard to "Williams on Real Property" and "Smith's Law of Contracts," every page of both of which books he wrote out after repeated perusals. From his own experience he is able to assert that this course is not without its advantages if the mind follows the pen. If it does not, the student might as well copy the alphabet. Another plan is, after reading a chapter or a few pages, to sit down and write an epitome of it; or, if the index is a pretty full one, to read over so much of it as refers to the pages just read, thus getting a bird's-eye view of the more salient points. Or the student may make an index to the book for himself, or enlarge that already made. The last plan we suggest for his consideration is that of framing written interrogatories on what he has read, and answering them also in writing, either with or without the aid of the book. This process compels the student to think, for it is impossible for a man to frame a definite question upon a subject on which he has not some clear ideas. He must, at all events, know what he is going to ask. The same remark also applies to index-making; for unless the reader has understood, and thus been able to form an epitome in his own mind of the text, he cannot index it.

We can hardly take leave of this part of our subject without remembering the time when we ourselves were between sixteen and twenty-one; and, remembering that time, we cannot forget that there were occasions when we felt utterly disheartened in our reading, or when long breaks occurred in it from sheer idleness. Some of our readers, at all events, will be subject to similar infirmities. Sometimes they will be tempted to lay aside their books because they seem to themselves to make no progress. Well, the best remedy for this state of things is just to look back to the commencement of their articles, and see how much they have learned since that period. They will find, if they have really worked, that they have, in fact, made substantial progress, although that progress, if measured by days and weeks, or even months, may seem almost imperceptible. And the same means, steadily pursued, cannot fail to realise the same ends in the future that they have done in the past. The temptation to idleness is more difficult to overcome; but still, unless the fit is a very powerful one, it may be cured by the consideration that if it is allowed to obtain the mastery it must blight every hope of future success and ruin every fair prospect of obtaining an honourable maintenance. Sometimes, however, want of courage or want of diligence will, for a time, conquer the student. Must he, then, despair? No. When better thoughts return—and return they will if he has any British "pluck" in him—let him take to his books again without any useless whining over his past defaults, and resolve to make up by renewed diligence for the precious time which he has wasted.

The clerk who is articulated in town, and the country clerk during the year which it is customary for him to spend in London before examination, will have the opportunity of attending the lectures at the hall of the Incorporated Law Society. It has never seemed to us, judging from our own experience, that a man acquires much knowledge from a lecture on scientific subjects, unless he has previously acquired a considerable acquaintance with the subject treated on by the lecturer; unless indeed, the lecture be, which it rarely is, of the most elementary character. For this reason, we should hardly, excepting under peculiar circumstances, advise the student to attend lectures until the third year of his articles. It seems absurd that a young man who has not mastered his Blackstone should attend a lecture on the niceties of Conveyancing; while on the other hand, if the lecturer confines himself to the elements of that science, they will be more thoroughly learned from Blackstone or Williams. When, however, the student has by his own private reading laid in a stock of first principles, he may very advantageously sit at the feet of one of the learned lecturers of the Incorporated Law Society.

It is usual for the clerk articulated in the country to spend a year in town previously to his admission, either in a conveyancer's chambers, or in the office of some London attorney. If his practice is likely to be mainly conveyancing, the former, and if to be principally common law, the latter course is to be preferred. If, however, the student hardly knows how his future professional life may shape itself, he will do wisely to divide his year equally between the conveyancer and the attorney. While at the conveyancer's chambers his attention should be mainly directed to conveyances on sales, mortgages, wills, and the ordinary class of marriage settlements—to those branches, in fact, of conveyancing which constitute the staple business of the country attorney's office. He will probably only lose his time if he devote himself merely to the niceties of conveyancing, and to those *apices juris* on which in his future practice he will be fairly entitled to call in the aid of con-

veyancing counsel. A familiar knowledge of common every day transactions is, in law, as in every other department of life, the most useful acquirement which a man can make. With regard to them ignorance is disgraceful and damaging, while some haziness of view on the doctrine of contingent remainders and executory devises is at the most a venial sin. As moreover the summits of law cannot be reached until the lower ground has been traversed, it seems unnecessary further to insist upon the necessity of a thorough knowledge of *common things* as not merely requisite in itself, but as the only satisfactory basis of all higher learning. You cannot reach the top of Skiddau without ascending its lower slopes.

The main advantage to be obtained by the country clerk from his going into a town office for a few months is the opportunity which it affords him of attending the superior courts, and seeing how business is transacted at judge's chambers, and in the offices of the various courts. The familiarity with practice thus acquired will give him a great advantage in his subsequent correspondence with his agents, besides sharpening his wits by bringing him into contact with lawyers and lawyers' clerks of all grades, from the office boy whom he will not unfrequently see wrangling, with a perfect confidence in his own learning, before a judge at chambers, up to the most learned Queen's Counsel who ever lulled a Vice-Chancellor into repose or electrified a British jury. His acquaintance with men will stand the attorney in good stead when he commences practice, because to be successful he must be pre-eminently a man of business as distinguished from a mere scholar; and if the "noblest study of mankind is man," it is no less true that one of the most useful studies of the attorney is man—especially of man of the species attorney, attorney's clerk and counsel.

During the last year of his clerkship the clerk will probably receive divers notes from gentlemen offering their services in preparing him for the ordeal of the examination. We did not avail ourselves of any of these offers, because we felt that if after six years spent in the acquisition of professional knowledge, we were not able to meet the requirements of the examination, we ought to be convinced that we had mistaken our vocation, and should betake ourselves to some other pursuit. If the student has mastered the course of reading which we have pointed out to him, and if he possesses an ordinary amount of nerve and courage, he will certainly not require the aid of a "grinder," or "crammer," or "coach." If, however, he has been idle, or if he is a very nervous subject (in either of which cases it must be confessed he is not very well qualified for the life of an attorney to the successful prosecution of which courage and diligence are both essentials) he will probably find it advantageous to avail himself of the services of a "coach," as some of the gentlemen who exercise that calling are really accomplished men possessing a wonderful faculty of imparting the amount of knowledge requisite for a pass. As, however, some of the "coaches" know very little law themselves, or are otherwise objectionable, the student should make careful enquiries before he selects the particular vehicle by which he is to travel.

(To be continued.)

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Commons:—

BANBRIDGE EXTENSION.
COCKERMOUTH, KEAWICK, AND PENRITH.
COLEFORD, MONMOUTH, USK, AND PONTYPOOL.
MANCHESTER AND MILFORD.
ROSS AND MONMOUTH (Aberystwith branch).
SALISBURY, POOLE, AND DORSET.
SOUTHAMPTON AND NETLEY.
STOCKPORT, TIMPERLEY, AND ALTRINCHAM JUNCTION.

The following Bills have passed through committee in the House of Lords:—

FORTH AND CLYDE.
OSWESTRY AND NEWTOWN.
SHREWSBURY AND WELCHPOOL.

REPORTS AND MEETINGS.

GREAT CENTRAL GAS COMPANY.

At the half-yearly general meeting of this company, held on the 26th ult., a dividend at the rate of £6 per cent. per annum was declared, free of income-tax, leaving a balance of £1,538 to be carried forward to the next half-year.

INVERNESS AND ABERDEEN JUNCTION RAILWAY.

The directors by their report recommend that a dividend at the rate of 4½ per cent. per annum on the preference stock, and of 3½ per cent. per annum on the ordinary stock of the company, should be declared at the forthcoming half-yearly meeting.

INVERNESS AND NAIEN RAILWAY.

The directors by their report recommend that a dividend at the rate of £5 per cent. per annum should be declared at the next half-yearly meeting.

Law Students' Journal.

QUESTIONS FOR THE EXAMINATION.

Easter Term, 1861.

I. PRELIMINARY.

1. Where, and with whom, did you serve your clerkship?
2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.
3. Mention some of the principal law books which you have read and studied.
4. Have you attended any, and what, law lectures?

II. COMMON AND STATUTE LAW AND PRACTICE OF THE COURTS.

5. What authority does an agent require to execute a deed for his principal, so as to bind the principal?
6. A factor in this country buys for a merchant abroad. Can the factor be sued in this country? On what principle do the Courts proceed?
7. What written instruments now require an attesting witness to make them valid?
8. If your client has an unstamped written agreement, and it is doubtful if it requires a stamp, and it has to be used as evidence at a trial *Nisi Prius*, what advice would you give your client as to stamping it, and what is the latest time it could be stamped?
9. Can partners sue each other at law, and for what claims?
10. If a landlord take a bond or bill of exchange as security for rent, can the landlord afterwards distrain for the rent?
11. What are the necessary facts to be sworn to in the affidavit filed with a bill of sale, pursuant to the 17 & 18 Vict. c. 36, sec. 1?
12. What are the requisites of an undertaking to pay the debt of another?
13. If a witness subpoenaed to attend the assizes is arrested on civil process on his way to the assizes, what course should he pursue to be relieved?
14. After what lapse of time does a deed or will prove itself?
15. A promissory note is payable to a husband and wife, and the husband dies before it is paid, leaving the wife living—who is the party to sue on it?
16. When two or more persons are joined as plaintiffs in an action, and one of them only has a right to recover, state what course may now be adopted in respect of judgment and costs.
17. If too many plaintiffs are joined in an action, can the defendant have the benefit of a set-off against all, or against any, and which of them separately?
18. If a plaintiff in an action in a Superior Court for an alleged wrong recover less than £5, can he, independently of the County Court Acts, be deprived of costs in any, and what, manner?
19. How many days' notice of trials are required in town and country causes?

III. CONVEYANCING.

20. If there be a bequest of the residue of personal estate to testator's wife for life, and afterwards to the relations of the testator, what person, or persons, will take under the description of relations?
21. A person having no right in a copyhold, is admitted tenant by the lord; what, if any, act by the person having the right will perfect the title of the person admitted?

22. If there be three joint tenants in fee-simple, and one of them releases his share to another of the three, what is the effect of such release, and what are the estates or interests of the various parties after such release?

23. What is the legal presumption as to the tenure of lands of inheritance in the county of Kent? And how would they go by descent according to such tenure?

24. Where a person to whom real estate is devised for an estate tail dies in the lifetime of the testator, leaving issue, who would be inheritable under the entail, and any such issue be living at the testator's death, what, if any, effect will the devise have, and who will take the estate?

25. When would estates, held by the testator as trustee, pass under a general devise, and when would they not pass? Explain the reasons for your answer.

26. How can the right to a sum of money owing be transferred by the creditor to a third party? And what are the forms attending such transfer, and what precautions are to be taken by the purchaser to guard his title, on the transfer being completed, as distinguished from a transfer of an estate in land?

27. On a sale of land in fee-simple, without any conditions of sale, what length of title is the purchaser entitled to require; and by what law, or how, is the limit fixed or determined?

28. If land be given to a man and the heirs male of his body, and he has issue only a daughter, who has issue a son and dies, and then the donee dies: what is the effect as to the estate given?

29. In whom is the ownership of the sea-shore below high water-mark vested as a general rule, and what exception may there be to such rule?

30. What is meant by the legal phrase of an *Interesse termini*?

31. Describe fully the various searches or inquiries for incumbrances or charges, affecting a landed estate purchased, which should be made by the purchaser before completing the purchase.

32. If A. comes into possession of an estate as tenant in fee on the death of another who died since the Succession Duty Act of 1853, and sells it, what are the duties of the purchaser's solicitor with regard to any liabilities imposed by that statute?

33. What would be the effect of a devise or gift of a leasehold for years by words which would create an estate tail, if the estate were a freehold?

34. When trustees sell land under a power or trust for sale, with the assent of the tenant for life of the property, what covenants are the trustees and tenant for life respectively bound to enter into with the purchaser?

IV. EQUITY AND PRACTICE OF THE COURTS.

35. What is the distinction adopted by a court of equity in granting relief under the head of mistake between mistake in a matter of law, and mistake in a matter of fact?

36. What is the meaning of the expression "a conversion out and out"?

37. What are the principal conditions necessary to render valid a covenant in restraint of trade?

38. When may trustees apply the income of their infant *cestui que trusts* property for the maintenance of such infants in the absence of an express power?

39. When will a court of equity enforce a voluntary contract in the nature of a settlement?

40. What are the principal heads of remedial equity?

41. When is a settlement said to be a fraud on the husband's marital rights?

42. Within what time after issue joined must application be made for an order that the evidence in chief may be taken *viva voce* at the hearing of the cause?

43. Within what time after issue joined must the evidence in chief on both sides in any cause in which issue is joined be closed unless the time be extended by special order?

44. What are the investments authorized by the court for cash under the control of the court? 1st order, 1st February, 1861.

45. When may an order to take an account of the debts and liabilities of the personal estate of a deceased person, pursuant to the 19th sect. of 13 & 14 Vict. c. 35, (Sir George Turner's Act,) be now taken?

46. Within what time must a defendant demur alone to a bill?

47. Within what time must a defendant required to answer a bill, put in his answer, plea, or demurrer, not demurring alone?

48. What is the meaning of a "stop order"?

49. What is the meaning of an "interlocutory application," and how is it made?

V. BANKRUPTCY AND PRACTICE OF THE COURTS.

50. State the date and title of the principal Acts now in force which regulate the proceedings in the administration of the estates of bankrupts.

51. What acts by a trader constitute an act of bankruptcy?

52. Is an act of bankruptcy committed by one of several partners sufficient to support a petition for adjudication of bankruptcy against the firm of which such person is a member?

53. State the amount of the debt required to support a petition for adjudication of bankruptcy against a trader, when there is one petitioning creditor: when the petitioning creditors are more than one in number, being partners, and when they are more than one in number, not being partners.

54. Is a debt payable at a future time sufficient to sustain a petition for adjudication of bankruptcy? And can a creditor having a security by way of mortgage, be a petitioning creditor?

55. When an adjudication of bankruptcy has been made against a trader, to whom does the property, subsequently acquired by him, belong?

56. At the meeting for adjudication of bankruptcy, state the requisites to be proved, in order to obtain the adjudication on a petition filed by a creditor.

57. Can a trader debtor obtain an adjudication of bankruptcy against himself, and what are the requisites to be proved at the hearing for the adjudication, and what is the statute whereby the proceedings in the case are regulated?

58. What is the manner of proving debts under a bankruptcy in order to entitle the creditor to receive a dividend? For what amount is a creditor holding security for his debt, entitled to prove?

59. Has a landlord priority of payment over the other creditors in respect of arrears of rent in case of the bankruptcy of his tenant, or any means of obtaining any such priority, and to what extent of arrears?

60. What acts done or committed by a bankrupt, prior to the commission of the act of bankruptcy, will render his certificate even if granted, void?

61. If the bankrupt die after petition presented, but before adjudication of bankruptcy has been made against him, what is the consequence to the proceedings? Is the result the same should he die after adjudication of bankruptcy?

62. What is the right of "stoppage in transitu"?

63. Does trust property held by a bankrupt vest in his assignees, and how is a new trustee to be appointed in the room of a bankrupt trustee?

64. Does the effect of an adjudication of bankruptcy in England extend to the colonies, so as to vest the bankrupt's property there in the bankrupt's assignees?

VI. CRIMINAL LAW AND PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

65. State what offences are triable at the assizes only; and which are triable at either the assizes or the quarter sessions?

66. What cases of larceny are triable before justices in petty sessions; and what is the difference in their jurisdiction when the accused is above, and when he is under, the age of 16?

67. Can a conviction be sustained on the unsupported evidence of an accomplice; and, when corroboration is for any reason necessary, is it enough to confirm the accomplice as to the circumstances attending the offence itself, without any confirmation connecting the accused with the offence?

68. In what cases is the deposition of a witness before a magistrate admissible in evidence on a trial, in the absence of the witness?

69. Define the malice which constitutes the distinction between murder and manslaughter; and whether it must necessarily be directed against the individual who is killed?

70. Can a wife be convicted, and in what cases, of offences committed in the presence of her husband?

71. Is the finder of lost goods, bearing the owner's name and address, guilty of larceny if he appropriates them to his own use?

72. Does a clerk, who has the key of a safe in which his principal's money is kept, with authority to use the money for purposes of business, commit larceny by taking it out of the safe for his own use?

73. Is the mere omission by a clerk or servant to account at the proper time for a sum he had received for his master sufficient evidence of embezzlement; and, if not, what additional evidence would be enough to prove the offence?

74. Is the fraudulent removal of unfinished goods by a servant from one part of his master's premises to another, in order to induce the master to pay wages for them as if they had been finished, but without any intention to take them away, a punishable offence, and under what class of offences does it fall?

75. Where the consent of the owner to part with his goods has been obtained by fraud, what is the test for distinguishing whether the offence is larceny or obtaining goods by false pretences; and where it is doubtful under which of those classes it falls, how should an indictment be framed so as to ensure a trial on the merits, if it fall under either class?

76. What proceedings, and within what time, must be taken by a party dissatisfied with a justice's decision in point of law for bringing the question before a Superior Court, and what steps must be taken, and in what court, if the justices refuse to state a case?

77. Is a party summoned to answer an application for an order to contribute to the maintenance of an illegitimate child, compellable under 14 & 15 Vict., chap. 99, to give evidence for the applicant; and, if so, is he bound to answer questions respecting his sexual intercourse with the mother during the eight months immediately preceding his examination, that being the time limited by 27 Geo. 3, chap. 44, sect. 2, for criminal proceedings in an Ecclesiastical Court for fornication?

78. Have justices power under 9 Geo. 4, chap. 31, sect. 27, to deal summarily with a charge of assault where the complainant desires that the accused should be bound over to keep the peace, or to grant a certificate of dismissal if the complainant withdraws his complaint during the hearing?

79. Are persons who take an excursion of pleasure on Sunday in company together, going 10 miles from home and returning the same night, travellers within 18 & 19 Vict., chap. 118, sect. 2, so as to justify a licensed victualler in furnishing them with wine or spirits between 3 and 5 p. m.?

Birth, Marriages, and Deaths.

BIRTH.

BEATTY—On April 25, at Farnham, the wife of W. H. R. Beatty, Esq., Solicitor, of a son.

MARRIAGES.

COOK—DULLEY—On April 25, at Wellingborough, Thomas Cook, Esq., Solicitor, to Maria, daughter of William Dulley, Esq.

CROXTON—MAY—On April 30, George Croxtton, Esq., of the Middle Temple, Barrister-at-Law, to Mary Susanna, daughter of the late Walter Barton May, Esq., of Hadlow Castle, Kent.

JELF—CRAWLEY—On May 1, George E. Jelf, M.A., Student of Christ Church, and assistant curate of St. James's, Clapton, to Fanny, daughter of G. A. Crawley, Esq., of Fitzroy Farm, Highgate.

PEYTON—HARDING—On May 1, at Birmingham, Richard, son of Abel Peyton, Esq., of Edgbaston, to Emily Rebecca, daughter of W. S. Harding, Esq., of Harborne-heath.

STEAD—RANDOLPH—On April 25, Alexander Stead, Esq., Barrister-at-Law, to Ellen Foyle, daughter of the Rev. Charles Randolph, rector of Kimpton.

WILSON—PALIN—On April 30, at the Holy Trinity Church, Walton Breck, Liverpool, by the Rev. Holland Lomas, M.A., assisted by the Rev. A. M. Wilson, Vicar of Ainstable, the bridegroom's brother, J. Birbeck Wilson, Esq., of Liverpool, Solicitor, to Annie Jord, daughter of Richard Palin, Esq., of Richmond-terrace, Liverpool.

DEATHS.

BRADLEY—On April 30, Mary, daughter of Henry Bradley, Esq., of Harcourt-buildings, Temple, in her 19th year.

CANNOCK—On April 26, aged 52, Joseph Cannock, Esq., Solicitor, Nowent, Gloucestershire.

DAVIES—On May 2, Thomas Davies, Esq., of Coleman-street, Solicitor, in his 67th year.

DAY—On April 28, aged 48, Frederick Day, Esq., Solicitor, Hemel Hempstead, and Coroner for that district of the county.

GREENE—On April 26, Laura Elizabeth, aged 8 years, the youngest child of Thomas Webb Greene, Esq., Q.C.

GREENFIELD—On April 26, at Winchester, Thomas Greenfield, Esq., Solicitor, in the 68th year of his age.

HOWARD—On April 28, Thomas Howard, Esq., Dudley, Solicitor.

PETERSON—On April 21, at Bristol, Thomas Pexton, aged 6 years, son of — Peterson, Esq., Bristol, Solicitor.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

MAY, RICHARD HENRY, Fishmonger, Norris-street, Haymarket, and **WILLIAM MAKING**, Wine and Spirit Merchant, St. Paul's-churchyard, £277 15s. 6d. Reduced Three per Cents.—Claimed by **WILLIAM MAKING**, the survivor.

SHILLITO, SARAH, Spinster, Upper Thames-street, £100 Reduced Three per Cents.—Claimed by **JAMES WRIGHT SHILLITO**, the surviving executor.

WALKER, THOMAS, Esq., Denmark-hill, and **ELIZABETH COURTHOPE**, wife of John Bryan Courthope, Gent., Rotherhithe, Surrey, £500 Consols.—Claimed by **ELIZABETH COURTHOPE**, Widow, the survivor.

London Gazettes.**Professional Partnership Dissolved.**

TUESDAY, April 30, 1861.

BISHOP, WILLIAM RICHARD, and **JAMES FITTS**, Attorneys and Solicitors, 19, Bedford-circus, Exeter. March 25, by mutual consent.

FRIDAY, May 3, 1861.

AVISON, THOMAS, & **WILLIAM RADCLIFFE**, Attorneys-at-Law, Liverpool by effluxion of time. April 30.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, April 30, 1861.

THE FOLKESTONE WEST CLIFF HOTEL COMPANY (LIMITED).—Petition to wind up, presented April 27, will be heard before Commissioner Holroyd on May 9, at 1.

MARSHFIELD PATENT GUNPOWDER COMPANY (LIMITED).—Commissioner Fonblanque will sit, on May 29, at 2, Basinghall-street, to make a second dividend of the estate and effects of the said company.

UNLIMITED IN CHANCERY.

AGRICULTURIST CATTLE INSURANCE COMPANY.—The Master of the Rolls will, on May 8, at 3, appoint an Official Manager of this company.

DEPOSIT AND GENERAL LIFE ASSURANCE COMPANY.—The Master of the Rolls has ordered that a call of 10s. per share be made on all contributories in this company, to be paid on May 8, at 12, at 16, Tokenhouse-yard, London, to William Turquand, Official Manager.

RISCA COAL AND IRON COMPANY.—The Master of the Rolls will proceed, on May 6, at 11, to settle the list of contributories of this company; and purposes, at the same time, to proceed to make a call of £80 per share on all contributories then settled on the list.

FRIDAY, May 3, 1861.

UNLIMITED IN CHANCERY.

DEPOSIT AND GENERAL LIFE ASSURANCE COMPANY.—The Master of the Rolls has ordered that a call of 10s. per share be made on all the contributories of this Company, to be paid on May 8, at 12, at 16, Tokenhouse-yard, London, to William Turquand, Official Manager.

PROFESSIONAL LIFE ASSURANCE COMPANY (REGISTERED).—Petition for winding-up, presented on April 30, will be heard before the Master of the Rolls, on May 11, at noon, by special leave. Thomas Tayloe, Solicitor, for the Petitioner, 4, Scott's-yard, Bush-lane, Cannon-street, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, April 30, 1861.

ARMSTRONG, STEPHEN, Farmer, Patney, Wilts. Wittey, Solicitor, Devizes, Wilts. May 17.

ALP, WILLIAM, Hayes, near Bromley, Kent. M. & F. Davidson, Solicitors, 18, Spring-gardens, London. June 1.

BELL, JANE, Widow, Newby, St. Mary, Carlisle. McAlpin, Solicitor, Carlisle. June 1.

DWARRE, SIR FORTUNATUS WILLIAM LILLEY, Eccleston-square, Middlesex, and Middle Temple. Wm. Henry Amyot, 3, Carey-street, Lincoln's-inn. June 1.

EYEREST, HESTER, Spinster, 23, Trafalgar-square, Twickenham, Middlesex, and formerly of Leamington, Warwickshire. Roscoe & Hincks, Solicitors, 14, King-street, Finsbury-square, London. June 1.

FOSTER, JAMES, Esq., Stamford Hill, Middlesex, and of Shorncliffe Lodge, Sandgate, Kent. Beddome, Solicitor, 27, Nicholas-lane, Lombard-street. July 20.

GRISH, REV. VERNON GEORGE, Clerk, Vicarage, Longhope, Gloucestershire. Mason, Solicitor, Newnham, Gloucestershire. June 30.

HALE, DAVID, Railway Contractor, formerly of Lymington, Southampton, but late of Ford Villa, Lingsfield, Surrey, Gent. Green & Mason, Solicitors, Ashby-de-la-Zouch. May 28.

JONES, EDWARD, Yeoman, Leasowes, Baschurch, Salop. Broughall, Solicitor, Shrewsbury. June 9.

LIVE, JOHN, Esq., heretofore of Brighton, Sussex, but late of 3, Kilburn Priory, Kilburn, Middlesex. Duff, Solicitor, 5, Nicholas-lane, Lombard-street, London. June 20.

PERRINS, JAMES, Bootmaker, 44, Threadneedle-street, London, and 12, Cambridge-terrace, Kingsland, Middlesex. Randall, Solicitor, 17, Gracechurch-street, London. June 1.

WARD, WILLIAM, Farmer, Breach Farm, Packington, Derby. Green & Smith, Solicitors, Ashby-de-la-Zouch. May 14.

FRIDAY, May 3, 1861.

AVERY, WILLIAM, Haberdasher, 2, Eagle-terrace, City-road, Middlesex. Parke, Solicitor, 37, Moorgate-street, London. June 1.

COOPER, WILLIAM, Kingston-on-Thames, Surrey. Parker, Rooke, and Parkers, Solicitors, 17, Bedford-row, Middlesex. August 1.

HALDIMAND, SOPHIA CHARLOTTE, Widow, Esher, Surrey. Desborough, Young, & Desborough, Solicitors, 6, Stae-lane, London. June 15.

HALL, WILLIAM, Gent., late of Laughton-en-le-Morthen, York, since of Grove-house, Maltby, and afterwards of Ashfield-house, Conisbrough, Hoyle & Son, Solicitors, Rotherham. June 1.

Hudson, JOHN, Grocer & Licensed Victualler, Derby-road, Bootle-cum-

Linacre, near Liverpool. Dodd, Solicitor, 5, James-street, Liverpool. June 1.

JAMES, JOHN, a retired Master in her Majesty's Royal Navy, Potterne, Wilts. Norris, Solicitor, Devizes. May 20.

SINGLETON, JAMES, Innkeeper, Preston. Turner & Son, Solicitors, 12, Fox-street, Preston. May 27.

WARD, SAMUEL, Grocer & Draper, Frampton-on-Severn, Gloucestershire. Mason, Sturt, & Mason, Solicitors, 7, Gresham-street, London. June 1.

WHITAKER, JOHN GIBSON, Esq., Beuchiffe, Eccles, Lancashire. Slater, Heelis, & Co., Solicitors, Manchester. May 25.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, April 30, 1861.

FITCH, THOMAS, Gent., Deal, Kent. Norwood v. Chambers, V. C. Stuart. May 30.

HAMMANS, ROBERT, Marcham, Berks. Maxted v. Hammans, M. R. May 24.

HEADLAND, WILLIAM, Chemist, Princes-street, Hanover-square, Middlesex, and of Redhill, Surrey. Williams v. Headland, V. C. Stuart. June 1.

KNOTT, SAMUEL DUNCOMBE, Pawnbroker, Devonport. Symons v. Cole, V. C. Stuart. June 1.

FRIDAY, May 3, 1861.

COLLIER, PENELOPE, Spinster, Maidenhead, Berks. Bird v. Burrell, V. C. Wood. May 23.

COWDEROY, JAMES, Butcher, Newcastle-place, Edgeware-road, Paddington, Middlesex. Stevens v. Hale, V. C. Kindersley. June 8.

GIBBONS, JOSEPH, Ironmonger, 345, Oxford-street, Middlesex. Gibbons v. Gibbons, V. C. Kindersley. May 30.

HARRISON, ANTHONY, a Major-General in the Royal Artillery, Penrith, Cumberland. Harrison v. Harrison, V. C. Kindersley. May 31.

TEAR, RUTH, Widow, Liverpool. Williams v. Davies, V. C. Stuart. June 4.

Assignments for Benefit of Creditors.

TUESDAY, April 30, 1861.

AYERS, JOHN, Licensed Victualler, Blue Boy Inn, West-street, Exeter. March 27. Sols. Floud & Orchard, 14, Castle-street, Exeter.

BENTON, JOHN, Merchant, Swansea, Glamorganshire. April 5. Sol. Strick, Swansea.

FIELDS, JOHN, TAYLOR, Draper, 19, Crosby-row, Waiworth, Surrey. April 8. Sol. Morris, 6, Old Jewry, London.

HATTON, JOHN, Draper, Wantage, Berks. April 16. Sols. Sole, Turner, & Turner, 68, Aldermanbury, London.

LEVER, JOHN, Cotton Manufacturer, Holcorne-brook, Bury, Lancashire, & **GEORGE CHATBURN**, Millwright, Little Lever, Bolton, Lancashire (John Lever & Co.). April 16. Sols. T. A. & J. Grundy & Co., 16, Union-street, Bury.

LOFTS, JOHN, Printer, 262, Strand, Middlesex. April 2. Sols. Lawrence, Smith, & Fawdon, 12, Bread-street, Cheapside.

POND, JOHN WILLIAM, Farmer, Great Totham Hall, Essex. April 18. Sols. Stevens & Beaumont, Witham.

STUDY, CHRISTOPHER, Innkeeper, Knottingly, Yorkshire. April 24. Sols. Carter & Arundel, Pontefract.

WOOD, THOMAS GRAVENOR, Chemist & Druggist, Rotherham, Yorkshire. April 18. Sols. Hoyle & Son, Rotherham.

FRIDAY, May 3, 1861.

BELL, ROBERT, Watchmaker & Jeweller, Davey-place, Norwich. April 9. Sol. Doyle, 2, Vernal-hill-buildings, Gray's-inn, Holborn, Middlesex.

BUNTING, WILLIAM, Miller & Farmer, Grimstone, Norfolk. April 20. Sol. Jarvis, King's Lynn.

CUMPLEY, JAMES, Grocer & Farmer, Odiham, Southampton. April 5. Sol. Brooks, Odiham, Hants.

ETCHEL, JOSEPH, Builder, Sheffield. April 18. Sol. Wake, Sheffield.

FARTHING, WILLIAM, Shopkeeper, Kettleburgh, Suffolk. April 25. Sol. Clubbe, Framlington.

FERN, JAMES, Grocer & Provision Dealer, Sheffield. April 30. Sol. Broadbent, Sheffield.

HOWELLS, THOMAS, Innkeeper, Aberaman, Aberdare, Glamorganshire. March 3. Sol. Smith, Cannon-street, Aberdare.

MEDLEY, GEORGE, Grocer and Provision Dealer, St. Helen's, Lancaster. April 25. Sol. Taylor, St. Helen's, Lancaster.

MOORE, WILLIAM, Coach Builder, Morden and Wimbledon, Surrey. April 6. Sol. Hewitt, 4, Princes-street, Bank, London.

MORRIS, SAMUEL, Currier & Leather Seller, Commercial-road, Landport, Southampton. April 6. Sol. Stening, Portsmouth.

NORTON, GEORGE, Provision Dealer, Newport, Salop. April 23. Sol. Heane, Newport.

RUSSELL, JOHN, Grocer, Marchwood, Southampton. April 27. Sol. Lobb, 12, Portland-street, Southampton.

TEXTER, JAMES, Blacksmith, Hurst-green, Sussex. March 30. Sol. Morgan, Maidstone.

TAYLOR, HENRY, & TAYLOR, ROBERT, Coachbuilders, Warwick. April 22. Sol. Snape, Warwick.

WESTGATE, ROBERT. April 6. Sols. Mason, Sturt, and Mason, 7, Gresham-street, London.

WOOD, THOMAS GRAVENOR, Chemist & Druggist, Rotherham. April 18. Sol. Hoyle & Son, Rotherham.

Bankrupts.

The following names were omitted in our extract from the Gazette of the 29th instant.

ELLYETT, FREDERICK, Hatter, Portsea. May 7, and June 11, at 12; Basinghall-street. Off. Ass. Edwards. Sols. Harrison & Lewis, 6, Old Jewry, London.

GOOSEMAN, SAMUEL, Innkeeper, Great Grimsby. May 8, and June 5, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sol. Grange, Great Grimsby.

TUESDAY, April 30, 1861.

ARGENT, JOHN, Innkeeper & Licensed Victualler, Rainbow Tavern, Fleet-street, London. Com. Holroyd: May 14, and June 18, at 1; Basinghall-street. Off. Ass. Edwards. Sols. Blake & Snow, 22, College-hill, London. Pet. April 10.

BENFIELD, THOMAS, Innkeeper & Brewer, Nuneaton, Warwickshire. Com. Sanders: May 10 & 31, at 11; Birmingham. Off. Ass. Whitmore. Sols. Footitt, Newark-upon-Trent; or James & Knight, Birmingham. Pet. April 23.

CLAYTON, WILLIAM, JOSEPH WILKINSON CLAYTON, & CHRISTOPHER BIL-

LIMBOW, Contractors & Builders, Manningham, Bradford, Yorkshire (Claytons & Billington). Com. Ayrton: May 27, and June 17, at 11; Leeds. Off. Ass. Hope. Sols. Wood, Bradford; or Caris & Cudworth, Leeds. Pet. April 25.

COX, ANN, Publican & Victualler, Bedminster, Bristol. Com. Hill: May 13, and June 10, at 11; Bristol. Off. Ass. Miller. Sol. Harwood, Bristol; or Henderson, Bristol. Pet. April 22.

GIBSON, JOHN, Licensed Victualler, Church-inn, Great Hampton-street, Birmingham. Com. Sanders: May 9 & 30, at 11; Birmingham. Off. Ass. Whitmore. Sols. Wilkes, Gloucester; or Hodgson & Allen, Birmingham. Pet. April 18.

GRAHAM, JAMES, Blue Manufacturer, Liverpool. Com. Perry: May 7, and June 3, at 11; Liverpool. Off. Ass. Turner. Sols. Anderson & Collins, Cook-street, Liverpool. Pet. April 26.

JENNER, CHARLES WAKEFIELD, Surgeon & Apothecary, Hunmanby, Yorkshire. Com. Ayrton: May 22, and June 19, at 12; Hull. Off. Ass. Carrick. Sols. Donner & Woodall, Scarborough; or Bond & Barwick, Leeds. Pet. April 29.

KIRKES, ROBERT WAUDBY, Chemist & Druggist, Walton-on-the-hill, near Liverpool. Com. Perry: May 7, and June 3, at 11; Liverpool. Off. Ass. Morgan. Sol. Yates, jun., Fenwick-street, Liverpool. Pet. April 26.

MOULD, THOMAS, Farmer, Sudbury, Derbyshire, formerly carrying on business at the same place as a Grocer, Baker, and Provision Dealer. Com. Sanders: May 16, and June 6, at 11; Nottingham. Off. Ass. Harris. Sol. Welby, Uttoxeter; or James & Knight, Birmingham. Pet. April 26.

PEARSON, GEORGE, Machine Maker, Store-street Mills, Manchester (George Pearson & Co.). Com. Jemmett: May 17, and June 7, at 12; Manchester. Off. Ass. Pott. Sols. Earle, Son, Hopps, & Orford, Manchester. Pet. April 18.

PERFANI, GEORGE, Sail Maker & Ship Chandler, 123, Minories, London. Com. Fane: May 10, at 1.30; and June 14, at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Wadson & Maleson, 11, Austinfriars. Pet. April 29.

PERBOTT, JAMES, Draper & Grocer, Cheddar, Somersetshire. Com. Hill: May 13, and June 10, at 11; Bristol. Off. Ass. Acraman. Sols. Brittan & Sons, Albion-chambers, Bristol. Pet. April 26.

RAWDALL, THOMAS WILLIAM, Corn Dealer, Wrexham, near Slough, Buckinghamshire. Com. Fonblanque: May 14, and June 12, at 12.30; Basinghall-street. Off. Ass. Graham. Sols. Ellis, Bannister, and Robinson, 12, Clement's-lane, London. Pet. April 26.

TALLIS, LUCINDA, Widow, Bookseller, and Publisher, 21, Warwick-square, London, and 12, Chadwell-street, Pentonville, Middlesex. Com. Holroyd: May 14, and June 11, at 1; Basinghall-street. Off. Ass. Edwards. Sols. Lawrence, Smith, and Fawdon, 12, Bread-street, Cheap-side, London. Pet. April 20.

TAEVETT, JOHN, Boot and Shoe Maker, Sheffield. Com. West: May 11, and June 15, at 10; Sheffield. Off. Ass. Brewin. Sol. Vickers, Bank-street, Sheffield. Pet. April 2.

TYACK, THOMAS THEOPHILUS, Flour Dealer and Baker, Liverpool, and Bootle-cum-Linacre, Lancaster. Com. Perry: May 14, and June 4, at 11; Liverpool. Off. Ass. Perry. Sols. Littledale, Ridley, and Barlswell, Liverpool. Pet. April 24.

WALL, GEORGE, Common Brewer, Canterbury, Kent. Com. Holroyd: May 14, at 12; and June 18, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Baker, 3, Cloak-lane, London. Pet. April 18.

WILLIAMS, ALFRED, Builder, Melcombe Regis and Weymouth, Dorset. Com. Andrews: May 16, and June 12, at 12; Exeter. Off. Ass. Hirtzel. Sols. Howard, Weymouth; or Terrell, Exeter. Pet. April 27.

FRIDAY, MAY 3, 1861.

BLAKE, HENRY, Maltster & Corn Merchant, Shide, Newport, Isle of Wight. Com. Holroyd: May 14, at 2, and June 18, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Chidley, 25, Old Jewry, London. Pet. April 27.

BRADDOCK, WILLIAM, Coal Merchant, Holloway Station Coal Depot, Holloway, Middlesex. Com. Fane: May 16, and June 14, at 12; Basinghall-street. Off. Ass. Cannan. Sol. Randall, 14, Tokenhouse-yard. Pet. April 29.

COOKE, SAMUEL, Carpenter, Builder, and Provision Dealer, Nottingham. Com. Sanders: May 16, and June 6, at 11; Nottingham. Off. Ass. Harris. Sol. Brown, Nottingham. Pet. April 26.

DAY, JOHN, jun., Ribbon and Trimming Manufacturer, Coventry, and 1, Noble-street, London. Com. Sanders: May 22, and June 24, at 11; Off. Ass. Kinnear. Sols. Dewes, Coventry, Hodgson and Allen, Birmingham. Pet. April 30.

DOWNER, WILLIAM, Grocer & Tea Dealer, Wolverhampton, Staffordshire. Com. Sanders: May 17, and June 7, at 11; Birmingham. Off. Ass. Turner. Sol. H. & J. E. Underhill, Wolverhampton, or James & Knight, Birmingham. Pet. April 22.

EVANS, GRIFFITH, Corn Merchant, Tyn-rhos, Valley, Anglesey. Com. Perry: May 13, at 11, and June 6, at 2; Liverpool. Off. Ass. Turner. Sols. Williams, Carnarvon, or Evans, Son, & Sandys, Liverpool. Pet. April 23.

FAIRHURST, ENOCH, Grocer, Ormskirk, Lancashire. Com. Perry: May 13, and June 6, at 11; Liverpool. Off. Ass. Turner. Sols. Evans, Son, & Sandys, Liverpool. Pet. April 29.

GAMON, DANIEL, Coal Merchant & Builder, Colney Hatch Station, and of Hornsey, Middlesex. Com. Goulburn: May 13, at 2, and June 19, at 12; Basinghall-street. Off. Ass. Pennell. Sol. Kays, 2, New-lane, Strand, London. Pet. May 2.

HAYNE, WILLIAM REYNOLDS, Apothecary, 6, Devonshire-terrace, Camden-road, Middlesex. Com. Holroyd: May 14, at 2.30, & June 21, at 11; Basinghall-street. Off. Ass. Edwards. Sols. Harrison & Lewis, 6, Old Jewry, London. Pet. April 4.

JACKSON, GEORGE, Tobacco-nist, 125, Steelhouse-lane, Birmingham. Com. Sanders: May 13 & June 20, at 11; Birmingham. Off. Ass. Kinnear. Sols. Abrahams, 17, Gresham-street, City, London, or E. & H. Wright, Birmingham. Pet. April 4.

KIM, LADISLAS, Merchant, 93, Watling-street, London. Com. Goulburn: May 13, at 12, & June 17, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Lawrence, Fews, & Boyer, 14, Old Jewry-chambers, Old Jewry, London, or Snowden & Son, Leeds. Pet. April 20.

MOORE, JOHN, Ironmonger, 86, Charlton-street, Euston-road, Middlesex. Com. Fonblanque: May 14, at 1.30, & June 19, at 12.30; Basinghall-street. Off. Ass. Stansfeld. Sols. Wallinger & Miller, 8, Sherborne-lane, and Sackling, Birmingham. Pet. April 22.

MORGAN, JOHN, Draper, 18, Greenfield-street, Whitechapel, Middlesex. Com. Fane: May 16 & June 14, at 11; Basinghall-street. Off. Ass.

Cannan. Sols. Walker & Harrison, 8, Southampton-street, or J. B. & E. Whitworth, Manchester. Pet. April 18.

OATES, GEORGE HENRY, Ironmonger, Brighouse, Yorkshire. Com. Ayrton: May 27 & June 17, at 11; Leeds. Off. Ass. Hope. Sols. Corner & Fowler, Wolverhampton, or Richardson & Gaunt, Leeds. Pet. April 20.

PILDITCH, DANIEL, Builder, 17, Oakley-crescent South, Chelsea. Com. Goulburn: May 13, at 11; and June 17, at 12.30; Basinghall-street. Off. Ass. Pennell. Sol. Angell, 23, King-street Cheap-side. Pet. April 26.

TAYLOR, FRANCIS, Grocer & Provision Dealer, Rowley Regis, Stafford. Com. Sanders: May 17, & June 7, at 11; Birmingham. Off. Ass. Whitmore. Sol. G. B. Lowe or E. & H. Wright, Birmingham. Pet. May 1.

THOMSON, THOMAS, Stuff Manufacturer, Halifax (Thomas Thomson and Co.). Com. West: May 17, and June 14, at 11; Leeds. Off. Ass. Young. Sols. Robson & Sutor, Halifax, or Caris & Cudworth, Leeds. Pet. May 1.

TUNBRIDGE, WILLIAM, Draper & Grocer, Ware, Hertford. Com. Evans: May 16, at 1.30; and June 13, at 11; Basinghall-street. Off. Ass. Johnson. Sol. Batchelor, 1, Guildhall-chambers. Pet. May 1.

WARTON, BENJAMIN JOSEPH, Carver & Gilder & Picture Dealer, 35, Endell-street, Long Acre, Middlesex. Com. Fonblanque: May 13 & June 12, at 1.30; Basinghall-street. Off. Ass. Stansfeld. Sol. Cooper, 9, Charing-cross, London. Pet. May 2.

BANKRUPTCIES ANNULLED.

TUESDAY, April 30, 1861.

LEWTHWAITE, EDWIN, Watch Maker and Jeweller, Halifax, Yorkshire. April 26.

SCOTT, PETER, Timber Merchant, Contractor, and Commission Agent, Liverpool, and Newcastle, Down, Ireland. April 26.

STEWART, WILLIAM BARCLAY, Yarn and Cloth Agent, Manchester. April 25.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, April 30, 1861.

BILLIE, VICTOR PASCAL, Importer of French Clocks and Musical Boxes, 28, King-street, Cheap-side, May 21, at 12; Basinghall-street.—BERRY, WILLIAM, Tanner & Currier, Blue Anchor-road, Bermondsey, Southwark, Surrey, and 14, Wilbourn-terrace, Grange-road, Bermondsey. May 21, at 12.30; Basinghall-street.—COOK, JAMES, Carrier & Leather Dealer, Walsall, Staffordshire. June 14, at 11; Birmingham.—CROOK, JAMES, India Rubber Web Manufacturer, 7, Winckworth-place, City-road. May 21, at 1; Basinghall-street.—HEATH, CHARLES, Coffee-house Keeper, 39, Oxford-street, Southampton. May 21, at 11.30; Basinghall-street.—HOBBS, HENRY, Common Brewer & Agent for the sale of Wine on Commission, Woodburn, Buckinghamshire. May 21, at 1; Basinghall-street.—JAMESON, PETER, Tailor & Draper, Staleybridge, Lancashire. June 6, at 12; Manchester.—JAQUEMOT, JEAN MARC FRANCOIS, Silk & General Merchant, 39, New Broad-street, London. May 28, at 1; Basinghall-street.—MURRELL, GIBBS HOWES, Brick and Tile Maker & Farmer, Surlingham, Norfolk. May 28, at 12; Basinghall-street.—MYOTT, THOMAS, Grocer & Tea Dealer, Oxford-street and Stretford New-road, Manchester. June 6, at 12; Manchester.—PRICE, THOMAS, Market Gardener, Evesham, Staffordshire. June 14, at 11; Birmingham.—RICHARDS, DANIEL ROBERT, Boot & Shoe Manufacturer, Birkenhead, Cheshire. May 23, at 11; Liverpool.—WOOD, JONATHAN, CHARLES WOOD, & THOMAS MARSHALL, Coal Merchants, 99, Brick-lane, Spital-fields, Mile End, Tottenham, Pender's End, and Enfield, Middlesex; Loughton, Essex; and Waltham and Cheshunt, Hertfordshire (J. & G. Wood). May 23, at 1; Basinghall-street.

FRIDAY, MAY 3, 1861.

BODDINGTON, CARTER, Worsted, Silk, & Cotton Dealer, 84, St. Martin's-lane, Westminster. May 24, at 11.30; Basinghall-street.—DAVIES, ROBERT CRADOCK, & TROUGHTON, JOHN NICOL, Bankers, 187, Shore-ditch, Middlesex (Davies, Robert, and Company.) May 24, at 11; Basinghall-street.—DAVIS, JOHN, Manufacturer, Manchester. May 20, at 12; Manchester.—EDGE, THOMAS, Gas-meter Manufacturer, 59, Great Peter-street, and 59, Vincent-square, Westminster, Middlesex. May 15, at 12; Basinghall-street.—FLEMING, THOMAS, Brace and Skirt Maker, Halifax. June 18, at 11; Leeds.—GIBBS, JOHN, Licensed Victualler, Three Cranes Inn, Church-street, Hackney, Middlesex. May 24, at 11.30; Basinghall-street.—GOLDSBORN, THOMAS BOYDELL & DUBBS, ARTHUR ACHESON, Wine Merchants, Liverpool. May 27, at 12; Liverpool.—HATWOOD, JAMES, Ironfounder, Derby. May 30, at 11; Nottingham.—HIXTON, ARCHIBALD, Victualler, Highbury Barn Tavern, Highbury, Middlesex. May 24, at 12; Basinghall-street.—HUNT, JOHN, Draper, Edgware-road, Middlesex. May 24, at 1; Basinghall-street.—HUNT, THOMAS DERWICK, Innkeeper, Bootle, near Liverpool. May 27, at 11; Liverpool.—LACE, JOSHUA FLETCHER, 4, Mersey-street Birkenhead, Chester, & ADDISON, LEONARD, Abbott's Grange, Chester, Printers and Stationers, Liverpool (Lace and Addison.) May 27, at 12; Liverpool; joint estate of the bankrupts, some time separate estate of Joshua Fletcher Lace.—MCLEARY, DONALD, MCKEAN, JOHN, & LAMONT, ROBERT, Merchants, Liverpool (Mc Larty & Co.) May 24, at 11; Liverpool.—MISTER, JOHN BEAL, Dyer and Calenderer, 9, Norman's-buildings, Saint Luke's, Middlesex, also of Maiden-lane, Queen-street, London, Packer. May 24, at 1.30; Basinghall-street.—MOUNTFORD, JOHN, Stafford Parian Manufacturer, Stoke-upon-Trent. May 29, at 11; Birmingham.—NEWTON, ROBERT, Baker and Provision Dealer, Birmingham. June 3, at 11; Birmingham.—NICKOLL, JAMES, & NORTH, ROBERT FRAZER, Tallow Brokers, 27, Bishopgate-street, Within, London (Nickoll & North.) May 14, at 1; Basinghall-street.—PARTRIDGE, CHARLES JOHN, Boot and Shoe Manufacturer, 21, Langley-place, Commercial-road. May 24, at 1.30; Basinghall-street.—ROGERS, HENRY JAMES VANROULEN, & ALFRED GLADSTONE, Ship & Insurance Brokers, Ship Owners, & Traders, 24, Billiter-street, London (Rogers, Gladstone, & Co.) May 24, at 11; Basinghall-street.—SHIPLEY, FRANCIS EDWARD, sen., & FRANCIS EDWARD SHIPLEY, jun., Tanner, Currier, & Leather Seller, Nottingham. May 30, at 11, Nottingham.—SUMNER, GEORGE, Plumber, Glazier, Painter, & Paperhanger, Town Hall Plain, St. Yarmouth, Norfolk. May 24, at 12.30, Basinghall-street.—TILLET, FREDERIC, Spiral Flambeaux, Scale Board, & Splint Manufacturer, and Timber Merchant 12, & 13, Wellington-road, Bethnal-green, Middlesex. May 24, at 12; Basinghall-st.—UNDERHILL, SAMUEL, Commission Agent, Wolverhampton, Stafford. May 29, at 11; Birmingham.—WHITTAKER, JOHN, Victualler and Dealer in Wines and Spirits, Wrexham, Denbigh. May 27, at 12; Liverpool.—WOOD, JOSEPH, & JAMES WOOD, Spinners and Manufacturers, Allerton, Bradford. May 24, at 11; Leeds.—WOOD, JOHN, Licensed Victualler, Birkenhead, Liverpool. May 29, at 11; Liverpool.—WOOD, STANLEY JAMES, Cement Manufacturer, Mill-wall. May 14, at 2; Basinghall-street.

LAW STUDENTS' DEBATING SOCIETY, AT THE LAW INSTITUTION, CHANCERY LANE.

Members are requested to supply the Committee with Questions for Discussion.

QUESTIONS FOR DISCUSSION.

For Tuesday, 7th May, 1861. President—Mr. BRADFORD.

Mr. MELVILLE GREEN will move—"That the secretary do not act as deputy under Rule VI., clause 1, unless he have consented so to do eight days at least prior to his so acting as deputy."

Mr. JACKSON will move—"That the votes on election of Members be taken by show of hands instead of by Ballot."

Mr. HILLS will move—"That the Resolution of the Society of the 8th January last, which provides 'That no Member of this Society other than the opener of the debate shall in future be permitted to speak on any question for a longer period than twenty minutes,' be, and the same is hereby rescinded."

272.—On the sale of goods with all faults: is a vendor guilty of fraud, in case he does not disclose to the purchaser some defect which could not be discovered by a diligent examination?

Mellish v. Motteaux, Peake 187; Bagchols v. Walters, 3 Campb. 155.

Affirmative—Mr. BURRELL and Mr. A. H. MILLER.

Negative—Mr. HEWITT and Mr. WILLAUME.

For Tuesday, 14th May, 1861. President—Mr. DOWSE.

XCVII.—Is Mr. Gladstone's financial policy worthy the confidence of the country?

Mr. WILLET is appointed to open the debate, and Messrs. SPENCER, SHERRING, and TWINKERBOW to speak on the question.

For Tuesday, 21st May, 1861. President—Mr. LAWRENCE.

273.—A leasehold property was sold subject to an underlease; the lease and underlease were produced at the sale. The lease contained a covenant to pull down the messuages on that part of the ground not underleased, and to re-build at the end of the term, and the covenants in the underlease differ materially from those in the lease. Can the purchaser refuse to complete the contract?

Hall v. Smith, 14 Vesey, 420; Darlington v. Hamilton, 1 Kay, 550; Martin v. Cotter, 3 Jo. & Lat. 496; Jones v. Edney, 3 Camp. 285; Grosvenor v. Green, 5 Jur. N. S. 117.

Affirmative—Mr. ULLITHORNE and Mr. WHITE.

Negative—Mr. JACKSON and Mr. AMOS.

For Tuesday, 28th May, 1861. President—Mr. HILLS.

274.—A the wife of B is seized of land; B agrees to sell it and dies. Can A enforce the contract against the purchaser?

Humphreys v. Hollis, Jacobs, 73; Sug. V. & P., 13th ed. 173 n.

Affirmative—Mr. WINGATE and Mr. HERBERT.

Negative—Mr. HEWLETT and Mr. BELLAMY.

The chair will be taken at Seven o'clock.

Gentlemen requiring books from the Library are requested to apply for them five minutes before Seven o'clock on the Evenings of Debate.

Copies of the Rules and all requisite information will be furnished by the Secretary, with whom Gentlemen desirous of becoming Members are requested to communicate.

GEO. L. WINGATE, Jun., Secretary,
9, Copthall-court, E.C.

JOHN GOSNELL & CO., PERFUMERS TO THE QUEEN, beg to recommend the following Fashionable and Superior Articles for the TOILET to the especial notice of all purchasers of Choice PERFUMERY.

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CHARING-CROSS HOSPITAL, West Strand.—

This Charity has now entered the 45th year of its existence, and the Governors indulge the hope that its operations will always be found worthy of adequate support.

Its exertions comprehend the relief annually of from 16,000 to 17,000 sick and disabled poor, including 3,000 cases of accident (many of great severity and danger), and constant accommodation for upwards of 100 in-patients in the wards. The annual cost is about £3,000. The following contributions are thankfully acknowledged:—

G. F. Heneage, Esq. £10 10 0	Mrs. E. C., add £50 0 0
Mrs. F. C., add 50 0 0	H. Cunliffe, Esq. 40 0 0

CHILDREN'S WARDS.

To render the Hospital still more efficient, the Council are anxious to bring into useful operation the Wards for Children, hitherto unoccupied for want of funds; a measure which alone remains to complete the designs of the founders. It has been estimated that the addition of £330 annually to the income of the Hospital would suffice for its accomplishment, an addition which it is earnestly hoped public benevolence will supply.

A generous benefactor has commenced a subscription for the purpose by a donation of £500, to which the following liberal contributions have been added, and the Council anxiously solicit the assistance of other supporters to the good work.

W. Stuart, Esq. £300 0 0	R. Few, Esq. £100 0 0
Dr. Golding, Esq. 10 10 0	Ditto 2 0 0
J. Greenwood, Esq. 5 5 0	J. Wilkinson, Esq. 5 5 0
H. Walmisley, Esq. 50 0 0	Ditto 1 1 0
T. Tilson, Esq. 20 0 0	Charles Few, Esq. 50 0 0
Rev. R. H. Cooper 3 0 0	James Parker, Esq. 10 10 0
R. Cobbett, Esq. 10 10 0	Surplus of Subscription
Ditto 1 1 0	for a Testimonial to
E. Wilder, Esq. 10 10 0	Dr. Golding and Mr.
Lord Egerton of Tatton 50 0 0	Robertson 60 13 0

ENDOWMENT FUND.

To ensure the permanence of the useful objects of the Hospital, and to assist in providing against the serious losses which it sustains with painful frequency by the death of kind supporters, a Permanent Endowment Fund has been established, which, when further promoted by benefactions or bequests, will afford some steady source of income, in addition to that arising from casual and therefore uncertain subscriptions. The dividends from this source will substantially assist the regular disbursements of the Hospital, while the invested principal will be held intact and inviolate.

Very valuable assistance has been rendered by the legacies of deceased benefactors, and as upon this source the continued welfare of the Hospital must in great part depend, it may be respectfully stated to those benefactors who may be desirous to endow, by benefaction or bequest, a ward, or one or more beds to bear in perpetuity the name of the donor, or of one whose memory he cherishes and would wish to identify with a permanent work of charity, that such desire can be fulfilled in accordance with the regulations of this Hospital.

The following additional contributions are thankfully acknowledged:—

Thomas Raymond Barker, Esq., add., £25, making up £100 0 0	The Rev. A. Clumold, £50 0 0
	Messrs. Gale & Co. add. 5 5 0
	Messrs. Cox & Co. 100 0 0

Donations for the current objects of the Hospital, or for the Children's Wards, or the Endowment Fund, will be thankfully received by the Secretary, at the Hospital; and by Messrs. Coutts, Messrs. Drummonds, Messrs. Hoare, and Messrs. Herries; and through all the principal bankers.

April, 1861.

JOHN ROBERTSON, Hon. Sec.

WINES for the NOBILITY and GENTRY.

WINES for the ARMY and NAVY.

WINES for the CLERICAL, LEGAL, and MEDICAL PROFESSIONS.

WINES for PRIVATE FAMILIES.

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FRENCH VINEYARD ASSOCIATION,

32, REGENT CIRCUS, PICCADILLY, LONDON, 1861.

BINDING.—The Publisher of the SOLICITORS'

JOURNAL and WEEKLY REPORTER is prepared to bind any volumes which subscribers may send to him, neatly, expeditiously, and strongly. Orders sent to the office will be immediately attended to, and in town volumes will be fetched and returned when bound without any expense.—Half Calt, 4s. 6d., and Cloth, 2s. 6d. per volume.—Office, 39 Ditch-street.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal, an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, MAY 11, 1861.

CURRENT TOPICS.

The amendments which Lord Chelmsford desires to introduce into the Bankruptcy and Insolvency Bill, if carried, will very materially alter its provisions. He proposes to strike out altogether those clauses which transfer the bankruptcy jurisdiction to the county courts, on a vacancy occurring in the district bankruptcy courts, and which give power to create additional county courts, and to appoint judges thereof. He is opposed to empowering the registrars to make adjudication except in cases where the petition is by a debtor for adjudication against himself. With respect to acts of bankruptcy by a non-trader he proposes that non-traders shall be liable to an adjudication of bankruptcy only upon the acts of bankruptcy applicable to traders, and to restrict the power given by the Bill to a judgment creditor to sue out a judgment debtor summons against a non-trader, to non-traders becoming bankrupt after the commencement of the Act; nor is it to be an act of bankruptcy for a non-trader to remain abroad with intent to defeat or delay his creditors unless he departed the realm after the passing of the Act. He wishes to limit the power of the chief judge to transfer proceedings from one district to another to cases in which the debts are under £300; and to declare that the debt of the petitioning creditor of a non-trader debtor must be in respect of a debt contracted after the passing of the Act. According to the suggested alterations the county courts in which petitions may be filed are not to include Newcastle-upon-Tyne, Liverpool, Manchester, Birmingham, Leeds, Bristol, or Exeter. At the sitting for choice of assignees, creditors may resolve that the creditors' assignee shall be sole assignee, and the services of the official assignee may be thereupon dispensed with, or at such sitting creditors may make the official assignee sole assignee. Under deeds of arrangement where holders of bills of exchange are not known the persons with whom the debts represented by such bills of exchange were originally contracted are to take their place as creditors for the purpose of giving or refusing assent. County court prisoners to be included amongst those who may obtain their discharge through the interference of the registrar.

On Tuesday last in the Oxford Convocation there was a discussion upon the proposed Bill for the union of the Regius professorship of Civil Law, and the Vinerian professorship of Common Law—the intended new

chair being for "jurisprudence generally, and specially for the principles of Civil and English Law." The result of the debate was that the proposal was rejected by the votes of 96 against those of 59 members of Convocation. It is not very easy to understand what are the precise reasons which were advanced by the advocates of the consolidation of the two professorships. Mr. Neate, the professor of political economy, supported the proposition, because "the separation of Civil and Common Law was no longer recognised in England; and there was no object in maintaining the faculty, except as an unmeaning honour to confer on distinguished foreigners." Mr. Bernard, the professor of international law, thought "Civil Law was best taught in combination with Common Law;" and Dr. Pusey expected that much advantage would result from the consolidation. These are the only arguments in favour of the proposed measure which we can pick out of the lengthy debate, a report of which has been published in the morning journals. The reasons advanced upon the other side are, as far as the public are concerned, of an equally jejune and unsatisfactory character. Mr. Mitchell, the public orator, rested his opposition upon the ground that the consolidation of the two professorships was virtually the extinction of one. Dr. Twiss, the Regius Professor of Civil Law, urged that it still maintained an "important place in our courts, and ought to be kept as a separate study;" while two or three other speakers confined themselves to the more real question as to who should have the right to give away the new professorship, the proposed emoluments being, in the first instance, not less than £400 a-year (exclusive of fees) and when the consolidation was effected, not less than £600 a-year (also exclusive of fees). We say that after all the lengthy discussions which this project has raised at the university, it derives its only importance from the consideration that the appointment will be worth having; and the university therefore is naturally anxious that it should have the greatest number of votes in the board of electors, whose duty it would be to present to the new chair. No one in Oxford or elsewhere is foolish enough to suppose that the new consolidated professor would be one whit more useful than the two professors who preceded him. Professor Bernard candidly expressed what everybody knows when he said that "practically there was no teaching of law except by himself and a few private tutors." The law professorships at the universities have long been given up by all sensible men as antiquated impostures and utter shams. There have long been professors and doctors of law without teaching or students to teach. It is hopeless to expect that there can always be found competent lawyers who will be willing to relinquish all hope of practice or preferment in their profession, for the sake of a few hundreds a-year at a university, where the class of law students must always be extremely limited; inasmuch as at least nine out of every ten students who intend to become lawyers have the good sense to postpone the study of law until they have graduated; and no one would think of then remaining at the university for the sake of such instruction in law as has ever within the memory of man been afforded there. The recent debate in convocation proves beyond all doubt—if any new proof indeed were wanted—that the time has come when the universities should be contented to relinquish some of their unfounded pretensions to universality. The whole domain of learning is no longer mapped out into the seven liberal arts, or into a small cluster of faculties, each with its own doctorate. Classics and mathematics, no doubt, continue to be well taught at the English universities (of philosophy or theology we say nothing), but they have long ceased to be the whole of human or even polite knowledge. Although until recently the order of a Greek play had the best chance of a mitre, and even statesmen were prouder of their expertness in making Greek or Latin verses than of their acquaintance

with the doctrines of political economy, in this respect the times have very much changed, and universities are now the last place where any one would go for instruction in some of the most important and influential branches of human knowledge. The Royal Institution in Albemarle-street (a voluntary society) has done more in one year for the development and diffusion of physical science than both our great universities have during the last half-century. They give degrees in medicine, but what has either university done to justify the use of such a privilege? Indeed, they arrogate to themselves the right to pronounce upon the merits of musicians and to make doctors of music; but where in the whole range of English musical composition can one trace the slightest advantage to English music from the teaching or influence of the university professors? Engineers, architects, artists of all kinds and all classes of men who have a *specialite*, have found out the advantage of ignoring the pretensions of the universities to include the science or cognate arts in which they are interested, in the theoretical universal curriculum of the universities. Is it not full time that the lawyers also should do the same thing, and that an end should be put to the sham degrees in law of the universities? These degrees are not merely an "unmeaning honour for distinguished foreigners," as Mr. Neate predicated of the degree in civil law, but are equally an "unmeaning honour" for undistinguished Englishmen, of many of whom who are thus dignified by the universities with the highest degree in the faculty of law, it may truly be said that they are *doctores sine doctrinâ*. The proper remedy of this state of things is clearly the establishment of a law university, where the money now contributed by the Crown for the maintenance of the sham professorships at Oxford and Cambridge, might be much more profitably applied in procuring proper instruction for the crowd of actual law students which is always to be found in the metropolis, and who still remain without anything like adequate provision being made for their professional instruction.

The Inns of Court Volunteer Rifle Corps have accepted the invitation of the University of Cambridge Corps, and will go to Cambridge on Saturday next to join the latter corps in a field day. The members of the Inns of Court Corps are to assemble at Gray's Inn at 8 30 A.M., and will march from thence to the Eastern Counties Railway Station. They will be conveyed by a special train to Cambridge, where the evolutions will commence at 11.30. Arrangements have been made for the conveyance back on the same night of as many of the members as like to return immediately. It is understood that several of the principal colleges will arrange amongst themselves for the entertainment of their visitors.

The Council of Legal Education, in order to facilitate the intended visit of the Inns of Court Rifle Corps to the University Corps of Cambridge, on Saturday, the 18th inst., have made an alteration in the days fixed for holding the examination of students of the inns of court. The examination will be commenced on Wednesday, the 15th instant, at half-past nine, and continue on the two following days at the same hour.

Lord Brougham, who is the president, and the Council of the Social Science Association, have issued cards for a *conversazione* to be held at the South Kensington Museum on next Saturday week, the 25th instant. Members and others interested in the department of jurisprudence who have not received tickets ought to apply forthwith to Mr. G. W. Hastings, the general secretary of the association. The assemblage, no doubt, will be very large and of a very interesting character.

COURT OF PROBATE DISTRICT REGISTRIES.

The Court of Probate Act, 1857 (sect 111), provided that it should be lawful for the Commissioners of her Majesty's Treasury to order that the district registrars should be paid by salaries instead of fees, and to fix the amount of such salaries; and thereupon the fees payable to the district registrars are to be accounted for and paid into the Exchequer. Until very recently this provision was not put in force; but by a Treasury minute dated March 16, 1861, certain salaries have been assigned to the district registrars from the 1st of the present month. These salaries "are intended to be a remuneration for their services, including the preparation of affidavits and other necessary documents for parties applying in person for grants of probate or letters of administration:" and some doubt having existed whether it was any part of the duty of district registrars to prepare such documents, a recent General Order of the Court declares that it shall be so for the future. It also publishes a list of the fees (in addition to the ordinary fees) to be taken in the district registries when applications are made by parties in person, and not through a proctor or solicitor.

Until this Order came into force, the district registrars were generally in the habit of acting as the proctor or solicitor of parties applying in person, without the intervention of other professional aid. This practice was quite as objectionable as that of registrars of county courts accepting business before the tribunals of which they were officers. But the probate registrars, under the system which has just come to an end, usually made regular professional charges; and the only unfairness to non-official practitioners arose from the fact that the position of the officials gave them some advantage in the way of obtaining business, and was not unlikely to attract the confidence of clients. Bad as the late system was, however, that which succeeds it is very much worse in all respects. It is characterised by gross unfairness towards the profession, and is equally impolitic in respect of the public interest. It violates the first principles of political economy as well as of jurisprudence; and is, moreover, the most flagrant instance that yet has occurred of an attempt to introduce the miserable bureaucracy of the continent in place of that independent action and freedom from Government officialism which has hitherto been the pride of Englishmen. According to the new scheme, when in future the District Registrars act privately as professional advisers, they will do so as the agents of the Government, which will henceforth receive into its own coffers all the fees received from this class of business. The published list of fees is in fact the new Government tariff for the transaction of the general probate business of the country. The notion is not merely to provide cheap and ready advice for poor people or in respect of very small estates, but to do the entire probate business of the provinces. Thus we find that for a fee of two shillings and sixpence, in addition to the ordinary court fees, the district registrar has imposed upon him the duty of preparing the oath of executors in all cases where parties personally apply to him, and the effects are sworn under £20, and for a fee of five shillings in all cases where the effects are sworn under £1,000,000, sterling! The same fees are payable in respect of the like sums for preparing the requisite affidavit for the Inland Revenue Office. For drawing these two documents, the estate of the mechanic who dies worth £20, and of the millionaire who dies worth only one shilling less than a million, will pay the same on probate of the testator's will. It must be admitted, however, that a greater nicety and respect for the differences of fortune have been observed in fixing the sums payable in respect of such general business as may be considered to be included under the comprehensive but compendious category of "clerks and letters," coupled with the all-inclusive "&c." It is not

perhaps unreasonable or impolitic on the part of Government to undertake, in cases where the effects are sworn under £20, to conduct the necessary correspondence and other business which may be incidental not to the granting, but to the procuring, of probate; but we think it is very questionable whether it is not as unjust to the general public as it is to the legal profession—and whether it is not very impolitic as regards the Government itself—to undertake all this correspondence and other work, where the effects are sworn under £2,000 for 2s., under £4,000 for 5s., under £70,000 for 7s. 6d., and under £1,000,000 for a guinea. What is to be the extent of the advice and assistance, or how many clerks are to be employed, or letters to be written, or what else may not be included in this fee of one guinea, where the estate all but reaches the round million, we are unable to divine. Neither can we say whether in any case the fee will be payable in the event of probate being refused. But it is quite clear that, however this may be, it will be impossible for solicitors who pay their own clerks and the rent of their own offices, who buy their own pens, ink, and paper, and are, moreover, saddled with a heavy special tax, to compete, in point of cheapness, with the Government district law agencies, which are free from taxation and expenses of all kinds.

But, it may be asked, how do we substantiate the charges which we have made against this novel and, so far as suitors are concerned, inexpensive system? We need hardly show how grossly unfair it is towards our profession. The mere statement that we have just made is sufficient to justify this allegation. A more important consideration with the public will be to show how little it is calculated to promote their interests, and how much both its principle and details are opposed to the doctrines of science and to the habits and feelings of Englishmen. In the first place, no proposition in political economy is better established than that which insists upon the advantages derivable from the division of labour; and in this respect there can hardly be a clearer distinction of functions than between the formal ones which belong to a forensic official, and those which are incidental to a legal adviser. Indeed, not only will the district registrar have to discharge duties requiring very different habits of thought and conduct, but involving very opposite and conflicting responsibilities. As registrar, his duties are of a quasi-judicial character, and necessarily must often conflict with those which he owes to his quasi-client. How can he serve these two masters, and be loyal to both? Is he, as judge, to take judicial notice of the flaws which he discovers as solicitor, or will he be bound to overlook them unless they come to his notice by other means? If he conducts the correspondence and acts as solicitor of the parties applying for probate or administration, is he obliged to communicate such flaws to the opposing parties, and to advise them as well? If he is, it will be rather awkward for his clients; if he is not, will it not be unjust to the opposing parties? Whether he is or not, it will be extremely embarrassing for himself, and must frequently bring great discredit upon the proceedings of the court of which he is an officer. Apart, however, from any sentimental considerations of this kind, why should the parties who happen to apply first have their claims asserted at the expense of the public (for that is the simple result of the whole scheme), while those who come second are obliged to fight the battle at their own cost? How can it be shown that good policy requires that the public, at a large expense, should provide, at an absurdly cheap rate, professional advice and assistance for persons entitled to immense fortunes? Why are tax-payers called upon to provide an experienced lawyer, and to pay him and his assistant clerks, in order that the executors of Baron Bullion, Sir Moses Goldschild, or any other millionaire, shall not have to pay more than five shillings for preparing their affi-

davits, or a guinea for the use of a comfortable office and skilful clerks, together with the advice and direction of a competent lawyer? But we need not add to the number of these interrogatories, although it would be very easy to do so. We shall content ourselves with only one more question—who will be responsible for the laches or unskilfulness of this public proctor? Will the Crown be answerable for the mistakes of its agent, or will a client have to accept cheapness in the place of responsibility? These are all matters requiring consideration; and we now call early attention to them in the hope that something effectual may soon be done for the purpose of putting an extinguisher upon this absurdest of all modern vagaries in the region of so called law amendment.

We have contented ourselves generally with a reference to the probate table of fees. That relating to letters of administration, and another to double or cessate probates, are so similar as to call for no particular observation; but we give the following tables relating to more special business, for the purpose of showing how complete it is intended to make this scheme for the entire absorption of country probate business in the district registries of the court.

ON PROBATES, SPECIAL OR LIMITED.

	£	s.	d.
Instructions	0	5	0
Perusing and abstracting deeds or other instruments when necessary, at per folio 72 words	0	0	3
Affidavit for inland revenue office (the same fees as on other probates)			
Drawing special oath of executor, per folio of 72 words	0	1	0
Engrossing and collating the will. (The same fees as on other probates)			
Special or limited probate under seal. (The same fees as on other probates.)			
Clerks, letters, &c. (The same fees as on other probates.)			

LETTERS OF ADMINISTRATION WITH OR WITHOUT WILL ANNEXED, SPECIAL OR LIMITED

	£	s.	d.
Instructions	0	5	0
Perusing and abstracting deeds or other instruments, when necessary, at per folio of 72 words	0	0	3
Drawing proxy of nomination at per folio of 72 words	0	1	0
Affidavit for inland revenue office. (The same fees as on other letters of administration.)			
Drawing special oath of administrator, per folio of 72 words	0	1	0
Engrossing and collating the will. (The same fees as on other letters of administration with will annexed.)			
Letters of administration under seal and stamp. (The same fees as on other letters of administration with or without will annexed.)			
Clerks, letters, &c. (The same fees as on other letters of administration with or without will annexed.)			

AFFIDAVITS OTHER THAN THE AFFIDAVITS AND OATHS INCLUDED IN THE FEES OF PROBATE AND LETTERS OF ADMINISTRATION AND DECLARATIONS OF PERSONAL ESTATE AND EFFECTS.

	£	s.	d.
Instructions for every such affidavit or declaration of personal estate and effects	0	5	0
For drawing the same, per folio of 72 words	0	1	0

INSTRUMENTS OF RENUNCIATION AND CONSENT, LETTERS OF ATTORNEY, AND OTHER DOCUMENTS PREPARED IN THE REGISTRY

	£	s.	d.
For drawing same, per folio of 72 words	0	1	0
Perusing and settling oaths and other instruments not drawn in the registry, per folio of 72 words	0	0	3

	£	s.	d.
Copies of all oaths, affidavits, declarations, instruments of renunciation and consent, letters of attorney and other documents prepared in the registry when required, at per folio of 72 words	0	0	6

ON THE LAW OF TRADE MARKS.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Nature of the right to use a Trade Mark.

The natural right of every one to enjoy, within certain limits imposed by law for the benefit of society at large, an exclusive profit in the results of his powers of invention, whether applied in the production of a new manufacture or in the creation of a work of art, though unknown to ancient systems of jurisprudence, has long been recognised by modern civilization. Some such basis of natural right must be supposed to exist as the foundation, in our own country, of our patent rights, and as the ground for their creation by the restrictive clause in the Statute of Monopolies, 21 Jac. 1, c. 3, s. 6, from which our present patent law dates its origin. Again, the exclusive property of an author, artist, or designer, in the productions of his invention, is recognised, and its enjoyment limited, by the conditions which have been imposed by the several Copyright Acts which have been passed since the original statute 8 Anne, c. 19. It is, indeed, difficult to see on what other assumption than that an analogous right exists in the use of a trade-mark, the violation of that right has in many cases been restrained. By attaching to any article of his manufacture a mark or device by which it is known to the trade, or to the public in general, a manufacturer acquires as the result of his ingenuity and skill a special preference in the market for the sale of his goods so marked; and I shall now proceed to consider on what principle are his interests to be protected. In the case of patents and copyright there is a species of property defined by statutory limitation; but in the case of trade-marks such a definition is to be sought only in the decisions of our courts of law and equity, and there is some difficulty in reconciling the various propositions that have from time to time been laid down in these courts, with the recognition by them of a common principle of interference.

The origin and nature of the legal right to protection in the use of a trade-mark is to be ascertained from the species of remedy given for its violation. This remedy is an action on the case for deceit, so that the unauthorised use of a trade-mark is obviously deemed to be a fraud. But then the question arises, on whom is the fraud committed, who shall maintain the action—the trader whose mark is unduly appropriated, or the buyer of the goods the sale of which is promoted by this means? The difficulty is suggested by one of the earliest cases on the subject, which is cited in *Southern v. Howe*, 1 Pop. 144; 2 Cro. 468, and as it gives us all the elements of the law which govern this subject, I give it in *extenso*. The case as stated in Popham's Reports runs thus, that, "in 22 Eliz. an action upon the case was brought in the Common Pleas by a clothier, that whereas he had gained great reputation for his making of his cloth, by reason whereof he had great utterance to his benefit and profit, and that he used to set his mark to his cloth whereby it should be known to be his cloth, and another clothier perceiving it, used the same mark to his ill-made cloth on purpose to deceive him, and it was resolved that the action did well lie." On turning, however, to the report of the same case in Croke, we find it stated, that "an action upon the case was brought by him who bought the cloth, for this deceit, and adjudged maintainable;" so that it is doubtful, from these two statements, who was, in the opinion of the judges, the person to bring the action.

Comyns, in his notice of this case (Dig., Action on the case for Deceit, A. 9), leaves this point in ambiguity, although the reference he gives is to the report of the case in Croke; on the whole, however, judging by the applicability of the case to that of *Southern v. Howe*, where it is cited, it would seem that Popham's version is the correct one; and Lord Rolle, the only other authority on the point, in his Rep. v. 2, p. 28, while he adds, with respect to this action, *Semble que gist pur le vendee*, yet states expressly that the point was left in doubt by Doderidge, J., who cited the case. From the form, indeed, of action originally adopted, and ever since adhered to, it might well be supposed that an action would lie as well on the part of the purchaser as on that of the trader whose mark is pirated; on the part of the former because a direct fraud is committed against him, when by reason of the mark he is induced to buy inferior goods; of the latter, because by the deceit practised he is excluded from the market, which otherwise he might have occupied, and loses the profit of the sale; the latter course, however, has been followed in all subsequent cases.

We see, therefore, that the ground on which the Courts of Common Law have always protected a trader in the use of his trade mark, is on that of fraud; or, as it is stated in general terms by Comyns, in his note on the passage before referred to, "A fraudulent misrepresentation (and fraud is of the essence of the injury), occasioning damage; the falsehood whereof the person to whom it is made has no means to detect, is actionable."

We come next to enquire, what are the principles on which the Court of Equity has interfered for the protection of this right. In the earliest case on the point, *Blanchard v. Hill*, 2 Atk. 484, where an injunction was applied for to restrain the defendant from making use of the Great Mogul Stamp upon his cards to the prejudice of the plaintiff, Lord Hardwicke denied that there was any foundation for the court to grant such an injunction. He observed that every particular trader had some particular mark or stamp, but that he knew no instance of granting an injunction in the Court of Equity to restrain one trader from using the same mark as another. He thought it would be of mischievous consequence to do it. He denied the force of the objection that the trader was thereby prejudiced by the taking away of his custom, and by distinguishing from all others those cases in which the goods sold were inferior in quality, he leaves us to infer that in the latter case, and then only, would the Court of Equity interfere.

This limit to the jurisdiction has been long since abandoned; indeed, it is not easy to follow the reasoning which led to Lord Hardwicke's conclusions. For, if the fact of the fraudulent injury done to the trade of the manufacturer who uses a particular trade mark is not sufficient to support the jurisdiction, it is difficult to see upon what satisfactory principles the jurisdiction is founded when the goods sold under the pirated mark are inferior in quality.

It is worth while here to remark an observation of Lord Hardwicke's, "that there was no force in the objection that the defendant, by using this mark, prejudiced the plaintiff by taking away his customers," because this position has been completely overruled by the cases to which a reference will hereafter be made, and also on account of the illustration which his lordship offers of his opinion. He says, "there is no more weight in this than there would be in an objection to one inn-keeper setting up the same sign as another." Now, I should be disposed to think that if this was done under such circumstances as would be likely to draw away deceitfully the trade of the original inn, relief might be obtained in equity; and we find that the very point has been so held by an American Court, in a case where an hotel had acquired a very great reputation, and its owner was accordingly protected in that sort of

property in the sign of his house (*Howard v. Henriquez*, 3 Sand. S. C. 722).

It is now clearly established that where the right to use a trade-mark has been sufficiently proved, either by a trial at law, or by long continued usage, a court of equity will in exercise of its ancillary jurisdiction interfere by injunction, and that it will do so on the assumption that the legal remedy is inadequate, and on the ground of irreparable waste or damage. This general principle is very distinctly stated by Lord Cottenham in *Mottley v. Downman*, 3 My. & Cr. 1, he says, that "the Court when it interferes in cases of this sort is exercising a jurisdiction over legal rights, and although in very strong cases it sometimes interferes in the first instance by injunction, yet in general it puts the party upon asserting his right by first trying it in an action at law, or by permitting the plaintiff, notwithstanding the suit in equity, to bring an action." So far then the principles on which the courts of law and equity have acted in granting relief in these cases, appear to be in harmony with each other, the latter refusing to recognise any species of property in a name or a mark, and, therefore, granting relief only in those cases where the machinery and not the ground of jurisdiction of the former was inadequate to relieve against an injury—the essence of such injury being fraud. That view of the case, however, is hardly reconcilable with the decisions and dicta in *Millington v. Fox*, 3 My. & Cr. 338; and *Welch v. Knott*, 4 K. & J. 747. If the principles laid down in those cases are to be hereafter followed, it is clear, that even where there is no fraudulent intention on the part of the persons usurping the trade-mark of the plaintiffs, yet that circumstance does not deprive the plaintiffs of their right to the exclusive use of certain names or marks. There is, therefore, sufficient authority for saying that in the consideration of the court of equity the right of property in a trade-mark is something more direct and specific than it can be deemed to be at law. At law it consists of a right to be protected against fraud; in equity it challenges some of the peculiar characteristics of property; but as it has been laid down more than once that a person cannot acquire property in a mere name, it must be deemed a species of property qualified rather than absolute; still sufficiently precise to enable the subject to obtain a substantial protection.

It is very true that this extension of their jurisdiction on the part of the courts of equity is quite in accordance with the distinctions which have been drawn between the subjects in which they are intended to afford relief, and those cases in which the aid of a court of law may successfully be invoked. It would be hard that a person having unwittingly injured a trader by the use of a particular mark, should be punished by damages in an action at law; and yet very just that the same person should be restrained from continuing the injury, especially as such a continuation could not, after notice of the wrong, fail to be fraudulent. It must, however, be allowed that in granting relief in cases of this description, courts of equity abandon the legal ground of fraud, and can then only be considered to proceed on the ground of protecting property against injury. This view of the question is, I think, strengthened by the consideration that in no case has a Court of Equity interfered unless an injury has been done to property. In *Clark v. Freeman*, 11 Beav. 112, it was considered by the Master of the Rolls to be an objection fatal to the application for an injunction to restrain the defendant from selling certain pills as "Sir James Clarke's Consumption Pills," that there was no injury done to property, and that if the Court could have found such a reason for interfering, it might, as in other cases, have done so; and in a recent case of *The Emperor of Austria v. Kossuth*, before V. C. Stuart, his Honour's observations during the argument appear to lean strongly to the conclusion, that there is a species of property in a trade-mark. The definition, therefore,

which I would suggest of the right which forms the subject of this inquiry, is limited by the following considerations:—First, the general right to protection in respect of property against injury, fraudulent or otherwise. Secondly, the quality of the property which a trader has in goods marked with his particular trade-mark; the goods marked and the mark which distinguishes them being, in theory, inseparably connected. Without the mark, the goods are indeed still property, but certainly not a property of the same class, or of equal value. If we once admit the notion of this compound property, it becomes easy to understand and reconcile the difference which now exists in the extent of the two jurisdictions. There is still no property in a mere name or mark; it is open to any one to use it apart from the article to which it was originally applied;—so used, there is no injury to the original manufacturer; neither is there any injury in the use of a name belonging to another person to distinguish a particular article, such person having no trading interest in that article; but in the sale of an article which by a mark or device attached to it, professes to be the property of a particular trader, apart from any intention of fraud, an injury is committed, which it comes within the province of a Court of Equity to relieve against.

It might, at first sight, seem that the case of *Flavel v. Harrison*, 10 Hare 467, is opposed to this view. In that case, the defendant made and sold an article called "Flavel's Patent Kitchener," (which was in fact a copy of an article that had been long made by the plaintiff), but it appeared that the defendant was in the habit of stating at such sales that the article was not, in fact, Flavel's, but of his own manufacture, so that even supposing the case to have rested on that ground alone, there was room to contend that no injury was done to the plaintiff; but I am disposed to think that the decision in that case rested mainly on the fact that there was a misuse of the name by the plaintiff,—that he had no right to use the word "Patent;" this, as will be shown on a future occasion, has always been held to be a sufficient ground for the Court to refuse to grant relief. There were other circumstances, too, in the case which render it improbable that the decision was arrived at upon the ground of property.

The English Law of Domicil.

(By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-law.)

X. (Continued.)

To continue the consideration of the case of *Bremer v. Bremer*, we have seen the circumstances attending Miss Calcraft's various movements, upon which Sir John Dodson considered that her domicil of origin was Anglo-Indian, afterwards that she acquired an English one, and that while she was travelling abroad, she had not abandoned such English domicil. If the marriage with Signor Allegri had been proved, that would have established an Italian domicil; for the domicil of the wife followed that of the husband, but although she both said and wrote an assertion of the fact, and described herself in her will and executed it as Madame Allegri, she confessed to her solicitor that she was not married, therefore, there was no evidence of such marriage; *præterit nomine culpam*. In her correspondence she expressed her intention "not to return to England, but to live in France when she could." If the domicil was French, it was according to the *jus gentium*, and *de facto* only. Time alone would not (the learned judge observed) constitute a domicil; a person might remain for fifty years with an intention to return, and the original domicil was not considered to have been abandoned, and undoubtedly this was quite true. Long residence in one place was a materia

ingredient, and from which an intention might be collected, and in the present case his opinion was that the deceased was domiciled in France, although not by authorization

A will was good or bad according to the law of the country where the party was domiciled, and upon this point the opinions of French advocates had been taken, and they were contradictory. The 13th article of the Code Napoleon was as follows; "L'étranger qui aura été admis pour le gouvernement à établir son domicile en France y jouira de tous les droits civils tout qu'il continuera d'y résider," that is, a stranger receiving the authorization of the Government establishing his domicile in France is to enjoy all civil rights there, and *inter alia* of course, the making a will, and therefore, those who had not received such authorization could not make a will; "Demolombe's Cours de Code Civil," p. 143, sect. 140, Droit Civil, applies to civil rights, although used ambiguously, p. 144; and it was clear upon that authority that a mere domicile was not sufficient without authorization. (*De Verne v. Routledge*, Sirey's Rep. 1852, Cod. Nap. 319.)

The laws of France with respect to making a will apply as well to foreigners domiciled in France (whether naturalized or not) as to French subjects; *locus regit actum* is the principle, whether domiciled or not, and even if a person had only been in France 24 hours. That, however, is not the law with respect to British subjects, and it was the opinion of M. Marie, avocat de Cour Imperiale à Paris, that Miss Calcraft was not legally domiciled in France. The 10th article of the Code Napoleon applied to the legal domicile which was constituted not by the caprice of the party residing, but by the observance of certain legal dispositions which were clearly defined in article 102, *et seq.* of Cod. Nap. Suppose a person having a legal domicile at Bourdeaux came to reside in Paris, and died there, his domicile would be at Bourdeaux. Persons residing in a permanent manner were called "Incolats." No act of a party without authorization can make a legal domicile in France. Sirey's Reports, 1851, *Lynch v. Lynch*. Moveables of a foreigner not having a legal domicile according to the law of France are governed by the law of the country he belongs to; and this is an anomaly, for it might be held in this country to be a French domicile, and therefore, a man having property in France, and not being domiciled by authorization, can make a good disposition of it by a will in the English form, especially if it be personalty; but the French authorities call on the executors to give security according to the law of France.

The different domicils were called "serieux," "civil," "politique," "ordinaire." But by Baron Mecklenburgh's case, in the "*Journal des Tribunaux*," "Il attendu qu'il résulte, soit de toutes les circonstances de la cause, soit des documens produits que le Baron de Mecklenburgh avait à Paris son principal et même son unique établissement; que, depuis 1828, il n'avait conservé aucun à l'étranger. Attendu qu'il résulte de ce fait la conséquence légale que le dit Baron de Mecklenburgh avait son domicile à Paris, et que sa succession s'y est ouverte. Attendu qu'il importe peu que le Baron de Mecklenburgh n'ait pas été autorisé par le gouvernement Français un jour en France des droits civils; qu'en effets, la jouissance légale de ces droits est indépendante de la question de domicile que ne reposer que sur celle de savoir ou est en France le principal établissement de l'étranger que y résidé, par ces motifs le tribunal rejette le declinatoire, et déclare competent dit qu'il sera plaide au fond nevoie la cause a quinzaine pour les plaidoiries; condamne les parties de superche aux dépens de l'incident." But on the 26th of July, 1856, the superior court reversed that judgment. This case appeared to Sir John Dodson to be directly in point, and that

authorization was necessary by the French law; and he held accordingly that Miss Calcraft was domiciled in France according to the *jus gentium*, but no farther; and that consequently she could make an English will of personalty, when all her relations, &c. were English, and that therefore she was domiciled in England, and probate must be granted. This decision was appealed from to the Judicial Committee of the Privy Council, who delivered their judgment on the 10th of May, 1857, and which is reported in 5 W. R. 618, who reversed the decision of the court below. The above case settles the important principle that any testamentary instrument to be valid must be made in the form prescribed by the country in which the party is domiciled at the time of death, and that such domicile need only be a domicile according to the *jus gentium* and not by authorization, that is, that if an Englishman gains a domicile recognised by the English law as such in a foreign country, and makes a will in the English form, such instrument is invalid, because it is not in such a form as would be valid according to the law of the country, where by our law he is considered to have gained a domicile, although that domicile would not be recognised in that country as far as regards the operation of authorization or naturalization, but only by the *jus gentium*. *Whicher v. Hume*, 6 W. R. 813.

The following authorities have reference either to the American law as to residence in various places, or as to the view our old law took of settlement, and will be useful to refer to as settling analogous principles to those now laid down as to the law of domicile. *Inhabitants of Fitchburg v. The Inhabitants of Winchendon*, 4 Cush. Amer. Rep. 190; *Story's Conf. Laws*, 46; *Ware v. The Inhabitants of Sherburne*, 8 Cush. Amer. Rep. 267; *Winthrop v. Inhabitants of Waltham*, *ibid.* 327; *Vattel Translat.* 1793, p. 203; *Regina v. The Inhabitants of St. Olave's*, 1 Strange 51; *St. Mary Colechurch v. Radcliffe*, *ibid.* 60; *The Inhabitants of Abington v. The Inhabitants of Bridgewater*, 23 Pickers. Amer. Rep. 170; *Coke Instit.* 2, p. 120.

CHAP. XI. (CONCLUSION)

HOW DOMICIL IS AFFECTED BY WAR.

As the condition of being at war materially alters the relations of the belligerent powers in many respects, it may not be improper to consider how the question of domicile is affected by it. In the American reports, the case of *The Society for the Propagation of the Gospel v. Wheeler*, 2 Gallison, before Justice Story of the Supreme Court, and Judge Sherburne, of Exeter, New Hampshire, October 1814, contains some very apposite observations upon this subject. The marginal note is this, "If a foreign corporation established in a foreign country sue in our courts, and war intervenes between the countries pending the suit, there is not sufficient to defeat the action, unless it appears on the record that the plaintiffs are not within any of the exceptions which enable an alien enemy to sue. There is no legal difference as to the plea of alien enemy between a corporation and an individual." Story, Justice, in the course of the case made the following observations, "It is said that a corporation established in an enemy's country acquires the enemy's character from its domicile, and that a member of the corporation is a subject of the enemy and personally affected with the disability of hostile alienage. It is true that as to individuals their right to sue in the courts of a belligerent, or to hold or enforce civil rights, depends not on their birth, and native allegiance, but on the character which they hold at the time when those rights are sought to be enforced. A neutral or a citizen of the United States who is domiciled in the enemy's country, not only in respect to his property, but also as to his capacity to sue, is deemed as much an alien enemy as a person actually born under the allegiance, and residing within the hostile nation. This has long been settled

on the general law of nations." *Omealy v. Wilson*, 1 Campb. p. 482, *MacConnell v. Hector*, 3 Bos. & Pull. 113. The same principle applies to a house of trade in a hostile country. Although the parties may happen to have a neutral domicile, the property of the house being for such purpose considered as affected with the hostile character of the country in which it is employed. In these respects a corporation authorised by its charter to carry on trade, and established in a hostile country, such as the East India Company would, no doubt, be placed as to its property within the same rule, even admitting its members possessed of a neutral domicile. A corporation is held to be an "inhabitant and occupier," under the 43 Eliz. c. 2. *Rez v. Gardner*, Cowp. 83."

So far as our law is concerned, unless the matter be regulated by treaty, the same rules which apply in time of peace would apply in war also, with regard to one interpretation of the acts of any individual in a foreign country, that is, as to the mere fact of where or what domicile is; but, if there be any rights flowing from that fact, these, *primâ facie*, except as above, would be entirely suspended. This may be instanced by the inseparable connection which must always subsist between the *status* of a party, and his or her domicile; what I chiefly refer to, is the derivative title which a party may acquire as being under age, or any of those disabilities or subjective situations where the domicile is not original, but follows that of some other person. In several of the cases before referred to it has been seen how differently this *status* is regarded and acquired in different countries, especially in France and Scotland, in the one certain formalities being necessary, as applied to the individual, and in the other, those formalities when applied to others, having retrospective reference to that individual. Vattel states p. 103, s. 218, "that an envoy at a foreign court has no settlement (domicil) at that court, the natural or original one being that which we acquire by birth in the place where our father has his house, and we are considered as retaining it till we have abandoned it in order to choose another. The acquired settlement (*adocitium*) is that where we settle by our own choice."

We can easily understand how an envoy can acquire no domicile at a foreign court, for although it may, and often does happen that the same person fills the office at the same court for many years, yet, the office, like all others under Government, may be determined by the will of that power at any moment, and never, even in the case of a so called permanent situation can be regarded as certainly lasting, and in the case of an envoy or ambassador, must from its very tenure be liable to change. This, therefore, takes away the very element necessary to constitute a domicile, namely, an intention to remain, for no such intention can exist where the party entertaining it may not have the means of carrying it out. War arising between our country and a foreign State would, therefore, not affect the case of a plenipotentiary. The persons most open to its operation would be those, who, having gained a foreign domicile, and possessing property in another country, abandon it, but still possess property in that country where the belligerent state arises, or where they are still resident, and not having abandoned, are still (in a state of peace) entitled to certain privileges in consequence of such domicile. The property in the one case and the person in the other would be materially affected by such a change of relations, and forfeiture and disabilities of various kind must necessarily follow, in the absence, as I said before, of special treaty reserving some right to an alien. This would not, of course, apply to a naturalized subject; for there a complete abjuration of civil and political obligations *ipso facto* follows the act, and the party is to all intents and purposes the same as a natural born subject except certain disabilities to which he is subject.

There is in France a species of naturalization of illegitimate children; but this differs rather in the solemnities with which it is attended, than in the effects which it produces on the rights and liberties of its object. Where the case is not provided for by international legislation, as a general rule, all relations, as applicable to natives of the country with which the other is at war, are entirely cut off; and, subject to the same exceptions, their liberty, property and rights of all kinds, are at the entire mercy of the country in which they are. This, of course, does not refer to what may be or has been done, but to what the belligerent state has the power to execute or enforce; and it is only necessary to refer to our condition in relation to the continent immediately succeeding the peace of Amiens to make what I mean intelligible. A question might arise how far a residence in a foreign country under the circumstances attending the prisoners of Verdun although voluntary (see *Claverine v. Ellison*, 4 W. R. p. 330) could be considered as such, but, I apprehend, so far as the mere fact is concerned, even that condition would make little difference inasmuch as the absence of choice, or compulsory residence, could not alter the effect of direct evidence of intention; for the will, at all events, is free, although circumstances render the exercise of it impossible. The effects of war on domicile therefore, are so uncertain and limited in their operation that it would be impossible to lay down anything but general rules with respect to it. A question upon this branch of domicile can only be made internationally, and that must depend upon the particular facts of each separate case. The chief points to be considered are, the relative position of the countries, politically speaking—the obligations legally speaking, of the individual, and the position and nature of his property, and whether he be an alien in the strict sense, and if not, what forms have been gone through affecting his national rights. By these we must be guided; once possessed of the facts, we can easily apply the general principles of law which I have endeavoured in the preceding pages to elucidate and classify.

At a former page of this work I have incidently referred to the pertinent observation of an American judge upon the subject of the impossibility of a man having two domicils, and *inter alia*, occurs this passage, "If a man had two domicils within the limits of distant sovereign States, in case of war, what would be an act of imperative duty in one, would make him a traitor to the other, as not only sovereigns but all their subjects collectively and individually are put into a state of hostility by war." To put the case, therefore, of possession of property in a foreign country with a domicile there, without naturalization, there would be the mere possession without any of the obligations attached to such possession, and therefore, if there were any right attaching from the fact of being domiciled in that country, they would be effectually neutralized by the fact of the possessor being in other respects an alien enemy; and if he were domiciled in his own country, and possessed property in the other, there would be the rights flowing from the fact of domicile, without the means of enforcing them, which therefore would avail a man little merely as such in time of war. A most interesting case applicable to this branch of the subject occurred very recently, and is fully reported in the 7th volume of the Weekly Reporter at page 387; it is the case of *Hodson v. De Beauchêne*.

Having now, I believe, referred to all the various branches of the English law of domicile, and to almost every authority in any degree bearing upon such law, I shall here respectfully take leave of the subject and my readers, trusting that my labours have not been altogether useless.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before Vice-Chancellor Sir W. P. WOOD.)

May 7.—*Clack v. Carlon.*—This case raised a short question of some importance as to the costs of solicitors acting as trustees. Mr. Carlon, a member of the firm of solicitors of Carlon & Haynes, was appointed trustee of an indenture containing trusts for the satisfaction of the creditors of certain persons. It was agreed that his partner, Mr. Haynes, should act as Carlon's solicitor in the trust, and should alone be entitled to receive for his own benefit, any costs and charges payable for business done in reference to the trust. The question was, whether Mr. Haynes was entitled to his costs for business done as a solicitor in the matter in addition to the costs, charges and expenses, actually paid by Carlon as a trustee.

The VICE-CHANCELLOR said that the rule being that no solicitor trustee could charge more than his costs out of pocket, the question here was whether that rule extended to a case where the whole of the business had been transacted by the co-partner of such solicitor trustee. The rule was founded upon the principle that no trustee should be allowed to make a profit out of his trust; but there was no ground for saying that a solicitor trustee might not make an arrangement with his co-partner to treat him as a stranger in the management of the particular business. Two firms might come to a mutual arrangement each to transact the trust business of the other upon such a footing, and so might two members of the same firm. From the time, therefore, that Mr. Haynes was acting under the agreement with his partner he must be allowed his full costs.

COURT OF QUEEN'S BENCH.

BAIL COURT.

(Sittings in Banco before Mr. Justice WIGHTMAN.)

May 4.—*Martin v. Hiron.*—This was a rule calling upon the Sheriff of Middlesex to show cause why he should not refund the sum of 10s. improperly received by his officers, and the costs, and against Mott and Mayo, two sheriff's officers, for an attachment for contempt, in extorting 10s. for fees not allowed by law. It appeared that the defendant was arrested by Mott and Mayo on the 30th of November; that while he was preparing to go to prison Mott said he should want 5s. fee for a search, and that if he did not pay it it would cost him a guinea when he got to prison. Defendant said he had not got 5s., but if they would go with him to his friend Culliford, in Chancery-lane, he would get the money. Mott went with him to Culliford, who said there was no fee payable. Defendant then said, "Come, let's have no humbug; am I obliged to pay it?" Mott said, "Yes, you must." Defendant then gave his watch to Culliford, who gave the defendant a sovereign, and the defendant then paid Mott 5s. Subsequently Mayo said he had a claim of 5s., and defendant, on the way to Whitecross-street, gave Mayo 4s. 6d. On the 29th of January last the defendant obtained this rule.

The Sheriff being willing to refund the money and to pay the costs up to the 23rd of March,

The learned JUDGE said he should discharge the rule as against the sheriff upon refunding the 10s. and upon payment of the costs up to the 23rd of March, and then the question of attachment for the extortion should be referred to the Master.

May 6.—*Woodward v. The Eastern Counties Railway Co.*—This was a case stated under the 20 & 21 Vict., cap. 43. It was an appeal from the decision of the magistrates. The appellant appeared to answer an information at the instance of the company for having, on the 4th of February, 1861, at Stratford, refused to show his annual ticket when required to do so by one of the servants of the company. The collector then demanded the fare, which Mr. Woodward declined to pay. It was admitted that the collector knew that Mr. Woodward was an annual ticketholder. There was a bylaw of the company that every passenger was bound to show his ticket when requested to do so; and if he refused to show it, then he should be liable to a penalty of 40s. In answer to the information, Mr. Woodward produced his annual ticket, on which was printed a notice that the holder was to exhibit it when required. It was then contended that this was a special contract, and that the proper remedy was by action. The justices, however, were of opinion that the bylaws extended to this case, and convicted Mr. Woodward. It was also submitted on behalf of the

defendant that the company were bound to know the ticket-holders, and that the collector ought to have a list of their names.

Mr. Justice WIGHTMAN was of opinion that the decision of the magistrates was right, and that the appellant was liable to the penalty imposed upon him. If the passenger did not produce the ticket, he was liable to a penalty under the bylaw, and this case came within that bylaw. The ticket itself said it was to be exhibited when required. He was clearly of opinion that when requested, Mr. Woodward was bound to produce the ticket, and having refused to do so, the magistrates were warranted in inflicting the penalty. The conviction must therefore be affirmed.

Conviction affirmed.

CENTRAL CRIMINAL COURT.

May 6.—The May session of the Central Criminal Court was opened this morning. The commissioners present were the Right Hon. W. Cubitt, M.P., Lord Mayor of the city of London; Russell Gurney, Esq., Q.C., recorder; Alderman Sir J. Duke, Sir F. G. Moon, Sir R. W. Carden, Hale, W. Lawrence, and Mechi; Mr. Alderman and Sheriff Abbiss, Mr. Sheriff Lusk, Mr. Under-Sheriff Eagleton and Mr. Under-Sheriff Gammon, and the usual officers of the corporation.

Francis Ellis, Esq., of the Home Circuit, has been appointed judge of the county courts comprised in Circuit No. 34, upon the resignation of Mr. Cooke.

The office of Taxing Master to the House of Commons has been conferred on Charles Frere, Esq., Examiner for Standing Orders to the two Houses of Parliament.

The Queen has been pleased to appoint Henry Dias, Esq., to be a Member of the Legislative Council of the Island of Ceylon; and Samuel Brownlow Gray, Esq., to be Attorney-General for the Bermudas or Somers' Islands.

Mr. William Price Yearley, Welchpool, Montgomeryshire, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Montgomery.

Parliament and Legislation.

HOUSE OF LORDS.

Friday, May 3.

BANKRUPTCY AND INSOLVENCY BILL.

The Earl of DERBY having moved that this Bill should be referred to a select committee, Earl GRANVILLE, on behalf of the Government, consented to the motion.

The Bill was accordingly referred to a select committee, and the committee was appointed.

Monday, May 6.

COPYRIGHT (WORKS OF ART) BILL.

This Bill was read a second time, and ordered to be committed.

Tuesday, May 7.

WILLS OF PERSONALTY BY BRITISH SUBJECTS BILL.

On the order of the day for going into committee on this Bill being read,

Lord LYNTHURST rose and said that with respect to the case of *Bremer v. Freeman* alluded to on a former night, he entertained the greatest respect for the learning of the judges by whom that case was tried; but he thought their decision had tended very considerably, at least as far as residents in France were concerned, to increase doubt and difficulty with respect to this subject. The main question that was raised before them was one of French law to be decided by an English tribunal. The decision pronounced was that a domicile *de facto*, without the authorization of the French Government, was sufficient to confer testamentary authority in law. That decision created an extraordinary impression on the other side of the channel. Ten of the most eminent French advocates, assembled for the purpose of considering this decision, were of opinion that it was wrong, and that domicile unless authorized by their Government was insufficient to confer testamentary power. He gathered from the observations which had been made upon this Bill that the main charge

made against it was that it proposed to interfere with international law. Such charge he believed to be entirely unfounded.

After some observations from Lord St. Leonards, Lord Wensleydale, Lord Chelmsford, and the Lord Chancellor, Lord KINGSDowns shortly replied.

The Bill was then ordered to be referred to a select committee, the members of which were named.

HOUSE OF COMMONS.

Tuesday, May 7.

JERSEY COURT.

Mr. Serjeant PIGGOTT moved for leave to bring in a Bill to amend the constitution, practice, and procedure of the Court of the Island of Jersey.

Leave granted.

Thursday, May 9.

ALLOWANCES TO WITNESSES.

Mr. W. EGERTON asked the Secretary of State for the Home Department whether he intended to bring in a Bill during the present session to alter the scale of allowances to witnesses at the assizes and sessions.

Sir G. C. LEWIS could only repeat the answer he had given on a former occasion, viz., that he was ready to ask leave to bring in a Bill to enable the counties to make from the county funds any addition which the magistrates might deem fit for the purpose in question.

PENDING MEASURES OF LEGISLATION.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT).

A BILL TO MAKE BETTER PROVISION CONCERNING THE PROCEDURE AGAINST PERSONS CHARGED WITH INDICTABLE OFFENCES WITHIN THE METROPOLITAN DISTRICT.

1. No charge against any person in respect of an indictable offence shall be preferred or tried at the Central Criminal Court, &c., unless such charge has been previously made and investigated before a justice of the peace.

2. Where the charge has been so investigated, and the person charged is committed or detained in custody to take his trial, or is bound by recognizance to appear and take his trial in respect of such charge, no indictment shall be preferred or found in respect of such charge, but an information in the form contained in the Schedule to the Act shall be filed; every information so filed shall be in lieu of an indictment found by a grand jury, and all proceedings for the trial shall be had in the same way as if such information had been an indictment found by a grand jury, and after the party charged by such information has pleaded thereto, no other objection shall be allowed thereto than such as would by law be allowed against an indictment found by a grand jury after plea.

3. All recognizances and other legal instruments referring to such indictments shall be held to apply to such informations.

4. Where the justice or justices of the peace determine that the evidence is not sufficient to put the accused on his trial, the prosecutor may prefer an indictment against such accused party at the Central Criminal Court, &c.

5. Where notice of intention to prefer an indictment is given, the justice or justices shall cause the examination or depositions taken on the investigation of the charge to be delivered to the proper officer of the court, and if any such indictment be preferred to the grand jury, the officer of the court shall deliver to them such examination or depositions.

6. The grand jury shall be summoned to attend at such three of the sessions of the Central Criminal Court in each year only as the judges shall from time to time by general orders appoint, and justices shall not summon the grand jury to attend at more than four such sessions in any year.

7. Charges returned during a session not to be tried during the same session after a time appointed by the Court.

8. Nothing in this Act shall apply to any charge of treason or misprision of treason, or of any other offence against her Majesty, the State, or the Government, &c.

9. Nothing in this Act contained shall extend to prevent the trial, or alter the procedure for the trial, upon a coroner's inquisition, or upon any indictment removed to the Central Criminal Court, under the order of the Court of Queen's Bench.

10. Nothing in this Act shall interfere with or apply to informations filed ex-officio by her Majesty's Attorney-General or by the Queen's Coroner and Attorney, or to the jurisdiction of the Court of Queen's Bench, &c.

11. This Act shall commence and take effect from and after the first day of September one thousand eight hundred and sixty-one.

A BILL TO ENABLE CITIES, TOWNS, AND BOROUGHES OF TWENTY-FIVE THOUSAND INHABITANTS AND UPWARDS TO FACILITATE THE APPOINTMENT OF STIPENDIARY MAGISTRATES.

1. Act to be cited as "The Stipendiary Justices Act, 1861."

2. Interpretation clause.

3. Any Local Board of Health, or any Board of Local Commissioners, or any inhabitant householders, in any city, town, borough, liberty, place, or district in England and Wales, containing a population of not less than twenty-five thousand persons, may convene a meeting for the purpose of considering the expediency of appointing a justice of the peace. Such meeting shall be convened by notice, and seven days notice thereof at the least shall be given by advertisement.

4. If a resolution be carried by the meeting a petition may be presented to her Majesty, praying that a salaried justice shall be appointed to execute the office of a justice of the peace, such petition to be transmitted to her Majesty's Secretary of State for the Home Department. It shall thereupon be lawful for her Majesty to appoint a fit and proper person, being a barrister-at-law in actual practice, of ten years standing at the least, to execute the office of such justice of the peace.

5. Such justice may act as a justice of the peace, with or without other justices, but must not act out of the limits, of his jurisdiction except in certain cases. And such justice not to be a member of the House of Commons.

6. Prescribes limits within which justice may reside, his attendances and places of meetings.

7. Provides for the salary of stipendiary justice, and the mode of payment.

8. It shall be lawful for such stipendiary justice from time to time to appoint one fit and proper person, being an attorney-at-law of one of the Superior Courts at Westminster, in actual practice, of five years standing at the least, as a clerk, and from time to time, at his pleasure, to remove him. No such clerk shall be concerned, either by himself or any partner, in any manner, directly or indirectly, as an attorney or agent in any matter brought or to be brought before the said stipendiary justice, or in any prosecution at any court of sessions or of the peace, or of oyer and terminer and gaol delivery, arising out of or consequent upon any proceeding before such justice, under pain of dismissal from his said office. Such clerk shall and may lawfully take all such fees as are authorized to be taken by the clerks to the justices acting for the said county.

9. Clerk to receive and keep an account of fees, and fees received under the Act to form one general fund. Justices in quarter sessions to appoint a treasurer, who shall give security.

10. Accounts to be kept balanced and audited, and an abstract thereof, audited and certified, to be transmitted to the clerk of the peace, and to be open to inspection.

11. Constables authorized to take recognizances in certain cases without fee or reward.

12. Justices at general sessions may make rate for payment of stipendiary justice.

FINE ARTS COPYRIGHT BILL.

This Bill gives to the author for his life, and thirty years after his death, a copyright in pictures and works of sculpture and engravings made, or for the first time disposed of, after the passing of this Bill; and this right is to extend to a copy of any work of fine art (lawfully made). The same copyright is also given to the authors of architectural works (plans, models, &c.); but when a building has been constructed no person is to be precluded by this Bill from making plans or models from the building itself, and constructing any building therefrom. The Bill includes works of fine art published abroad, and gives copyright in them. But no copyright will be acquired in any case unless the name or monogram of the author is legibly placed upon some conspicuous part of the work. Penalties are imposed for all fraudulent productions falsely pretending to be the work of an artist who is not the real author, or colourable imitations to be passed off as executed by him (whether there be subsisting copyright or not); and, though there may be no subsisting copyright in a work of fine art, no person (except the last proprietor of an expired copyright in it) may use the name of the author upon any engraving during his life. The importation of piracies is absolutely prohibited.

Recent Decisions.

EQUITY.

OPERATION OF TESTAMENTARY APPOINTMENT AS A WILL.

Jones v. Southall, M. R., 9 W. R. 546.

In this case the law as to marriage with a deceased wife's sister appears under a new aspect. The trusts of a marriage settlement were, after the decease of both the parties to it, and in default of issue, in case the lady survived the gentleman, in trust for her absolutely; but if she should die in his lifetime, then after his death and failure of children, in trust for such persons as she by deed or will, notwithstanding coverture, should appoint; and in default thereof, for her next-of-kin. The marriage ceremony was performed, but as the lady was sister of the gentleman's deceased wife, it was void under Lord Lyndhurst's Act. During the gentleman's life the lady executed an instrument which she declared to be her will, and reciting the settlement, and the power therein contained, she confirmed the settlement, and in exercise of the power thereby reserved to her, and of all other powers enabling her in that behalf, she appointed part of the trust monies, after the gentleman's decease and failure of issue of the marriage, to such of the several persons thereafter named as should be living at the gentleman's decease, to whom she gave and bequeathed the same accordingly. And the testatrix gave and bequeathed one moiety of the residue to the gentleman's appointees or next of kin, and the other moiety between her own sisters equally; with a provision that in case of the death of any of the legatees, except her sisters, in the gentleman's lifetime, their legacies should sink into the residue. The gentleman died leaving the lady him surviving, and without having had any children by her. It was now contended, on the one hand, that the will was only intended to take effect as an execution of the power in the event of the testatrix predeceasing her supposed husband, and on the other, that as the will contained words of bequest, and as the testatrix at the time of making it was, in the view of the law, unmarried, it operated upon all the property comprised in the settlement. The Master of the Rolls said that the marriage was a nullity, but the deed executed in contemplation of it was a valid voluntary settlement, and in the events which had happened, the lady was entitled to the property. He held that the will was good. The testatrix was a *feme sole* at the time of making it, and had power to dispose of the whole of her property. It had been said that her intention was only to execute the power, but her intention clearly was to make a will, and that the property should pass in the manner directed by the will. He was of opinion that the interest of the testatrix was sufficient to feed the bequests, and that the will operated upon the whole of the property disposed of by it.

There had been a suit in the Probate Court, *Southall & Huxley v. Jones*, 7 W. R. 381, in which probate of this will was granted in the usual form to the executors. The Judge Ordinary in that case said, "It was contended that the reference to the power showed that the testatrix intended to make a contingent will only, that is, a will to take effect in the event of her nominal husband surviving her, not otherwise. But I am of opinion that I cannot presume that the testatrix intended that her will should have such a limited operation. . . . As she had an absolute power over the property, that supports the will, although the special power never arose."

The principle of this decision will perhaps become more clear by reference to the case of *Trimmell v. Fell*, 16 Bea. 537. In that case trust funds were limited to a married woman absolutely if she survived her husband, but if she predeceased him, she was to have a general power of appointment by will. The wife survived her husband. It was held that the power had not arisen, and that, therefore, her will, made during the coverture, was inoperative. It will be seen that in this case the wife could not make a will at all during the coverture except under her power, which depended for its existence upon a contingency which did not happen. But in *Jones v. Southall* there was no question about power, but only of testamentary intention.

TAXATION OF SOLICITOR'S BILL MORE THAN TWELVE MONTHS AFTER DELIVERY.

Re Nicholson, L. J., 9 W. R. 441.

In this case, the bills of costs ordered to be taxed were forty-six in number. The first of them had been delivered more than four years, and the last within a year before the petition was presented, but none of them had been paid. The amounts of some of the bills had been included in accounts made out by the solicitor and delivered to the petitioner. It was alleged that the

bills contained gross over-charges, such as constituted special circumstances, entitling the petitioner to a taxation beyond a year after delivery of the bills. The solicitor contended that as the bills had been included in the accounts, this was equivalent to payment; but this argument was overruled. With regard to the lapse of time, Lord Justice Knight Bruce observed that up to less than a year before the petition, the confidential relation of solicitor and client had continued; and, "though this was not decisive of the question, still it was a circumstance which must be attended to." It appeared that some of the charges of considerable amount could not be maintained at all, and others were doubtful. On these grounds a general taxation was directed.

COMMON LAW.

ACTION FOR PREFERRING MALICIOUS PROSECUTION, LAW AS TO.

Fitzjohn v. Mackinder, Exch. C., 9 W. R., 477.

When an account of this case was given on a previous occasion* it was remarked that the result at which the Court of Common Pleas had arrived was far from satisfactory, because justice had been clearly made to give way to what, at the most, was a mere technical difficulty. It was an action brought by A., who had been sued in the county court by B., in the course of which proceedings B., by his perjured evidence, induced the county court judge to commit A. for perjury, and to bind over B. to prosecute, which he accordingly did. A. was, in due course, acquitted on such indictment; whereupon he brought the present action against B. This action the Court of Common Pleas held would not lie; chiefly on the ground that the only valid cause of action alleged in the declaration appeared to be the malicious prosecution, which was the act not of the defendant but of the judge who directed the proceedings to be taken. As for the perjury itself of the defendant, that was no cause of action, as had been decided, among other cases, by *Revis v. Smith* (18 C. B. 126). Against this judgment in the court below Mr. Justice Willes dissented on a special ground of his own, to which we then drew attention. The decision, however, of the Common Pleas has now been reconsidered in the Court of Exchequer Chamber; and has there been reversed by the judgments of Cockburn, C.J., and Bramwell and Channell, B.B., against those of Mr. Justice Wightman and Mr. Justice Blackburn.

The Court of Error chiefly relied on the case of *Dubois v. Keates* (11 A. & E. 329), which appears to have been overlooked or disregarded in the previous argument of the case. That also was an action for maliciously procuring the plaintiff to be indicted; and it was there held to be no answer that the defendant was bound over to prosecute—the jury being of opinion that such binding over was the result of a malicious charge before the magistrate. Applying the principle of this case to the present one, the majority of the Court of Error held that the defendant must be held responsible for all the natural consequences of his original fraud and perjury, and that one of such consequences was the order of the judge for the prosecution of the plaintiff—or at all events, that he must be responsible for his own personal share in such improper prosecution—that is to say, for going before the grand jury; the obligatory nature of his attendance there, under the circumstances, not protecting him. It will be observed that the Court of Error supported the action, not as one brought in respect of the defendant's original perjury in the county court, but for the injury he committed in preferring a prosecution which he knew to be untrue, and could be supported only by perjured testimony.

PRACTICE—CRIMINATORY INTERROGATORIES NOT ALLOWED.

Tapping v. Ward, Exch., 9 W. R. 482.

The 51st section of the Common Law Procedure Act, 1854, enables either the plaintiff or the defendant in an action, to apply for leave to interrogate in writing the opposite party "upon any matter on which discovery may be sought." This provision—as might naturally have been expected—has already given rise to a copious crop of decisions tending to settle the practice thereon. One of the earliest of these was *Osborn v. The London Dock Co.* (10 Exch. 698), which raised the important question as to the proper course to be adopted where the proposed interrogatories were objected to on the ground that to answer them in a certain way would subject the party interrogated to a criminal charge. In that case it was held that such interrogatories might nevertheless be delivered, and that the party questioned might then object to answer any one or more of them he pleased on the above ground. But in a later case,

in the Queen's Bench (*Whateley v. Crowter*, 5 Ell. & Bl. 712), the object and scope of the enactment was again carefully discussed, and a broader rule established—namely, that the interrogatories ordered to be delivered must be confined to matters which might be discovered by a bill of discovery in equity. This rule, if it is to be universally followed, appears to be inconsistent with the practice sanctioned by the Court of Exchequer in *Osborn v. The London Dock Co.* For it is ground of demurrer in equity to a bill for a discovery, that if answered it might expose the party to penal consequences. And, accordingly, in the present case the Court of Exchequer appear to have reconsidered their opinion in *Osborn v. The London Dock Company*, as they refused to put the defendant to the necessity of saying whether he did or did not object to reply to certain interrogatories of a criminatory character; and discharged a rule which had been obtained for the delivery of such interrogatories in the action.

LAW OF MASTER AND SERVANT—WHEN THE FORMER LIABLE ON THE CONTRACT OF THE LATTER.

Brady v. Tod, C. P., 9 W. R. 483.

The liability of a master on contracts made by his servant depends entirely upon whether the latter had, in point of fact, authority to enter into the contract in question; for no such authority is considered in law to arise out of the mere relationship of master and servant. Hence it lies upon the party seeking to enforce such contract to prove this authority; but it may either be express or implied from the circumstances of the case. Where, for example, a coachman went in his master's livery and hired horses, which his master afterwards used (knowing where they were hired), the master was held responsible for the price of the hiring, though as between himself and his coachman the latter had to provide horses at his own expense (*Rimmell v. Sampayo*, 1 C. & P. 254). Mr. Lush, in his introduction ("Lush's Pract.," p. 62), gives as another illustration of this principle the following case, which it will be seen has just been the subject of discussion in the Court of Common Pleas. If a gentleman direct his servant to sell a horse, with instructions not to warrant him, and he does warrant, the master cannot be charged on such warranty; but if a horse-dealer gives private directions to his servant not to warrant a particular horse, thereby narrowing his general authority, and the servant nevertheless gives a warranty, his master is bound thereby (*Fenn v. Harrison*, 3 T. R. 760). The case here put is, in its material points, precisely the same as the present one of *Brady v. Tod*; and, therefore, the decision of the Common Pleas in favour of the master, is confirmatory only of a distinction which has been already taken. It is to be observed, however, that *Fenn v. Harrison* was not itself a case with respect to a horse warranty, but as to the extent of the authority of a special agent to procure a bill of exchange to be discounted. The distinction in the text was taken by Mr. Justice Ashurst by way of illustration only; and it has not, until the present occasion, been endorsed by express judicial authority.

Correspondence.

THE NEW LAW LIST.

Sir,—In your number of the 4th May last "A Solicitor" calls attention to the omission of the list of "perpetual commissioners" in the *Law List* for the present year. We now beg to inform your correspondent the work has been re-printed, and that list re-inserted, with the addition of the words "perp. com." against the names of those gentlemen from which they were omitted in the first issue of the work. Any corrections or suggestions will be thankfully acknowledged by your obedient servants,
THE PUBLISHERS.

26, Bell-yard, May 9.

Foreign Tribunals and Jurisprudence.

AMERICA.—It is rather an inopportune moment for the professor of the Harvard Law School to send forth his lecture on the constitution of the United States, and on the differences between it and that of Great Britain. Just as the learned gentleman is glorying in the supremacy of the Judicial Body of the United States over congress, presidents, and legislatures, the course of events exhibits that Supreme Court as a

mere nullity in the body politic, unable to take cognizance or unwilling to act in regard to matters which are tearing the constitution into atoms. No one thinks of appealing to it or invoking its decision. And, after all, if the court were to decide, what would be the use of its judgment if one or other of the two great parties resisted it? The *ultima ratio* would be the only means by which the decision could be enforced. In the very midst of the hymns which are offered up around the shrines of the constitution, whether old or mended, all celebrating the powers of the great priestess of the mysteries, there are heretic voices to be heard, which, in addition to other matters, deny that the Supreme Court was ever intended by the constitution to exercise the sole and final right of interpreting the constitution, that it is competent to do so, or that it would be safe to give it this power. Its powers are judicial, not political, and Mr. Calhoun on that very point said,—“Let it never be forgotten that if we should absurdly attribute to the Supreme Court the exclusive right of construing the constitution, there would be, in fact, between the sovereign and subject under such a government no constitution, or at least nothing deserving the name, or serving the legitimate object of so sacred an instrument.” The argument revolves in a circle; it ends nowhere, and there seems no solution except such as concession or a sword cut may give.

FRANCE.—A question of some interest relative to the arrest of foreigners for debt was recently submitted to the President of the Civil Tribunal, sitting of Paris. A foreigner, named Lanzirotti, a sculptor, owed 810*fr.* to traders of the names of Fourdrinier and Chapon, and they obtained from the Tribunal of Commerce a judgment ordering him to pay the money. Subsequently they learnt that his furniture had been seized and sold by another creditor, and they had him summarily arrested as a foreigner, under warrant from the president of the Civil Tribunal. He then applied to the president to be released, on the ground that, as the creditor had taken proceedings against him before the Tribunal of Commerce, and had obtained a condemnation, though not to arrest, they could not put in force the law which authorizes the summary imprisonment of foreigners for debt. The creditors contended that the fact of an action being brought against a foreigner before the Tribunal of Commerce did not prevent the exercise of the power of summary arrest. The president took the same view, but, learning that Lanzirotti was a person of respectability, had long resided in France, and would be able to pay eventually, decided that he should be set at liberty, and not arrested for three months.

Reviews.

Ancient Law: its Connection with the Early History of Society, and its Relation to Modern Ideas. By HENRY SUMNER MAINE, Reader on Jurisprudence and the Civil Law at the Middle Temple, and formerly Regius Professor of the Civil Law in the University of Cambridge. London: Murray. 1861.

The chief object of Mr. Maine's work is stated by himself to be "to indicate some of the earliest ideas of mankind, as they are reflected in ancient law, and to point out the relation of those ideas to modern thought." As the Roman law bears traces of the most remote antiquity, and finds daily application to the present time, it was inevitable that Mr. Maine should draw many of his illustrations from it; but, nevertheless, his work must not be mistaken for a treatise on Roman law. What that work is we shall perhaps be able to explain by means of a hasty summary of the first two or three chapters.

The opening chapter, which is entitled "Ancient Codes," tells us that "the most celebrated system of jurisprudence known to the world (the Roman) begins, as it ends, with a code." But the publication of the code known as the Twelve Tables is not the earliest point at which we can take up the history of Roman law. Many jural phenomena lie behind this and similar codes, and preceded them in point of time. Our best present sources of knowledge of these phenomena are the Greek Homeric poems. In these poems, and in the Sanskrit literature, when it shall be better understood, Mr. Maine would look for the early history of law, rather than in "theories, plausible and comprehensive, but absolutely unverified," such as that of the origin of property in occupancy, which Blackstone has made familiar to all our readers. Turning, then, to Homer, we find that he speaks of "themistes," or judgments, the result of direct inspiration, by which kings decide disputes.

This is the earliest notion connected with the conception of a law or rule of life. It is next to be observed that in the succession of similar cases awards would be likely to resemble each other. Here we have the germ of a custom, a conception posterior to that of the "judgments," and for which the Homeric word is "dike." The familiar Greek word "nomos," law, does not occur in Homer. Quitting the heroic age, the next stage which we reach in the history of jurisprudence is that in which the royal power had given way to the dominion of aristocracies. The office of the king had been usurped by that council of chiefs which is represented by Homer. These aristocracies were universally the depositaries and administrators of the law. They succeeded to the prerogatives of the king, with the important difference that they did not pretend to direct inspiration for each sentence. But they claimed to monopolize the knowledge of the law—to have the exclusive possession of the principles by which quarrels were decided. "We have, in fact, arrived at the epoch of customary law." There is no doubt that the trust thus lodged with the oligarchy was sometimes abused, but it ought not to be regarded as a mere usurpation or engine of tyranny. Before the invention of writing, and during the infancy of the art, an aristocracy invested with judicial privileges formed the only expedient for the accurate preservation of the customs of the race or tribe. The diffusion of the art of writing and the growth of democratic sentiment produced those ancient codes which marked the next epoch in the history of jurisprudence. Of these codes the Twelve Tables of Rome were the most famous specimen. In Greece, in Italy, and in Hellenized Asia, everywhere at a similar point in the progress of each community, laws engraven and published took the place of usages deposited in the recollection of a privileged oligarchy. But it must not be supposed that the considerations now urged in favour of what is called codification had any part in the change here described. Engraved tablets were seen to be a better depositary of law than the memory of a number of persons, however strengthened by habitual exercise. The codes thus produced made small approach to symmetrical classification, and they mingled up religious, civil, and merely moral ordinances, without any regard to differences in their essential character.

The second chapter treats of what Mr. Maine calls in a large sense "Legal Fictions." When primitive law has once been embodied in a code, there is an end to what may be called its spontaneous development. Henceforward the changes effected in it are effected deliberately and from without. To write the history of legal systems subsequent to the codes would seem too vast an undertaking, but for the distinction between stationary and progressive societies which now begins to make itself felt. "It is only with the progressive societies that we are concerned, and nothing is more remarkable than their extreme fewness. In spite of overwhelming evidence it is most difficult for a citizen of western Europe to bring thoroughly home to himself the truth that the civilization which surrounds him is a rare exception in the history of the world." Much the greatest part of mankind has never shown a particle of desire that its civil institutions should be improved since the moment when they were first embodied in some permanent record. "Except in a small section of the world, there has been nothing like the gradual amelioration of a legal system. There has been material civilization, but instead of the civilization expanding the law, the law has limited the civilization." Having pointed out in striking terms the difference between the stationary and progressive societies, Mr. Maine confines himself to tracing the legal history of the latter. "With respect to them it may be laid down that social necessities and social opinion are always more or less in advance of law." The agencies by which law is brought into harmony with society are legal fictions, equity, and legislation. The word "fiction" is used in a considerably wider sense than that in which it is employed by English lawyers. It signifies "any assumption which conceals, or affects to conceal, the fact that a rule of law has undergone alteration, its letter remaining unchanged, its operation being modified." These fictions, in all their forms, are congenial to the infirmity of society. "They satisfy the desire for improvement, which is not quite wanting, at the same time that they do not offend the superstitious disrelish for change which is always present." An example of Mr. Maine's meaning is supplied by the fiction of adoption, which permits the family tie to be artificially created, and which plays such an important part in Roman law. The next instrumentality by which the adaptation of law to social wants is carried on is equity, by which Mr. Maine means, "any body of rules existing by the side of the original civil law, founded on distinct principles and claiming incidentally to supersede the civil law in virtue of a superior sanctity inherent in those principles." This equity differs from legal fictions in that its interference with law is open and avowed. On the other hand, it differs from legislation in that its claim to authority is grounded, not on the prerogative of any external person or body, nor even on that of the magistrate who enunciates it, but on the special value of its principles, to which it is alleged that all law ought to conform. Legislation, whether by an autocratic prince or by a parliamentary assembly, is the last of the ameliorating instrumentalities. Its obligatory force is independent of its principles.

The interest of Mr. Maine's book advances as we proceed with it, and we are almost tempted to regret the choice we necessarily made of its opening chapters to convey to our readers some clear notion of its character and purpose. The third chapter on the "Law of Nature and Equity" approaches subjects of more immediate interest to the English lawyer than are treated of in those of which we have already attempted to sketch an outline. "The theory of a set of legal principles, entitled by their intrinsic superiority to supersede the older law, very early obtained currency both in the Roman state and in England." To such a body of principles Mr. Maine gives the name of "equity." He proceeds to indicate briefly the sources from which the English system administered by the Court of Chancery has been derived, and he then describes the development of that Roman system, of which he well says that the character and the history deserve attentive examination. "I shall attempt to discover the origin of these famous phrases, law of nations, law of nature, equity, and to determine how the conceptions which they indicate are related to each other." The origin of the law of nations is found in the history of Rome. The republic from various causes attracted large numbers of foreigners to its soil. The presence of this alien population obliged the Roman magistrates to assume jurisdiction in disputes between foreigners or between a native and a foreigner, and thus arose the necessity of discovering some principles on which the questions to be adjudicated upon could be settled. The expedient adopted was that of selecting the rules of law common to Rome and to the different Italian communities in which the immigrants were born, or, in other words, the formation of a system answering to the primitive meaning of *jus gentium*, that is, law common to all nations. "*Jus gentium* was, in fact, the sum of the common ingredients in the customs of the old Italian tribes, for they were all the nations whom the Romans had the means of observing, and who sent successive swarms of immigrants to Roman soil." The origin of the *jus gentium* may teach us that the Roman lawyers had not at the outset any special respect for it. The adoption of it was forced on them by a political necessity, and they loved it as little as they loved the foreigners for whom it was intended. There did, however, come a time when "from an ignoble appendage of the *jus civile* the *jus gentium* came to be considered a great though as yet imperfectly developed model to which all law ought as far as possible to conform. This crisis arrived when the Greek theory of a law of nature was applied to the practical Roman administration of the law common to all nations. The *jus naturale*, or law of nature, is simply the *jus gentium*, or law of nations, seen in the light of a peculiar theory."

Before entering on the explanation of this theory, Mr. Maine makes the important observation that the confusion between *jus gentium*, or law common to all nations, and international law, and is entirely modern; that indistinct impressions as to the meaning of *jus gentium* have helped to produce the modern theory that the relations of independent states are governed by the law of nature. We can only indicate in the fewest possible words how the *jus gentium* became blended with the law of nature. The precept of the Stoic philosophy, to live according to nature, was generally embraced by the Roman lawyers, and the belief gradually prevailed among them that the old *jus gentium* was, in fact, the lost code of nature, and that the Prætor in framing his edictal jurisprudence on the principles of the *jus gentium* was restoring a type from which law had only departed to deteriorate. "Simplicity, symmetry, and intelligibility thus came to be regarded as the characteristics of a good legal system, and the taste for involved language, multiplied ceremonials, and useless difficulties disappeared altogether." Having reached this point Mr. Maine next shows how the term "*æquitas*"—that is, equity—suited the conception both of the *jus gentium* and of the law of nature, and he then describes how the Roman system of equity was developed in the Prætor's edict, and compares what were really the legislative labours of those magistrates with the building-up of the English system of equity by the chancellors.

It would be impossible for us within the limits of this article to convey any adequate idea of the beauty of style, the delicacy of thought, the depth of research, and the wide and varied learning which fascinated our attention and commanded our admiration as we followed the course of Mr. Maine's inquiries. Law books are supposed to have a prescriptive right to dullness, and the books which are addressed to lawyers on subjects just outside their daily studies fall usually to a depth of tediousness in comparison with which any law book proper becomes light and agreeable reading. But here is a book embracing all law, ancient and modern, within its scope, of which we can say from personal experience that when once taken up it is almost impossible to lay it down. It is so clearly written that there is scarcely a passage of which even a hasty reader would miss the meaning; and it has been so laboriously meditated that almost every page deserves to be read and read again attentively. It is the product of a mind which strives to realize its own high conceptions of beauty and completeness to the exhaustion of a feeble body. We have heard with profound regret that the author is now afflicted with an illness, even more severe than those amid which he has hitherto contrived to discharge his professional duties, and to pursue the studies by which he has gained for himself an enduring name in legal literature. The brilliant intellectual promise, and the uncertain health which marked the author's early days at Cambridge, suggested hopes and fears which have both been completely realised. His life from that time to this has been to his friends a mournful spectacle of mental power contending against physical infirmity.

Suggestions for Improving the Mode of Registering Deeds in Ireland. By Lieutenant-Colonel LEACH, Royal Engineers. Dublin: Alexander Thom & Sons. 1861.

On a subject so important as that of the registration of deeds, no elucidation at the hands of an intelligent and competent person can be regarded as superfluous or unworthy of attention. We, therefore, decline to imitate some portion of the (Dublin) press, in rather scornfully asking what a Colonel of Engineers has to do with, or to say concerning, the registration of deeds? The "scientific branch" of the Queen's army is sufficiently conversant with many matters unconnected with warfare. One officer of the Royal Engineers is busy drawing elevations and ground plans, and all other imaginable designs, for the Great Exhibition of 1862; many more are engaged in surveying in all its ramifications; and a detachment, of which Lieutenant-Colonel Leach is, or very lately was, commanding officer, is peacefully occupied at the Phoenix-park, near Dublin, in preparing surveys and maps (miracles of lithographic accuracy and finish they are) for the purposes of the Landed Estates Court, Ireland. In this way Colonel Leach has become acquainted, to a considerable extent, with the details of the transfer of land and registration of deeds systems, as those systems are carried out in Ireland; and his attention having been called to some defects in the mode of registering deeds, he has published, in a semi-official form, various suggestions for its improvement. It is candidly admitted by the author, at the outset, that the proposed amendments are not claimed as original suggestions, but proceed from some hands more familiar than are his own with the registration books, although less known to fame. But the world is little the better for the labours of its undiscovered discoverers—it requires an intellect to weigh and digest, a pen to formulate and put into shape, and a name to indorse, and certify, and recommend. Without these aids the most ingenious notions lie undeveloped and unfructifying—mere unworked mines, albeit sometimes of valuable ore.

Colonel Leach looks at this subject, not as a lawyer or as a law-amender, but simply as a scientific officer. He does not stay to inquire whether the registration of deeds is, of itself, of any public advantage, but only applies himself to solve this question: Given a general registry of deeds, how can the deeds be registered and indexed in the most simple and efficient manner? Before suggesting improvements he mentions some facts connected with the Irish general registry, which, well known as they are to many, may as well be glanced at here.

The registration of deeds in Ireland was commenced under a statute of the reign of Queen Anne (A. D. 1708), but has been affected by several later statutes. Deeds of all kinds, and affecting all descriptions of property, and even wills, may be registered; and this is done by depositing memorials, or abstracts of the deeds, &c., written on parchment, and compared as to certain particulars with the deeds themselves by the proper officer in the registry office. The particulars given

in the memorials are the following:—dates, parties' names, parcels, consideration and general nature of the deed; but trusts, limitations, &c., need not be, and are not usually revealed by the memorial. The duties of the registry-office, stated generally, are—the reception and verification of these memorials, and their preservation, and the keeping of copies of them for public inspection—their registry in index books; (1) under the names of grantors; (2) under the denomination or parcels of land. Further, on requisition from any person to furnish written returns signed by the registrar, of the results of searches in the books for any given period. These written returns are of two kinds, "negative," where the searches are gone over by two searchers for greater security, and their accuracy is guaranteed; and "common," or searches by one searcher without official guarantee. In either case, copies are kept in the office, so that it can never be necessary in searching for any period, to travel over the same ground a second time. The expense of "negative" is about three times the expense of "common" searches. Stamps for the purposes of revenue are imposed on all searches. On an average forty deeds are registered every day. Registered deeds take priority of unregistered deeds; and as between themselves deeds take precedence according to the dates of their registration. It were needless to specify all the books kept, and the entries made as each deed is registered. Suffice it to say that the system is a very cumbersome one; and such as it is, it is not perfectly carried out; for instance, the perfect "consolidated index" of grantors' names is only made up once in ten years, and, to use the words of Colonel Leach, "some of the books are incomplete, others have not been compared, and, consequently, there is an absence of that unquestionable accuracy and completeness which the registry ought to possess." These and other defects it is now proposed to remedy, not only by introducing a better form of memorial, but by the substitution of a printed for a written entry. This "would enable the indexing of each deed to be finally completed in perfect alphabetical or dictionary arrangement in a few days after its receipt," instead of after some years, as at present. "In point of fact, every deed executed by any individual, or affecting any particular lands, could be ascertained with nearly the same facility as a word could be looked out in a dictionary, or a name in a directory; and negative searches would not occupy more than a few minutes instead of days and months, as they now frequently do. It would be impossible to afford the same amount of information by manuscript, owing to the space it would occupy, and the labour, expense, and liability to error it would entail. Printing would do away with the necessity for the enormous number of comparisons which have now to be made. . . . Printing again would render it impossible to alter any of the entries, without the alteration being at once apparent. . . . Another very important advantage of printing would be the ready means it would afford of increasing the number of copies of the index books, which would materially conduce to the convenience of the public, and to the security of the registry. . . . And, lastly, printing would make the reproduction of worn-out or injured books or leaves comparatively easy and inexpensive."

The next topic treated of is that of registration by reference to the splendid series of maps completed by the Ordnance Department. These maps are already largely made use of in the transfer of property by the Landed Estates Court; and they might easily be used in registration, registering by "townlands" or denominations (of which Ireland contains about 63,000, averaging 330 statute acres in each), and using the Ordnance map for general reference to fix the localities, and to define the boundaries.

It is unnecessary to follow Colonel Leach farther into the details of his plan for printing and indexing these entries. The only point of general interest which remains is his proposition to multiply copies of the memorials by the aid of photography, "with a view of producing at a small cost an increased number of copies for the use of the public in the Registry Office; of depositing copies of them in other places of security; and of decreasing the cost of supplying copies to the public." Appended to this publication is an interesting specimen of fac-simile copying, by the aid of photography, from a manuscript, executed on parchment with permanent ink. This process is, we believe, the same as that now being used by Col. Sir H. James, at the Ordnance Survey Head Quarters, Southampton, for the purpose of multiplying fac-simile copies of that venerable registry of title usually called Doomsday-Book.

If these suggestions have value, they are doubtless entitled

to full consideration on the part of those who have the custody of certain public records in England. The extensive use of printing and of photographic copying is evidently as applicable there as elsewhere, and would conduce greatly to the public convenience and security. Satisfactory copies of wills, for instance, cannot always be made in manuscript; cancelled words and passages, interlineations, &c., are in many instances very material to the reading and construction of the instrument. It is, moreover, an unsafe and objectionable practice, to allow the original will to leave the registry for the purpose of being given in evidence at Nisi Prius, where "copies" are now inadmissible. The rules of law must, like all other rules and dogmas, conform to the progress of science; and a photographic fac-simile copy of a will, certified by the registrar, ought to be rendered for every conceivable purpose, as good as the original. Similar copies (for they may be multiplied *ad infinitum* far more cheaply than if copied by hand) might be furnished to parties requiring them; and such a fac-simile copy should, where the original is retained in a district registry, be transmitted to the principal registry of the Court of Probate.

The registration of deeds in Ireland, as established by the statute of Anne, was, considering the period, and the unsettled state of the country then, and for nearly a century later, a very useful and statesmanlike measure. If in our day it contributes nothing towards the simplification of title, while it adds to the cost of investigation and transfer, those results are attributable to the comparative carelessness about the custody of the deeds themselves, which the fact of their being on a public registry seems to induce; and also to the habit (formerly unchecked by the proper authorities) of registering deeds loosely and imperfectly. We regard as provable these two propositions—first, that the general registry in Ireland must be retained, and must be made more perfect in its machinery by adopting the means suggested by Colonel Leach for its improvement. Second, that its results are not such as to render it desirable that a registry of deeds should be introduced for the whole of England. It is no discredit to the legislators of the time of Anne to say, that those of the Victorian era have devised less cumbersome methods of imparting security to titles, and of facilitating transfers of real property.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

BRADFORD, WAKEFIELD, AND LEEDS.
EXETER AND EXMOUTH.

The following Bills have passed through committee in the House of Commons:—

FOREST OF DEAN CENTRAL.
MANCHESTER, SHEFFIELD, AND LINCOLNSHIRE (Manchester Extension.)
MIDLAND (Okeley to Ilkley.)
MID-WALES.
SOUTHAMPTON AND NETLEY.
LYNN AND HUNSTANTON.
UXBRIDGE AND RICKMANSWORTH.

REPORT OF MEETING.

MONMOUTHSHIRE RAILWAY.

The directors by their report recommend that a dividend at the rate of £6 per cent. per annum be declared on the ordinary shares of the company, at the next half-yearly meeting.

University Intelligence.

OXFORD.

May 7.—At a convocation held this day, the proposition for the consolidation of the Vinerian and Civil Law professorships was rejected.

Law Students' Journal.

CANDIDATES WHO HAVE PASSED THE EXAMINATION.

EASTER TERM, 1861.

Candidates' names.	To whom articulated, assigned, &c.
Aldridge, William Wheeler.	Thos. Goater; G. B. Gregory.
Allen, Geo. Chas. Guy . . .	Edward Clarke.
Appleton, John	Henry Pashley.
Atkinson, Geo. James . . .	Thomas Taylor.
Bedford, Henry	C. Bedford (decd.); C. Pidcock.
Beer, Philip Henry	Edward Strick.
Bentley, Francis	Geo. Wheeler Bentley.
Beswick, George	Jno. Whitehead Blakeley
Bewley, Robert	Wm. Sykes Ward.
Bishop, W. T. Bonnell . . .	Thomas Bishop.
Bleby, Henry William, B.A. .	Geo. Armstrong.
Boyer, Wm. Alderley	Rd. B. B. Cobbett.
Brevitt, Thomas	W. H. Duignan; A. S. Lawson.
Chambers, J. H. Brougham .	J. W. H. Richardson.
Child, John Hubert	R. G. Smith.
Crichton, Alex. Clifford . .	Robert R. Dees.
Crump, Wm. Alexander . . .	Jno. Wilson Nicholson.
Dickons, James Norton . . .	Wm. Clough (decd); Thomas William Clough.
Dobson, Jas. Metcalfe	David W. Wire (decd).
Dumbleton, Horatio, B.A. . .	Jas. Thos. Bolton.
Edensor, John Edmonds . . .	Geo. Edmonds.
Evans, Wm. Picton	Jas. Eaton Evans.
Fletcher, Saml. Cornelius . .	Thos. Grundy.
Foster, Charles, B.A.	Fras. Goaling Foster.
Foster, James	Wm. Hector Hudson.
Foster, Rd. Betton Charles Pulsford	Jonathan Scarth.
Francis, Swinford	Herbert T. Sankey.
Gibson, Philip Robert	Henry Gibson.
Gledhill, Albert	Jas. C. Laycock.
Goldricke, James	James Rowe.
Goodman, Thomas	Jno. Clarke (decd); H. Ivory
Gray, Benjamin, jun.	Edwd. Lawrance.
Green, Rd. Dansey	R. Green; C. Meredith; G. B. Crawley.
Greenwood, Geo. Wright . . .	J. Ebsworth; R. F. Dalrymple; T. J. Horwood.
Grey, John Wm. Bacon	Samuel Newman.
Hallam, Edward John	Francis Paxon.
Helps, Rd. Sumner	R. Helps; Francis Parker.
Heywood, Benj. Arthur, M.A.	Edward Futvoye.
Hill, Rd. Canning	Charles Pidcock.
Hodgson, John Norman	Edwin Hough.
Hughes, John	Lawrence Peel.
Hustwick, Wm. Anthony . . .	Thomas Hustwick.
James, Evan	Wm. Williams; Jno. Morris.
Knott, John Hammott	Hy. Smith Pownall.
Little, David	John Taylor.
Mayhew, Sydney	Alfd. Mayhew; Hy. White.
Mercer, John Sharp	T. D. Keighley; J. Mercer.
Messiter, Frederick	G. Messiter; M. Messiter.
Moberly, Wm. Henry, jun. . .	W. H. Moberly.
Moorson, Wm. Fredk, M.A. . .	Nathl. T. Lawrance.
Moser, Jacob John	T. Swainson; B. Marshall.
Nicholls, Saml. Thomas	W. P. Gordon.
Nickinson, Jesse	Rd. Prall, jun.
North, John Wm.	Edwin John Hayes.
Oliver, Wm. Atkinson	Wm. Snowball.
Parker, Fredk.	Thomas Parker.
Parry, Edwin	Alfred B. East.
Peacock, Thos. Fras.	John Cutts.
Pearce, Parmenas Wm	George Eastlake.
Phelps, Philip Edmund	William Hobbs.
Pidcock, Chas. Foley	C. Pidcock; Aug. Mason.
Pook, Henry	J. C. Dalton; Hy. J. Riches; Chas. Brutton.
Price, John	Jacob Strickland; R. S. Grepson.
Prior, James	Alex. C. F. Gough.
Purrier, Vincent John	Thomas Purrier.
Quinn, John	Richard Duke.
Roberts, Rd. Michell	Rd. Michell Hodge.
Robinson, Charles	Robert Robinson.
Scott, Edward, jun.	Edward Scott.
Smith, Arthur Heavens. . . .	Rd. John Roberts.

Candidates' Names.	To whom articulated, assigned, &c.
Smith, C. Augustin Wolston .	Chas. Augustin Smith.
Smith, Francis	Henry Wheeler.
Smith, Griffiths	Francis Smith.
Smith, John	Charles Jackson.
Smith, Wm. Binnes	R. Smith. (decd.); R. Smith.
Standing, Henry	John Standing, jun.
Staniland, Chas. Henson . .	Edward Atkinson.
Stocken, Wm.	William Medland.
Sweptstone, Wm. Henry . .	Thos. Wrake Ratcliff.
Thompson, John	Wm. Roe Dunstan.
Tilley, Wm.	Thomas Johnson.
Tonge, Edward	J. Evans; S. H. Barrow.
Unwin, Saml.	Stephen Heelis.
Vernon, Hy. Wm., B.A. . .	R. Higgins Burne.
Vincent, Jacob, jun.	John Layton.
White, Nathaniel	John White.
Williams, John Geo.	Henry Williams.
Williams, Thomas	Wm. Robinson Smith.
Wintringham, John	Geo. Babb (decd.); H. Rivington Hill.
Wood, James, jun.	Christopher Ingoldby.

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

EASTER TERM, 1861.

At the examination of candidates for admission on the roll of attorneys and solicitors of the superior courts, the examiners recommended the following gentlemen, under the age of 26, as being entitled to honorary distinction:—

Jacob John Moser, aged 22, who served his clerkship to Mr. Thomas Swainson, of Lancaster; and Mr. Robert Marshall, of Verulam-buildings, London.

John William Bacon Grey, aged 22, who served his clerkship to Messrs. Powell and Newman, of Newport Pagnell; and Messrs. Pattison and Wigg, of Clement's-lane, London.

Thomas Goodman, aged 21, who served his clerkship to Mr. John Clark of the Sessions House, Old Bailey, London; and Mr. Henry Ivory, of the Sessions House, London.

John William North, aged 24, who served his clerkship to Mr. Edwin John Hayes, of Wolverhampton; and Messrs. Sharpe, Jackson, and Parker, of Bedford-row, London.

Frederick Messiter, aged 22, who served his clerkship to Mr. George Messiter, of Frome, and Mr. Malim Messiter, of Frome; and Mr. Thomas Henry Smith, of Frederick's-place, Old Jewry, London.

The Council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Moser, the prize of the Honourable Society of Clifford's-inn, and as a further mark of distinction, one of the prizes of the Incorporated Law Society.

To Mr. Grey, the prize of the Honourable Society of Clement's-inn.

To Mr. Goodman, one of the prizes of the Incorporated Law Society.

To Mr. North, one of the prizes of the Incorporated Law Society.

To Mr. Messiter, one of the prizes of the Incorporated Law Society.

The examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

Thomas Brevitt, aged 21, who served his clerkship to Messrs. Duignan and Ebsworth, of Walsall; and Messrs. Eyre and Lawson, of John-street, Bedford-row.

Richard Betton Charles Pulsford Foster, aged 24, who served his clerkship to Messrs. Scarth and Sprott, of Shrewsbury.

William Henry Moberly the younger, aged 21, who served his clerkship to Mr. William Henry Moberly, of Southampton; and Messrs. Shum and Crossman, of King's-road, Bedford-row.

John Price, aged 23, who served his clerkship to Mr. Jacob Strickland, of Bristol; and Mr. Robert Shuttleworth Gregson, of Angel-court, London.

William Tilly, aged 21, who served his clerkship to Mr. Thomas Johnson, of Lancaster; and Mr. William Skilbeck, of Southampton-buildings, London.

John Wintringham, aged 21, who served his clerkship to Messrs. Babb and Grange, of Grimsby; and Messrs. Hill and Son, of Throgmorton-street, London.

The council have accordingly awarded them certificates of merit.

The examiners have further announced to the following candidates that their answers to the questions at the examination were highly satisfactory, and would have entitled them to prizes or certificates of merit, if they had been under the age of 26:—

Henry William Bleby, B.A., aged 29, who served his clerkship to Mr. George Armstrong, of Newcastle-upon-Tyne; and Mr. Samuel Rowles Pattison, of Clement's-lane, London.

William Alexander Crump, aged 34, who served his clerkship to Mr. John Wilson Nicholson, of Lime-street, London.

John Hammett Knott, aged 37, who served his clerkship to Messrs. Pownall, Son, and Cross, of Staple-inn, London.

Sydney Mayhew, aged 27, who served his clerkship to Mr. Alfred Mayhew, of Carey-street; and Mr. Henry White, of Southampton-street, Bloomsbury.

The number of candidates examined in this term was 161; of these, 90 were passed, and 11 postponed.

Court Papers.

Queen's Bench.

Sittings at Nisi Prius in Middlesex and London before the Right Honourable Sir ALEXANDER EDMUND COCKBURN, Bart., Lord Chief Justice of her Majesty's Court of Queen's Bench, in and after Trinity Term, 1861.

IN TERM.

Middlesex.

1st Sitting	Thursday	May 23
2nd Sitting	Thursday	" 30
3rd Sitting	Thursday	June 6

For undefended causes only.

London.

1st Sitting	Monday	May 27
2nd Sitting	Monday	June 3

AFTER TERM.

Middlesex.

Thursday June 13

London.

Monday June 24

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Common Pleas.

This Court will sit on Monday, the 13th inst. in Banco, and will dispose of the cases in the special paper, and in giving judgment in the cases that will be standing over for the consideration of the Court.

Sittings at Nisi Prius in Middlesex and London, before the Right Honourable Sir WILLIAM ERLE, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, in and after Trinity Term, 1861.

IN TERM.

Middlesex.	London.
Thursday May 23	Monday May 27
Thursday May 30	Monday June 3

AFTER TERM.

Middlesex.	London.
Thursday June 13	Tuesday June 25

The Court will sit during and after Term at 10 o'clock.

The causes in the list for each of the above sitting days in Term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Exchequer of Pleas.

Sittings at Nisi Prius in Middlesex and London, before the Right Honourable Sir FREDERICK POLLOCK, Knt., Lord Chief Baron of her Majesty's Court of Exchequer, in and after Trinity Term, 1861.

IN TERM.

Middlesex.	London.
1st Sitting, Thursday, May 23	1st Sitting, Monday, May 27
2nd Sitting, Thursday, May 30	2nd Sitting, Monday, June 3
3rd Sitting, Wedy, June 5	

AFTER TERM.

Middlesex.	London.
Thursday June 13	Monday June 24

The Court will sit during and after Term at 10 o'clock.

The Court will sit in Middlesex at Nisi Prius in Term by adjournment from day to day until the causes entered for the respective Middlesex sittings are disposed of.

CHANCERY VACATION NOTICE.

During the Whitsun Vacation, until further notice, all applications which are necessary to be made at the Chambers of the Equity Judges, are to be made at the Chambers of the Vice Chancellor Sir Richard Torin Kindersley.

The Chambers of the Vice Chancellor Kindersley will be open on Tuesday, Wednesday, Thursday, and Friday, the 14th, 15th, 16th, and 17th days of May, 1861, from 11 to 1.

The Vacation will commence on the 11th of May and terminate on the 20th, both days inclusive.

Births, Marriages, and Deaths.

BIRTHS.

BURGON—On May 7, the wife of William Burgon, Esq., Croydon, Solicitor, of a son.

CRACKNALL—On May 6, the wife of S. Cracknall, Esq., of Lincoln's-inn, Barrister-at-Law, of a son.

ROBSON—On May 3, the wife of Christopher Robson, Esq., of Clifford's-inn, Solicitor, of a son.

MARRIAGES.

HUGHES—LITTLEFORD—On May 7, Frederick J. Hughes, Esq., of Chapel-street, Bedford-row, Solicitor, to Caroline, daughter of Mr. Littleford, of Northampton-square.

RAPHAEL—NORDON—On April 28, Mr. Harris Raphael, of Birmingham, to Rachel, daughter of Mr. Nordon, Solicitor, of London.

TATHAM—GIBBS—On April 29, Henry Heathcote Tatham, Esq., of Paddington, to Mary, daughter of the late — Gibbs, Esq., Solicitor, of Henley-in-Arden.

DEATHS.

HUNTER—On May 9, in his 79th year, Joseph Hunter, Esq., F.S.A., one of the Assistant-Keepers of Her Majesty's Records.

LEEMING—On May 6, Henry Leeming, Esq., of the Middle Temple, Barrister-at-Law, aged 39.

SADGROVE—On May 3, in his 20th year, Edgar Holland, son of W. H. Sadgrove, Esq., of 64, Mark-lane and Greenwich, Solicitor.

WRAY—On April 21, Eliza, widow of the late Robert Wray, Esq., Benchet of the Temple.

London Gazettes.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

UNION DISCOUNT COMPANY (LIMITED).—Creditors to prove their debts before Commissioner Evans, May 21, at 11: Basinghall-street.

UNION DISCOUNT COMPANY (LIMITED).—Commissioner Evans will proceed, on May 20, at 11, Basinghall-street, to settle the list of contributories of this Company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, May 7, 1861.

ANDERSON, WILLIAM, Esq., 3, Lennox-place, Brighton. Burgoyne, Milnes, & Burgoyne, Solicitors, 160, Oxford-street, London, W. June 23.

CLARKE, JOHN, Esq., Beaufoy-terrace, Maida-vale, Middlesex. Jones, Solicitor, 15, Sise-lane, E.C., London. June 10.

KENNEDY, DONALD, Sheep Farmer, late of the Elms, Woodford, Essex, and formerly of the Grange, Portland Bay, Victoria. Roy & Cartwright, Solicitors, 4, Lothbury, London. June 10.

MAIN, RICHARD, Merchant, Calcutta. Bray & Gilbertson, Solicitors, Winckley-street, Preston. June 1.

ORAM, CORDELIA, Spinster, formerly of Madderly Wood, Ironbridge, Salop, but late of Aston, near Birmingham. Potter & Son, Solicitors, 36, King-street, Cheapside, London. June 25.

ROBERTS, THOMAS, Carpenter, Builder, and Shopkeeper, Northampton. Dennis, Solicitor, Northampton. July 1.

SANDERS, THOMAS, Stone Mason, Pepper-street, St. Michael's, Chester. Boydell & Powell, Solicitors, 1, Pepper-street, Chester. June 29.

WALSH, JOHN, Gent., Oxford. Walsh, Solicitor, 16, New-inn, Hall-street, Oxford. June 1.

WARNE, WILLIAM, Gent., Pembroke-terrace, Tottenham, Middlesex. Jones, Solicitor, 15, Sise-lane, E.C., London. June 10.

WHITAKER, JOHN GIBSON, Esq., Beneficent, Eccles, Lancaster. Slater, Heells, & Co., Solicitors, 75, Princes-street, Manchester. May 28.

FRIDAY, May 10, 1861.

CARLYLE, THOMAS, Gent., formerly of Douglas, Isle of Man, afterwards of Altrincham, Chester, and late of Birkenhead. Evans, Son, & Sandys, Solicitors, Liverpool. June 8.

FARRER, JOHN BOOTH, Esq., M.D., late of Boston-road, Brentford, Middlesex, and formerly of Leicester. Routh, Rowden, & Stacey, Solicitors, 14, Southampton-street, Bloomsbury, Middlesex. June 24.

HAMPSON, JAMES, Grocer, formerly of Openshaw, Lancaster. Samuel & Hasfield, Solicitors, 24, Fountain-street, Manchester. June 30.

LAWSON, WILLIAM, Sailmaker, formerly of Sunderland, and late Licensed Victualler, 1, Arthur's hill, Westgate-street, Newcastle-upon-Tyne. Melkay, Solicitor, 13, Bridge-street, Sunderland. August 13.

TOBE, WILLIAM HENRY, Haberdasher, Norwich. Freestone & Copeman, Solicitors, Norwich. May 22.

WOODROW, LEWIS JOHN, Merchant, formerly of Philipot-lane, and late of Jeffrey-square, London, and Bristol. Bothamley & Freeman, Solicitors, 29, Coleman-street, London. July 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, May 7, 1861.

MOSELY, CHARLES, Surgeon Dentist, Preston, Lancaster. Mosely v. Mosely, V. C. Stuart. June 8.

NISBETT, GEORGE, Lock-house Keeper, Cookley, Wolverley, Worcester-shire. Nisbett v. Nisbett, V. C. Wood. May 30.

WILLIAMS, JENKIN, Druggist and Stationer, Pontardawe, Glamorganshire. Whittington v. Williams, M. R. June 1.

(County Palatine of Lancaster.)

BANNER, JOHN, Rope Manufacturer, Warrington, Lancaster. Hornar v. Carter, Office of Registrar, 1, North John-street, Liverpool. June 3.

FRIDAY, May 10, 1861.

CRUTCHLEY, JOHN, Gent., Wimbledon, Surrey. Crutchley v. Crutchley, M.R. June 6.

Assignments for Benefit of Creditors.

TUESDAY, May 7, 1861.

ADAMS, JOHN, Ironmonger, Thorne, Yorkshire. Sol. Baxters & Co., Doncaster. April 29.

ASTIN, PARKER, Manufacturer, Canteen Shed, Lydgate, near Todmorden, Yorkshire. Sol. Boots, 52, Brown-street, Manchester. April 16.

BALDWIN, THOMAS, Grocer and Tallow Chandler, Bristol. Sol. J. & H. Livett, Albion-chambers, Bristol. April 24.

DEEDMAN, WILLIAM, Grocer, 20, Conduit-street, Westbourne-grove, Paddington, Middlesex. Sol. Pawie, Belgrave, & Asprey, 7, New-inn, Strand. May 1.

GARLAND, ROBERT, Woollen Warehouseman, Wood-street, Cheapside. Sol. Drake & Son, 39, Wallbrook. April 9.

GIBLING, WILLIAM, Grocer, 3, Gloucester-terrace, St. John's-road, Hoxton, Middlesex. Sol. French, 51, Crutched Friars. April 4.

HAMPSON, JOHN HENRY, Attorney-at-Law, 12, Norfolk-street, Manchester. Sol. Boots, Manchester. April 9.

HUGHES, HUGH, Chemist and Druggist, Bangor, Carnarvonshire. Sol. Foulkes, High-street, Bangor. April 10.

RAWLINGS, JOHN, Gas Fitter, 22, Nutford-place, Edgeware-road, Middlesex. Sol. Fallows, 198, Piccadilly, Middlesex. April 11.

THORNHILL, WILLIAM, Draper, Tait, Bridgewater. Sol. Price, Bridgewater. April 11.

WILLIAMS, JOHN, Mailster, Wheat-street, Brecon. Sol. Thomas, Brecon. April 30.

FRIDAY, May 10, 1861.

BREWIS, THOMAS, Farmer, Hartburn Grange, West More, Hartburn, Northumberland. April 17. Sol. Brunel, Morpeth.

BURBURY, GILBERT, Tanner, Coventry. May 4. Sol. Dewes, Coventry.

DAVIDSON, ALFRED, & WEST, WILLIAM JOHN. April 25. Sol. Ward & Co., 41, Broad-street, Bristol.

DRAKE, WILLIAM JOHN, Builder, Saint Sidwell, Exeter. April 16. Sol. Venn.

GILBERT, JOHN, Chain and Iron Manufacturer, Cradley Heath, Stafford. April 15. Sol. Beaumont, 10, Francis-street, Edgbaston, Birmingham.

GRANT, PETER, Printer, Red Lion-square, Holborn, Middlesex. April 17. Sol. Keighley & Gething, 7, Ironmonger-lane, London.

LAMBERT, THOMAS, Bookseller & Stationer, 36, Fomgate, York. April 23. Sol. Mason, 1, King-street, Castlegate, York.

LAY, HENRY, Yeoman, Wantage, Berks. April 20. Sol. Wasbrough, Wantage.

ROBERTS, PIERCE HART PRICE, Cheesemonger, 22, New-street, Covent-garden, Middlesex. April 16. Sol. Heathfield, 19, Lincoln's-inn-fields, Middlesex.

ROWBOTHAM, JOHN, Silk & Cotton Manufacturer, Manchester. April 12. Sol. Sale, Worthington, Shipman & Seddon, 29, Booth-street, Manchester.

SHRIMPTON, MARY (Peter Shrimpton & Sons), Needle and Fish-hook Manufacturer, Redditch, Worcestershire. April 24. Sol. George Charles Richards, Redditch.

SMITH, WILLIAM, Yeoman, Payhembury, Devon. April 17. Sol. Venn.]

YERBURY, JAMES BROWNING, Licensed Victualler, Chipping Sodbury, Gloucester. April 22. Sol. Richard Walter Pigeon, Bristol.

Bankrupts.

TUESDAY, May 7, 1861.

ARMSTRONG, CHARLES, Hotel Keeper, Chapel-street, Salford, Lancashire. Com. Jemmett: May 17, and June 5, at 12: Manchester. Off. Ass. Fraser. Sol. Slater & Myers, Manchester. Pet. April 26.

ASBURY, WILLIAM, Engineer, Birmingham. Com. Sanders: May 17, and June 6, at 11: Birmingham. Off. Ass. Whitmore. Sol. James & Knight, Birmingham. Pet. May 3.

BATLEY, CHARLES, & HENRY JOHN HUNT SKINNER, Manufacturing Chemists, Crookfield Chemical Works, Colchester, Essex, and 47, Lime-street, London. Com. Goulburn: May 17, and June 24, at 1: Basinghall-street. Off. Ass. Pannell. Sol. Amory, Travers, & Smith, 25, Throgmorton-street, London, and Baylis, Church-court-chambers, Old Jewry, London. Pet. May 6.

BLAKE, JENNY, Corn Merchant & Mailster, Shide, near Newport, Isle of Wight, and of Fortsea, Brewer. Com. Holroyd: May 14, at 2; and June 18, at 1: Basinghall-street. Off. Ass. Edwards. Sol. Chidley, 28, Old Jewry, London. Pet. April 27.

BRUSTER, WILLIAM MATHIAS, Letter-press Printer, Swansea, Glamorganshire. Com. Evans: May 16, at 1, and June 15, at 11: Basinghall-street. Off. Ass. Bell. Sol. Vining, 2, Moorgate-street, London. Pet. May 3.

CARTER, HENRY, Painter & Plumber, Alma-place, St. Clements, and 1, Caroline-street, St. Clements, Oxfordshire. Com. Evans: May 21, at 2; and June 30, at 12: Basinghall-street. Off. Ass. Johnson. Sol. Stubbs, 46, Moorgate-street. Pet. May 4.

ELLIOTT, GEORGE, Blacksmith & Licensed Victualler, West-street, Farnham, Surrey. Com. Fane: May 17, at 12 30; and June 21, at 1: Basinghall-street. Off. Ass. Whitmore. Sol. Spiller, 3, South-place, Finsbury. Pet. May 4.

HICKSON, JOHN, Builder & Contractor, Sheffield. Com. West: May 18, and June 15, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Broadbent, Flag-tree-lane, Sheffield. *Pet.* May 4.

MORGAN, MORIAM, Grocer, Draper, & Beer-house Keeper, Gelligaied, Pontypridd, Glamorgan-shire. Com. Hill: May 27, and June 18, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Simons & Morris, Swansea; or Henderson, Bristol. *Pet.* April 25.

PREBY, JOHN, Dealer in Hams, 38, Brudenell-place, New North-road, St. Leonard, Shoreditch, Middlesex. Com. Fame: May 17, at 11.30; and June 21, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Boulton & Sons, 21, Northampton-square. *Pet.* May 6.

PRATT, ROBERT, Bricklayer & Limeburner, Great Yarmouth, Norfolk. Com. Fontblaque: May 21, at 12; and June 12, at 2; Basinghall-street. *Off. Ass.* Graham. *Sols.* Storey, 6, King's-road, Bedford-row, London; and Chamberlin, Great Yarmouth. *Pet.* May 4.

ROYCE, GEORGE, Miller & Corn and Flour Dealer, Duddington, Northamptonshire. Com. Holroyd: May 21, at 1; and June 25, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Wright & Bonner, 15, London-street, Fenchurch-street, London; or Law, Stamford, Lincolnshire. *Pet.* May 7.

TODD, GEORGE, Jun., Builder, Ranelagh Works, Cheyne-walk, Chelsea, Middlesex. Com. Goulburn: May 17, at 1.30; and June 19, at 11.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Greville & Tucker, 28, St. Swithin's-lane, London. *Pet.* April 9.

WOOD, SAMUEL, Broker, Liverpool. Com. Perry: May 17, and June 10, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool. *Pet.* May 3.

FRIDAY, MAY 10, 1861.

BREW, WILLIAM, Tailor & Draper, 11, Tarlton-street, Liverpool. Com. Perry: May 22, and June 13, at 11; Liverpool. *Off. Ass.* Morgan. *Sol.* Worship, North John-street, Liverpool. *Pet.* May 9.

CALVERT, DAVID DEAN, Scribbler, Holbeck, York. Com. Ayrton: May 27, and June 17, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Ferns & Hooks, Leeds. *Pet.* May 8.

COOKE, LANE, & MATTHEW COOKE, Paper Manufacturers, Moorsley Banks, Durham (L. & M. Cooke). Com. Ellison: May 17, at 12, and June 19, at 11.30; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Harle & Co., 90, Southampton-buildings, Chancery-lane, London; and 2, Butcher-bank, Newcastle-upon-Tyne. *Pet.* May 8.

COLLEY, THOMAS, Grocer & Tea Dealer, 1, Princes-street, Westminster. Com. Fame: May 24, at 11, and June 21, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Wright & Bonner, 15, London-street, Fenchurch-street. *Pet.* May 9.

CRABB, WILLIAM, JOHN CROUCH CRABB, Cotton Spinners and Manufacturers, Lee's Hall Higher Mill, Oldham, and Ashenhurst Mill, Blackley, Lancaster. Com. Jemmett: May 30, and June 20, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* Radcliffe & Murray, Oldham, or Slater & Myers, Manchester. *Pet.* May 2.

DAWSON, WILLIAM, Innkeeper, Lion Hotel, Clumber-street, Nottingham. Com. Sanders: May 31, and June 18, at 11; Nottingham. *Off. Ass.* Harris. *Sols.* Cowley & Everall, Nottingham. *Pet.* May 7.

EATON, JOHN, Auctioneer & Commission Agent, Attleborough, Norfolk. Com. Evans: May 24, at 12, and June 20, at 11; Basinghall-street. *Off. Ass.* Bell. *Sols.* Treherne & White, 13, Barge-yard-chambers. *Pet.* May 7.

ELSTON, GEORGE, Shoe Manufacturer, Crediton, Devonshire. Com. Andrews: May 22, and June 26, at 1; Exeter. *Off. Ass.* Hirtzel. *Sols.* Cleave & Sparkes, Crediton. *Pet.* May 6.

FORSHAM, RICHARD, Machine Manufacturer, Liverpool (Richard Forsham & Co.). Com. Perry: May 22, and June 13, at 11; Liverpool. *Off. Ass.* Bird. *Sols.* Evans, Son, & Sandys, Liverpool. *Pet.* April 27.

HARRIS, ABRAHAM, Tobaccoist & Cigar Dealer, 1, Railway-place, Shoreditch, Middlesex. Com. Fame: May 23, at 1.30, and June 21, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Sorrell, 19, Mark-lane, or Ashley & Tee, 7, Old Jewry. *Pet.* May 2.

HARVEY, SAMUEL, Gold & Silver Chain Manufacturer, Birmingham. Com. Sanders: May 23, and June 21 at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Hodgson & Allen. *Pet.* May 8.

LEWIS, ALFRED LEWIS, Bookseller & Book Auctioneer, 135, Fleet-street, London. Com. Evans: May 24 & June 20, at 11.30; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Nicholson, 48, Lime-street, City. *Pet.* May 7.

MARTIN, JAMES, Boot & Shoe Maker, Dewsbury, York. Com. Ayrton: May 27 & June 17, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Walker, Dewsbury, or Carriss & Cudworth, Leeds. *Pet.* May 9.

MILLER, JOHN, Bookseller, 43, Chandos street, Covent-garden, Middlesex. Com. Holroyd: May 21 at 2.30; & June 21, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Nicholson, 48, Lime-street, London. *Pet.* May 8.

MILNE, GEORGE, Draper, Plymouth. Com. Andrews: May 27 & June 24, at 12.30; Plymouth. *Off. Ass.* Hirtzel. *Sols.* Elworthy, Curtis, & Dawe, Plymouth. *Pet.* May 7.

PICKERING, JOSEPH, Manufacturing Chemist & Dry Salter, Suffolk-street, Middlesex, and 15, Mark-lane; London (Pickering & Co.). Com. Evans: May 23, at 11, & June 27, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Linklaters & Hackwood, Walbrook. *Pet.* May 8.

RUFFLE, JOHN FREDERIC, Bill Discounter, 19, Coleman-street, London. Com. Holroyd: May 21, at 2, & June 25, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Linklaters & Hackwood, 7, Walbrook, London. *Pet.* May 7.

SHERREN, EDWARD RICHARDS, Builder, 6, Richmond Villas, Westbourne-grove, North, Bayswater, Middlesex. Com. Holroyd: May 21, at 11, & June 25, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Lawrance, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* May 9.

SIMON, LOUIS, Manufacturer, Nottingham. Com. Sanders: May 21 & June 18, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Sollory, Nottingham. *Pet.* May 7.

SMITH, JOHN PATRICK, O'NEILL & HENRY DAWE LEAMAN, Warehousemen, 2, Russia-row, Milk-street, London. Com. Fontblaque: May 21 at 1; & June 19 at 12; Basinghall-street. *Off. Ass.* Graham. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* May 9.

THOMPSON, JOSEPH, Yarn & Worsted Spinner, Wakefield. Com. West: May 24, & June 14, at 11; Leeds. *Off. Ass.* Brewin. *Sols.* Taylor, Wakefield, or Bond & Barwick, Leeds. *Pet.* May 7.

BANKRUPTCIES ANNULLED.

FRIDAY, MAY 10, 1861.

HARRIS, BENJAMIN WILLIS, Linen Draper, 292 & 294, Pentonville-road, Middlesex. May 7.

LEWIS, ARTHUR CHARLES, Tailor & Draper, 1, Northumberland-buildings, Bath. May 6.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, MAY 7, 1861.

AAL, BERNARD, Tailor & Clothier, 2, Lambeth-street, Goodman's-fields, Whitechapel, Middlesex. May 17, at 12; Basinghall-street.—**BOWLES, ALFRED**, Music Seller, & Dealer in Musical Instruments, Ipswich, Suffolk. May 31, at 2; Basinghall-street.—**BROWNE, NEVILLE**, Hotel Keeper, Foele's Coffee-house, Fleet-street, London. May 17, at 12; Basinghall-street.—**BUTTLE, RICHARD**, Tailor, 54, Long Acre, Middlesex. May 29, at 12.30; Basinghall-street.—**CLAYARDS, WILLIAM**, Dealer in Horses & Cab Proprietor, Conway-mews, Hampstead-street, Fitzroy-square, Middlesex. May 31, at 11; Basinghall-st.—**CONNELL, ROWLAND WILLIAM**, Dealer in Teas, Liverpool. May 29, at 11; Liverpool.—**DALLOU, THOMAS, & HENRY BIGGS**, Tin Plate Workers & Japanners (Dallow & Biggs) Wolverhampton. June 21, at 11; Birmingham.—**FORD, JAMES, & EDWARD YOUNG**, Cabinet Manufacturers, 23 to 26, North Portman-mews, Portman-square, St. Marylebone, Middlesex, and 29A, York-street, St. Marylebone (Ford & Young.) May 29, at 1.30; Basinghall-street.—**FOULKES, HENRY**, Cab & Omnibus Proprietor, 33, John-street, Union-street, Kennington-road, Surrey. May 17, at 11; Basinghall-street.—**GOODALL, FREDERICK THOMAS**, Money Scrivener, Manchester. June 11, at 12; Manchester.—**HARRIS, ANTHONY**, Licensed Victualler & Innkeeper, Seven Oaks, Kent. May 29, at 12.30; Basinghall-street.—**JACOBS, EMANUEL**, Stationer & General Dealer, 63, Long-lane, West Smithfield, London (Emanuel Jacobs & Co.) May 31, at 1; Basinghall-street.—**LEWIS, THOMAS ROBERT**, Merchant, 16, Gould-square, Crutched Friars, London. May 29, at 11.30; Basinghall-street.—**MARNS, GEORGE THOMAS**, Rope Maker, Arbour-place, Fairfields, Stepney. May 31, at 11; Basinghall street.—**MOORE, ELIZABETH LYNN**, Widow, & **JOSEPH LYNN MOORE**, Carpenters & Undertakers, Dorking, Surrey. May 31, at 12; Basinghall-street.—**NICHOLSON, JOHN**, Leather Dealer, Liverpool. May 29, at 11; Liverpool.—**PEREIRA, SILVANO FRANCISCO LUIS, & JOHN GRANT**, Wine Merchants, 91, Gt. Tower-street, London (Pereira & Grant.) May 29, at 11.30; Basinghall-street.—**SCOTTHORNS, THOMAS KENDALL**, Currier & Leather Seller, Northampton. May 31, at 12; Basinghall-street.—**SKINNER, AMBROSE**, Coach Builder & Harness Maker, Camberwell-green, Lambeth, Surrey, and Denmark-hill, Surrey, and Dulwich, Surrey. May 31, at 1; Basinghall-street.—**SMITH, ROBERT**, Builder & Timber Merchant, 8, Harwood-place, Hampstead-road, Middlesex. May 31, at 2; Basinghall-street.—**TAYLOR, GEORGE**, Timber Merchant, West Bromwich, Staffordshire. June 21, at 11; Birmingham.—**TUNNICLIFFE, JEREMIAH**, Retail Brewer, Shelton, Staffordshire. June 21, at 11; Birmingham.—**VOKING, JOHN, & WILLIAM HEAD**, Horticultural Builders, Jubilee-place, Chelsea, Middlesex. May 29, at 1.30; Basinghall-street.—**WALTERS, PHILIP**, Auctioneer, Wolverhampton. June 21, at 11; Birmingham.

FRIDAY, MAY 10, 1861.

COOPER, WILLIAM, Builder, Cheriton, near Aylesford, Southampton. June 4, at 12; Basinghall-street.—**EDNEY, CHARLES PHILLIPS, & RAINE, ALFRED**, Wholesale Druggists, Liverpool. June 3, at 11; Liverpool.—**ENGLISH, HENRY ROBERT**, Licensed Victualler, Brierley Hill, Stafford. June 10, at 11; Birmingham.—**FAITHFUL, WALTER**, Linen Agent, 10, Ironmonger-lane, London, June 4, at 1; Basinghall-street.—**HODGSON, AARON MARTIN CHAMP**, Miller, Broadstairs, Isle of Thanet, Kent. May 31, at 1; Basinghall-street.—**HOME, THOMAS WILLIAMS**, Hotel Keeper & Perfumer, late of Albemarle-street, Piccadilly, now of 20, Pelham-terrace, Brompton, Middlesex. May 31, at 12; Basinghall-street.—**HOOPER, CLEEVE WOODWARD, & PARKINSON, HENRY**, Leather Factors & Leather Merchants, Seething-lane, London (Hooper & Parkinson, May 31, at 2; Basinghall-street.—**LAWRENCE, THOMAS, & MORTIMORE, LAWRENCE**, Leather and Hide Factors, Saint Mary Axe, London (Stratfield, Laurence, & Mortimore.) May 21, at 2.30; Basinghall-street.—**PARRY, GUSTAVE JOHN**, Merchant & Foreign Importer, 3, Brabant-court, Philip-lane, London. May 31, at 2; Basinghall-street.—**SKINNER, WILLIAM**, Inn-keeper, Wine and Spirit Merchant, Redcar, York. June 3, at 11; Leeds.—**SMITH, WILLIAM**, Carpenter & Builder, 22, Tabernacle-row, Finsbury, Middlesex. June 4, at 12; Basinghall-street.—**SOUTHWARD, JACKSON**, Printer and Stationer, 119, Pitt-street, Liverpool. June 3, at 11; Liverpool.—**SUTCLIFFE, JOSEPH**, Upholsterer, Scarborough. June 8, at 11; Leeds.—**WAGHORN, WILLIAM PRICE**, Grocer & Draper, Stratton House, Westerham, Kent, late of Tadfield Court, Tadfield, Surrey, and formerly of Hornmenden, Kent. June 3, at 1; Basinghall-street.—**YAXLEY, JOHN**, Farrier & Cab Proprietor, Providence-yard, Vauxhall-bridge-road, Westminster. May 31, at 11; Basinghall-street.

WHY BURN GAS IN DAYTIME? Use Chappuis's reflectors; they diffuse daylight in dark places. The patentee and manufacturer is Mr. Chappuis, 69, Fleet-street.—**ADV.**

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s.; copies 1s., or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process.—**ADV.**

REVERSIONS AND ANNUITIES.

LAW REVERSIONARY INTEREST SOCIETY, 68, CHANCERY-LANE, LONDON.

CHAIRMAN—Russell Gurney, Esq., Q.C., Recorder of London.
DEPUTY-CHAIRMAN—Nassau W. Senior, Esq., late Master in Chancery.
 Reversions and Life Interests purchased. Immediate and Deferred Annuities granted in exchange for Reversionary and Contingent Interests. Annuities, Immediate, Deferred, and Contingent, and also Endowments granted on favourable terms.
 Prospectuses and Forms of Proposal, and all further information, may be had at the Office.
C. B. CLABON, Secretary.

PROMOTER LIFE ASSURANCE OFFICE, London: established in 1826.—This SOCIETY has REMOVED to its new offices, 39, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

STATE FIRE INSURANCE COMPANY.—Chief

Offices, 32, Ludgate-hill, and 3, Pall-mall east, London.
 Chairman—The Right Hon. Lord KEANE, Stetchworth-park, New-market.
 Managing Director—PETER MORRISON, Esq.,
 Capital, Half-a-Million.

12,326 new policies were issued during the year ending
 31st of March, 1860, insuring £6,629,918 6 3
 New premiums for the year ending 31st of March, 1860. 23,476 8 0
 Total premium income for the year ending 31st of March,
 1860 41,760 5 1

The increase of Government duty paid by the State Fire Insurance Company in 1859, exceeded that of 39 other companies, while the increase upon farming stock insurances effected with the State Fire Insurance Company during the year 1859 exceeded that of 26 other offices.

This Company grants insurances against Fire on every description of property, both at home and abroad.

Plate-glass insured against breakage.

Agents Wanted, to whom a liberal commission will be allowed. Application to be made to the Secretary, 32, Ludgate-hill.

WILLIAM CANWELL, Secretary.

UNITED KINGDOM LIFE ASSURANCE COMPANY.

No. 8, WATERLOO PLACE, PALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,987 10	£6,987 10
1,000	379 10	1,397 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1859, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order, E. L. BOYD, Resident Director.

JOHN GOSNELL & CO., PERFUMERS TO THE QUEEN,

beg to recommend the following Fashionable and Superior Articles for the TOILET to the especial notice of all purchasers of Choice PERFUMERY.

John Gosnell & Co.'s JOCKEY CLUB PERFUME, in universal request as the most admired perfume for the handkerchief, price 2s. 6d.

John Gosnell & Co.'s LA NOBLESSE PERFUME—a most delicate perfume of exquisite fragrance.

John Gosnell & Co.'s GARIBALDI BOUQUET—a most choice and fashionable perfume.

John Gosnell & Co.'s RUSSIAN LEATHER PERFUME—a very fashionable and agreeable perfume.

John Gosnell & Co.'s BALL-ROOM COMPANION or FOUNTAIN PERFUMES. Elegant Novelties, in the form of Portable Handkerchief Perfumes in a neat case, which emits on pressure a jet of most refreshing perfume. Price 1s. and 1s. 6d. each.

John Gosnell & Co.'s LA NOBLESSE POMADE—elegantly perfumed, and highly recommended for beautifying and promoting the growth of the Hair.

John Gosnell & Co.'s GOLDEN OIL—Melline—Macassar Oil—Bears' Grease, &c., for the Hair.

John Gosnell & Co.'s CHERRY TOOTH PASTE is greatly superior to any Tooth Powder, gives the Teeth a pearl-like whiteness, protects the enamel from decay, and imparts a pleasing fragrance to the breath.

John Gosnell & Co.'s AMBROSIAL SHAVING CREAM, 1s. and 1s. 6d. in pots; also, in compressible tubes, for the convenience of persons travelling, price 1s.

Manufactory, 12, Three King-court, Lombard-street, London.

ATMOSPHERIC CLOCKS, OR MERCURIAL

TIMEKEEPERS.—These ingenious and simple timekeepers are the most remarkable scientific novelties of the day. They indicate time by the gradual descent of a column of mercury, in a glass tube, which, when descended, or nearly so, the clock merely requires to be reversed. In appearance they resemble the thermometer. Prices 4s. 6d., 5s., 10s. 6d., 12s. 6d., 15s., and upwards. The Guinea Clock with Silver Dial makes an elegant present. They are adapted for all climates, never get out of repair, nor require cleaning. For India and the colonies they are very suitable. Orders, accompanied with a remittance or post-office order, payable to C. LANGSTON, Atmospheric Clock Company, 73, Fleet-street, E.C., will meet with prompt attention. Export orders shipped direct to any part of the world, and commissions for other goods at the same time executed on the best terms. Wholesale, Retail, and Export Depot of the Atmospheric Clock Company, 73, Fleet-street, E.C. Orders received for CLEGG'S PATENT VICTORIA GARDEN PUMPS, and for CLEGG'S PATENT CARRIAGE TELEGRAPH, or DRIVER'S GUIDE, which will completely supersede the ordinary check-string.

CHARING-CROSS HOSPITAL, West Strand.—

This Charity has now entered the 45th year of its existence, and the Governors indulge the hope that its operations will always be found worthy of adequate support.

Its exertions comprehend the relief annually of from 16,000 to 17,000 sick and disabled poor, including 3,000 cases of accident (many of great severity and danger), and constant accommodation for upwards of 100 in-patients in the wards. The annual cost is about £3,000. The following contributions are thankfully acknowledged:—

G. F. Heneage, Esq. £10 10 0 | Mrs. E. C., add £50 0 0
 Mrs. F. C., add 50 0 0 | H. Cunliffe, Esq. 40 0 0

CHILDREN'S WARDS.

To render the Hospital still more efficient, the Council are anxious to bring into useful operation the Wards for Children, hitherto unoccupied for want of funds; a measure which alone remains to complete the designs of the founders. It has been estimated that the addition of £330 annually to the income of the Hospital would suffice for its accomplishment, an addition which it is earnestly hoped public benevolence will supply.

A generous benefactor has commenced a subscription for the purpose by a donation of £500, to which the following liberal contributions have been added, and the Council anxiously solicit the assistance of other supporters to the good work.

W. Stuart, Esq. £500 0 0	R. Few, Esq. £100 0 0
Dr. Golding 10 10 0	Ditto 2 0 0
J. Greenwood, Esq. 5 5 0	J. Wilkinson, Esq. 5 5 0
H. Walmisley, Esq. 50 0 0	Ditto 1 1 0
T. Tilson, Esq. 20 0 0	Charles Few, Esq. 50 0 0
Rev. R. H. Cooper 3 0 0	James Parker, Esq. 10 10 0
R. Cobbett, Esq. 10 10 0	Surplus of Subscription
Ditto 1 1 0	for a Testimonial to
E. Wilder, Esq. 10 10 0	Dr. Golding and Mr.
Lord Egerton of Tatton 50 0 0	Robertson 60 12 0

ENDOWMENT FUND.

To ensure the permanence of the useful objects of the Hospital, and to assist in providing against the serious losses which it sustains with painful frequency by the death of kind supporters, a Permanent Endowment Fund has been established, which, when further promoted by benefactions or bequests, will afford some steady source of income, in addition to that arising from casual and therefore uncertain subscriptions. The dividends from this source will substantially assist the regular disbursements of the Hospital, while the invested principal will be held intact and inviolate.

Very valuable assistance has been rendered by the legacies of deceased benefactors, and as upon this source the continued welfare of the Hospital must in great part depend, it may be respectfully stated to those benefactors who may be desirous to endow, by benefaction or bequest, a ward, or one or more beds, to bear in perpetuity the name of the donor, or of one whose memory he cherishes and would wish to identify with a permanent work of charity, that such desire can be fulfilled in accordance with the regulations of this Hospital.

The following additional contributions are thankfully acknowledged:—

Thomas Raymond Barker, Esq., add., £25,	The Rev. A. Clissold £50 0 0
making up £100 0 0	Messrs. Gale & Co. add. 5 5 0
	Messrs. Cox & Co. 100 0 0

Donations for the current objects of the Hospital, or for the Children's Wards, or the Endowment Fund, will be thankfully received by the Secretary, at the Hospital; and by Messrs. Coutts, Messrs. Drummonds, Messrs. Hoare, and Messrs. Herries; and through all the principal bankers.

April, 1861.

JOHN ROBERTSON, Hon. Sec.

WINES for the NOBILITY and GENTRY.

WINES for the ARMY and NAVY.

WINES for the CLERICAL, LEGAL, and MEDICAL PROFESSIONS.

WINES for PRIVATE FAMILIES.

PURE and UNADULTERATED GRAPE WINES from the SOUTH of FRANCE.

VENDED by the PROPRIETORS of the VINEYARDS.

THE FRENCH VINEYARD ASSOCIATION

have taken extensive cellarage at the West-end of London, for the purpose of introducing FRENCH WINES only to the British public at FRENCH TRADE PRICES; and the members of that Association being proprietors of the most esteemed growths in France, the Nobility, Gentry, and Families patronising such Wines, will become assured of their genuineness.

THE EMPRESS PORT.

20s. per dozen. Sent free, bottles included, to any British Railway Station, on receipt of an Order on Charing-cross Post-office for 22s. 6d., payable to A. Bophe, Director.

THIS EMPRESS PORT,

is pure grape, of first-class quality, and delicious taste; the very Wine for family consumption.

CHAMPAGNE, equal to Moët's, 42s.

SPARKLING BURGUNDY

("The Glorious Bumper") at 42s. per dozen.

Pure CLARETS from 16s. to 64s. per dozen.

Tariffs of other Wines sent post free.

Cheques requested to be crossed "London and Westminster Bank."

FRENCH VINEYARD ASSOCIATION,

32, REGENT CIRCUS, PICCADILLY, LONDON, 1861.

AS GOOD AS GOLD.**WATCH CHAINS and every kind of Jewellery**

double coated, with pure gold, and impossible to be told from solid gold Jewellery, though only one-tenth its cost. Made in the newest patterns by workmen used to solid gold work. Unequalled for wear. Illustrated circulars post free for a stamp.

HENRY ECOTT & Co., 1, Fisher-street, Red Lion-square, London, W.C.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal, an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

* * Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, MAY 18, 1861.

CURRENT TOPICS.

We are informed that, having regard to the extent of the business in the several district registries in the last three years, the salaries of the district registrars have been fixed at the sums specified in the subjoined first schedule, to commence from 1st of May, 1861, from which date all fees received by those officers under the tables duly authorized for the purpose, will, in conformity with the 23rd section of the Act 23 & 24 Vict. c. 111, be collected and received by means of stamps. These salaries are intended to remunerate the district registrars for the whole of their services, including as part of their official duties the performance of the business of preparing affidavits, and other necessary documents, on personal applications. Considering, however, that this business has not heretofore been imposed upon the registrars as an obligation, and that where it has been voluntarily undertaken by them they have derived additional income from it, of which advantage they will now be deprived, an allowance will be made to the present registrars in addition to their salaries, so long as they may hold their offices, of the sums stated in the second schedule. The future registrars will receive only the salaries in the first schedule.

The schedule is as follows:—

Registries.	Sch. 1.	Sch. 2.	Registries.	Sch. 1.	Sch. 2.
£	£	£	£	£	£
Wakefield	1,200	300	Oxford	500	100
Manchester ...	1,000	300	Leicester	500	100
Exeter	1,000	200	Worcester	500	100
York	1,000	300	Newcastle	500	100
Liverpool	900	200	Nottingham ...	400	100
Chester	800	150	Hereford	400	100
Birmingham ...	800	150	Carmarthen ...	400	100
Lichfield	800	150	Peterborough...	400	100
Lincoln	700	150	St. Asaph	350	50
Carlisle	700	150	Salisbury	350	50
Lancaster	700	150	Canterbury ...	350	50
Norwich	700	150	Llandaff	350	50
Bristol	600	100	Taunton	350	50
Gloucester	600	100	Lewes	350	50
Derby	600	100	Bangor	350	50
Shrewsbury ...	500	100	Wells	350	50
Winchester ...	500	100	Blandford	250	50
Bodmin	500	100	Northampton...	250	50
Donham	500	100	Bury	200	50
Ipswich	500	100	Chichester ...	200	50

There appears to be some uncertainty as to the scale of fees payable to country commissioners on swearing affidavits, and we are told that the practice is very various, not only as between different towns, but even in the same place; and we have been sometimes asked for information upon the subject. The fees in Chancery are at present regulated by the Order of the 13th of January, 1857, which fixes 2s. 6d. as the proper fee to be paid to a commissioner in the country—the fee to a London commissioner being only 1s. 6d. The fee for marking an exhibit is 1s., either for town or country. By an Order of the 12th of November, 1858, the commissioner authorised to administer oaths in a court of probate is entitled to 1s. 6d. only for the oath and 1s. for marking each exhibit; but as there are, we believe, no commissioners specially appointed by the judge for the Court of Probate, and chancery commissioners are under the Court of Probate Acts authorised to act as commissioners for the Court of Probate, it has probably been the general practice for them to charge the same fees as they would be entitled to charge if acting for the Court of Chancery. The common law fees for country affidavits are still governed by the statute 29 Car. 2, c. 5, which is entitled “An Act for taking affidavits in the country, to be made use of in the Courts of King’s Bench, Common Pleas, and Exchequer.” The 3rd section of that Act gives the person empowered to take any such affidavit the right to receive “the sum or fee of twelve-pence and no more.”

If any reliance can be placed upon rumour, there appears to be little doubt that several of the Law Lords are so strongly opposed to the appointment of a Chief Judge in Bankruptcy, as to make it extremely improbable that this feature of the Attorney-General’s scheme will receive the sanction of the House of Lords. It is expected, however, that their Lordships’ Select Committee, which was a short time ago appointed to consider the measure, will make their report in a few days, and that the Bill will be sent back to the House of Commons immediately after the Whitsuntide holidays.

A petition against the income tax signed, we understand by not fewer than 700 solicitors practising in London has been presented to the House of Commons. We believe that it speaks the mind of the entire profession as to the grievous hardship in respect of special taxation under which solicitors labour, while in common with all professional men and others earning precarious incomes, they have to complain of the unequal and unfair pressure of the present mode of raising the income tax. The petition is as follows:—

That there are about 10,000 practising attorneys and solicitors in England and Wales.

That every attorney and solicitor on entering the profession became bound to an attorney and solicitor by articles of clerkship, on which he paid a very heavy stamp duty. If his articles bore date prior to the 4th of August, 1853, the duty was £120, and if subsequently to that date the duty was £80.

That every attorney and solicitor also paid a stamp duty of £25 on his admission.

That no attorney or solicitor can lawfully practise as such, unless he annually take out a certificate, for which, after three years from his admission, he annually pays, if in London, a stamp duty of £9, and if in the country, a stamp duty of £6. During the first three years, the certificate duty for London is £4 10s., and for the country, £3.

That no member of any other profession or calling is subjected to this kind of triple poll tax.

That it is essential to the interests of the public at large that attorneys and solicitors should be well-educated gentlemen, and that encouragement should be given to men of liberal education and high principles to enter the profession.

That the income derived by the great body of attorneys and solicitors from the practice of their profession is very limited, and although there may be some large and long-established firms whose incomes are considerable, these are comparatively very few in number, and it would be in the highest degree

unjust to introduce or maintain fiscal regulations affecting the entire body on arguments founded on instances so exceptional.

That there is reason to believe that the total incomes of the whole body of attorneys and solicitors do not amount on an average to £200 a-year each, and that the income tax returns, if examined, would confirm this estimate.

That the incomes of nearly all the practising attorneys and solicitors are uncertain and variable and depend almost wholly on their individual personal exertions; they are subject to diminution from illness, and, of course, cease entirely on death.

That the difference in saleable value between the business of an attorney or solicitor, and a life interest in land or money is enormous.

That the business of the largest and longest established firms will not produce more than three years' purchase, and two years' purchase is a high price to pay for smaller businesses, and there are many thousands which would not sell for more than one year's purchase, if for so much.

That an attorney with a practice producing on an average of several years, £1,000 a-year, could not sell it for more than £3,000, and probably would not get more for it than from £2,000 to £2,500; whilst at the age of fifty a life interest of £1,000 a-year in land or money would at least be worth £12,000, estimated on a 5 per cent. table, and considerably more if estimated on a 4 or 3 per cent. table.

The petition prays that Parliament may adjust the amount of the Income Tax, and distinguish precarious and uncertain professional incomes, from incomes which are fixed and permanent.

An event which is likely to occasion considerable interest, both to lawyers and church parties, has lately occurred at Ripon. A tombstone, which had been recently erected in the churchyard there, was removed a few days ago upon an order from the bishop, who considered that he had power to do so. The stone is said to be of a tasteful character, but the inscription is objected to by the bishop. It runs thus:—

"Of your charity,
Pray for the repose of the soul of
William Priestman,
Who departed this life September 6th, 1860,
Aged 62 years. R. I. P.
Eternal rest give to him, &c."

The statute of 1857, which abolished the jurisdiction of the Ecclesiastical Courts in testamentary and matrimonial causes, has left untouched the powers of these Courts in respect of offences that are purely ecclesiastical. The proceedings which may be instituted with regard to this case, therefore, fall under their exclusive cognizance. Two questions arise from the facts we have stated—first, whether the person who erected the stone was guilty of an ecclesiastical offence in having done so without the permission of the rector, even though it should be considered that the stone itself involved no violation of ecclesiastical law; and, secondly, whether the tombstone contains any inscription contrary to the Articles and Canons of the Church of England, which are for certain purposes part of the law of the land. Upon the first question there is no room to doubt that the person who erected the stone is guilty of an ecclesiastical offence—unless he previously obtained the consent of the rector, a presumption which the data before us scarcely warrant us in forming. It is clear enough that a monument cannot be erected in a parish churchyard without the consent of the ordinary or the rector. Although custom is allowed to qualify the rights of the ordinary and rector as to fees, &c., no custom, it would appear, can supersede the necessity of their consent to the erection of a tombstone; (Wats. 39). The common law right of interment does not involve a right to set up a sepulchral monument. The proper mode of obtaining this right is to apply to the ordinary for a faculty for that purpose. The second question which we have stated, and which is entirely independent of any abstract question touching the right to erect tombstones, suggests manifold considerations. The removal of the tombstone can be justified only

upon the ground that the prayer for the soul of the deceased, which the inscription requests, involves necessarily the tenet of purgatory. This doctrine must, then, be proved to be so inconsistent with the articles and canons of the Church of England, as that its enunciation by an inscription on a tombstone constitutes an ecclesiastical delict, which may be punished by ecclesiastical censure, and followed by an abatement of the alleged cause of offence. In *Breecha v. Woolfrey* (Curteis's "Ecclesiastical Reports," p. 880), in which the facts were identical with those we have stated, Sir H. Jenner held that prayer for the dead did not involve necessarily the doctrine of purgatory, and, consequently, that prayer for the dead was not condemned by the Church of England in its renunciation of the doctrine of purgatory. The doctrine of the Church of England, as also the law, applicable to such cases, are to be found chiefly in the 22nd Article, the 35th Article on the Homilies, and the 7th Homily on Prayer. There is no doubt that Bishops Tomline and Taylor, as also Mr. Palmer, the author of the "Origines Liturgicæ," considered that prayer for the dead was not necessarily connected with the doctrine of purgatory. The inscription on the tombstone of Bishop Barrow, in the Cathedral of St. Asaph, favours the same opinion; it runs thus: "O vos, transeuntes in domum Domini, in domum orationis, orate pro conservo vestro, ut inveniat misericordiam in die Domini." Bishop Barrow, perhaps, then may be included in the list of authorities who recognise the distinction between prayer for the dead and purgatory; unless these doctrines are indissolubly connected together, there may be no ground for maintaining that prayer for the dead is contrary to the express teaching of the Church of England as contained in such of the articles and formularies as have obtained the force of law. The Church of England has nowhere in these, the recognised repositories of her doctrines, condemned the practice of prayer for the dead; and this practice is not considered to be connected with any other doctrine, except that of purgatory, against which she has protested. Sir H. Jenner's decision in *Breecha v. Woolfrey* proceeded upon this principle. It was decided in that case that prayer for the dead is not an ecclesiastical offence according to the Articles and Canons of the Church of England. However, therefore, we may be disposed to question the soundness of the distinction maintained by the eminent religious authorities cited in the case of *Breecha v. Woolfrey*, the legal bearings of the question must be considered as having been settled by that case.

MR. J. S. MILL ON STATUTE REFORM.

A decade is passing away since a body of the foremost legal men was constituted to set in order the confused mass of written law which is known by the name of the Statutes at Large. The body grew from a board into a commission, then ran all to leaf, and two years ago withered fruitless. Nothing was done. Since the extinction of the Statute Law Commission, the public has heard from time to time from the lips of the Attorney-General in the House of Commons, that three gentlemen of the bar have been appointed to advance the work, in which the great organisation of law lords and notables so signally miscarried. As long back as March, 1860—a season when the financial arrangements for the then coming year were commended by ministerial anticipations held forth to the people's representatives—the Attorney-General announced that these three gentlemen had "made considerable progress" towards an expurgated edition of the statutes. He expressed a hope that he would be able to present to the House during that session a Bill for the purpose of sweeping away from the Statute Book all that upon accurate examination should turn out to be no longer part of the statute law. He further hoped to be able to present to

the House, during the year in which he was speaking, an expurgated edition of all the Acts of the present reign. The year 1860 passed, and nothing was done. This session a measure has been introduced, yet not to clear away any thing that turns out to be no longer part of the statutes. The Statute Law Revision Bill purposes only to make an express and specific repeal of Acts and parts of Acts which have ceased to be in force otherwise than by express and specific repeal—that is, Acts already repealed in general terms, Acts virtually repealed, and Acts superseded by later enactments which effect the same purpose. The Bill, then, instead of sweeping away anything, simply ascertains existing repeals. Therefore, as regards the promised clearance, together with the expurgated edition and every part thereof, the legal and lay world must be content to live in the hopes inaugurated above a twelvemonth ago by the confident Attorney-General.

This is not, however, the burden of our complaint today. Believing the work of expurgation to be now really and *bona-fide* in hand, we should feel disposed rather to censure any rash or specious promise of dispatch, than to grudge the consumption of the time which must intervene, before a thorough sifting of the useless from the useful matter in the Statute Book can be made in a manner to gain the confidence of Parliament. What we do view with regret and blame is, that during the ten years which have passed since this statute question has been taken in hand with more or less apparent sincerity, no effort has been made to put present legislation in any shape that shall fit it for the labours of the expurgator, or the consolidator, or any other operator on the written law, except, possibly, the printer and publisher of it. A large part of each succeeding volume of what are termed the Public General Acts, consists of matter which is of no public general interest. The proportion may not every year be so bad as that noticed in 1857 by Mr. Baines—226 pages of public general law out of above a thousand pages of Acts, to be paid for and waded through in these days of pecuniary and mental pressure; but the bulk of each sessional volume that issues from the Queen's printer's press becomes valueless for the lawyer's purpose by the time that the next session casts a similar burden upon him. All the old evils recur perennially. The phraseology of different Acts continues to be illustrative of the different styles of their authors, rather than of the meaning and intent of the Acts themselves as portions of an integral system of law. Thus a variety of phrases in various Acts express the same idea, and the same phrase, a variety of ideas. There exists ever the same want of arrangement in a Bill of the subjects comprised in it, and of the enactments on each subject. Perhaps we should with greater courtesy say, that the peculiarity of the arrangement, according to the point of view from which the Bill has chanced to be framed, does not cease to be more gratifying to the idiosyncrasy of the framer than to the intellect of the lawyer or the public. Again, no remedy has yet been applied to that other evil which Sir Fitzroy Kelly, in the Select Committee of 1857, well described as one of very great magnitude, the ignorance, or at least the want of familiarity in the framer and introducer of a Bill upon a particular subject, with the existing law, so that he is unaware at the time that he introduces and advocates his Bill, what is its effect upon existing law. Nor up to the present time is uncertainty in any less degree than heretofore thrown over the entire statute book by general and equivocal repeals. General repeal was, we have seen, one of the grounds on which the present Revision Bill has been thought necessary. Yet if our readers will turn to the end of the new Bankruptcy and Insolvency Bill, they will find after a specification of certain Acts and parts of Acts in a schedule, that "all other Acts or parts of Acts which are inconsistent with this Act, are repealed." Is not, then, this ten year manipulation of the statutes a

great costly sham?—when, for 1861, by one Bill the Legislature perversely continues to do the very thing that, for the time past, it professes to remedy by another Bill, as a needful preliminary to expurgation, which after all is itself but a preliminary to consolidation. Can there be any serious meaning in men who thus flourish the axe at the root of an evil in old ground, and the next moment plant the same evil anew in fresh soil? Are they husbandmen or impostors who are plucking at tares with one hand and dropping tare seed with the other?

Impressed with a sense of the mischief that this accumulating disorder must entail upon any continuous attempt to systematise the written law, we took occasion, on the regretted death of Mr. Coulson, and subsequently in December last, to press the necessity of creating some kind of Parliamentary conveyancing staff. At the same time we suggested a further machinery for designing the detail of Bills, with a view to their safe and effectual operation in carrying out the policy originated and sanctioned by the Legislature, and ordered to be embodied in them. There are certainly two distinct duties to be performed in shaping a law, the one the framing of such clauses and the arrangement of them in such a manner as may fit the measure to the circumstances of life under their social as well as under their juridical aspect; the other, the expression of the clauses in language which shall not only be consistent both with itself and with the rest of the Statute Book, but also shall have such clear and careful reference to the existing written and unwritten law as to preclude unexpected conflict with either.

On the present occasion, it is less our object to reiterate our views, than to point out the accordance between them and the opinions expressed by Mr. John Stuart Mill, in his "Considerations of Representative Government." He puts forward his proposition on statute reform largely and boldly as follows:—

"Any Government fit for a high state of civilization would have as one of its fundamental elements a small body, not exceeding in number the members of a cabinet, who should act as a commission of legislation, having for its appointed office to make the laws. If the laws of this country were, as surely they will soon be, revised and put into a connected form, the commission of codification by which this is effected should remain a permanent institution, to watch over the work, protect it from deterioration, and make further improvements as often as required. No one would wish that this body should of itself have any power of enacting laws. The commission would only embody the element of intelligence in their construction; Parliament would represent that of will. No measure would become a law until expressly sanctioned by Parliament; and Parliament, or either House, would have the power not only of rejecting but of sending back a Bill to the commission for reconsideration and improvement. Either House might also exercise its initiative by referring any subject to the commission, with directions to prepare a new law. The commission, of course, would have no power of refusing its instrumentality to any legislation which the country desired. Instructions, concurred in by both Houses, to draw up a Bill which should effect a particular purpose, would be imperative on the commissioners, unless they preferred to resign their office. Once framed, however, Parliament should have no power to alter the measure, but solely to pass or reject it; or, if partially disapproved of, remit it to the commission for reconsideration."

We certainly did not contemplate, as Mr. Mill seems to do, that any initiative in law making should be lodged with either branch of the machinery which we advocated; nor that the ultimate power to alter Bills should be abdicated by the Legislature. And however eminent may be the source of an opinion to the contrary, we do not think it likely that the prospect of any amount of improvement in the embodiment of legislative decrees would induce Parliament, or the country, to confide to any other body than the Lords and Commons the prerogative of bringing forward projects of law. The value of the passage which we have quoted consists in its recognition of the necessity of something

more than a statute board to correct such evils as inconsistency or incorrectness of language, illogical arrangement, and ignorance or uncertainty as to the effect of new Acts upon existing law. The settlement of the details of an Act, in such a manner that it may work out effectively and well the policy which dictated it, is an additional matter requiring a special organisation. In fact, there are three constituents of a legislative measure: first, its policy and necessity; secondly, its provisions in detail; and thirdly, its construction and language. The determination of the policy and necessity is essentially the function of the legislative power, and in this country is made by the joint operation of leave to bring in a Bill, and the first and second readings. A committee deals with the details. The construction and language take care of themselves. To these last, as well as to the evils we have noticed above in connection with them, and to the appointment of some board, officer, or machinery for remedying them, the Select Committee of 1857 on the Statute Law Commission gave its more particular attention. But the reformation of the detail work of legislation in committee as distinguished on the one hand from the pure conveyancing in an Act, and on the other from the general imperial sanction of Parliament, has not hitherto received that attention which we have previously solicited and now exhibit from the pages of Mr. John Stuart Mill.

A committee might act as an efficient legislative machinery, if each member felt that the perfecting the measure before it were his personal duty, so that he would be constant in his attendance, full and precise in his knowledge, and habituated to apply it in a scientific manner. Were legislation a pursuit of professional skill and assiduity contracted by life-long devotion, instead of being a vantage ground for political superiority and the promotion of local and personal interest; did each member consider himself under a responsibility, as a national draftsman, similar to that of the late Mr. Coulson as the Government draftsman, the work of such a committee would rise above a well-meant or ill-meant amateur patching. The truth is that legislation at the present time has become of so administrative a character and the affairs which it seeks to regulate have grown so complex and extensive, that a mixed society of gentlemen occupied with their own affairs, and returned to Parliament without the application, either on the hustings or at the table of the House, of any test of their ability to fashion laws, is unfit for the scientific construction of a code. A body of professional law framers, therefore, is required for supplying the provisions necessary to give embodiment to a project of law approved by Parliament. A popular representative body is ill-adapted for any step in legislation beyond giving instructions to draw an Act with all necessary and proper clauses. Out of the body, to be created, of professional law framers, or subordinate to such a body, there would still be required a conveyancing staff, whose speciality would be knowledge and skill in the contents of the Statute Book, in its construction and language, and in the interpretations put upon it by decided cases. Without this knowledge and skill, any hope of a well-ordered code for judicial purposes will be vain; and however much expurgation may reduce the statutes at large, it is plain to all conversant with the subject that such knowledge and skill can be acquired only by men whose lives are given up to the attainment thereof. It is for this reason we consider that a necessity exists for a conveyancing staff as a second body, distinct from that of the professional law framers. The faculty of the one would be technical; the faculty of the other, social and political. Their common characteristic would be that they were "experts."

"WHO SHALL DECIDE WHEN DOCTORS DIS- AGREE?"

The case of the College of Physicians, reported in the present number of the *Weekly Reporter*, if not of paramount legal importance, will be found to present many points of general interest, and at all events will take rank as one of the great medical *causes célèbres*. For the particulars we must refer our readers to the report itself. We may state that the contest which was waged by the Apothecaries Society, under the wing of the Attorney-General, against the College of Physicians, arose out of a resolution of the latter body to create a new order of practitioners, armed with the testamur and diploma of the college, and commissioned not only to prescribe, but to administer drugs for gain, contrary to the invariable restriction of the college—a restriction not contained in their charter or statutes, but self-imposed and rigidly acted upon for upwards of three centuries. The apothecaries, resenting this contemplated infringement of their privileges, called upon the Court of Chancery to lay an embargo upon the physicians, and restrain them from granting their letters of marque to these privateers in physic.

The quarrel, as will be seen, was a very pretty quarrel as it stood, and afforded one more example of the *odium medicorum*, said by some to rival in intensity the *odium theologicum*. For the contest now raised was not raised for the first time. Before the seventeenth century the apothecaries formed one guild with the grocers. Plums, sugar, spice, Venice treacle, mithridate, and clysters were sold in the same shop. As to their knowledge and skill in physic they stood in hardly any higher estimation than the sorcerers or cunning men of the period. The needy apothecary of Mantua, "in tatter'd weeds," "culling of simples,"

"In his needy shop a tortoise hung,
An alligator stuffed, and other skins
Of ill-shaped fishes; and about his shelves,
A beggarly account of empty boxes,"

will occur to everyone. But in the reign of James I. a charter was granted raising them to the dignity of a corporation, under the style of "The Master Wardens and Society of the Art and Mystery of Apothecaries of the City of London," and conferring many most important privileges upon them. From this time they appear to have risen in social and medical position. No doubt Burton, writing about 1620, does not spare his girds against the poor apothecary. In his "Anatomy of Melancholy," he speaks of the "knave apothecary," with "his old obsolete doses, adulterine drugs, bad mixtures," &c.; and again, "their art is wholly conjectural, if it be an art, uncertain, imperfect, and got by killing of men; they are a kind of butchers, leeches, menslayers; surgeons and apothecaries especially, that are, indeed, the physicians' hangmen, *curufices*, and common executioners;" and upon the whole awarding the palm to the hangman for his greater rapidity of execution. But the facts show conclusively that by the end of the seventeenth century, the apothecaries had taken high rank in the medical profession, and were generally consulted in simple cases by all classes, except, perhaps, the most wealthy, who might adhere to the physicians from conservatism or considerations of "respectability." The physicians did not surrender without a struggle the territory which was thus being gradually abstracted from them. They established dispensaries for preparing and distributing medicines to the poor at prices less than those charged by the apothecaries, and attended to give advice gratis. This step of the physicians did not pass unquestioned. Dissensions were raised within the college, and a contest which has found a Homer in Sir Samuel Garth ensued. Many passages from his almost forgotten "Dispensary" might have been cited with singular aptness before Vice-Chancellor Wood:—

"What if we claim their right t' assassinate.
Must they needs turn apothecaries strait?
Prevent it, Gods! All stratagems we try
To crowd with new inhabitants your sky."

In 1703 they asserted their privileges more directly by bringing an action for penalties against Rose, an apothecary, for that he did, "without prescription or advice of a doctor, and without any fee for advice, compound and send to one Seale (a butcher) some boluses as proper for his distemper, only taking the price of his drugs." The case was much litigated, but judgment was ultimately given by the House of Lords in favour of the apothecary against the College of Physicians. After this decision the apothecaries appear to have enjoyed without further question the right of prescribing as well as supplying medicines. In 1815 the Apothecaries Act was passed providing for their education, and assigning to them their definite province in the profession, though the Act did not in terms abrogate the supremacy of the physicians over the whole domain of physic. After the Medical Act of 1858, the preamble of which simply stated that it was expedient "that persons requiring medical aid should be enabled to distinguish qualified from unqualified practitioners," the physicians, with a view to regaining their ancient privileges, promulgated the scheme which has been attacked by the present information. In addition to the fellows and licentiates of the college who are to be restricted as formerly against the practice of pharmacy, or supplying of medicines for profit, it is proposed to create a new body of licentiates to be approved by examination, twenty-one years old, and not to be restricted by any bye-law from supplying medicines to patients under their own care. The apothecaries rose in arms against this scheme, which they represented by their information as contrary to law, beyond the power and authority of the physicians, and an invasion of the rights and privileges of the apothecaries. In support of their case they appealed to the Medical Act of 1858 as defining and "stereotyping" the status of medical practitioners of whatever qualification. Physicians, surgeons, and apothecaries, were to continue for all time in that state in which the Act of 1858 found them. Nothing was to be added to, nothing abated from, their several privileges or restrictions. If the College of Physicians, though armed with the most ample authority over the whole domain of Physic, had for some two or three centuries past left to the "needy apothecary" the low mechanical act of compounding and vending for lucre his "electuaries, elegnias, cataplasms, *aurum potabile*," and the like; the faculty, it was contended, had departed from the physicians and passed to the apothecaries, no longer poor starveling squatters upon the domain of physic, but a recognised medical corporation, with chartered privileges and rights to vindicate. However unlimited in their origin the privileges of the college, those privileges were to be limited to the exact measure of their exercise at the period when the Act was passed: and this without reference to the circumstance that the restriction had emanated from the college from within, rather than been imposed by royal or parliamentary authority from without. In other words, the college was thenceforth to be for ever precluded from modifying or repealing its own bye-laws. Nor did the apothecaries rest their case upon the Act of 1858 alone. According to their construction of the Apothecaries' Act, 1815, the faculty of licensing practitioners who should with the same hand prescribe and supply medicines, was definitely transferred from the physicians and granted to the apothecaries; and notwithstanding the clause saving the rights, &c., of the College of Physicians, a licentiate of the College would be liable, no less than any layman, to the penalties imposed by the Act, if he should "act or practise as an apothecary." In his argument in support of the information, the Attorney-General called upon the Court to restrain

the physicians from thus resuming their disused privileges, and urged that their project would be a fraud upon the legislative provisions of 1815 and 1858, and also a public injury—"These be bitter words, Mr. Attorney—" upon her Majesty's lieges, by endangering their health, and driving them to seek their drugs at the hands of raw and inexperienced youths, who have not been subjected to the searching tests exacted by the sages of Blackfriars.

The length to which our sketch of the rise and progress of the dispute has extended, leaves us but little space for any lengthened comment upon the decision of the case or its legal bearings. In a judgment characterised by all his accustomed ability, and by more than his wonted force and precision, V.C. Wood unhesitatingly affirmed the authority of the college against the attack of the apothecaries. His Honour rested his decision upon the broad, general principle that a corporation with chartered and statutory rights and privileges could only be deprived of them by express enactment; and that the repeal must be no less explicit than the grant. That the college had power originally to grant licences for the practice of physic unfettered by any restriction against the supply of drugs he had no doubt. The effect of the original charter was to vest in the college the control over the universal medical science and the right to grant such licences, restricted or unrestricted, existed beyond question up to the time of James I., and was in no way affected by the charter granted to the apothecaries in that reign. Whether the Act of 1815 abrogated that right was a question that might admit of doubt, though he did not himself feel any. At all events, the repeal, if repeal there was, was only by inference, while the clause saving the ancient rights, &c., of the college was express. The point was too doubtful for the interference *brevis manu* of a court of equity, and the apothecaries might well be left to try the question at law. But whatever doubts might arise upon the Act of 1815, none could reasonably be suggested by that of 1858. There was nothing to show the slightest intention to deprive any one of the medical bodies of their power to alter their bye-laws so long as they kept within the limits of their charters. Assuming that they had each the power of regulating and imposing restrictions upon the practice of their own members, the power of relaxing those restrictions, as occasion might require, remained untouched. It might be urged, *Sic utere tuo, ut alienum non laedas*, and that the college was not entitled to resume an authority disused and repudiated for centuries, to the detriment of their neighbours who had gradually acquired an adverse title. But the answer, we apprehend, would be that the act of the physicians was not aggressive. In regulating the position of young men enrolling themselves within their order, and submitting to their educational tests they simply wished to remove certain restrictions formerly imposed, but no longer considered expedient. If in the result the public may prefer to receive advice and physic from the licentiates of the college rather than of the hall, that is no ground for the interference of a court of equity. Let the hall turn out a better and cheaper article than the college, and they will command the market. Any attempt, however, to create a monopoly in a trading corporation, to the exclusion of a scientific body formerly in the enjoyment, and never legitimately deprived of, the right, can hardly succeed. Of still less force is the somewhat unintelligible appeal to the Court to interpose on behalf of the public. The public health will probably not suffer by being entrusted to a body of men whose qualifications have been rigidly tested by one of the most competent medical boards in Europe. At any rate, we may safely be left to choose for ourselves in the matter. A point which was urged in favour of the physicians, but not dwelt upon in the judgment, was, that if the apothecaries were right in their contest, their remedy, by their own show-

ing, was not in equity, but by action at law for penalties under the Act of 1815, to which, as the information stated, the new licentiates would render themselves liable. But this is a minor point not necessary for decision in the view taken by his Honour. In that view, based, we apprehend, upon the soundest principles, and not the less sound from their simplicity, we entirely concur. Whether the result of the decision will be to reduce the apothecaries to their ancient function of mere drug-sellers, and reinstate the physicians in their supremacy over the whole domain of physic, is a question not within our province: we leave the discussion to the doctors, the solution to the public.

As laymen, however, we see no reason to regret the conclusion, believing as we do that the education of our medical practitioners will be best entrusted to a learned and scientific body, which has exercised its high functions with honour and distinction to itself and the public good of the commonwealth for more than three centuries.

CONSOLIDATION OF THE COURTS OF CHANCERY AND PROBATE.

The Court of Chancery and the Ecclesiastical Courts alike derived almost the entire of their jurisprudence from the Roman Civil Law. Both classes of courts also owed their establishment and perpetuation to a common cause—the rigour of the Common Law in its definition of the rights of property, and its want of rules as to personal status. The Chancellor, moreover, as a general rule, was a clergyman, and a judge in the Ecclesiastical Courts. The administration and procedure, as well as the origin, of both judicatures were thus very similar. The chief distinction between them was that Courts of Equity dealt only with questions relating to rights of property or to personal rights as connected with claims to property, while the Ecclesiastical Courts adjudicated directly upon questions of kindred, marriage, and personal or ecclesiastical status. Each judicature endeavoured to confine itself within the boundary especially marked out for it by the theory of its constitution. But it became impossible that this theoretical distinctness could be completely observed. The Chancellor had not, indeed, the same motive to encroach upon the jurisdiction of the Ecclesiastical Courts as he had to enter upon the province of the Common Law judges. Yet, in cases in which the Court of Chancery had concurrent jurisdiction with the Ecclesiastical Courts, suitors naturally resorted to that court in which they were certain of obtaining complete justice. In cases of bequests clothed with trusts, or given to married women or children, the Court of Chancery acquired an exclusive jurisdiction. The Ecclesiastical Courts having been thus gradually shorn of their domain, were finally deprived of the remnant of their original power as to testamentary causes by the statute 20 & 21 Vict. c. 77. This statute, which entirely abolished the testamentary jurisdiction of the Ecclesiastical Courts, transferred only the right of granting probate or letters of administration to the new Court of Probate. The 23rd section of this statute provides that no suits for legacies or distribution of residues be instituted in the Court of Probate. These cases are left, as before the Act, to be adjudicated upon by the Court of Chancery, by the county courts if the legacy be under £20, or by the superior courts of law if the legacy be a specific one to which the executor has assented. The Court of Probate thus administers the jurisdiction previously exercised by the Ecclesiastical Courts as to the granting of probate or letters of administration. The great bulk of this business is, indeed, of a non-contentious nature, and may, therefore, be administered by any court which has machinery proper for the purpose. But the contentious business in such causes should naturally be deemed an adjunct of the jurisdiction

which determines the rights to the property in dispute.

This was the principle on which Lord Cranworth in his speech* on introducing his Court of Probate Bill, in 1857, recommended that legislation regarding testamentary matters should proceed. The difference between the laws of wills of personal and of real property, until the 1 Vict. c. 26, helped to maintain the distinctness of the Ecclesiastical Courts, as these adjudicated only upon questions relating to personal property, while the Court of Chancery had to adjudicate both upon claims to real and personal property; the validity of a will relating to real estate being determined by an issue sent by that court to a court of law. Moreover, the ultimate appeal from the Ecclesiastical Courts lay to the Privy Council, while that from the Courts of Chancery or of common law lay to the House of Lords. A common object of all the Bills on this subject was to abolish a multiplicity of testamentary courts, there being no less than 386 of them in active operation down to the passing of the Court of Probate Act. But, we may ask, why should even two distinct testamentary courts be maintained to the obvious inconvenience of suitors? The Ecclesiastical Commissioners of 1832 recommended that testamentary jurisdiction should be vested in the Prerogative Courts of Canterbury and York, or in the former court alone. The Real Property Commissioners of 1833 preferred the Court of Chancery for this purpose. Both classes of commissioners concurred in recommending that such jurisdiction should be exercised by a single tribunal. Lord St. Leonards, and Lord Campbell, in 1854, supported Lord Cranworth's "Bill to transfer the jurisdiction of the Court of Probate to the Court of Chancery." Thirteen commissioners had been appointed to consider the subject; eight approved of the transfer to the Court of Chancery; four wished to confine the business to a single branch of that court, as proposed by Lord Cranworth's Bill; and four recommended the present system, which was the one contemplated in a Bill introduced by Lord Brougham about twenty years before. A complete consolidation of the testamentary courts with the courts of common law has had no advocates. These courts have no machinery for transacting the non-contentious business, which consists of ninety-nine out of every hundred cases. But the contentious and non-contentious cases should be disposed of by the same tribunal; inasmuch as a non-contentious case may unexpectedly become disputed.

The claims of the Court of Chancery to be constituted such tribunal are manifold, and, we think, conclusive. It is the court in which questions arising on the construction of wills are determined, and in which the estates of deceased persons are administered. The right to probate itself sometimes depends upon a question of construction. Thus if a person propound an instrument as testamentary, or if another party oppose the granting of probate of such instrument, the Court must decide the rights of the parties to propound or oppose, and this right may be claimed under the instrument in question. Again, the total or partial revocation of one instrument by another, depends upon the construction put upon both instruments. The Ecclesiastical Courts used sometimes to get out of this difficulty in a very inconvenient manner, by admitting to probate a number of papers which could not stand together, and leaving the Court of Chancery to deal with them. The importance of the judgment of the Court of Chancery in such cases is, surely, not to be overlooked, especially as, one way or another, a litigated will is sure to come before it.

The report of the Chancery Commission of 1854, however, ignores all these arguments. Yet it advised that the Court of Probate, the establishment of which it recommended, should take evidence according to the Chancery system, which was then regulated according

* *Vide Hansard, Parl. Deb., vol. 144, p. 431.*

to the recommendations contained in the first report of the same commissioners, and that an appeal should lie from the Probate Court to the Court of Appeal in Chancery. The Testamentary Jurisdiction Bill of Sir Alexander Cockburn and Sir Richard Bethell, in 1855, provided that the practice of the Courts which it proposed to establish should be similar to that of the Court of Chancery. The Bill introduced by the same law officers in 1856 actually proposed to vest in "The Testamentary Court" which it contemplated, equal jurisdiction with that of the Court of Chancery as to the construction of wills, and the rights of parties claiming under the same and as to the administration of the estates of deceased persons; but that its mode of procedure should be in conformity with that of the superior courts of common law. Now, the chief objections to the Ecclesiastical Courts were founded upon their procedure and mode of taking evidence, which was entirely in accordance with the old chancery system of examination by written interrogatories. These courts were thus without the means of observing the demeanour of a witness; and when questions arose as to the sanity of a testator, or the degree of influence alleged to have been exercised over him—questions the most important of any in this branch of their jurisdiction, and which can be resolved only upon evidence of numerous facts—their conduct of the inquiry was, to use a phrase of Lord Bacon, *mera palpato*. To have united the Court of Probate, then, even in 1857, with the Court of Chancery, was regarded by the House of Commons as a perpetuation, and not a removal, of the abuses which had prevailed in the Ecclesiastical Courts. It was thus resolved on finally, contrary to the main current of authority, to constitute the new court of probate on a common law basis. The present state of our equity system, however, sufficiently provides for all the common law affinities of cases which come more directly under its own supervision. The reforms of the court since the period when the abolition of the Ecclesiastical Courts was first resolved upon, are too numerous to detail. The masters' offices have been abolished. The system of taking evidence has been remodelled. The court is, in short, the Court of Chancery, as known to the non-legal public, only in name. Lord Cranworth stated in 1854, that speedy process could then be as readily obtained in the Court of Chancery as in the Courts at Westminster. We need not say that the former court has since that date still more clearly justified that statement. If a case continue for twenty or thirty years in chancery, it is because the matter relates to a trust which is to be administered, and not adjudicated upon. In such a case the court is acting as an agent or trustee; and if it had abdicated these functions before an infant, for instance, attained his majority, or any other stated contingency happened, it would cease to carry out the wishes of the person who had left his property charged with such a trust. It might perhaps be inconvenient that the testamentary business should be spread through all the branches of the court; but that is a matter of arrangement which can be easily provided for.

The onus of proof always lies on those who advocate the administration of the law in distinct channels. They should show either an inherent discrepancy between courts which are sought to be amalgamated, or that the conjoint amount of their business would exceed the capacity of a single tribunal to dispatch. But even this latter plea would only show the necessity of attending to the question of judicial strength. An incongruity in the business being administered by a single tribunal should be shown to exist. This, for instance, is the position assumed by those who object to the fusion of law and equity. But, as we have shown, the Court of Chancery and the Ecclesiastical Courts, which the Court of Probate represents, have had a kindred origin, and both adopted their rules for determining degrees of kindred, &c., as also a large portion of their general jurisprudence, from the civil and the

canon law. The origin of a law or judicature affords a good index of the direction in which a reform, if otherwise desirable, may very safely proceed; and the consolidation of a judicature with other tribunals which have had a like origin, cannot lead to those anomalous results which hasty innovation readily begets. The Court of Probate is presided over by a judge who has also to administer the vast and progressively increasing business of the Court for Divorce and Matrimonial Causes. The Court of Probate alone has not sufficient business to occupy fully the time of a single judge. It may, therefore, be conveniently amalgamated with another tribunal. But the Divorce Court, besides possessing no affinity in principle with the Court of Probate, presents, by reason of its enormous business, an insuperable objection to the continuance of the present junctions of these courts. The Court of Chancery is, on the other hand, the very judicature the state of the business in which admits of the Court being invested with additional functions. The similarity of the administrative functions of the Ecclesiastical Courts and of the Court of Chancery rendered the changes effected by the 20 & 21 Vict. c. 79 easy of practical accomplishment. If, therefore, general expediency requires that the whole business of the Court of Probate should be transferred to the equity courts, we need not apprehend that any difficulty can much impede the realization of such a measure.

Every court should doubtless be constituted so as to be capable of affording complete justice to its suitors. The insufficiency of a court of law in this respect has been the foundation of a great portion of that equity jurisdiction, which has been found most salutary in its results. A court which only affords an imperfect remedy, or is dependant for its action upon proceedings that must be conducted before another tribunal, over which it has no control, is necessarily inadequate to its natural object, and is embarrassed in those cases in which a resort must be had to the collateral judicature. The Legislature, therefore, has endeavoured by means of the Common Law Procedure Acts to preclude in very many cases the necessity of a defendant in an action at law having recourse to equity for the establishment of his defence. The Chancery Amendment Act, 13 & 16 Vict. c. 86, s. 62, has *e converso* enabled the Court to determine certain rights without requiring the parties to proceed at law, as they should have done prior to that period. The 39th section of the same Act has a like object in view, in enabling the Court to require the production and oral examination of any witness or party in the cause. By the 61st section, the Court is prohibited from sending a case for the opinion of a court of law—the protracted and complex litigation arising from the dependence of a suit upon the combined action of wholly distinct judicatures having been found more onerous than any refined adjustment of rights could compensate for. The 44th section has given the Court an absolute discretion to proceed in "any suit or other proceeding" in the absence of a personal representative to a deceased person who is interested in the matters in question, or to appoint a representative for the purposes of the suit. This section was suggested by the inconvenience of a resort to another court in cases in which the interest of the deceased might not have been the main subject matter of the suit, or might have been in itself of trivial value. The 49th section of the same Act empowers the Court in cases in which there has been a misjoinder of plaintiffs, "and the plaintiff having an interest shall have died, leaving a plaintiff on the record without an interest," to order at the hearing of the case that it stand revived as may appear just, whereupon the Court may proceed to a decision, if it shall see fit. These sections have all had the common object of avoiding the necessity of a resort to another court. The raising a representative is often, except for the purposes of a chancery suit, altogether unnecessary. But the Court will not exercise the discretion given it by

the 44th section, so as to dispense with a representative being raised to a deceased person, if the object of the suit be to administer the assets of such deceased; *Abrey v. Newman*, 10 Hare 58; *Long v. Stone*, 1 Kay App. 12; nor if the representative would have the duties of a trustee to perform, *Fowler v. Bayldon*, 9 Hare 28. The discretion which the Court exercises under this section is, therefore, of a very limited nature, and does not render the appointment of a legal personal representative in very many cases less necessary than it was before the passing of the Act. Much of the inconvenience attendant upon the raising of a personal representative would, doubtless, be obviated, if the appointment could in all cases be made by the Court of Chancery.

The isolation of the Court of Probate is open to a special objection, by reason of its want of any appellate tribunal, except the House of Lords. The misdirection of a Common Law judge may be subjected to a revision both by the Court in Banco, and by the Court of Exchequer Chamber, before the appellant can go to the House of Lords. Not so in the Court of Probate; an appellant goes before the House of Lords *per saltum* in all cases of appeals, whether these be taken to interlocutory or final decrees. Yet this inconvenience could not be well avoided, unless the Court were constituted a branch either of Chancery or of Common Law judicature. The Chancery Commissioners of 1854 had stated that the Ecclesiastical Courts were not occupied in contentious business for more than sixty days in the year. The establishment of a distinct Court of Probate was, therefore unnecessary. But, unfortunately, it was united to a court, with the judicial principles of which it had little affinity. In 1857, at the time of the discussion of the Court of Probate Act, both Sir Richard Bethell and Sir Fitzroy Kelly continued to approve the principle involved in the Bill of the previous year, viz.; that a Court of Probate, to be efficient, should have power to construe the terms of all wills, to determine the rights of devisees and legatees, and to administer the estates of intestates. They differed, however, upon important questions of detail, and Sir Fitzroy Kelly finally succeeded in having a Court established, according to his views, upon a Common Law basis, as regards the taking of evidence, and calling in the aid of a jury, when necessary. These are characteristics which are, doubtless, most commendable. The equity features of testamentary causes should not, however, have been overlooked. Some of the most intricate questions as to probate arise in cases in which undue influence is alleged to have been exercised upon a testator, and such questions have been always deemed to be of an equitable character; while the administration of assets, whether testamentary or commercial, has likewise been deemed an adjunct of equitable judicature, the interests of very numerous litigants being generally involved in such causes.

It is a manifest anomaly that the Court of Chancery has to determine the right to property, while the Court of Probate determines the right to administration. The establishment of a court distinct from the Courts of Equity is to be attributed partly to the desire which prevailed in 1857 of getting rid of every thing that sounded as different from common law—so far as probate and letters of administration were concerned—owing to the great disfavour into which the ecclesiastical courts had fallen; and partly to the unpopular character which the Court of Chancery bore down to a very recent date. When the Court of Probate Act was passed, the practical merits of the then recent chancery reforms were not yet fully known and appreciated; but at the present date no objection can be urged to the principles or procedure of the Court of Chancery that can outweigh its claims to a plenary testamentary jurisdiction. It was apprehended in 1857, that the Court of Probate, if constituted a court of construction and administration, might in its decisions conflict with the Court of Chancery. A much stronger objection to such a

measure, we think, is to be found in the establishment of two distinct sets of courts, adjudicating upon the very same rights, even though these should always agree in their decisions. It is on this principle we ask at present of what use is it that a legatee should be compelled to resort to one court for letters of administration, and to another for administration itself; or why should not a court which is deemed competent to construe a will for one purpose, be deemed equally competent to construe the same will for all other purposes? The Ecclesiastical Courts had enjoyed the right to confer administration only because they possessed jurisdiction to determine the rights of parties to the property, and, in fact, had, in the person of the ordinary, constructive possession of the goods of the deceased until administration was granted. The accessory, then, should not be any longer left separated from the principal; and as it is an impossibility, against which we need not argue, that jurisdiction as to property should be conferred upon the Court of Probate, it only remains that the power to grant probate and letters of administration should be vested in the Court of Chancery, either *simpliciter*, or in a branch of that court exclusively assigned to the adjudication of testamentary causes.

The Courts, Appointments, Promotions, Vacancies, &c.

QUEEN'S BENCH.

May 10.—*Arber v Carrington*.—A compromise having been suggested by the Court in this case, the plaintiff's counsel wished the case to stand over for an hour, in order that he might see his clients; but

Mr. Justice CROMPTON said counsel were bound to exercise their discretion; and, in the absence of express instructions, it was their duty to do the best they could for their clients. If they did not do so, and the client had to submit to worse terms, he would have a right to complain of his counsel, just as a patient would of his surgeon if he did not do what was necessary.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner GOULBURN.)

May 15.—It was stated to-day that Mr. Edwin James, Q.C., had presented a petition under the 7 & 8 Vict., and that Mr. Patrick Johnson was appointed assignee in the matter. The petition being under the private arrangement clauses any further mention of the case would be misplaced.

Mr. Fredk. Dimsdale, solicitor, King's-arms-yard, was awarded a third-class certificate. The bankrupt had become involved in the mania which existed some years ago for Westminster Improvement Bonds.

The following gentlemen were called to the bar in Easter Term. Inner Temple, viz.: Henry Pottinger, Esq., B.A.; John Hardy, jun., Esq.; Philippe Gaston Martin Moncamp, Esq.; Charles Boyle, Esq.; James Jephson, Esq.; William Potter, jun., Esq., B.A.; and William Roupell, Esq., M.P.

Lincoln's-inn:—William Windsor Parker, Esq., M.A., Oxford; William Fraser Rae, Esq.; William Henry Deverell, Esq., B.A., Cambridge; Walter John Bacon, Esq., B.A., Oxford; William Henry Baillie, Esq., B.A., Cambridge; George Rogers Harding, jun., Esq.; and Henry Diedrich Jencker, Esq.

Mr. Charles Tatham Fearon has been appointed conveyancing clerk in the Solicitor's office of the Department of War.

Parliament and Legislation.

HOUSE OF COMMONS.

Tuesday, May 14.

ENCUMBERED ESTATES ACT OF JAMAICA.

In reply to Mr. Hankey,

Mr. C. FORTESCUE said that the Crown would be advised to sanction the Jamaica Encumbered Estates Act, and the necessary order in council would be issued without delay.

Wednesday, May 15.

NEW TRIALS IN CRIMINAL CASES BILL.

Mr. BUTT, in moving the second reading of this Bill, said that as he understood the measure was to be opposed by the Home Secretary, it would be more convenient then to state its provisions, together with the grounds on which they were supported. The question as to the necessity of instituting some tribunal to review erroneous verdicts in criminal cases was not new to that House. Early in the present century Sir S. Romilly introduced a Bill identical in principle with the one now under consideration, and the proposal had been frequently revived in Parliament by others at intervals throughout the intervening period. In 1858 the hon. and learned member for Wexford and himself, acting in concert, brought forward a similar measure, the principle of which was affirmed by a vote of 145 to 91, although it unfortunately was not allowed to become law. The present Bill embodied various suggestions thrown out in the course of previous debates. It sought to make no innovation in the law and constitution. New trials were now granted in certain class of criminal cases. The object of this Bill was to render that remedy more general, and extend it to cases in which, above all others, it was most needed. The judgments of inferior courts were now liable to be reviewed upon writ of error by the Court of Queen's Bench; but that remedy was reduced to a mere matter of form, and did not touch the substantial miscarriages of justice which sometimes took place. Proceedings could also be removed from inferior tribunals to the Court of Queen's Bench upon writs of *certiorari*. Moreover, convictions for misdemeanour before the Lord Chief Justice of the Queen's Bench and a Middlesex jury could be set aside either upon points of law or fact. If, however, the conviction was one for felony, no new trial could be obtained, on account of an absurd and unreasonable distinction which ought not in these days to be maintained. Surely, if a new trial was given, where the penalty was fine or imprisonment, it ought not to be denied where the punishment was death or transportation; more especially as in the trial of the two cases the tribunal was the same and the rules of evidence also the same. This Bill therefore proposed to remove that anomaly by granting to prisoners tried and convicted of felony in the Court of Queen's Bench the same right of appeal as was enjoyed by persons convicted of misdemeanour. It also proposed to extend the writ of *certiorari* to cases in which it was not now usual to grant it, and to enable the Court of Queen's Bench, upon a proper case being made, to send that writ to any court of criminal jurisdiction in the kingdom in order to have its verdict reviewed. Everybody must feel that there were instances in which it was most desirable that there should be an opportunity of having the judgment of a criminal court reviewed, not by the discretion of the Secretary of State, but by a judicial tribunal administering the law upon settled principles. He knew that it would be said that the discretion of the Secretary of State to grant pardons supplied the place of a power of appeal; but he would ask, was it right that an innocent man should be placed in the position of a pardoned criminal? and also, was it right that the Secretary of State in his private office, should alone have the power of reviewing a sentence? It might also be urged that erroneous convictions were very few, but he doubted much whether they were not far more numerous than was generally supposed; for at present there were no means for an improperly convicted person to obtain a re-hearing. He might be asked whether he intended to give a power of appeal in cases of acquittal. He did not propose to give such a power, and at present the Home Secretary could only pardon—he could not hang a man whom the jury had acquitted. He thought that both experience and authority were in favour of the Bill which he now asked the House to read a second time.

Sir G. LEWIS said that last session this Bill had undergone a full discussion, and was then negatived without a division, and he really thought, after that circumstance, it was hardly necessary to introduce this session substantially the same Bill. The object of the measure was to make the trials of all treasons and felonies removable by *certiorari*, and to give power to the superior Courts of granting new trials. That was the principle of the Bill of last session, and no fresh light had been thrown on the subject by the speech of the hon. and learned member, or by the provisions of the measure itself. There was a general tendency in our laws to favour the prisoner, but if such a step were taken as was now proposed, the inevitable result would be to diminish that merciful and forbearing feeling which was now an honourable distinction of our criminal law. The real question was, whether they could assimilate the civil and criminal law by giving a prisoner

power to appeal in cases of treason and felony. The hon. member said he wished to assimilate felonies with misdemeanours; but that involved the whole question in dispute. At present the power of appeal was only exercised when persons had the means of paying costs. The appeal given by the Bill would be a mere mockery unless a prisoner had the means of paying the costs; and it would be necessary to saddle the public with the costs of all second trials. Unless that were done the Bill would be mere waste paper; and if the costs of the second trial were paid by the public every prisoner would appeal, on the chance of obtaining an acquittal from the first conviction. He was far from saying that Secretaries of State were infallible, but he believed every precaution was taken to avoid error in their decisions. The judges were consulted, and every statement and representation was carefully considered; and it should be recollected that courts of appeal would themselves be liable to error. No alteration of the law would secure an absolutely infallible authority. He concluded by moving that the Bill be read a second time that day six months.

Mr. M'MANON said he had introduced a similar measure on previous occasions, but he thought it useless to occupy the House with the Bill while parties remained in their present position; but he still thought it an anomalous and unjustifiable proceeding that a Secretary of State should set aside the verdict of a jury.

Mr. BUTT having briefly replied,
The amendment was agreed to without a division.
The Bill was therefore lost.

Thursday, May 16.

VOLUNTEERS TOLL EXEMPTION BILL.

This Bill was read a second time.

SALMON FISHERIES (ENGLAND) BILL.

This Bill was read a first time.

Recent Decisions.

EQUITY.

LIABILITY OF WIFE'S SEPARATE ESTATE TO DEBTS.

Johnson v. Gallagher, L. J., 9 W. R. 506.

(Continued from p. 478.)

It appeared from our previous investigation of this subject that a married woman's separate estate is liable to her debts, but that the question is still to some extent unsettled what are the debts to which it is liable; and we adverted to another open question of, at least, equal difficulty, viz., what is the separate estate to which this liability attaches. This latter question may be illustrated by reference to the case of *Owens v. Dickinson*, which was fully stated in our former article. In that case, real estate was settled to such uses as a married woman should by deed or writing or by will from time to time appoint, and in default of appointment, in trust for her separate use for life, with remainder to the use of her son by a former marriage. Now, supposing the married woman to have incurred such a liability as would affect separate estate, the question would be, whether the life estate only, or the fee, would be affected by it? The principle upon which this liability was either introduced or has been maintained is, that the separate estate is the creature of equity, and as equity had conferred on the married woman the privileges, it would also impose upon her the responsibilities, of a *feme sole*. But if real estate is settled to such uses as a married woman shall appoint, her power of appointment is recognised, not only in equity, but at law. She enjoys no special protection from equity in the exercise of this power, and why, therefore, it may be asked, should equity assume to control her in the exercise of it? And if equity does assume this control, why should it not do so in the married woman's life, just as well as after her death, instead of holding, as it appears to do, that the corpus of the property cannot be affected during her life, but only her life interest. It would seem that the term "separate property" ought to be restricted to property which might be enjoyed and disposed of by the husband, if equity did not interfere for the wife's protection; and if the term were thus restricted, a power given to the wife, not being exercisable by the husband, would not be included in it. However, this distinction between power and property, whether it was or was not practicable to have maintained it, does not appear to have been maintained. Lord Justice Turner says in the judgment which has suggested these remarks:

"In cases where the power has been by deed, or writing, or will, the Courts have certainly held the corpus of the property to be subject to the debts and engagements of married women, although it is to be observed that during the life of the married woman the Court has never gone farther than to affect the limited interest." If we look at the authorities on which the Lord Justice founded this statement of the law we shall find that the latest of them—viz., *Owens v. Dickinson*, scarcely seems to go to the full extent of his proposition. In that case, as we have seen, there was a power of appointment over the fee, and in exercise of that power the married woman charged the estate with the payment of her debts. Lord Cottenham held that the plaintiff's demand, which arose on a written instrument, was a debt of the married woman; and there can be no doubt that if the demand had accrued during the married woman's life, it would have been capable of being enforced against her separate life estate. So far the case came within the undisputed limits of this doctrine; but the life estate was at an end, and the fee charged with debts had been appointed. Lord Cottenham held that this debt of the married woman was payable after her death out of what he called her separate property; but he did not say that it was in respect of the character of separate property that the estate became liable to the debt, and it can hardly be inferred from his judgment that, if there had been no charge of debts, he would have held the estate liable in the hands of the wife's appointee, merely because she had incurred a liability capable of affecting her proper separate estate; but unless this inference can be drawn, Lord Cottenham's judgment does not support in its full extent the doctrine stated by Lord Justice Turner. It may, of course, be said that a married woman cannot properly be spoken of as having debts, unless with reference to separate estate; but it does not follow, from this observation, that the fund out of which those debts are paid is necessarily separate estate. It may deserve notice that the confusion between power and property, under which this subject seems to labour, arose almost inevitably out of the fluctuations of opinion as to the true foundation of the entire doctrine. The Court felt, in several cases, a natural desire that married women who had, in the eye of the world, property, should be compelled to satisfy the expectations of those who had trusted them on the footing of it. Hence came the notion that bonds, bills, &c., might be treated as informal exercises of the power of appointment which was frequently combined with a life estate for separate use. But, besides other objections to this notion, it was of course inapplicable to cases where there was a mere life estate without any power. Of late years the doctrine has been rested upon the principle that separate estate is the creature of equity, which equity may claim to deal with as it sees fit. As soon as this ground was taken up, the argument arose upon which we have above insisted, viz., that a power of appointment may be legal, and even if it is equitable, it does not owe its validity to any special favour shown by equity to married women, and therefore there is, so to speak, no consideration for the charge of the married woman's debts which is sought to be imposed on the property in the hands of her appointees.

The earlier cases cited by Lord Justice Turner are not an inviting subject of discussion, partly because some of them are briefly and we might even say obscurely worded, and partly because we see that with the lapse of time the doctrine of the Court has undergone so much modification that it may well be doubted whether decisions of the last century can be entirely relied upon as authorities. We believe that the question to which we have adverted, whether property over which a married woman has a present power of appointment ought to be considered as property settled to her separate use, would be answered by some, at least, of the present judges in the negative. But formerly there were judges who felt a difficulty in conceiving the existence of separate estate, or at least in attaching to it a liability, in any other way than by supposing it to involve a power. It seems strange that the bonds and notes of a married woman should have been supposed to affect her separate estate as informal appointments, and yet that the Court should have refused to allow the liability which it thus created to attach during the married woman's life-time, to the corpus of the estate settled to her separate use. If she was to be considered as having appointed her estate to creditors, surely the constructive appointment ought to have extended to whatever estate, whether for life or in fee, she possessed power to appoint. However, the Court declined to follow its own notion of an informal appointment to what appears to be its logical result, and now that notion has been exploded. As we have seen, a disposition now prevails to rest the liability of the separate

estate to debts on the ground of the protection which the wife receives from equity in respect of this estate against her husband. If this view be finally adopted it would seem to follow that the liability should attach only on that in respect of which the protection is received. Perhaps it may be possible by steadily carrying out the principle here suggested to bring this entire branch of equitable doctrine into a clearer and more satisfactory shape than that in which it now appears. We may instance as an example of that kind of growth of this head of law which we think goes far to supersede the early cases, that formerly it was thought that personalty could be settled absolutely to separate use, but that realty could be so settled only for the married woman's life; and if it was intended that she should be able to dispose of realty as against her heir, it was thought necessary to give her a power of appointment. At the present day, however, we should suppose that realty as well as personalty could be settled absolutely for separate use, and this is the opinion of Mr. Lewin, who says, at p. 645 of his "Treatise on Trusts," that he presumes that if lands be conveyed to a trustee and his heirs upon trust as to the fee simple for a *feme covert* "for her separate use," she may deal with the fee as if she were a *feme sole*. Mr. Lewin thinks, however, that the point is not free from doubt; and even supposing it to be settled, the remark is obvious that the distinction between a power to appoint the fee and a capacity conferred by equity to convey the fee is little more than nominal. A separate estate in fee in realty wants that which we have ventured to point out as the essential characteristic of separate estate—viz., liability to be disposed of by the husband unless equity interfered for the wife's protection. The husband's right to the enjoyment of his wife's estate in fee does not extend, even at law, beyond his wife's and his own life.

In considering how far a married woman's engagements would affect the corpus of property settled to her separate use for life with a power of appointment over the corpus, Lord Justice Turner classed the cases under three heads:—"First, where the power of appointment has been general, by deed, or writing, or by will; secondly, where it has been by will only, and the power has been exercised; thirdly, where there has been a limitation in default of appointment exercised." We could have wished that this classification had been expressed in terms a little more precise. We should like, for instance, to be more certainly informed whether the third class includes all cases of power, whether by deed, or writing, or will, or by will only, in which the power is followed by a limitation in default. It happens, unfortunately, that in giving an example to illustrate his meaning the Lord Justice appears to have mistaken the name of the case he intended to quote. He says, however, that, in cases falling under the third class, the debts and engagements of the married woman cannot prevail against the parties entitled in default of appointment; and, therefore, this class of cases, if we knew the limits of it, might be dismissed from further consideration. In cases falling under the second class, where the power of appointment is by will only, and has been exercised, but not for creditors, the Lord Justice says that the authorities are inconsistent, and he considers the point as open. The modern authorities to which he refers are a mere dictum of his own on one side, and the judgment of Vice-Chancellor Kindersley in *Vaughan v. Vanderstegen* (2 Drew. 165; s. c. 2 W. R. 293), on the other. As this judgment discusses the whole question of the difference between power and separate estate in a very clear and complete manner, we cannot do better than devote the short remainder of our space to it.

We referred in our former article to that part of this judgment which dealt with the question whether the separate estate of a married woman was liable to her general engagements, and we showed that Vice-Chancellor Kindersley had anticipated the conclusion which has now been arrived at by Lord Justice Turner. Having reached this point, his Honour goes on to say that the efficacy of those engagements of the married woman as debts must be confined within the same limits which circumscribe her character of *feme sole*, that is, within the extent of her separate use. To go beyond that limit would be a violation of all principle. The question then arose, whether a married woman, in the view of a court of equity, was a *feme sole* as to a general power of appointment of which she was the donee. It will be observed that this is the very question which we suggested in considering the case of *Owens v. Dickinson*. His Honour asks whether the married woman was enabled to execute a power of appointment on the ground that the property comprised in the power was separate estate. The answer is, clearly not. "It was true a general power enabled a disposition independent of the husband, and so far resembled separate use; but it could

not be the same thing, being the creature of a court of law as much as of equity. In truth, the difference between a trust for separate use, and a power to a married woman, was the same as between property and power." His Honour then applied the principle he had laid down to the case before him, which was that of a power to appoint by will. The married woman had a life interest in leaseholds and personalty to her separate use, and a general power by will over the reversion expectant on her own death, which power she had exercised. "The trust for separate use affected only the life estate, and she was so far a *feme sole* in a court of equity . . . but as the separate use was confined to the life estate, so also was her capacity of contracting debts." As the creditors had no right, even in equity, to resort to any estate except such as was settled on an express trust for separate use, they could not come on the reversion; and it was therefore impossible to apply to this case the same rule of equity as in the case of a man, or a *feme sole*, exercising a general power, and to make the appointed property liable for debts.

We have already treated at considerable length the first of Lord Justice Turner's classes—viz., that of cases where the power is by deed or writing, or by will. There might, however, be a great deal yet to say, if space permitted, on the varieties of this class of cases according to the different nature of the limitations in default of appointment exercised. The more the subject is considered, the more uncertainty appears in it. On the whole, we are inclined to think that certainty cannot be attained unless by the general application of the principle on which Vice-Chancellor Kindersley decided the above case of the second class.

COMMON LAW.

PROPER PARTIES TO ACTIONS—LAW AS TO.

Agacio v. Forbes, (P. C.) 9 W. R. 503.

The question which must be determined at the very outset of every action—viz., by and against whom it is to be brought—has become, by the effect of recent changes in the law, of somewhat less vital importance than formerly. This is so because a mistake may now be amended on equitable terms without the necessity of recommencing the proceedings; and, indeed, by the Procedure Act of last session the joinder of too many persons as plaintiffs has become immaterial, except so far as costs are concerned (23 & 24 Vict. c. 126, s. 19). Before this provision the mis-joinder or non-joinder of a plaintiff in an action of contract was, and the latter mistake is still, fatal to the success of the proceedings unless amended. Of the importance of this question of the proper parties to sue, the present case is a good illustration; though it so happened that the view taken by the Court below was incorrect with regard to the application of the law to the case before them. The legal principle itself is simple and free from doubt. It is, that the plaintiff or plaintiffs must be the person or persons from whom the consideration for the contract moved. Thus in a case where the declaration stated that the plaintiff and one W. R. were partners, and that the firm being indebted to the plaintiff, the defendant, in consideration that the firm would assign to him the partnership, business, stock, &c., promised the plaintiff to pay him the partnership debt due to him, it was objected in arrest of judgment that the action should have been brought by the firm generally; but the Court held the action to have been rightly brought, for the separate interest of the plaintiff in the partnership fund was the consideration for the promise (*Jones v. Robinson*, 1 Exch. 454). This test is the proper one to decide whether a contract entered into with an individual partner may be put in suit by that individual alone,—for that it may at all events be sued upon by the firm generally, there is no question (see *Alexander v. Barker*, 2 Tyr. 140). An illustration of this distinction will be found in the following case. A guarantee was addressed to one of the members of a partnership in these terms:—"Sir, I understand from Mr. G. that you had the goodness to consent to advance £550 to discharge immediately a like sum for which he became security for his cousin upon my assurance (which I hereby give) that provision shall be made for repaying you this sum under the arrangements now going on for the settlement of Mr. G.'s concerns." Upon the faith of this guarantee the money was advanced by the partnership; and from some correspondence which subsequently took place between the firm and the defendant it appeared that the security was intended for the benefit of the firm generally. Upon this evidence the partner to whom the guarantee was given, having sued alone, was non-suited, and a subsequent action by the firm was successful. This was the case of *Garrett v. Handley* (3 B. &

C. 462; 4 B. & C. 664); and it was chiefly on the authority of this decision that the judgment of the colonial Court, now reversed in the Privy Council, was given. For the declaration in the action showed an agreement between an individual member of a firm (the plaintiff) and the defendant, to the effect that the latter should pay the former a certain sum in consideration of his not enforcing certain firm claims against a third party indebted to the defendant; and the plaintiff was non-suited, on the ground that the consideration moved from the firm generally, who ought accordingly to have been joined as co-plaintiffs. But the Privy Council distinguished the case of *Garrett v. Handley*, above referred to, by observing that there the consideration was necessarily joint, and could not be separated into parts—the advance of money being to be made not by the plaintiff, but by the firm of which he was a member. But in the present case the forbearance to sue (which was the consideration for the contract) was an act which depended upon the will of the plaintiff himself—he being (under the circumstances of the case) in a position to commence proceedings against the third party indebted to the defendant. And this forbearing constituted a consideration moving from the plaintiff, which entitled him to maintain an action on the agreement; though having been entered into for the benefit of the partners generally, it might also have been sued upon by the whole firm.

RULE AS TO MEASURE OF DAMAGES—LOSS OF BAILMENT.

Henderson v. The North-Eastern Railway Company, Exch., 9 W. R. 519.

This is an application of the rule as to damages laid down in the well-known case of *Hadley v. Baxendale* (9 Exch. 341) to the loss of parcels by carriers or warehousemen. That case, it will be recollected, was an action against a carrier for damage occasioned by the non-delivery of part of a mill, owing to which the plaintiffs incurred a loss of profits—not being able, in the meantime, to work their mill. Here it was held that such loss could not be added to the damages recoverable; and the general principle was laid down that on a breach of contract such damages only could be recovered as could reasonably be supposed to have been in contemplation of both parties when the contract was made, as the probable result of its breach; or which could fairly and reasonably be considered to have arisen from such breach in the usual course of things.

In the present case a parcel having been lost by the defendants, with whom it had been warehoused, the owner claimed as damages not only the value of the parcel, but also in respect of a loss of salary he had chanced to sustain by reason of the parcel being mislaid. This last claim, however, the Court held not to be maintainable; remarking that if the liability of warehousemen or carriers for the loss of parcels were to vary with the consequences of the loss, it would be impossible to define their liability. Some question was made in the argument of this case as to whether the company were sued as warehousemen or carriers; but it is apprehended that their liability would be the same, under the circumstances, as either class of bailees.

Correspondence.

ATTORNEYS AND SOLICITORS ACT, 1860.

In answer to your correspondent "Query," I am decidedly of opinion that by his appointment to the office of secretary to the building society he names, he would "hold an office," within the meaning of section 10 of 23 & 24 Vict. c. 127. As he is not disposed to subject himself to any risk in the matter, I would advise him not to accept the offer. J. F. S.

THE BANKRUPTCY AND INSOLVENCY BILL.

At a meeting of the Council of the Huddersfield Chamber of Commerce held on the 13th inst., the proposed Law Lords' amendments in the Bankruptcy Bill were discussed, and the following resolution was unanimously adopted:—

"That the petition to the House of Lords with reference to the Bankruptcy Bill now read, be adopted and forwarded to Earl de Grey for presentation, and that the secretary address a letter to Lord Chelmsford in support of the statement contained in the petition, respectfully asking his lordship to give the views of this Chamber his careful consideration."

The following petition and letter have since been forwarded to Lord de Grey and Lord Chelmsford in accordance with the above resolution.

"To the Right Honourable the Lords Spiritual and Temporal in Parliament assembled.

"The humble petition of the Huddersfield Chamber of Commerce.

"Sheweth,—That in the opinion of your petitioners one of the greatest evils of the existing Bankruptcy and Insolvency Law is the want of adequate localisation of the jurisdiction, and that without proper provisions for accomplishing this object no amendment of the law will give satisfaction, or provide the means of obtaining a satisfactory investigation of the affairs of insolvent debtors owing large amounts, and residing in places at a distance from the seven towns now possessing district courts.

"That the creditors of debtors failing in large amounts are almost universally found to reside or carry on business in the immediate localities of such debtors, whilst in many cases of debtors failing in small amounts, the principal creditors consist of wholesale houses in London, Birmingham, Liverpool, Manchester, and other large towns, according to the particular retail trade carried on by the debtor.

"That in the opinion of your memorialists the judicial labour in bankruptcy business is very trifling, and the existing county court judges in towns and districts not possessing bankruptcy courts, are well qualified and have ample time to dispose of the same much more satisfactorily to the commercial community generally (having regard to the convenience of creditors in attending their courts), than the existing bankruptcy commissioners.

"That your petitioners therefore consider that it is most desirable to retain the 7th and 8th clauses of the Bankruptcy Bill now before your honourable house, with such amendments, if your lordships consider them advisable, as will render it necessary for the sanction of Parliament to be obtained for the transfer of jurisdiction to county courts, under the 7th clause, and for the constitution of additional county courts, under the 8th clause.

"That in the opinion of your petitioners it is of great importance that bankruptcy commissioners and county court judges exercising bankruptcy jurisdiction, should possess the fullest power to remove proceedings to any other bankruptcy or county court, in which they consider the strictest investigation of the debtor's affairs may be most conveniently and economically obtained.

"That your petitioners therefore consider it most desirable to retain the 99th clause of the said Bill, substituting the bankruptcy commissioner or county court judge in whose court the proceedings are initiated, to the chief judge, to whom an application could not be made without considerable expense.

"That in the opinion of your petitioners the power given to a majority in number and value of the creditors to remove proceedings into county courts, provided by the 118th clause of the said Bill, is absolutely necessary in order to remove the great injustice under which the commercial community generally, except in the seven towns possessing Bankruptcy Courts, now labour, in consequence of their distance from the existing courts.

"That the operation of the last-mentioned clause could not possibly, in the opinion of your petitioners, produce any injury, as creditors would cease to remove bankruptcies if they found the county courts unfitted to deal with them, whilst on the other hand, the statistics of the cases removed would furnish the safest guide for Parliament or her Majesty in council in the adoption or rejection of the provisions contained in the 7th and 8th clauses of the said Bill.

"That your petitioners, in common with the mercantile community generally, in other large manufacturing towns throughout England, are therefore most anxious that the said clauses should be retained, or that the passing of the said Bill may be postponed, and that a committee of your lordships' House may examine witnesses upon the subject.

"That your petitioners are also of opinion that in order to economise expense, it is desirable that the granting of the bankrupt's certificate of discharge in town cases should be vested in the commissioners, whether the application be opposed or not, subject to appeal to the chief judge; and your petitioners, therefore, respectfully submit that clause 164 of the said Bill should be amended accordingly.

"Your petitioners, therefore, humbly pray that the 99th and 164th clauses of the said Bill may be amended in such manner as your lordships may consider advisable, and that the 7th, 8th, 9th, and 118th clauses of the said Bill may be retained, or that the said Bill may not be allowed to pass your lordships'

House until a committee of your lordships' House has examined witnesses upon the subject

"And your petitioners will ever pray," &c.

"WILLIAM WILLIAMS, President."

"Chamber of Commerce,

"Huddersfield, 14th May, 1861.

"My Lord,—I trust your lordship will pardon addressing to you, at the request of the Council of the Chamber, a few observations upon certain provisions of the Bankruptcy Bill, to which the Chamber has for some years given great attention, and which your lordship purposes to strike out or modify. I do so with very great deference, and with every wish to acknowledge most warmly, on behalf of the Chamber, the sacrifices which your lordship must have made, in order to give the Bill that careful consideration which it has received at your lordship's hands. Indeed, so strong is my conviction of the weight due to your lordship's opinion, that I should have abstained altogether from troubling you, if I had not been persuaded that your lordship's views have been affected by representations from interested localities in which opinions are held, which are opposed to the reasonable requirements of the commercial community generally.

"I need not remind your lordship that the most important objects of the Bill now before Parliament are to separate the judicial and administrative functions of our bankruptcy tribunals, to give to the court the former, and to the creditors or their trustees the latter, subject to the proper control of the court, as distinguished from the mischievous intermeddling of its officials, to secure more thorough investigation and due punishment for offences, to reduce expenses, to abolish unnecessary officialism, and to provide such other amendments as will render the court a desirable tribunal by creditors, and honest but unfortunate debtors, instead of being, as now, held in abhorrence by the former, and only serviceable to the dishonest portion of the latter. Mercantile men, generally, are satisfied that the measure before Parliament will do much towards the removal of existing evils, but the provisions which the commercial community throughout the country (excepting in London and the seven towns possessing bankruptcy courts), regard most hopefully, are those abolishing the compulsory employment of official assignees, and the 7th, 8th, 9th, 99th, 105th, and 118th clauses, the most important of which your lordship proposes to strike out altogether. With regard to these clauses, so strong is the opinion generally entertained that without the localisation of the jurisdiction provided by them, all other reforms will be perfectly futile in providing the means for an economical and satisfactory investigation of bankrupts' affairs, and so strong is the feeling of the injustice of denying these advantages for the sake of preserving intact the local interests of the large towns having bankruptcy courts, that I feel sure the adoption of your lordship's amendments will be the signal for the presentation of petitions against the passing of the Bill from every large manufacturing community throughout the country. The provisions embodied in the clauses in question have, for many years past, been the subject of discussions between the representatives of commercial interests in small towns, and in the seven bankruptcy district towns, and it is only justice to the latter to state, that very little explanation has been sufficient, in most cases, to satisfy them of the extreme selfishness and injustice of opposing the adoption of provisions similar to those contained in the Bill. In fact, a virtual compromise has, in the course of the agitation, been come to, which is embodied in the Bill introduced by her Majesty's Government, and I have no doubt that if your lordship will consult commercial men in the large towns possessing district courts, your lordship will be satisfied that, with very rare exceptions, they are convinced of the reasonableness of making the concessions provided by the Bill, for the convenience of less favoured localities.

"The petition to the House of Lords (of which I beg to hand your lordship a copy) states, in general terms, the views held by this and other commercial bodies, and I will therefore confine my farther remarks to a few detailed observations on the clauses I have mentioned, and to an attempt to answer the objections made to them, asking your lordship's consideration of a statement of the disadvantages resulting from the want of localization, stated in a parliamentary paper, dated 25th March, 1852, entitled "District Courts of Bankruptcy Abolition Bill, 1852," "Paper of Observations explanatory of the object of the Bill."

"Clauses 7, 8, and 9, apparently contemplate an eventual transfer of the jurisdiction in the country to the county courts, and I submit that nothing can be more reasonable than to make

provisions for such a transfer, if the county courts prove themselves fitted for the administration of bankruptcy law. Clause 118 provides for the experiment in an unexceptionable manner.

"As to clause 7, your lordship will observe that the provision can never operate in the districts having two bankruptcy commissioners, if the amount of business is so great as to require each vacancy to be filled up as it occurs, and if your lordships' House considers that when the contingency does arise, the provision should not operate without the sanction of Parliament, an amendment to that effect might be easily made.

"Clause 8 does virtually require the sanction of Parliament for the constitution of new county courts, as the salaries of any additional judges must be provided for, and the order in council establishing the courts (as the clause stands) is required to be laid before Parliament.

"With the suggested amendment I have mentioned I trust your lordship will be induced to withdraw your objections to these clauses, leaving it to future experience to determine the expediency of putting in force those provisions which your lordship's House may feel reluctant absolutely to adopt, at present.

"Upon clause 99 I have only to remark that, in the opinion of commercial men generally, the court in which proceedings are instituted (not the chief judge, to whom an application would, in most cases, be avoided on the ground of expense) should possess the fullest power of removing the proceedings to such other court as would most economically and effectually administer the estate and investigate the affairs of the debtor.

"With respect to clause 105, I am quite prepared to admit that debtors residing in any county court district within which there is a bankruptcy court should petition the latter, whatever the amount of his debts or assets may be, so as to confine all insolvency business to the same tribunal.

"Clause 118 is, in the opinion of commercial men, in all towns not having bankruptcy courts, quite indispensable; and I feel justified in saying that they would prefer that Parliament should reject the Bill altogether, rather than pass it without this provision.

"In cases of bankruptcies of debtors owing large amounts, and engaged in any of the staple trades of the country, the creditors are almost universally found in the immediate neighbourhood of the town in which the debtor resides, and when your lordship considers that many of these towns are centres of manufacturing districts, containing from 20,000 to 80,000 inhabitants—nearly all of them having county courts constantly open, with judges residing on the spot, and holding regular court days every ten days within very limited circuits—the district bankruptcy courts being from 10 to 100 miles distant, your lordship will not be surprised at the indignation which has been aroused by the attempts now being made to induce your lordship's House to reject this—to them—most important part of the measure.

"It is indisputable that it is the convenience of creditors which is to be considered in fixing the locality of the administration, and I cannot conceive any means by which the competency of the county courts to administer bankruptcy law, can be more safely tested. If creditors do not find the county courts qualified to deal with bankruptcy questions, they will cease to remove them—the evil, if there be any, will work its own cure; but Parliament cannot reasonably expect the commercial community to submit further to such an injustice as the present system inflicts upon them, when it is capable of so easy and judicious a remedy.

"Your lordship is aware that the entire abolition of the district bankruptcy courts, and a transfer of their jurisdiction to the county courts, have been frequently advocated by some of our most able law reformers, in both Houses of Parliament; and it is almost universally agreed, that if the county courts had been established before the Act constituting district bankruptcy courts, the latter would never have had any existence. This is a far bolder proposition than the one contained in the Government measure, and there are many objections to it which have no application to the provisions in the Bill to which I have referred, one of the most important being the amount of compensations which would be required for the bankruptcy commissioners. The objectors to such a transfer of the jurisdiction invariably rely on the report of the royal commission (Mr. Walpole's commission), dated 10th April, 1854, and I shall feel greatly obliged if your lordship will look at the evidence taken by this commission, and then consider the concluding part of their report dealing with this question. Your lordship will find that out of seventeen witnesses examined not one of them was from the country; that the circular letters of inquiry issued to one hundred and seventy commercial bodies and individuals did not raise the question as to the advantages or disadvantages of

an absolute transfer of jurisdiction, or a permissive power to transfer cases to the county courts after adjudication, but only asked, in general terms, (p. 221), 'Do you suggest, and on what grounds, any and what amendments of the existing system in bankruptcy other than those already mentioned?' Your lordship will find also that only one of these circulars was sent to a place not possessing a bankruptcy court, the Bradford Chamber of Commerce, whose reply was as follows (p. 474):—"The Court of Bankruptcy, as at present constituted, is clumsy in its machinery and expensive in its working: the business would be better conducted, and at far less expense, if removed to the county courts, so as to insure to each district the management of its own affairs. The difficulty of getting trade assignees to act would be removed, the estates wound up more expeditiously, and with greater economy, and the conduct of the bankrupt being adjudicated by parties to whom he is known, the award would be more in accordance.' The evidence, *with this single exception*, was entirely one-sided; and, under such circumstances, your lordship will, I am sure, feel how little weight attaches to the decision of the commissioners upon this question, especially as even, upon such partial testimony, they were only able to report as follows, which has really very little bearing on the question now at issue (p. xlii.):—

"On our present information, therefore, we should be inclined to preserve, as a distinct jurisdiction, the district courts of bankruptcy; especially as we fear that the union of that jurisdiction with the jurisdiction of the county courts might be detrimental to both. *At all events, we cannot recommend* such an alteration as this, if it is to saddle the country or the suitor with *very heavy compensations*."

"The only other recorded objection to the absolute transfer of the jurisdiction to the county courts, of which I am aware is contained in a paper read by Mr. Edward Bond, an eminent practitioner in the Leeds Bankruptcy Court, whose name will no doubt be familiar to your lordship. Mr. Bond, in speaking of the court, says (p. 9):—

"It must be local, and it should be stationary. The county courts are already overworked; they sit at different places; there is no appeal from the exercise of their jurisdiction in insolvency; and *their machinery is not adapted to administrative purposes*. That of the courts of bankruptcy, *with some alterations*, may be well fitted for the objects in view. Those courts have at present scarcely anything to do. With the present staff one commissioner might sit every day at the same place, so as to be at all times accessible (*which, however, is unfortunately far from being the case at present*); and this is of the utmost importance in very many cases where prompt action is required. With such amendments as may be found requisite they are, therefore, the most fitting tribunals to undertake that which, according to the plan which has been faintly shadowed out, would become the sole primary jurisdiction in all matters of insolvency, and by giving it to them *no expense would be incurred either in new appointments or retiring pensions*."

"Upon the 1st point, it may be observed that the county court judges in the manufacturing districts have very limited circuits, and are almost daily sitting at one of three or four known places within a few miles of each other. The registrars are in daily attendance at every place where a court is held, and the convenience of suitors is much more likely to be thereby secured than by a non-resident bankruptcy commissioner, who only comes down into the country on certain court days and whose own court is to a certain extent ambulatory, attendance being given occasionally in two or three other towns besides the district town. As to the county courts being unable to do the work, it may be observed, that the actual judicial work in bankruptcy is very trifling. The number of hours during which the bankruptcy commissioners sat in the year of 1851 will be found in a Parliamentary paper (No. 52, 1852), from which it appears that an additional sitting of *three hours per week* by the county court judges in the country would have disposed of the same amount of work as that done by the whole of the district commissioners, assuming that the latter were employed during the time they were reported as sitting, which those who are accustomed to frequent the bankruptcy court, know would not be case.

"As to the machinery of the courts, it need only be said, that when the judicial and administrative functions of the court are separated, the latter will be given to the creditors and their trustees, and this objection falls to the ground. All that is required is a judge, a registrar to record his judgments, and a bailiff to execute the orders of the court.

"I wish, my lord, in conclusion, to reiterate that in the opinion of this and every other commercial body which has given the subject due consideration, it is almost impossible to over-estimate

the advantage to be gained by increased localization of the jurisdiction. If the question at issue were really that of the unconditional transfer of the jurisdiction to the county courts, I should, independently of the question of compensation, leave the case of those who advocate the transfer of the jurisdiction in your lordship's hands, with great confidence, after hearing the evidence which could be adduced. I trust therefore that I may, *multo fortiori*, rely upon your lordship's favourable consideration of the remarks I have ventured to make, in support of the experimental and moderate alterations, which the clauses I have mentioned are intended to effect.

"If I have expressed my views somewhat boldly, I trust your lordship will attribute it to the strength of my convictions and the somewhat hasty manner in which I am compelled to write, and not to any want of respect for your lordship as a statesman and a lawyer, as I can assure your lordship the Council of this Chamber warmly appreciate the endeavours made by your lordship to render the Bill as perfect as possible.

"I have the honour to be, my lord,
 "Your lordship's most obedient, and
 "very humble servant,
 "J. RAYNER, Secretary."

HINTS TO ARTICLED CLERKS.

No. V.

GENERAL CONDUCT DURING ARTICLES.

(Continued from p. 477.)

We have, more than once, endeavoured to impress upon the minds of our readers the fact, that a mere knowledge of law and practice, however useful it may be to the attorney, is not the only acquirement to which their energies should be directed. There is, perhaps, no profession the members of which ought more to aim at being men of the world, at being able to bear their share in the general business of life. An uncouth, half-educated man, however well versed he may be in the technicalities of law, can have little hope of acquiring the same social position as one who has the manners and education of a gentleman, and a good standing in society is of very great importance in a professional point of view. The attorney is often intrusted with matters of so much delicacy, is so frequently brought into contact with men of high social status, and holds such an intimate connection with his clients, that he can hardly do his duty either towards them or himself, unless he has the feelings and the manners which go to form the notion of the English gentleman. Mr. Solomon Pell may indeed be able to conduct his clients satisfactorily through the mazes of the Insolvent Court; Mr. Quirk may be admirable at an *alibi*; and Mr. Snap's power of manufacturing a bill of costs may be something wonderful; but although such persons may do the dirty work of the profession, they can never arrive at its high places. Men of quite a different stamp are called in when a marriage settlement is to be negotiated, when family differences are to be arranged, when heavy conveyancing business is to be transacted, or when an important litigation is to be conducted in the Superior Courts.

We counsel the student, then, during his clerkship to cultivate the feelings of the gentleman; to learn to distinguish between the honourable and the dishonourable—between skill and its base counterfeit, cunning. Much may be effected towards the attainment of this object by reading the works of the great masters of English literature, whose influence upon the heart is no less than their influence upon the intellect. The student of Milton and of Shakespeare can hardly possess a creeping, pettifogging spirit; the readers of Hallam and Froude can hardly be otherwise than candid and tolerant; while the pages of Thackeray and Kingsley are well calculated to impress upon their readers an honest scorn of what is base and vile, and a hearty love for wisdom and virtue. Nor will the student find it to be less desirable to cultivate the acquaintance and friendship of men to whom he can look up rather than of those upon whom he must look down. A taste for low company is a besetting sin of some young men, and a ridiculous pride is at the root of it. Among their equals they can have no feeling of superiority, while among their superiors they have a humbling feeling of inferiority. It is delightful to change this, without any trouble on their part, for a position in which their word is law, and where there is no one to dispute their pre-eminence. We pray our readers to avoid such a fatal blunder on their entrance into life.

The articled clerk will find that after devoting all needful attention to the duties of the office and to his professional read-

ing, he still has some time left at his own disposal for recreation and pursuits not directly bearing upon his profession. Upon the proper employment of these leisure hours will depend much of his future success and happiness. We have already touched upon the great benefit which he may derive from a generous, manly course of English reading; and if he husband his time carefully he may, during the period of his clerkship, make himself master of many of our great classic authors, thus laying in a fund of amusement and instruction for his riper years. What he reads attentively between sixteen and twenty-five he is not likely to forget, whereas much of the reading of maturer life easily passes away from the mind. As to the specific books which he should read we do not intend to offer any advice, because, under certain limitations, his own taste and inclination will furnish the best guide. Those limitations are, that he should not addict himself chiefly to the current literature of the day, but should make himself well acquainted with some of our older writers, that he should not attempt to keep pace with the fugitive literature of reviews, magazines, and literary newspapers; that he should make himself well acquainted with English history, and that he should manage to read any book which, for the time being, may be making a great stir in the world of literature. We are no enemies, either, to novel reading, or to what is sometimes contemptuously called general reading. The man who reads nothing but novels may well insist upon being written down "ass" for his pains; but it is a positive misfortune not to have read such novels as "Jane Eyre," "Adam Bede," and "Bar-chester Towers." The professional man who necessarily has a good deal of hard reading upon one particular science, such as law, will probably find general reading not only the most amusing and interesting, but the most profitable. We can only devote to it his spare time, and it would be too much to expect from most men, that after a day laboriously spent in the office or in court, they should sit down to fag at reading up some particular subject. A great French lawyer said indeed, *un changement des études est toujours un délassement pour moi*; but with the great bulk of mankind this is certainly not the case.

It is very desirable that the student should acquire during his student life some knowledge of the art of public speaking. A perusal of some of the best specimens of parliamentary and forensic eloquence will very much assist him in this object, as also will his embracing any opportunities which he may have to hear our best speakers. And as no man can be a really effective speaker unless he knows the powers of our noble language as developed by its greatest masters, the course of general reading which we have mentioned will be found of the greatest advantage as showing what can be done by words. Hearing and reading, however, alone will never enable a man, unless he has extraordinary gifts, to make even a respectable appearance as a public speaker. He must practise what he has learned from books and from other speakers, and that too not in solitude, but before an audience. Hence we recommend our readers by all means to ally themselves with some debating club or discussion class, where they may make their first essays in the art of oratory. They will probably fail at first, not one out of a hundred of them will probably become a finished speaker; but every one of them may if he has perseverance acquire the art, possessed by so few people, of speaking sensibly and collectedly before a large audience. Some men may perhaps be born orators, but by far the larger proportion, however well educated they may be, however easily and clearly their thoughts may flow upon paper, are utterly confused when called upon to address, for the first time, more than a dozen people. At the same time, although nature does so little for us in this respect, practice will do almost everything, and will convert the most nervous stammerer that ever bored and pained an audience into a very respectable speaker, well able to convince and persuade those whom he addresses.

But however important it may be to the attorney to be a sound lawyer, to have an intimate acquaintance with English literature, and to be able to express himself clearly and forcibly in public, all these acquirements may be thrown away, or very materially diminished in value for practical purposes, if he has not a fair share of bodily health and strength. True it is that we often see men of ability and learning performing wonders in spite of ill health and weakness. But, other things being equal, the strongest body will carry the day in law as well as in other pursuits. The healthy man brings to his work a fund of courage, of animal spirits, and of dash, which are wholly wanting to the nervous valetudinarian. However full of learning the latter may be, he will often be defeated by the energetic onset, and cool self-reliance of the former, even where

there may be no comparison between the ability of the two as mere lawyers. With by far the greater part of mankind, the mind sympathizes with the body, and if the latter be ailing the former will not be in perfect health. If the functions of the stomach are not properly performed, the brain will be clouded: if the lungs are delicate, their owner will not improbably find himself vacillating and nervous: if the heart is deranged, the whole man is easily excited and irritable: while a peccant liver may unfit its unfortunate possessor for all the active duties of life. And although we have admitted that men of feeble body may sometimes perform gigantic intellectual feats, the sun of such men too often goes down at noon day. The late Sir Wm. Follett and John William Smith will long be remembered as among the greatest advocates and lawyers of their time; but they died while yet young men, and before reaching that professional rank which such men as Lyndhurst, Campbell, Brougham, and Pollock, have done hardly less by virtue of their bodily than of their mental strength. Now, we confess that good health, absolute and complete, is not at the command of every one. But a man who is naturally of a delicate and weakly constitution may do much to better his condition by temperance in all things, by exercise in the open air, by proper attention to diet, and by cultivating a cheerful and happy temper. On the other hand, if a young man blessed by nature with a fine constitution does his best to ruin it by excesses, by sluggishness, and by moping alone, he may easily accomplish this object even before he comes of age. We would especially insist upon the importance of exercise to the articulated clerk. His profession is a sedentary one, and sedentary habits grow upon a man very imperceptibly and very rapidly. He should therefore guard against them most carefully, and contrive to use his limbs as much as possible. Boating, cricketing or pedestrian exercise are at the command of almost every young man, and those who can now and then command a day's shooting or a day after the hounds will do well to avail themselves of it. Such amusements as these are not only healthful in themselves, but they also destroy or at any rate very much diminish the taste for pleasure, indulgence in which is fatal both to health of body and peace of mind.

And now we bring to a close these Hints to Articled Clerks. Many subjects might have been handled at greater length, and others might have been introduced which we have advisedly omitted. We trust, however, that we have marked out such a plan of study for our younger readers, and have given them such counsels upon matters collateral to their professional reading, as they will find useful in preparing for the arduous and honourable duties which they are hereafter to fulfil. We cannot conclude, however, without reminding the student that he is now forming habits and a character which will most probably adhere to him during life. If, at the close of his clerkship his friends knew him to be able, industrious, and honourable, the great probability—we had almost said, the certainty—is, that he will be known as such during his whole career; whereas, if, on the other hand, he is at that critical period idle, dissipated, and ignorant, the chances are that he will remain so to his latest day. A man reaps what he sows: he can reap nothing else. It must surely, then, be of the last importance that in the great and glorious seed-time of youth, which comes but once, but the results of which remain for ever, good seed should be cast into the ground. That our readers may resolve and act upon the resolution that this shall be the case with them is the earnest hope with the expression of which we bid them farewell.

Law Students' Journal.

TRINITY TERM EXAMINATION.

The Incorporated Law Society have caused the following circular to be addressed to candidates for admission as attorneys in Trinity Term:—

17th May, 1861.

Sir,—I am directed, by the examiners appointed for the examination of persons applying to be admitted attorneys, to inform you that you are required to attend on Wednesday the 5th and Thursday the 6th June next, at half-past nine in the forenoon, at the Hall of the Incorporated Law Society, in Chancery-lane, in order to be examined. The examination will commence at ten o'clock precisely, and close at four o'clock each day.

I have to remind you that your articles of clerkship and assignment, if any, with answers to the questions as to due

service, according to the regulations approved by the judges, must be left with me on or before Tuesday the 28th May. (Candidates under the 4th section of the Attorneys Act, 1860, may, on application, obtain copies of the further questions relating to the ten years' service antecedent to the articles of clerkship.)

Where the articles have not expired, but will expire during the term, or in the vacation following such term, the candidate may be examined conditionally; but the articles must be left within the first seven days of term, and answers up to that time. If part of the term has been served with a barrister, special pleader, or London agent, answers to the questions must be obtained from them, as to the time served with each respectively.

On the first day of examination, papers will be delivered to each candidate, containing questions to be answered in writing, classed under the several heads of—1. Preliminary. 2. Common law and statute law, and practice of the courts. 3. Conveyancing.

On the second day, further papers will be delivered to each candidate, containing questions to be answered in—4. Equity, and practice of the courts. 5. Bankruptcy, and practice of the courts. 6. Criminal law, and proceedings before justices of the peace.

Each candidate is required to answer all the preliminary questions (No. 1); and also to answer in three of the other heads of inquiry, viz.:—Common law, Conveyancing, and Equity. The examiners will continue the practice of proposing questions in bankruptcy and in criminal law and proceedings before justices of the peace, in order that candidates who have given their attention to these subjects, may have the advantage of answering such questions, and having the correctness of their answers in those departments taken into consideration in summing up the merit of their general examination.

In case your testimonials were deposited in a former term, they should be re-entered, the fee paid, and the answers completed, to the time appointed.

I am, Sir, your very obedient servant,
ROBERT MAUGHAM, Secretary.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

LANCASHIRE AND YORKSHIRE (Branches to Shawforth and other places.)

EXETER AND EXMOUTH.

LEEDS, BRADFORD, AND HALIFAX.

WITNEY.

BRIGHTON, UCKFIELD, AND TONBRIDGE.

WHITEHAVEN, CLEATOR, AND EGREMOIST.

The following Bills have passed through committee in the House of Commons:—

LANCASHIRE AND YORKSHIRE (Branch to Bootle.)

REPORT OF MEETING.

MONMOUTHSHIRE RAILWAY COMPANY.

At the half-yearly meeting of this company, held on the 15th inst., a dividend at the rate of £6 per cent. for the last half-year was declared.

Court Papers.

Court of Chancery.

SITTINGS.—TRINITY TERM, 1861.

LORD CHANCELLOR.

Lincoln's-inn.

Wednesday, May 22 Appeal Motions and Appeals.

Thursday 23...Petitions and Appeals.

Friday 24

Saturday 25

Monday..... 27

Tuesday 28

Wednesday ... 29

Thursday 30...Appeal Motions and Appeals.

Friday ... May 31 }
 Saturday, June 1 } Appeals.
 Monday 3 }
 Tuesday 4 }
 Wednesday ... 5 }
 Thursday 6...Appeal Motions and Appeals.
 Friday 7 }
 Saturday 8 } Appeals.
 Monday 10 }
 Tuesday 11...Petitions and Appeals.
 Wednesday ... 12...Appeal Motions and Appeals.
 Such days as his Lordship shall be engaged in the House of Lords are excepted.

MASTER OF THE ROLLS.

Chancery-lane.

Wednesd., May 22...Motions.
 Thursday 23 } General Paper.
 Friday 24 }
 Saturday 25 { Petitions, Short Causes, Adjourned Summons, and General Paper.
 Monday 27 }
 Tuesday 28 } General Paper.
 Wednesday ... 29 }
 Thursday 30...Motions.
 Friday 31...General Paper.
 Saturday, June 1 { Petitions, Short Causes, Adjourned Summons, and General Paper.
 Monday 3 }
 Tuesday 4 } General Paper.
 Wednesday ... 5 }
 Thursday 6...Motions.
 Friday 7...General Paper.
 Saturday 8 { Petitions, Short Causes, Adjourned Summons, and General Paper.
 Monday 10 } General Paper.
 Tuesday 11 }
 Wednesday ... 12...Motions.

The unopposed Petitions must be presented and Copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard: and any Causes intended to be heard as Short Causes, must be so marked at least one clear day before the same can be put in the Paper to be so heard.

LORDS JUSTICES.

Lincoln's-inn.

Wednesd., May 22...Appeal Motions and Appeals.
 Thursday 23...Appeals.
 Friday 24 { Petitions in Lunacy and Bankruptcy.
 Saturday 25 } Appeal Petitions and Appeals.
 Monday 27 }
 Tuesday 28 } Appeals.
 Wednesday ... 29 }
 Thursday 30...Appeal Motions and Appeals.
 Friday 31 { Petitions in Lunacy and Bankruptcy,
 Saturday, June 1 } Appeal Petitions and Appeals.
 Monday 3 }
 Tuesday 4 } Appeals.
 Wednesday ... 5 }
 Thursday 6...Appeal Motions and Appeals.
 Friday 7 { Petitions in Lunacy and Bankruptcy,
 Saturday 8 } Appeal Petitions, and Appeals.
 Monday 10 } Appeals.
 Tuesday ... 11 }
 Wednesday ... 12...Appeal Motions and Appeals.

The days (if any) on which the LORDS JUSTICES shall be engaged in the full Court, or at the Judicial Committee of the Privy Council, are excepted.

Vice-Chancellor Sir RICHARD T. KINDERSLEY.

Lincoln's-inn.

Wednesd., May 22...Motions.
 Thursday 23...General Paper.
 Friday 24...Petitions.
 Saturday 25 { Short Causes, Adjourned Summons, and General Paper.
 Monday 27 }
 Tuesday 28 } General Paper.
 Wednesday ... 29 }
 Thursday 30...Motions and General Paper.
 Friday 31...Petitions.
 Saturday, June 1 { Short Causes, Adjourned Summons, and General Paper.

Monday June 3 }
 Tuesday 4 } General Paper.
 Wednesday ... 5 }
 Thursday 6...Motions and General Paper.
 Friday 7...Petitions.
 Saturday 8 { Short Causes, Adjourned Summons, and General Paper.
 Monday 10 } General Paper.
 Tuesday 11 }
 Wednesday ... 12...Motions and General Paper.

Vice-Chancellor Sir JOHN STUART.

Lincoln's-inn.

Wednesd., May 22...Motions.
 Thursday 23...General Paper.
 Friday 24...Petitions and General Paper.
 Saturday 25...Short Causes and General Paper.
 Monday 27 }
 Tuesday 28 } General Paper.
 Wednesday ... 29 }
 Thursday 30...Motions and General Paper.
 Friday 31...Petitions and General Paper.
 Saturday, June 1...Short Causes and General Paper.
 Monday 3 }
 Tuesday 4 } General Paper.
 Wednesday ... 5 }
 Thursday 6...Motions and General Paper.
 Friday 7...Petitions and General Paper.
 Saturday 8...Short Causes and General Paper.
 Monday 10 } General Paper.
 Tuesday 11 }
 Wednesday ... 12...Motions.

Vice-Chancellor Sir W. P. WOOD.

Lincoln's-inn.

Wednesd., May 22...Motions and General Paper.
 Thursday 23 } General Paper.
 Friday 24 }
 Saturday 25 { Petitions, Short Causes, and General Paper.
 Monday 27 }
 Tuesday 28 } General Paper.
 Wednesday ... 29 }
 Thursday 30...Motions and General Paper.
 Friday 31...General Paper.
 Saturday, June 1 { Petitions, Short Causes, and General Paper.
 Monday 3 }
 Tuesday 4 } General Paper.
 Wednesday ... 5 }
 Thursday 6...Motions and General Paper.
 Friday 7...General Paper.
 Saturday 8 { Petitions, Short Causes, and General Paper.
 Monday 10 } General Paper.
 Tuesday 11 }
 Wednesday ... 12...Motions and General Paper.

Any Causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put in the Paper to be so heard.

Births, Marriages, and Deaths.

BIRTHS.

BRIDGE—On May 12, the wife of John Bridge, Esq., Barrister-at-Law, of a daughter.
 FOX—On May 12, the wife of John Elliott Fox, Esq., Solicitor, of a daughter.
 GRANT—On April 10, at Barbados, the wife of John G. Grant, Esq., Master in Chancery, of a son.
 HANROTT—On May 11, at Ladbroke-square, Baywater, the wife of P. A. Hanrott, Esq., of a daughter.
 WALTERS—On May 14, the wife of William Melmoth Walters, Esq., of Lincoln's-inn, of a daughter.
 WHITTINGTON—On May 11, the wife of Thomas Whittington, Esq., of Dean-street, Finsbury square, Solicitor, of a daughter.

MARRIAGES.

BLUNT—SIMPSON—On May 14, the Rev. Richard Frederick Lefevre Blunt, senior curate of St. Luke's, Chelsea, to Emily Jane, daughter of John Simpson, Esq., of Saville-row.
 HARDING—MORRIS—On May 7, George Rogers Harding, Esq., of Lincoln's-inn, Barrister-at-Law, to Emily, daughter of Thomas Morris, Esq., of Stone-house, Stone.

NEWTON—BERROW—On May 9. Thomas Henry Goodwin Newton, Esq., M.A., of the Middle Temple, Barrister-at-Law, to Mary Jane, daughter of William Berrow, Esq., of The Laurels, Milverton.

DEATHS.

JACKSON—On May 1. suddenly, Robert Jackson, Esq., of 41, Bedford-row, London, aged 68.

NICHOLETTS—On May 8, Sarah Wilson Nicholetts, wife of Edwin Nicholetts, Esq., of Bridport, Treasurer of County Courts.

GREENWELL—On April 20, in Old Elvet, Durham, Arthur, aged 3 years and 9 months; on April 27, Mary Elizabeth, aged 1 year and 7 months; and on May 3, Eleanor, aged 6½ years; the third son and only daughters of Thomas Greenwell, Esq., Barrister-at-Law.

PACKWOOD—On May 11, at Cheltenham, John Bradford Packwood, Esq., Solicitor, in the 66th year of his age.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

HEYRICK, CATHERINE (wife of Rev. Samuel Heyrick, of Brampton, Northamptonshire), and **RICHARD CHAPMAN WORTHINGTON**, of Cadeby, Leicestershire, £593 10s. 5d. New £2 10s. per Cents., substituted 5th January, 1854, for £539 11s. 4d. New South Sea Annuities; and **SAMUEL HEYRICK**, of Brampton, Northamptonshire, and **CATHERINE HEYRICK**, his wife, £1,079 13s. 1d. New £2 10s. per Cents., substituted 5th January, 1854, for £981 10s. 1d., New South Sea Annuities.—Claimed by **THOMAS MACAULAY, KENNETH MACAULAY**, and **MARY KENDALL MACAULAY**, Widow, the persons named in the said order.

HOWORTH, MARY, Spinster, Shoreditch, £663 4s. 2d. Reduced Three per Cents.—Claimed by **THOMAS JACKSON BARNES**, the surviving executor.

WALL, JOHN BINNS, Esq., Worthy-park, Hants, £3,708 11s. Consols.—Claimed by **CHARLES WETHERED WILLETT** and **Rev. HARRY LEE**.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	232	Stock Ditto A. Stock....	102½
3 per Cent. Red. Ann..	89½	Stock Ditto B. Stock....	132
3 per Cent. Cons. Ann..	91½	Stock Great Western	71
New 3 per Cent. Ann..	89½	Stock Lancash. & Yorkshire	108½
New 2½ per Cent. Ann..	91½	Stock London and Blackwall.	60
Consols for account ..	91½	Stock Lon. Brighton & S. Coast	120
India Debentures, 1859.	96½	Stock 25 Lon. Chatham & Dover	47
Ditto 1859.	96	Stock London and N. Westm..	93½
India Stock	101½	Stock London & S. Westm..	94½
India 5 per Cent. 1859.	101½	Stock Man. Sheff. & Lincoln..	41
India Bonds (£1000) ..	dis.	Stock Midland	119½
Do. (under £1000)....	dis.	Stock Ditto Birm. & Derby	96
Exch. Bills (£1000)....	6 dis.	Stock Norfolk	54
Ditto (£500)....	dis.	Stock North British	62½
Ditto (Small) ..	6 dis.	Stock North-Eastn. (Brwck.)	102½
RAILWAY STOCK.		Stock Ditto Leeds	59
Stock Birk. Lan. & Ch. Junc.	87	Stock Ditto York	90
Stock Bristol and Exeter....	98	Stock North London.....	97
Stock Cornwall	6	Stock Oxford, Worcester, & Wolverhampton ..	..
Stock East Anglian	16½	Stock Shropshire Union	48
Stock Eastern Counties	49½	Stock South Devon	41
Stock Eastern Union A. Stock	40	Stock South-Eastern	80
Stock Ditto B. Stock	25	Stock South Wales	66
Stock Great Northern.....	110	Stock S. Yorkshire & R. Dun	95
		Stock Stockton & Darlington	39½
		Stock Vale of Neath	81

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, MAY 17, 1861.

UPTON, THOMAS EVERARD, & SAMUEL CLAPHAM, Attorneys & Solicitors, Leeds (Upton & Clapham). May 1.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

CARDIFF AND CAERPHILLY IRON COMPANY (LIMITED).—Commissioner Fonblanque has peremptorily ordered that a call of £3 per share be made upon all contributories settled upon the list, to be paid on or before June 1, to Mr. George John Graham, Official Liquidator, 23, Coleman-street, London.

UNLIMITED IN CHANCERY.

AGRICULTURIST CATTLE INSURANCE COMPANY.—The Master of the Rolls

has appointed Henry Croysdill, of 14, Old Jewry Chambers, London, Accountant, Official Manager of this Company.

KENT FREEHOLD LAND SOCIETY.—Vice-Chancellor Kindersley's peremptory order for a call of £7 per share on all contributories in respect of shares where the liability has not been limited, to be paid on or before May 16, to Frederick Whinney, Official Manager, 5, Serle-street, Lincoln's-inn.

PROFESSIONAL LIFE ASSURANCE COMPANY (REGISTERED).—The Master of the Rolls will, on May 21, at 12, appoint an Official Manager or Official Managers of this Company.

PROFESSIONAL LIFE ASSURANCE COMPANY (REGISTERED).—Creditors to prove their debts before the Master of the Rolls forthwith.

RISCA COAL AND IRON COMPANY.—The Master of the Rolls peremptory order for a call of £50 on all contributories in the list at present settled, to be paid on or before May 28, at 11, to James Edward Coleman, Official Liquidator, 16, Tokenhouse-yard, London.

FRIDAY, MAY 17, 1861.

UNLIMITED IN CHANCERY.

BRITISH PROVIDENT LIFE AND FIRE ASSURANCE SOCIETY (REGISTERED).—V.C. Kindersley has appointed William Turquand, of the firm of Coleman, Turquand, Youngs, and Co., Accountants, 16, Tokenhouse-yard, London, Official Manager of the society.

RISCA COAL AND IRON COMPANY.—The Master of the Rolls will make a peremptory call of fifty pounds per share on all contributories in the list at present settled: to be paid on May 28, at 11, to James Edward Coleman, Official Liquidator, 16, Tokenhouse-yard, London.

LIMITED IN BANKRUPTCY.

FOLKESTONE WEST CLIFF HOTEL COMPANY (LIMITED).—Petition to wind up presented May 15 will be heard before Commissioner Holroyd on June 4, at 1.30.

UNITED GENERAL BREAD AND FLOUR COMPANY FOR PLYMOUTH, STONEHOUSE, AND DEVONPORT.—Commissioner Andrews will sit on June 24, at 12.30, at Plymouth, to make a dividend. Creditors to prove their debts.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, MAY 14, 1861.

ANGELL, ANN HAYWARD, Widow, Rumsey House, near Calne, Wilts. Budd & Son, Solicitors, 33, Bedford-row, London. June 24.

BERTHAM, ANDREW, Newspaper Editor, Carlisle. Wright, Solicitor, Carlisle. May 28.

BRUNTARD, JOHN, Vessel Owner, Allerton-bywater, Kippax, Yorkshire. Bradley, Solicitor, Castleford. Oct. 1.

CHATER, CHARLES, Bootmaker, 40, High-street, Whitechapel, Middlesex. Champion & Jansum, Solicitors, 71, Whitechapel-road. June 24.

DAWSON, PUDSEY, Esq., Hornby Castle, Lancaster. Maxsted, Solicitor, Lancaster. June 25.

GOUGH, WILLIAM, Gent., 2, Exeter-buildings, Redland, Bristol. Bartholomew & Randall, Solicitors, 3, Gray's-inn-place, Gray's-inn, Middlesex. June 21.

MARRIAGE, MARGARET, Widow, Pease Hall, Springfield, Essex. Piggot, Solicitor, Chelmsford, Essex. June 24.

MARSH, MISS GEORGIANA NELSON, formerly of Cadogan-place, Chelsea, and late of Great Cumberland-street, Hyde-park, Middlesex. Wynne, Solicitor, 46, Lincoln's-inn-fields, London. July 9.

RYAN, VALENTINE, Master Mariner, formerly of Dalston, Middlesex, but late of Calcutta, East Indies. John & Walter Butler, Solicitors, 191, Tooley-street, London-bridge. July 1.

SHEPPARD, CHARLES DOWNS, Esq., Sutton Veny, Wilts, and of Wiltington, Sussex. Booty & Butt, Solicitors, 1, Raymond-buildings, Gray's-inn, London. July 1.

SMITH, JOHN, Gent., Sittingbourne, Kent. Rhodes, Sons, & Duffett, Solicitors, 63, Chancery-lane, London. June 24.

SNOUTEN, OSBORN, Esq., Watersend-villa, Temple Ewell, Kent. Lewis, Solicitor, 9, Castle-street, Dover. June 18.

WHITAKER, JOHN GIBSON, Esq., Benefice, Eccles, Lancashire. Slater, Heels, & Co., Solicitors, 75, Princess-street, Manchester. May 28.

WOOD, RICHARD, Esq., 96, Quadrant, Regent-street, St. James's, Middlesex. Wood, Solicitor, 7, Westbourne-street, Hyde-park-gardens. Aug. 1.

FRIDAY, MAY 17, 1861.

BACCHER, ELIZA, 22, William-street, Park-road, Upper Holloway, Middlesex. Taylor & Jaquet, Solicitors, 15, South-street, Finsbury-square, London. E.C. July 18.

BELL, JONATHAN, Coach & Car Proprietor, & Farmer, Adelphi Stables, Liverpool, and of Blacklow-hall, Roby, Lancashire. Payne, Solicitor, 7, Harrington-street, Liverpool. June 21.

BOWLEY, WILLIAM, Wine & Spirit Dealer, Lowgate, Kingston-upon-Hull. Sidebottom, Solicitor, Hull. July 1.

BUSBY, WILLIAM, Gent., Cuddesdon, Oxford. Walsh, Solicitor, 16, New-inn, Hall-street, Oxford. June 24.

CAMMELL, GEORGE, Esq., Shipowner, Kingston-upon-Hull. Preston, Solicitor, Kingston-upon-Hull. July 14.

CHANDLER, JOHN, Banker's Clerk, 68A, Lombard-street, London. Sowton, Solicitor, 6, Great James-street. June 24.

EDWARDS, JOHN, Gent., Uddington, Salop. H. T. & G. Wace, Solicitor, Shrewsbury. July 1.

FAYER, MICHAEL LEWIS, Farmer & Neatman, Mile-end, West Wycombe, Bucks. Fryer, Solicitor, 1 & 2, Gray's-inn-place, Gray's-inn, Middlesex. May 30.

LAXON, JOHN, Esq., a Captain in the 7th Fusiliers, Old-house-terrace, Barnsbury-park, Middlesex. King & McMillin, Solicitors, 4, Dane's-inn, Strand. June 24.

PARRISH, WILLIAM, Dyer, Frome Selwood, Somersetshire. Miller, Solicitor, Frome Selwood. June 3.

PEOLER, STEPHEN, Esq., 22, Barnsbury-park, Islington, formerly a Cashier in the house of Messrs. Dixon & Co., Bankers, 23, Chancery-lane, Middlesex. Cowland, Solicitor, 14, Lincoln's-inn-fields. June 10.

TILSON, JOHN RICHARDS, Gent., Carter-street, Waltham, Surrey. Tippetts & Son, Solicitors, 2, New-lane, London. July 1.

WODLEY, MARY ANN, Widow, Stoney Stratford, Buckinghamshire. Parrott, Solicitor, Stoney Stratford, Bucks. July 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, MAY 14, 1861.

ADAMSON, THOMAS, Corn and Flour Merchant, Church-street, Islington, Middlesex. Adamson & Young, V. C. Wood. June 4.

BIRTWISTLE, WILLIAM, Joiner and Builder, Bury, Lancaster. *Birtwistle v. Birtwistle, V. C. Stuart.* June 9.
COOKE, JAMES, Smith, Southampton. *Lucas v. Cooke, V. C. Wood.* June 14.
DANBY, SARAH, Widow, 34, George-street, Hampstead road, Middlesex. *Lamb v. Danby, V. C. Wood.* June 1.
GOODE, PHILIP, Solicitor, Howland-street, Fitzroy-square, and Lampton-house, Middlesex. *Joseph v. Goode, M. B.* June 3.
MILLES, JOHN, Doctor of Medicine, Bishop Wearmouth, Durham. *Smith v. Wright, M. R.* June 5.
SMITH, GEORGE, Trader, Kirton, Suffolk. *Galsworthy v. Durrant, M. R.* June 12.
WELLS, EDWARD JAMES, Merchant, late of Sorrento, Naples, and of Sheffield. *Neill v. Wells, M. R.* June 7.
WESTMORLAND, JOSEPH WILLIAMSON, Solicitor, Wakefield. *Gregory v. Westmorland, M. R.* June 10.
WILKINSON, ANTHONY, Esq., Hole in Howgill, Sedbergh, West Riding, Yorkshire. *Evans v. Wilkinson, M. R.* June 12.

(County Palatine of Lancaster.)

BIRKETT, RICHARD EDMONDSON, Master Mariner, late of Hoylake, Chester, and since of Garston, Lancaster. *Birkett v. Halladay, Registrar of Court of Chancery, 1, North John-street, Liverpool.* June 12.
WHITELLY, SAMUEL, Joiner and Builder, Liverpool. *Hughes v. Carron, Registrar of Court of Chancery, 1, North St. John-street, Liverpool.* June 10.

FRIDAY, May 17, 1861.

DAVIES, HENRY, Esq., Stock & Share Broker, New Park, Tipperary, Ireland, and formerly of Liverpool. *Holt v. Davies, M. R.* June 13.

Assignments for Benefit of Creditors

TUESDAY, May 14, 1861.

HARRISON, RICHARD, & JOHN SHERRATT, Builders, St. Helen's, Lancaster. (*Harrison & Sherratt*). *Sol. Haddock, 17, Hardshaw-street, St. Helen's.* April 22.
MOORE, JAMES, Grocer, Northampton. *Sols. Laurence, Smith, & Saunders, 12, Broad-street, Cheap-side.* May 6.
ROBERTS, THOMAS, Baker and Provision Dealer, 344, High-street, Bangor, Carnarvonshire. *Sol. Foulkes, Bangor.* April 18.
ROWE, ROBERT THERAPIER, Butcher, Dorchester. *Sols. Ingram & Son, Dorchester.* April 8.

FRIDAY, May 17, 1861.

ALLIN, SAMUEL, Farmer, Fernhill & Horsalett Farms, Clawton, Devonshire. *Sol. Kingdon, Holsworthy.* May 7.
EVANS, EDWARD, Builder, Welshpool, Montgomery. *Sol. Yearaley, Welshpool.* May 9.
FRETWELL, JOHN SMITH, Farmer, Woolthwaite, Tickhill, Yorkshire. *Sols. Collinson & Littlewood, Liverpool.* May 11.
GRATTON, THOMAS, Starch Manufacturer, Derby. *Sol. Haywood, Derby.* May 8.
GRIFFITHS, JOHN, Grocer, Mynydd Kenfig, Tythegstone, Glamorganshire. May 3. *Sols. Verity & Middleton, Bridgend, Glamorganshire.*
HOWORTH, WILLIAM, Grocer, Leeds. May 4. *Sol. Simpson, Leeds.*
JEFFERY, GEORGE, Miller, Wonerah, Surrey. May 4. *Sols. W. H. & M. Smallpiece, Guildford, Surrey.*
JONES, CHRISTOPHER, Printer, 9, Thomas-street, Bristol. May 8. *Sols. Gillard & Flook, 5, Right Parade, Bristol.*
PONTING, DANIEL, Ironmonger, Thame, Oxfordshire. April 19. *Sol. Knight, Birmingham.*
ROBINSON, NATHANIEL, Farmer & Agent for the sale of Coks, Littlebury, Essex. *Sol. Freeland, Saffron Walden.* May 7.
STUART, HENRY, Draper, Portsmouth, Southamptonshire. *Sols. Davidson, Bradbury, & Hardwick, Weavers' Hall, 22, Basinghall-street.* May 6.
WHITTINGTON, RICHARD DAVIS, Grocer, Liverpool. *Sol. Collins, 16, Cook-street, Liverpool.* May 14.

Bankrupts.

TUESDAY, May 14, 1861.

ANDERTON, JOHN, Stone Mason & Builder, Liverpool. *Com. Perry: May 27, at 12, and June 13, at 11; Liverpool. Off. Ass. Turner. Sols. Evans, Son, & Sandys, Commercial-court, Lord-street, Liverpool.* *Pet. May 4.*
BEHREND, JOHN BERNARD, & WILLIAM ALVIN NICHOLS, East India & General Merchants, 14, St. Mary Axe, London (John George Behrend & Co.). *Com. Fane: May 25, and June 28, at 11; Basinghall-street. Off. Ass. Cannan. Sols. Hughes, Kearney, Masterman, & Hughes, 17, Bucklersbury.* *Pet. May 11.*
COHEN, ABRAHAM, Wine Merchant, 13, George-street, Minorities, London. *Com. Fonblanque: May 22, at 2; and June 26, at 12; Basinghall-street. Off. Ass. Stansfeld. Sols. Miller, Son, & Day, 10, Philip-lane, London.* *Pet. May 11.*
DALLEY, JOHN, Innkeeper & Coal Merchant, Starcross, Kenton, Devonshire. *Com. Andrews: May 30, and June 26, at 12; Exeter. Off. Ass. Hirtzel. Sol. Fryer, St. Thomas, Exeter.* *Pet. May 11.*
FORSHAW, RICHARD, Machine Manufacturer, Liverpool (Richard Forshaw & Co.). *Com. Perry: May 24, and June 13, at 11; Liverpool. Off. Ass. Bird. Sols. Evans, Son, & Sandys, Liverpool.* *Pet. April 27.*
FOSTER, ROBERT, Engineer & Boiler Maker, Tranmere, Chester. *Com. Perry: May 27, and June 14, at 11; Liverpool. Off. Ass. Turner. Sols. Neal & Martin, Liverpool.* *Pet. May 11.*
GREENWOOD, JOHN, Stone Sawyer, & Stone Dealer, Sheffield, Yorkshire. *Com. West: May 23, and June 22, at 10; Sheffield. Off. Ass. Brewin. Sols. Smith & Burdakin, Sheffield.* *Pet. May 8.*
HARDING, EDWARD, Draper, Liverpool. *Com. Perry: May 27, and June 14, at 11; Liverpool. Off. Ass. Bird. Sols. Jones, 16, Size-lane, London; and Ewer, Liverpool.* *Pet. May 3.*
MANNION, JAMES, Leather Dealer, Liverpool. *Com. Perry: May 27, and June 24, at 11; Liverpool. Off. Ass. Turner. Sol. Quinn, Liverpool.* *Pet. May 13.*
MILLER, PHILIP TURNER, Linendraper, Aylesbury. *Com. Holroyd: May 28, and July 2, at 2; Basinghall-street. Off. Ass. Edwards. Sol. Jones, 16, Size-lane, Bucklersbury, London.* *Pet. May 6.*
REES, JOHN, Builder, Mason, & Contractor, Swansea, Glamorganshire. *Com. Hill: May 27, and June 25, at 11; Bristol. Off. Ass. Acraman. Sols. Simons & Morris, Swansea; or Henderson, Bristol.* *Pet. April 22.*
SHERRARD, SAMUEL, Currier, High Town, Bristol, Yorkshire. *Com. West: May 24, and June 21, at 11; Leeds. Off. Ass. Young. Sols. Carlin & Cudworth, Leeds.* *Pet. May 7.*
THOMPSON, JOSEPH, Yarn & Worsted Spinner, Wakefield, Yorkshire. *Com. West: May 24, and June 14, at 11; Leeds. Off. Ass. Young. Sols. Taylor, Wakefield; or Bond & Barwick, Leeds.* *Pet. May 7.*

FRIDAY, May 17, 1861.

BATEMAN, BENJAMIN, Tea Dealer and Grocer, Norwich (Bateman and Co.). *Com. Fonblanque: May 30, at 11; and June 26, at 1.30; Basinghall-street. Off. Ass. Stansfeld. Sols. Lawrence, Plews, & Boyer, 14, Old Jewry-chambers, London; or Atkinson, Norwich.* *Pet. May 14.*
BEYNON, LEVI, Tailor and Draper, North-street, Bristol. *Com. Hill: May 27, and June 25, at 11; Bristol. Off. Ass. Acraman. Sols. Abbott, Lucas, & Leonard, Bristol.* *Pet. May 9.*
BRYANT, ROBERT, Corn & Coal Merchant, Newmarket Saint Mary's, Suffolk. *Com. Fonblanque: May 28, at 11.30, and June 26, at 12.30; Basinghall-street. Off. Ass. Graham. Sols. Kingsford and Dorman, 23, Essex-street, Strand, and Adcock, Cambridge.* *Pet. May 16.*
CHAMBERS, HENRY HOLLAND, & PARSONS, FREDERICK RICHARD, Wine, Spirit, & Coal Merchants, Worthing (Chambers & Parsons). *Com. Evans: May 28, at 1, and June 27, at 2; Basinghall-street. Off. Ass. Johnson. Sols. Lawrence, Plews, & Boyer, Old Jewry-chambers.* *Pet. March 23.*
KIRBY, RICHARD, Butcher, Leicester. *Com. Saunders: May 30, and June 18, at 11; Nottingham. Off. Ass. Harris. Sol. Barber, Haxby, Leicester.* *Pet. May 14.*
KNEATH, THOMAS, Wine & Spirit Merchant, Oystermouth Brewery & Inn, Swansea, Glamorgan. *Com. West: May 27, and June 25, at 11; Bristol. Off. Ass. Miller. Sols. Dimmock & Barby, Henrietta-street, Cavendish-square, London, or Henderson, Bristol.* *Pet. April 19.*
LEEMING, SAMUEL, and JAMES HILL, Woollen Manufacturers, Batley Carr, York. *Com. Ayrton: June 10, and July 8, at 11; Leeds. Off. Ass. Hope. Sols. Walker, Dewsbury; or Bond & Barwick, Leeds.* *Pet. May 11.*
MATTHEW, CHARLES BENJAMIN, Tea Dealer and Grocer, Newbury, Berks. *Com. Fane: May 21, and June 26, at 12; Basinghall-street. Off. Ass. Cannan. Sols. Bartholomew & Randall, 3, Gray's-inn-place, Gray-inn.* *Pet. May 13.*
NICHOLSON, CHARLES, EDWARD PASCALL, and WILLIAM STONE, Warehousemen, Cannon-street West, London. *Com. Goulbourn: May 29, and June 26, at 11; Basinghall-street. Off. Ass. Pennell. Sol. Reid, 3, Graham-street.* *Pet. May 13.*
OVERBURY, ROBERT, Hotel Keeper, Henley-in-Arden, Warwick. *Com. Sanders: May 27, and June 24, at 11; Birmingham. Off. Ass. Kinnear. Sols. Warden, Stratford-on-Avon; or James & Knight, Bennett's-hill, Birmingham.* *Pet. May 11.*
PANIS, JAMES, & WILLIAM HENRY THOMAS PARIS, Provision Merchants, Liverpool. *Com. Perry: May 27, and June 24, at 11; Liverpool. Off. Ass. Bird. Sols. Littledale, Ridley & Bardswell, Liverpool.* *Pet. May 14.*
PENROSE, GEORGE, Coal and Coke Merchant, Eagle's Bush and Eskyn Collieries, Neath, Glamorganshire, and of the Maesymarch and Ynysarwed Collieries, Vale of Neath. *Com. West: May 30, and June 25, at 11; Bristol. Off. Ass. Acraman. Sols. Strick, Swansea; or Brittan & Son, Albion-Chambers, Bristol.* *Pet. May 14.*
READ, ROBERT, Tailor & Outfitter, Newport, Isle of Wight. *Com. Evans: May 28, at 12; and June 27, at 1; Basinghall-street. Off. Ass. Bell. Sols. Sole, Turner & Turner, 68, Aldermanbury, London.* *Pet. May 13.*
SMITH, JOSEPH, Ironmonger, 2, Creed-lane, Maize-hill, Greenwich, Kent, lately carrying on business at 39, Great Portland-street, Oxford-street, Middlesex. *Com. Fonblanque: May 30, at 12; and June 26, at 2; Basinghall-street. Ass. Off. Stansfeld. Sols. Sole, Turner, & Turner, 68, Aldermanbury, London.* *Pet. May 6.*
WILSON, WILLIAM GILMORE, Engineer & Iron Merchant, 8, Cannon-street, London. *Com. Goulbourn: May 27, at 2.30; and June 24, at 1.30; Basinghall-street. Off. Ass. Pennell. Sols. McLeod, Stenning, & Watney, 16, London street, Fenchurch-street, London.* *Pet. May 11.*
WOODFORD, JOHN, Carpenter & Builder, Upper Broughton, otherwise Broughton Sulney, Kotta. *Com. Sanders: May 30, and June 18, at 11; Nottingham. Off. Ass. Harris. Sol. Sykes, Low Pavement, Nottingham.* *Pet. May 15.*

BANKRUPTCIES ANNULLED.

TUESDAY, May 14, 1861.

OWEN, HENRY, & GEORGE UGLOW, Hosiers, 12, Wood-street, London; and of Tewkesbury, Gloucestershire. March 16.
RICHARDSON, JOSEPH, Upholsterer, 9, Victoria-road, Pimlico, Middlesex. May 14.

FRIDAY, May 17, 1861.

HOWGARTH, THOMAS, & CRONSHAW, WILLIAM, Calico Manufacturers, Warrington, Lancaster. May 14.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, May 14, 1861.

AYLES, PETER WESTON, Shipwright & Ship Builder, Weymouth, Dorsetshire. May 29, at 12; Exeter.—**BURRITT, WILLIAM, Licensed Victualler**, Coal Exchange Tavern, St. Mary-at-Hill. June 6, at 1; Basinghall-street.—**BRINE, AUGUSTUS, Marble and Stone Merchant & Manufacturer**, 13, Euston-road, St. Pancras, and of the Great Northern Stone Wharf, Canal-road, Caledonian-road, Middlesex (Brine Brothers). June 5, at 12; Basinghall-street.—**BOWDITCH, GEORGE, Nurseryman & Seedsman**, Taunton, Somersetshire. May 29, at 12; Exeter.—**COTTAM, HENRY, Machine Maker**, Kirton in Lindsey, Lincolnshire. June 26, at 12; Kingston-upon-Hull.—**COX, WILLIAM, Pickle and Fish Sauce Manufacturer**, 54, Lamb's Conduit-street, St. George the Martyr, Middlesex. June 5, at 12.30; Basinghall-street.—**DESFORGES, ABRAHAM DESFORGES WILLEY, Brick Maker**, Alford, Lincolnshire. June 26, at 12; Kingston-upon-Hull.—**EDWARDS, GEORGE HARRINGTON, Tobacconist, Seed Merchant, & Bone Crusher**, Lincoln. June 26, at 12; Kingston-upon-Hull.—**FLOOD, THOMAS, Hardwareman**, Honiton, Devonshire. May 28, at 12; Exeter.—**GATES, HENRY, Chemist & Druggist**, Louth, Lincolnshire. June 26, at 12; Kingston-upon-Hull.—**GOODARD, JAMES, & HOLLAND GODDARD, Bankers**, Market Harborough, Leicestershire. June 28, at 11; Birmingham.—**GODFREY, WILLIAM HENRY, Bookseller & Stationer**, Hart-street, Henley-on-Thames, Oxfordshire. June 5, at 1.30; Basinghall-street.—**HECK, JAMES, Butcher & Fishmonger**, Lincoln. June 26, at 12; Kingston-upon-Hull.—**HEDGECOCK, THOMAS, Painter, Plumber, Glazier, & Paperhanger**, 22, Bridge-street, St. Helen's, Lancashire. June 10, at 11; Liverpool.—**LAFFERTY, JOHN, Chemist & Druggist**, Plymouth, Devonshire. May 27, at 12.30; Plymouth.—**LATHAM, EDWIN, & WILFRED LATHAM, Commission Agents**, Liverpool (Latham Brothers). June 6, at 11; Liverpool, separate estate of Edwin Latham: same time, separate estate of Wilfred Latham.—**LOCK, FRANCIS, Miller & Corn Dealer**, West Bower Mills, Bridgwater, Somersetshire. May 29, at 12; Exeter.—**MILLEN, NOAH, Builder**, Sidmouth, Devonshire. May 29, at 12; Exeter.—**MORE, WILLIAM SIMPSON, Share Broker**, Liverpool. June

6, at 11; Liverpool.—PEACOCK, JOSEPH, Ironmonger, Bradford. June 14, at 11; Leeds.—PHILP, RICHARD, Watchmaker, Okhampton, Devonshire. May 24, at 12; Exeter.—RANDOLPH, SAMUEL, Auctioneer, Buckwell-street, Plymouth. May 27, at 12.30; Plymouth.—SCULLY, AMBROSE, Ironmonger, Bradford. June 18, at 11; Leeds.—SYMMONS, JOHN, Cut Nail and Shoe Heel Manufacturer, Bristol. June 6, at 11; Bristol.—THORNE, JOHN, Builder & Cabinet Maker, 34 and 35, St. Thomas-street, Weymouth. May 28, at 12; Exeter.—WAKE, ROBERT, Merchant & Commission Agent, Kingston-upon-Hull. June 26, at 12; Kingston-upon-Hull.—WALTON, JOHN SANDERS, Money Scrivener, Northallerton, Yorkshire. June 18 at 11; Leeds.—WATTS, HENRY, Draper, Parade, Northampton. June 8, at 1; Basinghall-street.—WILKINSON, GEORGE, Grocer & Flour Dealer, Durham. June 3, at 12; Newcastle-upon-Tyne.—WILSON, ALFRED, Draper, 39, High-street, Kensington, Middlesex. June 4, at 11; Basinghall-street.

FRIDAY, May 17, 1861.

BALLARD, JOSEPH TAYLOR, Draper, Leicester. June 11, at 12; Basinghall-street.—BARTON, GEORGE, Draper & Haberdasher, Gromford & Bousall, Derby. June 13, at 11; Nottingham.—HENNETT, WILLIAM, Linendrapery & General Shop Keeper, Nether Stowey, Somersetshire. June 13, at 12; Exeter.—BOTTING, EDWIN, Crocer, Brighton. May 29, at 12; Basinghall-street.—BOTTONLEY, BENJAMIN GARFITT, Ironmonger & Lodging-house Keeper, Devonport. June 10, at 2.30; Plymouth.—CORSTAKE, JOHN, Engineer, Siddal's-lane, Derby. June 13 at 11; Nottingham.—CURME, CHARLES, Common Brewer, Hilperion, Wilts (C. Curme & Co.). May 30, at 11; Bristol.—DAWY, JOHN, Horse Dealer, Dorset Mews, Dorset-square, Middlesex. June 11, at 1; Basinghall-street.—ELLIOTT, WALTER, Grocer & Cornfactor, Beaminstor, Dorsetshire. June 13, at 12; Exeter.—FERGUSON, JAMES, Draper, Stonehouse. June 10, at 12.30; Plymouth.—FOSTER, ALFRED, Woolstapler, Bradford. May 28, at 11; Leeds.—FREEMAN, WILLIAM, Builder & Contractor, Belper, Derbyshire. June 13, at 11; Nottingham.—GIBSON, WILLIAM GOODALL, Tanner, Godalming, Surrey. June 7, at 12.30; Basinghall-street.—GRAY, WILLIAM, Grocer, Ipswich. June 7, at 1.30; Basinghall-street.—HOGG, WILLIAM, Buyer & Letter of Machines, Goods, and Commodities for Hire, Lapford, Devonshire. June 13, at 12; Exeter.—JONES, HUGH, Wholesale Grocer, Hop, Oil, & Iron Merchant, Chester. June 10, at 11; Liverpool.—MARTIN, HENRY, Tailor, Hanover buildings, Southampton. May 27, at 1.30; Basinghall-st.—PARKES, HENRY, Machine Maker, Bridport. June 12, at 12; Exeter.—RIDGE, WILLIAM, CHARLES RIDGE, & WILLIAM NEWLAND, Chichester. June 7, at 1.30; Basinghall-st.—ROPER, GEORGE, Builder, Bincombe, Dorsetshire. June 5, at 12; Exeter.—SAMPSON, WILLIAM, Indkeeper & Malster, St. Thomas the Apostle, Highampton, Devonshire. June 12, at 12; Exeter.—SCOTT, JOHN, Draper, Stonehouse, Plymouth. June 10, at 12.30; Plymouth.—SELLARS, JOHN, Manufacturing Chemist, Newton Heath and Manchester. June 12, at 12; Manchester.—SHIPLEY, JOHN GEORGE, Saddler & Harness Maker, 179 & 181, Regent-street, also Joint Proprietor of the Sporting Life and Eclipse Newspapers, and sole Proprietor of the Court Circular Newspaper. May 28, at 1; Basinghall-street.—THORNLEY, JAMES, Lace Dresser, Sneinton, Nottingham. June 13, at 11; Nottingham.—WAGSTAFF, JAMES, Draper & Outfitter, Alfreton, Derby. June 8, at 10; Sheffield.—WATKINS, DAVID, Cattle Dealer, Backway Farm, Shebbear, Devonshire. June 12, at 12; Exeter.—WINCHESTER, HENRY, Stationer, late of the Strand, but now of Buckingham-street. June 11, at 12; Basinghall-street.—WISS, CHARLES, Plate Merchant, Liverpool. June 7 at 11; Liverpool.

THE CHILDREN'S PHOTOGRAPHER.—Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary.—ADV.

CITY.

Capital and Extensive Freehold Premises, let on lease at £110 per annum.

MESSRS. ELLIS and SON are directed by the Executors of G. Lorkin, Esq., to SELL by AUCTION, at GARRAWAY'S, on FRIDAY, MAY 24, at TWELVE, the capital FREEHOLD PREMISES, situate No. 129, St. John-street, Smithfield, in the immediate neighbourhood of many contemplated improvements, comprising a spacious ground-floor warehouse, nearly 150 feet deep, with a two floored warehouse behind, good cellars under, a commodious dwelling-house over, and private entrance, let on an old lease to Mr. Saddington, whose term expires at Midsummer next, at the low rent of £110 per annum, clear of all taxes and insurance.—To be viewed by tickets only, to be had of Messrs. Ellis and Son.

Printed particulars and plans may be had of Messrs. McLEOD, STENNING, and WATNEY, Solicitors, 16, London-street; at Garraway's; and of Messrs. ELLIS & SON, Auctioneers and Estate Agents, 49, Fenchurch-street.

WALTHAMSTOW.

Capital Residence and 22 acres, within six miles of London by the road, a mile and a half from Lea-bridge Station, and two miles from Suarabrook Station on the Woodford line.

MESSRS. DEBENHAM and TEWSON are instructed to SELL, at the MART, on WEDNESDAY, JUNE 5, at TWELVE, in One Lot (unless an acceptable offer be previously made by private contract), a valuable COPYHOLD ESTATE, comprising an excellent and commodious family residence, containing eight bed chambers and two dressing rooms, spacious hall, well-proportioned dining and drawing rooms, library, all requisite offices, and cellarage; capital stabling, coach-houses, and out-buildings enclosed within a paved yard, handsome lawn and pleasure grounds, vineyard and forcing-houses, most productive walled kitchen gardens abundantly stocked with fruit trees, and several enclosures of (chiefly) rich pasture land, the whole comprising about 22 acres; also a detached farm-yard, with complete set of agricultural buildings, and five neat cottages. Possession on completion of the purchase. The subsoil is gravel, and the premises are supplied with excellent spring water.

Particulars and plans of Messrs. G. & H. LAKE & KENDALL, Solicitors, New-square, Lincoln's-inn; and of Messrs. DEBENHAM & TEWSON, 80, Cheapside.

ESSEX.

Freehold Estate, at Hornchurch and Romford.

MESSRS. BEADEL and SONS are instructed to SELL by AUCTION, at the MART, Bartholomew-lane, London, on TUESDAY, the 18th day of JUNE, at TWELVE for ONE, in Two Lots, a compact FREEHOLD FARM, known as Duryfalls, situate within half a mile of the village of Hornchurch, adjoining the high road to Uxminster, within three miles of the market town and first class railway station of Romford, and comprising 106a. 2r. 14p. of sound arable and pasture land, of superior quality, with suitable farm-house and homestead. Also an Enclosure of useful Arable Land, freehold, and free from land-tax containing 5a. 2r. 22p., with frontage to the high road, and situate at Noak-hill, within four miles of Romford. Both lots are let to Mr. Joseph Grcut, whose tenancy expires at Michaelmas next.

Particulars, with plans and conditions of sale, may be obtained at the Mart; or of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C., and Chelmsford, Essex.

HENLEY, SUFFOLK.

Freehold Farm of 121 acres, land-tax redeemed.

MESSRS. BEADEL and SONS are instructed to SELL by AUCTION, at the MART, Bartholomew-lane, London, on TUESDAY, JUNE 18, at TWELVE for ONE, in One Lot, a compact FREEHOLD FARM, situate at Henley, only 4½ miles from Ipswich, on the high road to Debenham, and three miles from the Claydon Railway Station; comprising a small but commodious farm-house in thorough repair; with a set of well-arranged agricultural buildings, surrounded by 121a. 1r. 10p. of fertile arable and pasture lands.

Particulars, with plans and conditions of sale, may be obtained at the Golden Lion Hotel, Ipswich; at the Mart; or of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C., and Chelmsford, Essex.

KINGSTON, SURREY.

Freehold Building and Accommodation Land and Houses, in the London-road, and Park-lane.

MESSRS. BEADEL and SONS are instructed to SELL by AUCTION, at the MART, Bartholomew-lane, London, on TUESDAY, JUNE 18, at TWELVE for ONE, in Three Lots, the following valuable FREEHOLD PROPERTIES:—

Lot 1. A Dwelling-house, garden, and coal yard, situate in the London-road, Kingston, in the occupation of Mr. James Smithers, and seven cottages and gardens adjoining.

Lot 2. An Enclosure of very valuable Building Land, with frontages on two sides, situate in Park-lane, immediately opposite to the Kingston-hill Building Estate, and containing 11a. 2r. 34p.

Lot 3. Two enclosures of superior Accommodation Land, situate in Park-lane, near the Kingston-gate of Richmond-park, and containing 12a. 1r. 12p. Lots 2 and 3 are occupied by Mr. Sudlow Roots, whose tenancy expires at Michaelmas next.

Particulars, with plans and conditions of sale, may be obtained at the King's Arms Hotel, Kingston; at the Mart; or of Messrs. BEADEL & SONS, 25, Gresham-street, E.C., and Chelmsford, Essex.

BRIXTON.

Ground Rents of £538 16s. per annum, well secured upon and with valuable Reversion to Property producing between £3,000 and £4,000 per annum.

MESSRS. BEADEL and SONS are instructed to SELL by AUCTION, at the MART, Bartholomew-lane, City, on TUESDAY, JUNE 18, at TWELVE for ONE, in Twelve Lots, THIRTEEN first-class GROUND RENTS, amounting to £538 16s., well secured upon the houses and premises forming Brixton-oval, Nos. 1 to 24, Camberwell-lane, the whole of Park-terrace and Park-place, Somerset-lodge, Elder-house, and Elder-cottage, Brixton-road, with nursery and grass land in the rear; together with the Reversion, after the existing leases, to the whole of the above property, producing an income of from £3,000 to £4,000 per annum. This property is held by copy of Court Roll of the manor of Lambeth, and by the Act for the regulation of that manor has been rendered nearly equal to freehold.

Particulars, with plans and conditions of sale, may be obtained at the Mart; or of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C., and Chelmsford, Essex.

KENT.

In the Parishes of Hoo and Stoke, about six miles from Rochester.—Valuable Farms and Accommodation Lands, Freehold and Land-tax redeemed.

MESSRS. BEADEL & SONS are instructed to SELL by AUCTION, at the MART, Bartholomew-lane, London, on TUESDAY, MAY 21, at TWELVE for ONE, in Lots, a very valuable FREEHOLD ESTATE, situate in the Parishes of Hoo, otherwise St. Warburgh, and Stoke, about six miles from Rochester, within one mile of good water-carriage, and only about two hours distant from London. It comprises a Modern-built Farm-house and Homestead, known as North-street Farm, the Chimney-corner Farm, several hop-gardens, numerous enclosures of valuable accommodation land, several labourers' cottages, and a piece of useful saltings—the whole comprising 202a. 2r. 3p. of land, of a very superior quality.

Particulars, with plans and conditions of sale, may shortly be obtained at the Bull Inn, Rochester; of Messrs. FYSON, TATHAMS, CURLING, & WALLS, 3, Frederick's-place, Old Jewry; at the Mart; or of Messrs. BEADEL & SONS, 25, Gresham-street, London, E.C.

ESHER.—SANDOWN-PLACE ESTATE.

MESSRS. BEADEL and SONS beg to inform the public that the SALE of the above property is POSTPONED for a short time, in order that the necessary preparations may be made (including some adjoining property proposed to be offered at the same time).—25, Gresham-street, London; and Chelmsford, Essex.—May 10, 1861.

Important Sale of highly desirable Freehold Property, land-tax redeemed and partly tithe free, comprising 247 acres, with several Farm Homesteads, most eligibly situate near to the town of Edmonton, within an hour's drive of the metropolis, and a convenient distance from the Edmonton and Water-lane Stations, on the Eastern Counties Railway. The land is exceedingly well roaded, and is peculiarly adapted for either building or accommodation purposes.

MESSRS. BEADEL and SONS are favoured with instructions from the Proprietor to offer for SALE by AUCTION, at the MART, London, on TUESDAY, MAY 21, at TWELVE for ONE o'clock, in 24 lots, TANNERS-END FARM, Lime-Kiln Farm, and Barrowwell-green Farm, situate in the parish of Edmonton, let to Mr. William Lacy, whose tenancy expires at Michaelmas next.

Lots 1 and 2 comprise Two superior Arable Fields, containing together 12a. 0r. 31p. eligible for building purposes, being situate near to the town of Edmonton.

Lot 3. A very fertile arable field, containing 14a. 1r. 9p. situate near to Wire-hall, and abutting on the Huxley Estate.

Lot 4. A piece of pasture land, adjoining the Wire-hall pleasure grounds, let upon lease to Dr. Lobb.

Lot 5. A very desirable small farm of nearly 50 acres, with a cottage: also the tolls derived from the private road which runs through this property to Bowes.

Lots 6, 7, 8, and 9 are accommodation plots, abutting upon the public road leading to Bowes.

Lots 10 and 11. Two very productive arable fields, one containing 16a. 2r. 12p. and the other 21a. 3r. 20p.

Lots 12, 13, 14, 15, 16, 17, 19, and 20, are convenient plots of building land, varying from about two to five acres, abutting upon the road from Edmonton to Southgate and the Enfield high road.

Lot 18. A small market-garden farm, at Barrowwell-green, comprising a farm-house, buildings, and about 18 acres of land.

Lot 21. A very superior arable field, containing 5a. 3r. 32p., eligible for building sites, adjoining the Southgate-road.

Lot 22. Tanners-end farm-house, garden, yards, and buildings, situate in Silver-street, Edmonton.

Lot 23. A valuable piece of marsh land, containing 2a. 0r. 31p.

Lot 24. A capital grazing marsh, containing 9a. 2r. 36p.

Particulars, with plans, may be had of Mr. R. H. GIRAUD, 7, Farnival's Inn, E.C.; at the Inns in the neighbourhood; at the Mart; and of Messrs. BEADEL & SONS, No. 25, Graham-street, London, E.C., and Chelmsford, Essex.

AN INDISPUTABLE LIFE POLICY IS ALTOGETHER DIFFERENT FROM AN ORDINARY LIFE POLICY.

It is different in meaning, construction, and effect, being really a LIFE-DEBENTURE, as shown by the Opinions of the Attorney-General, and the Lord Advocate of Scotland, copies of which, and Prospectuses, forwarded to applicants.

INDISPUTABLE LIFE ASSURANCE COMPANY OF SCOTLAND.

EDINBURGH—13, QUEEN STREET.

ALEX. ROBERTSON, Esq., Manager.

LONDON—54, CHANCERY LANE.

JAS. BENNETT, F.S.S., Resident Secretary.

AGENTS WANTED in Places where the Company is not already represented.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

PURSUANT to a Decree of the High Court of

Chancery, made in a cause of "Fanny Ellen Joseph, the wife of Richard Sidney Joseph, by Allan Granville Joseph, her next friend, plaintiff, against Mary Ann Goode and Others, defendants," the creditors of Philip Goode, late of Howland-street, Fitzroy-square, and Lampton House, in the county of Middlesex, Solicitor (who died on or about the 9th of February, 1860), and also the incumbrancers upon his real or leasehold estate, are by their solicitors on or before the 3rd day of June, 1861, to come in and prove their claims at the chambers of his Honour the Master of the Rolls, Rolls-yard, Chancery-lane, in Middlesex, or in default thereof they will be peremptorily excluded from the benefit of the said decree. Friday the 7th day of June, at 12 o'clock at noon, at the said chambers, is appointed for hearing and adjudicating upon the said claims. Dated this 9th day of May, 1861.

GEORGE WHITING, Chief Clerk.

HENRY MOXON, 59, Lincoln's-inn-fields, Plaintiff's Solicitor.

ATMOSPHERIC CLOCKS, OR MERCURIAL

TIMEKEEPERS.—These ingenious and simple timekeepers are the most remarkable scientific novelties of the day. They indicate time by the gradual descent of a column of mercury, in a glass tube, which, when descended, or nearly so, the clock merely requires to be reversed. In appearance they resemble the thermometer. Prices 4s. 6d., 5s., 10s. 6d., 12s. 6d., 15s., and upwards. The Guinea Clock with Silver Dial makes an elegant present. They are adapted for all climates, never get out of repair, nor require cleaning. For India and the colonies they are very suitable. Orders, accompanied with a remittance or post-office order, payable to C. LANGSTON, Atmospheric Clock Company, 73, Fleet-street, E.C., will meet with prompt attention. Export orders shipped direct to any part of the world, and commissions for other goods at the same time executed on the best terms. Wholesale, Retail, and Export Depot of the Atmospheric Clock Company, 73, Fleet-street, E.C. Orders received for CLEGG'S PATENT VICTORIA GARDEN PUMPS, and for CLEGG'S PATENT CARRIAGE TELEGRAPH, or DRIVER'S GUIDE, which will entirely supersede the ordinary clock-string.

CHARING-CROSS HOSPITAL, West Strand.—

This Charity has now entered the 45th year of its existence, and the Governors indulge the hope that its operations will always be found worthy of adequate support.

Its exertions comprehend the relief annually of from 16,000 to 17,000 sick and disabled poor, including 3,000 cases of accident (many of great severity and danger), and constant accommodation for upwards of 100 in-patients in the wards. The annual cost is about £23,000. The following contributions are thankfully acknowledged:—

G. F. Heneage, Esq. £10 10 0 Mrs. E. C., add £50 0 0
Mrs. F. C., add 80 0 0 H. Cunliffe, Esq. 40 0 0

CHILDREN'S WARDS.

To render the Hospital still more efficient, the Council are anxious to bring into useful operation the Wards for Children, hitherto unoccupied for want of funds; a measure which alone remains to complete the designs of the founders. It has been estimated that the addition of £330 annually to the income of the Hospital would suffice for its accomplishment, an addition which it is earnestly hoped public benevolence will supply.

A generous benefactor has commenced a subscription for the purpose by a donation of £500, to which the following liberal contributions have been added, and the Council anxiously solicit the assistance of other supporters to the good work.

W. Stuart, Esq.	£500 0 0	R. Few, Esq.	£100 0 0
Dr. Golding	10 10 0	Ditto	2 0 0
J. Greenwood, Esq.	5 5 0	J. Wilkinson, Esq.	5 5 0
H. Walmisley, Esq.	50 0 0	Ditto	1 1 0
T. Tilson, Esq.	20 0 0	Charles Few, Esq.	50 0 0
Rev. R. H. Cooper	3 0 0	James Parker, Esq.	10 10 0
R. Cobbett, Esq.	10 10 0	Surplus of Subscription	
Ditto	1 1 0	for a Testimonial to	
E. Wilder, Esq.	10 10 0	Dr. Golding and Mr.	
Lord Egerton of Tatton	50 0 0	Robertson	60 12 0

ENDOWMENT FUND.

To ensure the permanence of the useful objects of the Hospital, and to assist in providing against the serious losses which it sustains with painful frequency by the death of kind supporters, a Permanent Endowment Fund has been established, which, when further promoted by benefactions or bequests, will afford some steady source of income, in addition to that arising from casual and therefore uncertain subscriptions. The dividends from this source will substantially assist the regular disbursements of the Hospital, while the invested principal will be held intact and inviolate.

Very valuable assistance has been rendered by the legacies of deceased benefactors, and as upon this source the continued welfare of the Hospital must in great part depend, it may be respectfully stated to those benefactors who may be desirous to endow, by benefaction or bequest, a ward, or one or more beds, to bear in perpetuity the name of the donor, or of one whose memory he cherishes and would wish to identify with a permanent work of charity, that such desire can be fulfilled in accordance with the regulations of this Hospital.

The following additional contributions are thankfully acknowledged:—

Thomas Raymond Barker, Esq., add., £25, making up	£100 0 0	The Rev. A. Climold,	£50 0 0
		Messrs. Gale & Co.	5 5 0
		Messrs. Cox & Co.	100 0 0

Donations for the current objects of the Hospital, or for the Children's Wards, or the Endowment Fund, will be thankfully received by the Secretary, at the Hospital; and by Messrs. Coutts, Messrs. Drummonds, Messrs. Hoare, and Messrs. Herries; and through all the principal bankers. April, 1861. JOHN ROBERTSON, Hon. Sec.

WINES for the NOBILITY and GENTRY.

WINES for the ARMY and NAVY.

WINES for the CLERICAL, LEGAL, and MEDICAL PROFESSIONS.

WINES for PRIVATE FAMILIES.

PURE and UNADULTERATED GRAPE WINES from the SOUTH of FRANCE.

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have taken extensive cellarage at the West-end of London, for the purpose of introducing FRENCH WINES only to the British public at FRENCH TRADE PRICES; and the members of that Association being proprietors of the most esteemed growths in France, the Nobility, Gentry, and Families patronising such Wines, will become assured of their genuineness.

THE EMPRESS PORT,

20s. per dozen. Sent free, bottles included, to any British Railway Station, on receipt of an Order on Charing-cross Post-office for 22s. 6d., payable to A. Rophe, Director.

THIS EMPRESS PORT,

is pure grape, of first-class quality, and delicious taste; the very Wine for family consumption.

CHAMPAGNE, equal to Moët's, 42s.

SPARKLING BURGUNDY

("The Glorious Rumper") at 48s. per dozen.

Pure CLARETS from 16s. to 84s. per dozen.

Tariffs of other Wines sent post free.

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REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal, an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, MAY 25, 1861.

CURRENT TOPICS.

An Act which has just received the Royal assent is intended to multiply largely the number of savings banks, by enabling persons desiring to deposit small sums of money upon Government security, to do so at the post offices throughout the country. The measure is calculated to encourage habits of economy among the poorer classes, and will probably prove advantageous to the public exchequer, by procuring for it considerable sums of money at a low rate of interest. In some recent articles upon the financial arrangements of our courts, we took occasion to suggest how very useful to chancery suitors, and still more so to the public, would be a similar measure, in reference to monies paid into court pending litigation, or awaiting distribution. At present, all money in the hands of the court either remains wholly unremunerative to those entitled to it, or it must be invested, although it may be wanting before a dividend is payable, or before the investment can possibly pay for its expense, which, we believe, is not less than a half per cent. There is, moreover, always the risk that when the money is required, the stock may be of less value than the sum invested. Indeed, within a year or two, there was a curious illustration of the embarrassment which may arise from this circumstance. A sum had been paid in under the order of the Court, and was invested; but when the title to the fund was clear, and it came to be paid out, the stock had so much decreased in marketable value, that it was insufficient to realize the original amount of cash; and a question arose, who was to suffer the loss resulting from the investment? By a practice very recently introduced at the Registrar's Office, this question is now prevented from arising, by the insertion in the order of the name of the party at whose request, and therefore at whose risk, the investment is made. But the hardship remains, that where the money may probably be wanting in the course of a few months, there is not only the risk of loss by the lowering of the price of stock, but also the expense of buying and selling, as well as of the turn in the market in each transaction. Why should not the Government, on the one hand, have the advantage of the use, at a small interest, of the large sums of money which, under these circumstances, always are uninvested in the hands of the Court of Chancery? and, on the other, why should not suitors have the benefit of such interest? They would not, as a rule, object to a low rate, say two per cent.; and at this price the Chancellor of the Exche-

quer might reckon upon the use of not less than four or five millions of money, which would be an important item of saving to the country. We recommend the suggestion to Mr. Gladstone, and have no doubt that some of our readers can adduce other good reasons for its adoption.

Trinity Term commenced on Wednesday last. The arrears of business at both sides of Westminster Hall (excepting the Divorce Court) are light. In the Queen's Bench there are four rules in the new trial paper for judgment, and fifty for argument. In the special paper there are two for judgment, and forty-three for argument, besides which there are seven enlarged rules. In the Common Pleas there are eight enlarged rules, nineteen in the new trial paper, five matters standing for the decision of the Court, and fifteen demurrers entered. In the Exchequer there are eight errors and appeals, five rules in the peremptory paper and ten in the special paper for argument, while of new trials there are five for judgment, and eighteen for argument. In the Divorce Court there are 155 causes, of which twelve are suits for judicial separation, one is a suit for nullity, and one for restitution of conjugal rights, and the remainder are suits for dissolution of marriage. Five of these cases are part heard, and eight of them are to be tried by special juries, and thirty-five by common juries. Notwithstanding all that has been said about a great falling off in Chancery business, the number of causes down for hearing on the first day of term, in all the branches of the Court, was not less than 349, being within five of the number in the list on the first day of Trinity Term last year. The great bulk of the business, however, is very recent, and the state of the Chancery Cause List, Term after Term, affords abundant proof of the great increase in the efficiency of the Court and the speed of its proceedings.

THE FOREIGN LAW ASCERTAINMENT BILL.

The laws of foreign countries have been hitherto proved in our courts as facts, and not regarded as legal data, of which our judges should be presumed to have judicial notice. But it is by no means clear whether the enactments of foreign law should be proved as facts to the Court, or as facts to the jury. Perhaps, if Lord Brougham's statement in *Bain v. Whitehaven and Furness Railway Co.*, (3 H. L. Cas. p. 19), be correct, the ascertainment of foreign law would not often be of great importance. His lordship there said, that it is only "as to the stipulations of a contract made abroad our courts are bound by foreign law, which must be to them a matter of fact." His lordship then proceeds to say that the law of evidence is governed by the *lex fori*, and adds, "whether a witness is competent or not; whether a certain matter requires to be proved by writing or not; whether a certain evidence proves a certain fact or not;—that is to be determined by the law of the country where the question arises, and where the remedy is sought to be enforced." This extension of the *lex fori* would considerably abridge the province usually assigned to foreign law. The ascertainment of such law could not, according to his lordship's statement, be very important unless the question at issue here turned upon some positive foreign statute, the provisions of which should have been strictly observed in the contract or transaction under dispute. But, whether foreign law be allowed to have an extensive or narrow operation in our courts, this very doubtfulness is a sufficient ground for the introduction of the Bill now before Parliament, for the better ascertainment of foreign law.

It has not been doubted that the Court is the proper authority to decide as to what is sufficient evidence of the laws of a foreign country. The weight of authority

inclines also to the opinion that the determination of all questions relating to foreign law belongs to the Court and not to the jury; and that these have merely to apply the result of such laws to the matters in dispute before them. It would certainly be very inconvenient if a jury were the ultimate authority upon any question of law; and that their verdict, founded upon their own construction of a foreign law, should be as conclusive as if it were upon a pure matter of fact. Nevertheless, some authority, and that too of a recent date, is not wanting to show that the determination of questions of foreign law belongs to the province of the jury, and not to that of the Court. Thus in *Trasher v. Everhart*, (3 Gill & J. Amer. rep., 234), the Court said, "It is in general true that foreign laws are facts which are to be found by the jury." Even Lord Mansfield, in *Mostyn v. Fabrigas* (Cowp. 174), is reported to have said, "The way of knowing foreign laws is by admitting them to be proved as facts; and the Court must assist the jury in ascertaining what the law is." He thus seems to have held that the function of determining the existence and nature of foreign laws primarily rested with the jury. Storey, however, and the main current of authority, are to the contrary; so that it may be safely laid down that the determination of questions of foreign law is a function of the Court, and not of the jury; although the Court will allow those laws to be proved to them as facts by persons who have had experience and practice, and not merely a theoretical instruction in them.

Proof of the positive statutes of foreign countries is, in the present state of the law, comparatively easy. It is usually made by producing authenticated copies of such written laws, according to the general principle of evidence, which requires that the best available proof should be produced. Foreign statutes, however, cannot always be very readily interpreted by judges who are unacquainted with the general system of the jurisprudence of such foreign countries. When the law in dispute is unwritten, and may therefore be proved by parol evidence, the difficulties are multiplied. In *Bremer v. Freeman*, (5 W. R. 618), eight French advocates differed from each other in their account of the French law applicable to the case. The public seal of a foreign sovereign affixed to a written edict, law, or judgment will be noticed judicially (6 Maul. & Selw. 34): but the seal of a foreign court has not this privilege (3 East. 221). If, however, the Court have an Admiralty jurisdiction, then, such being a Court of the Law of Nations, the judicature of other countries will take notice judicially of such seal without positive proof of its authenticity.

The Bill for the Better Ascertainment of the Law of Foreign Countries, now before Parliament, is intended to remove such uncertainty, and consequent expense, as was occasioned by the evidence in *Bremer v. Freeman*. After reciting the 22 & 23 Vict. c. 63, which related to the ascertainment of the law administered in one part of her Majesty's dominions by the courts of another part thereof, it provides that in any action before any Court in her Majesty's dominions, such Court may "direct a case to be prepared setting forth the facts as these may be ascertained by verdict of a jury or other competent mode, or as may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the Court for that purpose, in the event of the parties not agreeing." Upon such case the Court or a judge thereof is to settle the questions of law, and remit the same with the case to a Superior Court in a foreign State with which her Majesty may have entered into a convention to that effect, and request such Court to pronounce their opinion on the questions thus submitted to them. A copy of such opinion duly certified is to be deemed a correct record of such opinion when pronounced (Section 1). The second section directs that the Court in which the action depends shall upon motion (if made) apply such opi-

nion and the facts of the case before it "in the same manner as if such opinion had been pronounced by itself upon a case reserved for its opinion, or upon special verdict of a jury." If such opinion shall have been obtained before trial, the Court may, in its discretion, order that such opinion be submitted to the jury as conclusive evidence of the foreign law therein stated. This section differs somewhat from the corresponding one in the 22 & 23 Vict. c. 63, inasmuch as by the latter Act the opinion may be submitted to the jury either as presumptive or conclusive evidence of the law which it describes. The 3rd section provides that if a case be sent by a Court in a foreign country to any of her Majesty's courts for an opinion upon such case, in pursuance of a convention between the Governments of both countries to that effect, it shall be competent to any of the parties to the action to present a petition to that Court of her Majesty whose opinion is sought to be obtained, praying such Court to hear the parties or their counsel on such case. The Court may then appoint an early day for such hearing. The Court must pronounce an opinion upon the case; and, in order to their pronouncing such opinion, it may take further procedure thereupon as it may think proper. A certified copy of the opinion, when pronounced, is to be given to such of the parties as may require it. The interpretation clause explains, amongst other definitions, that the word "action" is intended by the Act to include "every judicial proceeding instituted in any court, civil, military, or ecclesiastical." The second section of the Bill does not leave the Court from which the special case is sent any discretion as to accepting such opinion. The Court must accept it, and can only exercise a discretion in applying it to the case. When the Court of Chancery had the power of sending special cases to the courts of law, it might reject the opinions given thereon if it choose—a discretion, however, which it rarely exercised. The corresponding Act 22 & 23 Vict. c. 63, already referred to, renders the opinions, to which it relates, binding upon the Court that remitted the case, but not upon the Privy Council or the House of Lords. The present Bill does not except these tribunals; and, as it is almost a verbatim copy of the former Act, there is strong reason to presume that both the Privy Council and the House of Lords are intended to be bound by the opinion of the foreign court when obtained. There was no reason why the Act 22 & 23 Vict. c. 63, should render the opinion of any Court on a special case binding upon the tribunals of last resort, inasmuch as these Courts should hear appeals brought even directly from the Court which pronounced an opinion under that Act. But, as our appellate tribunals have no jurisdiction over foreign courts, there is an *a priori* reason why those tribunals should be equally as bound by the opinions of foreign courts as is the court which remitted the case. It would be idle to render the opinion of a foreign court binding only upon the judicature which sent the case; since, if the latter court exceeded its jurisdiction, and ignored the opinion, such an error on the part of the subordinate tribunal might be affirmed by the court of ultimate appeal. The Bill, if it becomes law, is likely to be often acted upon by the Privy Council. This tribunal, being the court of ultimate appeal for the Admiralty, Ecclesiastical, Indian, and Colonial Courts, has to deal chiefly with those questions which are connected with international law, or with the Roman civil code, which prevails so extensively in the jurisprudence of a great part of the continent of Europe, and, consequently, in the codes of such of our colonies as derive their laws from those continental states to which they originally belonged. The Bill directs that the opinion obtained in pursuance of it from a foreign court is to be treated as a matter of law, to be submitted to the consideration of the Court only; or, if left to the jury, that it should be deemed by them as

conclusive evidence of the foreign law. The opinion is thus virtually reduced to a pure matter of law. At all events, all doubt as to the province of the court, or of the jury, as regards the proving of foreign laws, is removed. The Bill bids fair upon many grounds to effect a saving of expense to litigants. It is also eminently calculated to prevent the recurrence of such uncertainty as occurred in *Bremer v. Freeman*. The answer of the foreign court may possibly be wrong, but it will not be very uncertain or ambiguous. It will not, however, leave us the unpleasant option of selecting one out of many contradictory opinions.

ON THE LAW OF TRADE MARKS.

No. II.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Of the Remedies against Piracy of a Trade Mark

I have attempted to show* that the view now taken by Courts of Equity on questions affecting the use of trade marks, justifies the assertion that there is a qualified property in a name, mark, or devise, used to distinguish a particular manufacture; the qualification being the use of the mark in combination with the manufacture; and that on this ground alone, of there being such a quasi-property, can some of the later decisions be upheld. At law on the other hand the injury done to a trader in respect of his trade mark, cannot be considered as anything more than a personal injury, to be compensated by damages. The next question, therefore, which we shall have to consider is, what are the means which have been employed, or attempted to be employed, up to the present time to protect the trader in the use of his mark, whether considered as property, or as a mere personal right. These are of three classes.

1. By criminal indictment.
2. By action for damages.
3. By injunction.

I. There are two heads of crime under which it might be expected that the fraudulent imitation of a trade mark would be indictable—as a forgery—or as the obtaining money under false pretences. The first of these methods was adopted in the case of *Reg. v. J. Smith*, 1 Dearsley & Bell 566. The imitation in this case consisted of a printed label, which was an exact imitation of the labels attached by the prosecutor George Borwick to packets of his powder called “Borwick’s Baking Powder,” with this exception that the signature “George Borwick” was omitted in the counterfeit. It was contended on the part of the prosecution that the term forgery might be defined as the alteration or making of a false document with intent to defraud; and cases were cited in which the fraudulent imitation of a printed document such as a diploma of the College of Surgeons, the good-conduct certificate of the master of a ship, and of a clergyman as to the character of a schoolmaster, had been held to be forgeries. It was, however, unanimously held by the bench that the conviction was not sustainable; that the issuing of the wrapper or label without the powder which it enclosed would be no offence; and that in the printing of the wrappers there was no forgery committed by the printer. Bramwell, B., there said, “Forgery supposes the possibility of a genuine document, and that the false document is not so good as the genuine document, and that the one is not so efficacious for all purposes as the other;” that, in the case before him, “one of the documents is as good as the other—the one asserts what the other does—the one is as true as the other, but one gets improperly used.” I have stated this case at some length, because it is the only instance that I am aware of in which a criminal prosecution has been instituted against the fraudulent imitator of a trade mark.

I can find no case in which an indictment for obtain-

ing money under false pretences has been preferred in a case of this sort; still, there seems to be no doubt that in principle it would be applicable. Indeed, in the case just cited, Willes, J., says, “In cases like the present the remedy is well known; the prosecutor may, if he pleases, file a bill in equity to restrain the defendant from using the wrapper, or he may bring an action at law for damages, or he may indict him for obtaining money under false pretences.” This opinion of Mr. Justice Willes was assented to with more or less positiveness by the other judges; and it seems somewhat strange that this form of indictment should not have come into use by manufacturers for the purpose of protecting their trade marks. It may, however, be accounted for on the ground that an action-at-law for damages, if successful, gives a more ample compensation for the violation of their rights. It is this action, in its form and separate parts, that we have next to consider.

II. We have seen that the form of action adopted in vindication of the right to use a trade mark, is that of an action upon the case for deceit, and that in this action fraud is of the essence of the injury. There are, therefore, two main points to be proved, the fraudulent nature of the wrong committed by the defendant, and the nature of the injury suffered by the plaintiff. The nature of the wrong to be proved is well defined by Wilde, C. J., in the case of *Rodgers v. Nowell*, 5 C. B. 109; he says, “Has more ever been necessary to be proved in actions of this description than that the plaintiff, being a manufacturer, has been accustomed to use a certain mark to denote that the goods so marked were of his manufacture; that such mark was well known and understood in the particular trade; and that the defendants had adopted the mark, and sold goods bearing it as and for the plaintiff’s goods, with intent to deceive?” On these grounds the action was held not to be maintainable in *Singleton v. Bolton*, 3 Doug. 293, for there no sale was proved to have been made by the defendant of a medicament (Yellow Ointment) of his own under the name or mark of the plaintiff, but both plaintiff and defendant used the name of the original inventor (Dr. Johnson) and no evidence was given of the defendant having sold his ointment as if it had been prepared by the plaintiff. So also in the case of *Crawshay v. Thompson*, 4 M. & G. 357, it was held that the mark used by the defendants was not used with the intention of supplanting the plaintiffs, but that it was applied to certain goods in the ordinary course of business, and in execution of orders. This decision is grounded on the evidence in the case as to the fraudulent use of the mark (which was alleged by the plaintiffs in their declaration), and turns on the question of what constituted such a fraudulent use. It seems clear from the statement of the case, that there was no proof of an intention on the part of the defendants to sell their manufacture, which was iron in bars, stamped with a particular stamp for the Turkish market, as and for the iron made by the plaintiff; but it was contended that their motive in using the mark or stamp was immaterial, if the resemblance in fact existed, and they were aware of it. Here the case of *Polhill v. Walter*, 3 B. & Ad. 114, was cited to show that a fraud at law was committed where a representation is made which a party knows to be untrue, and which is calculated from the mode in which it is made to induce another to act on the faith of it so that he may incur damage; the intention to defraud being presumed from the act of misrepresentation. It was considered, however, in *Crawshay v. Thompson* that there was no evidence to show that the defendants really believed that persons might be imposed upon by their using the mark complained of; and it was even held that a letter addressed by the plaintiff to the defendants, complaining of their use of the mark in question, and designating it as “a palpable fraud” upon him, did not necessarily affect them with notice of resemblance, and with a consequent fraud;

* Ante, p. 466.

the evidence in the case having satisfied the jury that the statement of the plaintiff was not believed, or admitted by the defendants.

The fact that the name used by the defendants to distinguish their manufacture is really their own, though it be that of the plaintiff also, is not sufficient to rebut the charge of fraudulent intention. In *Sykes v. Sykes*, 3 B. & C. 541, where one of the defendants was named Sykes, and contended that he had a right to mark certain shot-belts, powder-flasks, &c., with that name, it was held such a use of a name might, of itself, be sufficient to show a fraudulent intention. *Rodgers v. Nowill* (*sup.*), also decides the same point.

The case of *Sykes v. Sykes* (*sup.*), is also important as showing that the misrepresentation need not be immediate in order to give a ground of action. It was there proved on the defence that the sale of the spurious article was made to retail dealers, who were aware of the fraud; but it was held that the sale to them for the purpose of a resale to the public, who would be deceived by the pirated stamp, was substantially the same thing as a direct fraud by the original vendor.

The nature of the wrong suffered by the trader whose mark is fraudulently used, is twofold. Either it consists in the injury to his reputation where an article of inferior value is palmed off upon the purchaser, as was considered to be the ground of action in the case cited in *Southern v. How*, 1 Pop. 143; or else in the injury done to his trade by general loss of custom. It is quite clear that at the present time, whatever may have been the opinion of the courts of law formerly, the latter is a sufficient ground of action. This point is sufficiently shown in *Blofield v. Payne*, 4 B. & Ad. 410, (see also, *Rodgers v. Nowill*, *sup.*), where it was held that a verdict for nominal damages was sufficient to maintain the statement in the declaration of the damage suffered by the plaintiff. It is, however, necessary for the plaintiff to show that an actual damage has been suffered. In *Lawson v. The Bank of London*, 18 C. B. 84, upon a declaration that the plaintiff has established a bank in London, called "The Bank of London," and was the first person who had established a bank by or under that name; and had established the said bank at a great expense, and caused the name to be published and affixed on the offices of the said bank, and had issued prospectuses with that title, whereby he had acquired and was acquiring great gains and profits; and upon the further statement that by the defendant's use of a similar title to their bank, the plaintiff had been deprived of his profits, it was held that the action would not lie. It appeared from the evidence that this was a contest between rival banking schemes; that the plaintiff had not established himself as a banker in such a way as to entitle him to complain of the defendant's conduct in using the same name for their bank, and that, in fact, he had never actually carried on business, so that his loss of profit was merely contingent.

A question has been raised as to costs in these cases which is decided in *Morison v. Salmon*, 2 M. & S. 385. It appears from that case that under the provisions of the 3 & 4 Vict. c. 24, by which a judge is empowered to certify for costs in any case in which the damages are laid by the jury under 40s., it is not necessary to show that a right was actually involved in the action in order to entitle the plaintiff to the judge's certificate. It is quite sufficient that there is a possibility that such a right may be involved; so that in cases of the fraudulent use of a trade mark, where it is a fair inference that a right may come in question, as in the instance of the trial of the right to use the particular mark under a direction from a Court of Equity to try such a right; or a general right to protection against the fraud of other traders, the plaintiff may obtain his costs, even though the jury find that the damage he has suffered is merely nominal.

The Courts, Appointments, Promotions, Vacancies, &c.

EXCHEQUER CHAMBER.

(Sittings in Error).

May 23. — The Lord Chief Baron announced that the Court would sit in error from the Queen's Bench on the first two days after term; on errors from the Common Pleas on the two next days; and on errors from the Exchequer on the two following days; and if there should be a necessity for it, the Court would adjourn so as to get rid of all the errors before the long vacation.

Recent Decisions.

EQUITY.

ATTORNEY AND CLIENT — TRUSTEE SOLICITOR — PARTNERSHIP OF SOLICITORS.

Clack v. Carlon, V. C. W., 9 W. R. 569.

Some time ago* we discussed rather at length the doctrine of courts of equity relating to the right of solicitor-trustees, who are employed professionally in the business of their trust, to make the usual professional charges for such business. At present we need only say that, although prior to the decision of Lord Lyndhurst in *New v. Jones*, 1 Mc. N. & G. 568 (n) the rule that a solicitor-trustee cannot charge for professional services unless the contrary is expressly provided for by the trust instrument was somewhat uncertain, since the decision in that case it has been well established and often recognised. Since that decision, however, a question as to the rights of partnership firms, where one of the partners is a trustee, has been frequently raised; and in a late important case (*Broughton v. Broughton*, 5 D. M. & G. 160), upon this question, the rule of the Court was carried as far as it could well be by Lord Cranworth. The first case in which it was attempted to insist upon the distinction between the employment of a solicitor-trustee and a firm of which he was a member, was *Collins v. Carey*, 2 Beav. 128. It was there argued on behalf of a partner who was not a trustee, that he at least ought not to be deprived of his share of the costs upon the ground that his partner was a trustee. But Lord Langdale refused to recognise the distinction, and considering the case to come within the general rule laid down in *New v. Jones*, only allowed in passing the trustee's accounts the actual costs which had been paid out of pocket. The general rule is now well established that a trustee acting as solicitor in trust matters is entitled only to costs out of pocket, although, as Lord Langdale observed in *Bainbrigge v. Blair*, that "where a trust being in the course of execution, and many things remaining to be done which can be done beneficially only by a particular trustee, who cannot from his situation do it without grievous personal loss, the Court considering what is beneficial to the *cestuique* trusts, may give 'proper remuneration' to a solicitor-trustee, although it will not allow him to make the usual professional charges." A distinction has been established by the case of *Burge v. Brutton*, 2 Hare 373; as to the payment of costs in a cause, between the case of an executor-solicitor in the cause which he would be entitled to receive if he had not been in a fiduciary position, and the costs which as executor-solicitor he was entitled to receive. In that case the executor-solicitor who was a party to the cause in his representative character, although he was allowed personally as against the estate such costs only as he actually paid, was nevertheless held entitled to be allowed that proportion of the whole costs which his town agent in the cause was entitled to receive. The case of a town agent is thus distinguished from that of a partner of the trustee. In two or three other reported cases the question of the effect of partnership was incidentally touched upon, but except the case mentioned below, and the case of *Collins v. Carey* there has been no distinct decision upon this point until that of Wood, V.C., in the above-named case of *Clack v. Carlon*. In *Christopher v. White* (10 Beav. 523), which does not appear to have been cited in *Clack v. Carlon*, two solicitors were members of a firm; the one who was a trustee did not interfere in the professional business of the trust, which was done by the other partner; and there Lord Lang-

dale only allowed in the taxation of costs the costs out of pocket, at least during the lifetime of the solicitor-trustee.

In *Clack v. Carlon* the firm of solicitors Messrs Carlon and Haynes, consisted of two gentlemen of these names. Mr. Carlon was appointed trustee of a creditor's deed in respect of which a suit arose, and the questions whether Mr. Carlon was entitled to costs beyond the amount actually paid out of pocket, and whether his partner, Mr. Haynes, was entitled to anything more in respect of the trust business in the suit, were there discussed and decided. There had been an express agreement between the partners that Mr. Haynes should in all matters connected with the trust act as Carlon's solicitor, and that the latter should have no interest in the profits of such business. The Vice-Chancellor considered that it was quite competent to the partner to enter into such an agreement. His Honour saw no ground for saying that a solicitor-trustee might not make an arrangement with his partner to treat him as a stranger in the management of a particular business. If the partner did not take all the profit himself, but made an arrangement to share it with the trustee, then there would be a fraud; but in this case there was no reason to suppose that any irregularity existed. He knew no reason why two firms might not come to a mutual arrangement, each to transact the business of the other. In the same way, two members of the same firm might enter into such a bargain. The Vice-Chancellor, therefore, declared that from the time that Mr. Haynes was acting under the agreement with his partner he was entitled to his full costs.

CHARGE OF LEGACIES ON REAL ESTATE BY IMPLICATION.

Field v. Peckett, M. R., 9 W. R. 525.

The foundation of the doctrine by which the above case has been decided was laid in the much debated case of *Kidney v. Cousmaker*, 1 Ves. 436, 2 Ves. 267. In that case a testator devised real estate to trustees upon trust to sell and dispose of the produce, first to discharge all incumbrances affecting the same estates, and then to invest the overplus "in trust for such persons, in such proportions and such manner and form in all respects as I have hereafter directed concerning the residue of my personal estate, it being my intent and meaning that such overplus money shall go with and be considered as part of the residue and surplus of my personal estate." After making various dispositions, the testator gave the rest, residue and surplus of his personal estate, after payment of his debts, &c., and legacies aforesaid, upon trust, to pay an annuity to his wife and another annuity for the maintenance of his daughters, "and to pay all and every part of his said residuary estate," subject to his wife's annuity, to his two daughters in moieties at twenty-one or marriage. The testator declared that until the real estate directed to be sold should be sold the rents and profits should be applied in discharge of the interest upon the mortgages, and the surplus to such purposes as thereinbefore directed concerning the interest of his residuary personal estate. He appointed the trustees named in his will to be his executors. One of his daughters died under age and unmarried. There were simple contract creditors to a large amount beyond what the personal estate would satisfy, who claimed to have their debts paid out of the surplus of the money arising from the sale of the real estates after discharging the incumbrances upon them. The surviving daughter, as sole heiress and residuary legatee, claimed the whole surplus. The case was first heard before Lord Chancellor Thurlow, who said the question was, "Whether the gift of the residue of the personal estate meant purely a description of the fund he was to give, containing the charges only as part of the description, or a created charge, by which he intended to give the whole, in which he has directly included the surplus of the produce of the real estate, expressly burdened with those charges. . . . Could it be contended that after declaring the surplus of the real estate to be in the same condition as the surplus of the personal, both should not be charged alike? That could not be so contended. . . . Therefore I think here all the charges operated and were introduced by the word "after" The ground I go upon is this, that the words "residue and surplus" of the personal, mentioned in the first clause, with which he has combined this overplus, must mean the same thing as the words, "rest, residue, and surplus" of the personal in that clause where it is directed to be disposed of and subjected to certain burdens of which the debts and legacies make part. Upon the whole, therefore, this surplus must be deemed subject to these charges. The case was reheard before Lord Chancellor Loughborough, who said that his predecessor's authority was a strong preservative against any disposition to doubt. He con-

sidered that the general object of the will was to throw the whole of the property, freehold, leasehold, and personal, into one mass, and to dispose of it all as personal. It was an important circumstance that the real estate was devised to the executors to be sold. That proved the general intention that those who were to be in the management of the property should manage it all as that fund which was to be managed by executors. "It is not going a great way too far to say that where real estate is devised to executors, and there is a declaration that they shall sell, and the produce shall go as the residue of the personal estate, that it shall go subject to all that would affect the residue of the personal estate, i. e., to debts." These words of Lord Loughborough were lately quoted by the Master of the Rolls as decisive of the case before him. The decree under rehearing was affirmed, and it was again affirmed on appeal to the House of Lords, so that the case is one of the highest authority, although the reasoning employed in it is not conclusive. That reasoning has been adopted in later cases rather for the sake of uniformity of decision than because of its intrinsic force. It extended, as has been seen, both to debts and legacies, although the case before the Court only called for a decision as regarded debts. If the decision had been the other way those debts would have remained unsatisfied, and one cannot but suspect that this consideration operated insensibly with the judges who successively heard the case. In Lord Thurlow's own words, "The Court has leaned that way, if we may be allowed to say so."

The argument against the view adopted in the above case was very forcibly urged by Lord Wensleydale in the House of Lords, in the Irish case of *Greville v. Brown*, 7 H. L. Ca. 689; 4 W. R. 673; but this argument was overruled by the majority of the learned lords present. In that case a testator gave an annuity charged on his real estate, and he also gave legacies, and as to all the rest, residue, and remainder of his property, of what nature soever, he gave the same to his son. After the testator's death the son mortgaged the real estate, which was subsequently sold in the Incumbered Estates Court for a sum less than the mortgage. The Commissioner, and afterwards the Irish Court of Appeal in Chancery, had held that a legatee was entitled to priority over the mortgagee; and an appeal was now brought against this decision to the House of Lords. The question here only regarded legacies. As regards debts the statute 3 & 4 W. 4 c. 104, has rendered it unnecessary in general to resort to the doctrine of *Kidney v. Cousmaker*. Lord Wensleydale said that in the absence of that and other authorities he should not have entertained any doubt as to the meaning of the will before him. He should have thought the meaning was simply to leave the rest of the personal estate minus the charge on the personal estate, and the rest of the real estate minus the charge on the real estate. "I should never," said he, "have dreamt that the testator meant to say that the charge upon the personal estate was to be transferred to the real estate. My doubt is whether any such principle has been established as that because a testator happens to mention real and personal property in one category, therefore all the property is liable for the legacies." The opposite and prevailing view was stated by Lord Chancellor Campbell thus: "If there be a general gift of legacies, and then the testator gives the rest and residue of his property, real and personal, the legacies are to come out of the mass. The whole is one mass, part of which is represented by legacies, and what is afterwards given is minus what was before given, and, therefore, subject to the prior gift." If this be not good reasoning it is at any rate good law. The Lord Chancellor's meaning may be stated by the help of symbols thus. Let *a* represent the realty, *b* the annuities or legacies charged upon it, *c* the personality, and *d* the legacies given without any express charge. Then the residuary devisee and legatee takes (*a-b*) plus (*c-d*), which is algebraically equal to (*a plus c*)—(*b plus d*).

In the case lately before the Master of the Rolls the magnitude of the legacies in question seems to have furnished the chief reason for reopening a controversy which had been so deliberately decided in the House of Lords. The testator in that case bequeathed to his trustees a sum of £20,000 for the benefit of a married couple and their children, and on failure of children to fall into his residuary personal estate. He then gave three other sums, amounting together to £55,000, on similar trusts, for the benefit of other persons and their children. He also gave £10,000 for the benefit of another person and her children, and on failure of children "to sink into and form part of the residue of my estate and effects for the benefit of the several legatees entitled thereto as hereinafter mentioned." After giving various legacies the testator

devised his freehold estate to his trustees upon trust to sell the same, with a declaration that it should be considered as converted in equity from the time of his decease. And he directed that the money to arise by such sale "should be added to and in all respects be deemed part of his residuary personal estate thereinafter bequeathed, and should be subject to the trusts and disposition thereinafter contained," viz., a trust for division into five equal parts. The trustees were appointed executors. The personal estate was insufficient by a large amount to pay the legacies, and the question therefore arose whether such legacies were charged on the real estate. The Master of the Rolls appeared to attach some importance to the direction that the real estate should be treated as converted in equity from the death, and also to the identity of the executors and trustees; but, even without these circumstances, the case clearly falls within the established rule. "The testator directed that the proceeds of the sale of the real estate should be deemed part of his residuary personal estate." How was this residuary estate to be ascertained? It meant whatever remained after all proper charges had been discharged. There is no doubt that this reasoning was exactly applicable to the case, and the reasoning itself no lawyer can now venture to impugn.

COMMON LAW.

LAW OF MASTER AND SERVANT—WHEN THE FORMER IS LIABLE FOR THE TRESPASS OF THE LATTER.

Seymour v. Greenwood, Exch., 9 W. R., 548.

We had occasion recently to speak of the liability of a master on contracts made by his servant.* The present case illustrates the nature of his liability for *wrongful acts* committed by his servant. With regard to these the general rule is that the master is answerable in all cases for the act of his servant if done by his command, either expressly given or implied—the maxim of law, *qui facit per alium, facit per se*, making the master, under these circumstances, answerable. Hence, if the servant do wrong by his master's command (whether it amount to an actual trespass or not) the master or the servant, or both, may be sued; but the law goes further than this, and makes the master liable for all that the servant does in the course of his employment (although not specifically ordered to do the injurious act complained of), provided always the act be not *wilful and malicious* on the part of the servant—in which case the master is not liable if he has neither commanded nor encouraged it, even though it was done in the course of or relation to the service.

It appears from the judgment of the Chief Baron in the present case, that these principles have not always been so well defined in our law as they are at present. At the commencement of the present century, it seems to have been thought that the master was not liable for the trespass of his servant, unless accompanied by his specific direction or assent (see *M'Manus v. Crickett*, 1 East, 106), although he has always been held liable for the servant's negligent performance of his orders. But the Chief Baron remarked that since this and similar cases "the law has been very much expanded," and that "public safety and convenience require that we should adopt the kind of decision to which we now give effect; for if we were to hold that the master was to be responsible only in cases of a negligent obedience to orders, persons would not be protected against many irregularities, such as may happen in conducting the business of railways, against which it is extremely important they should be protected."

The particular circumstances of the present case were shortly these. A drunken man had been ejected from the omnibus of the defendant by the conductor with unnecessary violence. It was admitted that the act of expulsion itself was justifiable; but the master was held liable for the injury occasioned by the manner in which it was done. The argument on the other side was that the master was not liable for the assault committed by the servant in the execution of his duty; but this was overruled on the grounds indicated in the Chief Baron's judgment.

LAW OF ARBITRATION—STATEMENT OF SPECIAL CASE WHEN COMPULSORY.

Baguley v. Markwick, C. P., 9 W. R. 537.

The provisions with regard to arbitration in the Common Law Procedure Act, 1854, are singularly confused—a confusion which is generally understood to have arisen from some accidental displacement in committee of certain of the clauses

intended to operate exclusively upon compulsory arbitrations. The present application was probably caused by the difficulties of construction thus occasioned. By sect. 4 a judge may direct an arbitrator to state a special case to obtain the decision of the Court on some matter of law arising on some particular item or items of an account. This provision, however, from its context, applies only to a compulsory reference, and no power exists (as it seems) to order an arbitrator appointed by the parties to state a case, though by sect. 5 an arbitrator generally may, in his discretion, state his award in the form of a special case. Then by sect. 8 the Court has power to remit a matter to the reconsideration of an arbitrator. Such being the effect of the provisions, in the present case a matter was compulsorily referred to a master, who neglected (though requested) to state his award in the form of a special case, so as to raise a point of law urged before him; but gave his certificate instead, in favour of one of the parties. The Court refused to remit the matter to the master after his duties had thus terminated by his making an award, in order that an application might be made to the Court for an order under sect. 4 that a special case should be stated by him; but the Chief Justice intimated that if the application for such an order had been made *pending the arbitration* it might, perhaps, have been entertained, as the reference was a compulsory one.

Correspondence.

COMMON LAW JUDGES.

Allow me to call your attention to a very inconvenient practice existing in the common law courts. I refer to the judges delivering their judgments in cases where they have reserved their decision without any previous notice whatever being given to either counsel or attorneys concerned.

It frequently happens that judgment is not delivered for many days (and sometimes weeks) after the argument, and as there is no mode of obtaining any information on the subject, it becomes requisite to attend daily at Westminster during the interval, or the chances are it may be delivered without any one concerned being present, as was actually the case in a cause in which the firm I represent were recently engaged.

In the equity courts it is the practice to give notice before a judgment is delivered, and why, should not the like be done in common law? It seems to me that something should be done to remedy the evil.

A MANAGING COMMON LAW CLERK.

STATE OF CHANCERY BUSINESS.

Punch presented us last winter with a humorous group of starved-out chancery barristers. The hard frost was supposed to have reduced below zero the hot blood of litigants, or that angelic charity which is so often recommended to others and neglected by ourselves was thought to have at last had her virtues recognised, and to have produced such a brotherly love amongst mankind that no more were they to file bills in chancery one against another as they were used to do. Grass was to grow in Chancery-lane, and the site of the new law courts be laid out as a flower garden. This kind of notion seems to have spread, and continued to the present, and reports were current till lately that the equity judges would sit but three days a-week, and start on their summer journey to the Highlands or elsewhere a good month sooner than usual.

How much truth there is in all this will be seen from the following table of cases standing for hearing before the Master of the Rolls and the Vice-Chancellors now and at this time last year.

Causes standing for hearing on the 1st day of Trinity Term, 1860, and the 1st day of Trinity Term 1861, respectively.

	Trinity Term, 1860.	Trinity Term, 1861.
Master of the Rolls.....	102	105
V. C. Kindersley.....	53	52
V. C. Stuart	60	89
V. C. Wood.....	139	103
Total	354	349

From this it will be seen that the number of causes is just five fewer than at the corresponding period of 1860, and I believe too there is a larger proportion than usual of causes to be heard for the first time, and fewer on further directions and

* *Fide sup.* p. 493.

exceptions, in which case the present list probably represents a larger amount of work for the court to get through than it had a twelvemonth ago when no scarcity was heard of.

F.

THE LATE BARON WATSON.

I have just returned from a three days' holiday in Wales, and finding myself whilst there in the burial ground of Christ Church, at Welshpool, I was desirous of paying a visit to the grave of the lamented Baron Watson, who, it will be remembered, expired in the Assize Court at Welshpool, immediately after charging the grand jury, in the spring of 1860; I looked in vain however for anything to direct me to find the grave, when a friend came to my assistance and pointed out two mounds in a very neglected state, and said it was one of those, but was not certain which. There is no tomb-stone, or head-stone, nor even a shrub or flower on the grave, nothing but grass and weeds to mark the last resting-place of an accomplished lawyer and gentleman, and an upright and learned English judge, cut off so awfully sudden as poor Baron Watson was.

I have just referred to your notice of the deceased Baron in the *Solicitors' Journal* of March 17th, 1860, wherein you feelingly observe that he was "a just and true-hearted man, and many will mourn him;" and it may be that many do mourn him, but why not show it by at least one method?—that of marking and beautifying the grave, a mark of respect and affection paid to, and by, even the very poorest of our fellow countrymen.

A SUBSCRIBER.

Ireland.

The Government have at length disposed of the Crown Solicitorships left vacant since the death of Sir Matthew Barrington. Cork has been given to Mr. Gilman, Limerick, to Mr. William Roche, and Kerry with Clare to Mr. A. Morphy, each solicitor having a salary of £900 a-year, out of which he will have to defray all necessary expenses.

Obituary.

THE LATE THOMAS CHAPMAN, ESQ.

Mr. Chapman recently departed this life at his residence in Westbourne-terrace, in the 82nd year of his age. He commenced his legal career in the office of the then well-known firm of Hemming & Baxter, Lincoln's-inn-fields. He practised for a few years in partnership with a Mr. Hughes. Many years ago, he was appointed Assistant Master in the Queen's Bench, Master Le Blanc then being the principal master. As master he sat underneath three Chief Justices, viz., Lords Ellenborough, Tenterden, and Denman. While he held this appointment he published a "Book of the Practice of the Queen's Bench." In 1834, on the death of Mr. Jones, the then Marshal, Mr. Chapman was appointed, without the slightest solicitation, by Lord Denman, Marshal of the Queen's Bench Prison, an appointment then worth about £2,000 or £3,000 per annum, but subject to great risks.

As Master, few men have been held in higher esteem than Mr. Chapman was. As Marshal, though firm in his government, he was much respected by the unfortunate inmates of the prison, many of whom obtained their release through his appeals to their creditors, or by means supplied from his own purse.

Among the court prisoners during his term of office were the late Lord Waldegrave and Captain Duff for an assault. The most unpleasant duty that he had to perform was that of carrying out the sentence of death on two murderers brought by *habeas* from Chester Gaol, on the conflict between the sheriffs of the county and city, as to which the duty devolved on.

Soon after the passing of the Act (1843) for consolidating the Queen's Bench, Fleet, and Marshalsea prisons, Mr. Chapman resigned the appointment, and received a pension of £900 per annum for life. Long before this he had inherited a large fortune. When he resigned, a handsome address was presented to him by the prisoners. During his tenure of office he was subject to numerous actions, as the report books testify.

His active mind and business habits well qualified him for

the duties of a magistrate. His opinions were much respected on the Kingston (Surrey) bench, of which he was a member. He had three sons at the bar, but only one (now deceased) ever practised.

Review.

Succession Duty Discount Tables, for calculating the Amount of Discount to be allowed on Successions to Real and Leasehold Estates, where it is desired to pay the Duty in Advance, under the Provisions of the 40th Section of the Statute 16 & 17 Victoria, Chapter 51. By AN ACCOUNTANT. Stevens & Sons. 1861.

The 21st section of the Succession Duty Act declares that the interest of a "successor" in real property shall be considered as an annuity equal to the annual value for his life, or for any lesser period during which he shall be entitled thereto, and the value of such annuity shall be calculated by the tables annexed to the Succession Duty Act.

By sect. 40 of said Act it is declared that "it shall be lawful for the commissioners to receive any duty tendered to them in advance, and to allow discount thereon at the rate of £4 per cent. per annum, or at such other rate as may from time to time be directed by the Commissioners of her Majesty's Treasury; and no person, by reason of his having made any payment of duty in advance, shall be prejudiced in his right to have any repayment of duty made to him to which he may become entitled under any of the provisions of this Act."

In the majority of cases it will be the desire, as well as the interest, of every successor to pay the whole of such duty in one payment rather than at eight several periods, as provided by the statute, and so to avail himself of the provisions of the above section; but the calculation of the discount on eight several sums, payable at eight different periods, occupies much time, and it is therefore conceived that these tables, with the accompanying scale, will be of great service to persons succeeding to property, solicitors, agents, and others concerned in the payment of the duties levied on all successions to real property. The scale has been prepared calculating the rate of discount at four per cent., as the rate will not probably be varied.

"ESSAYS AND REVIEWS."

The Bishop of Salisbury has determined upon instituting legal proceedings in the Court of Arches against Dr. Rowland Williams, author of one of the "Essays and Reviews," on a charge of heretical teaching. For those of our readers who take an interest in the question, we make the following extract from an article on the "Essays and Reviews" considered in relation to the legal liabilities of the writers, in the last number of the *Law Magazine*:—

The question of the legal responsibility of those whose theological views differ from the opinions commonly held, or at least commonly expressed, has in fact been considered to some extent by one of the essayists—Mr. Wilson—in his article on the national church, and we will therefore first draw attention to his views on the subject. "It may be worth while," he says, "to consider how far a liberty of opinion is conceded by our existing laws, civil and ecclesiastical. Along with great openings for freedom, it will be found there are some restraints, or appearances of restraints, which require to be removed.

"As far as opinion privately entertained is concerned, the liberty of the English clergyman appears already to be complete; for no ecclesiastical person can be obliged to answer interrogations as to his opinions, nor be troubled for that which he has not actually expressed, nor be made responsible for inferences which other people may draw from his expressions." [To this passage the following note is appended—"The oath *ex officio* in the ecclesiastical law, is defined to be an oath whereby any person may be obliged to make any presentment of any crime or offence, or to confess or accuse himself or herself of any criminal matter or thing, whereby he or she may be liable to any censure, penalty, or punishment whatsoever, 4 Jac.: 'The lords of the council at Whitehall demanded of Popham and Coke, chief-justices, upon motion made by the Commons in Parliament, in what cases the ordinary may examine any person *ex officio* upon oath.' They answered—'. That the ordinary cannot constrain any man, ecclesiastical or temporal, to swear generally to answer such interrogations as

shall be administered to him, &c. That no man, ecclesiastical or temporal, shall be examined upon the secret thoughts of his heart, or of his secret opinion; but something ought to be objected against him which he hath spoken or done. Thus, 13 Jac., Dighton and Holt were committed by the high commissioners, because, being convented for slanderous words against the book of Common Prayer and the government of the Church, and being tendered the oath to be examined, they refused. The case being brought before the King's Bench on *habeas corpus*, Coke C. J. gave the determination of the Court, 'That they ought to be delivered, because their examination is made to cause them to accuse themselves of a breach of a penal law, which is against law; for they ought to proceed against them by witnesses, and not enforce them to take an oath to accuse themselves.' Then, by 13 Car. II., c. 12, it was enacted, 'That it shall not be lawful for any person, exercising ecclesiastical jurisdiction, to tender or administer to any person whatsoever the oath usually called the oath *ex officio*, or any other oath, whereby such person, to whom the same is tendered or administered, may be charged or compelled to confess or accuse, or to purge himself or herself, of any criminal matter or thing,' &c.—Burn's *Eccles. Law*, iii. 14, 15, ed. Phillimore.]

"Still," continues Mr. Wilson, "though there may be no power of inquisition into the private opinions either of ministers or people in the Church of England, there may be some interference in the expression of them; and a great restraint is supposed to be imposed upon the clergy by reason of their subscription to the Thirty-nine Articles. Yet it is more difficult than might be expected to define what is the extent of the legal obligat on of those who sign them; and in this case the strictly legal obligation is the measure of the moral one. Subscription may be thought even to be inoperative upon the conscience by reason of its vagueness; for the act of subscription is enjoined, but its effect or meaning nowhere plainly laid down; and it does not seem to amount to more than an acceptance of the Articles of the Church, as the formal law to which the subscriber is, in some sense, subject. What that subjection amounts to must be gathered elsewhere, for it does not appear on the face of the subscription itself."

The fifth and thirty-sixth canons are those which contain the ecclesiastical law on this head. Canon five is entitled "*Impugners of the Articles of Religion established in the Church of England censured*." It provides "that whosoever shall hereafter affirm that any of the Nine-and-thirty Articles agreed upon by the archbishops and bishops of both provinces, and the whole clergy, in the convocation holden at London in the year of our Lord God 1562, for avoiding diversities of opinion, and for the establishing of consent touching true religion, are in any part superstitious or erroneous, or such as he may not with a good conscience subscribe unto; let him be excommunicated *ipso facto*, and not restored but only by the archbishop, after his repentance and public revocation of such his wicked errors." This canon, it must be observed, refers to laymen as well as the clergy. "Whoever" impugns the Thirty-nine Articles is to be excommunicated; and if, indeed, it be a wicked thing to impugn any of these Articles, how much more criminal are they in authority who, neglecting their duty in this behalf, take no steps to purify the Church by punishing the multitude of malignants who, we fear, still mingle in society, instead of being rejected and branded as excommunicants. We could mention whole firms of "impugning" attorneys, and staircases full of "impugning" counsel, who ought, if the Church did its duty, to be excommunicated, nor received again till they had walked barefoot from Temple Bar to Westminster, confessing their iniquities.

Upon this fifth canon Mr. Wilson observes that we must determine what is the proper definition of the word "impugning." The canon states it to be the affirming that any of the Thirty-nine Articles are in any part "superstitious or erroneous." But, says he, "an Article may be very inexpedient, or become so; may be unintelligible, or not easily intelligible to ordinary people; it may be controversial, and such as to provoke controversy, and keep it alive when otherwise it would subside; it may revive unnecessarily the remembrance of dead controversies, all or any of these, without being 'erroneous;' and, though not 'superstitious,' some expressions may appear so—such as those which seem to impute an occult operation to the sacraments. The fifth canon does not touch the affirming any of these things, and more especially that the Articles present truths disproportionally and relatively to ideas not now current."

There is, however, yet the thirty-sixth canon, which presents like difficulties to the fifth, but does not affect those who have accepted office in good faith, but those only who purpose to enter office, and who must, as a condition precedent, subscribe.

It therefore does not directly belong to the question of the legal liability of the six clerical essayists; but it is indirectly a part of the question, and it is claimed on their behalf, that the theological opinions which they profess would not be incompatible with their right to subscribe according to the provision of this canon. The thirty-sixth canon is entitled "*Subscription required of such as are to be made ministers*," and it is thus worded:—"No person shall hereafter be received into the ministry, nor either by institution or collation admitted to any ecclesiastical living, nor suffered to preach, to catechise, or to be a lecturer or reader of divinity, in either university, or in any cathedral or collegiate church, city, or market-town, parish church, chapel, or in any other place within this realm, except he be licensed either by the archbishop or by the bishop of the diocese where he is to be placed, under their hands and seals, or by one of the two universities under their seal likewise; and except he shall first subscribe to these three articles following, in such manner and sort as we have here appointed.

"1. That the King's Majesty, under God, is the only supreme governor of this realm, and of all other his Highness's dominions and countries, as well in all spiritual or ecclesiastical things or causes as temporal; and that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within his Majesty's said realms, dominions, and countries.

"2. That the Book of Common Prayer, and the ordering of bishops, priests, and deacons, containeth in it nothing contrary to the word of God, and that it may lawfully so be used; and that he himself will use the form in the said book prescribed, in public prayer, and administration of the sacraments, and none other.

"3. That he alloweth the Book of Articles of Religion, agreed upon by the archbishops and bishops of both provinces, and the whole clergy in the convocation holden at London in the year of our Lord God one thousand five hundred sixty and two; and that he acknowledgeth all and every the Articles therein contained, being in number nine-and-thirty, besides the ratification, to be agreeable to the word of God.

"To these three Articles whosoever will subscribe he shall, for the avoiding of all ambiguities, subscribe in this order and form of words, setting down both his Christian and surname—viz., *I, N. N., do willingly and ex animo subscribe to these three Articles above mentioned, and to all things that are contained in them.* And if any bishop shall ordain, admit, or license any as is aforesaid, except he first have subscribed in manner and form as here we have appointed, he shall be suspended from giving of orders and licenses to preach for the space of twelve months. But if either of the universities shall offend therein, we leave them to the danger of the law and his Majesty's censure."

On this canon Mr. Wilson comments, observing that its two clauses are explanatory, to some extent, of the meaning of ministerial subscription, "That he alloweth the Book of Articles," &c.; and "that he acknowledgeth the same to be agreeable to the word of God." "We 'allow' many things," says he, "which we do not think wise or practically useful—as the loss of two evils, or an evil which cannot be remedied, or of which the remedy is not attainable, or is uncertain in its operation, or is not in our power, or concerning which there is much difference of opinion; or where the initiation of any change does not belong to ourselves, nor the responsibility belongs to ourselves, either of the things as they are, or of searching for something better. Many acquiesce in, submit to, 'allow' a law, as it operates upon themselves, which they would be horror-struck to have enacted; yet they would gladly and in conscience 'allow' and submit to it as part of a constitution under which they live, against which they would never think of rebelling, which they would on no account undermine, for the many blessings of which they are fully grateful; they would be silent and patient rather than join, even in appearance, the disturbers and breakers of its laws. Secondly, he 'acknowledgeth' the same to be agreeable to the word of God. Some distinctions may be founded upon the word 'acknowledge.' He does not maintain nor regard it as self-evident, nor originate it as his own feeling, spontaneous opinion, or conviction; but when it is suggested to him, put in a certain shape; when the intention of the framers is borne in mind, their probable purpose and design explained, together with the difficulties which surrounded them, he is not prepared to contradict, and he acknowledges. There is a great deal to be said which had not at first occurred to him. Many other better and wiser men than himself have acknowledged the same thing: why should he be obstinate? Besides, he is young, and has plenty of time to re-consider it; or he is old, and continues to submit out of habit, and

it would be too absurd, at his time of life, to be setting up as a Church reformer. But, after all, the important phrase is that the Articles are 'agreeable to the word of God.' This cannot mean that the Articles are precisely co-extensive with the Bible, much less of equal authority with it as a whole. Neither separately nor altogether do they embody all which is said in it; and inferences which they draw from it are only good relatively, and *secundum quid* and *quatenus* concordant. If their terms are biblical terms, they must be presumed to have the same sense in the Articles which they have in the Scripture; and, if they are not all scriptural ones, they undertake in the pivot Article not to contradict the Scripture. The Articles do not make any assumption of being interpretations of Scripture, or developments of it. The greater must include the less; and the Scripture is the greater.

"On the other hand, there may be some things in the Articles, which could not be contained, or have not been contained in the Scripture; such as propositions or clauses concerning historical facts more recent than the Scripture itself: for instance, that there never has been any doubt in the church concerning the books of the New Testament. For, without including such doubts as a fool might have, or a very conceited person; without carrying doubts, founded upon mere criticism and internal evidence only, to such an extent as a Baur, or even an Ewald—there was a time when certain books existed, and certain others were not as yet written; for example, the Epistles of St. Paul were anterior, probably to all of the Gospels, certainly to that of St. John; and of course the church could not receive without doubt books not as yet composed. But as the canon grew, book after book emerging into existence and general reception, there were doubts as to some of them, for a longer or shorter period, either concerning their authorship or their authority. The framers of the Articles were not deficient in learning, and could not have been ignorant of the passages in Eusebius, where the different books current in Christendom in his time are classified as genuine or acknowledged doubtful and spurious. If there be an erroneousness in such a statement, as that there never was any doubt in the church concerning the Book of the Revelation, the Epistle to the Hebrews, or the second of St. Peter, it cannot be an erroneousness in the sense of the fifth canon, nor can it be at variance with the word of God according to the thirty-sixth. Such things in the Articles as are beside the Scripture are not in the contemplation of the canons. Much less can historical questions, not even hinted at in the Articles, be excluded from free discussion; such as concern the dates and composition of the several books and compilation of the Pentateuch, the introduction of Daniel into the Jewish canon, and the like, with some books of the New Testament,—the date and authorship, for instance, of the fourth Gospel.

"Many of those who would themselves wish the Christian theology to run on in its old forms of expression, nevertheless, deal with the opinions of others, which they may think objectionable, fairly as opinions. There will always, on the other hand, be a few whose favourite mode of warfare it will be to endeavour to gain a victory over some particular person who may hold opinions they dislike, by entangling him in the formularies. Nevertheless, our formularies do not lend themselves very easily to this kind of warfare, *contra retiarium baculo*." (Essays and Reviews, Essay 3.)

Such is Mr. Wilson's apology for "allowing" and "acknowledging" Articles which, whatever their advantages, have at all times caused embarrassment to conscientious men who exercise honestly their thinking faculties, and which probably now induce the practice of no little casuistry. They certainly cause with many an unhealthy resolution, not to look too closely into matters which are doubtful, but rather to do as others do, and undertake a general responsibility only, in common with the rest of the world.

The following passage, affording, as it does, additional examples of the point of view from which Mr. Wilson thinks the Articles may be regarded, ought here, in fairness to himself, to be presented to the reader:—

"It may be easy," says he, "to urge invidiously, with respect to the impediments now existing to undertaking office in the national church, that there are other sects which persons dissatisfied with her formularies may join, and where they may find scope for their activity, with little intellectual bondage. Nothing can be said here, whether or not there might be, elsewhere, bondage at least as galling, of a similar or another kind. But the service of the national church may well be regarded in a different light from the service of a sect. It is as properly an organ of the national life as a magistracy or a legislative estate. To set barriers before the entrance upon its

functions, by limitations not absolutely required by public policy, is to infringe upon the birthright of the citizen; and to lay down, as an alternative to striving for more liberty of thought and expression within the church of the nation, that those who are dissatisfied may sever themselves and join a sect, would be paralleled by declaring to political reformers, that they are welcome to expatriate themselves if they desire any change in the existing form of the constitution. The suggestion of the alternative is an insult; if it could be enforced it would be a grievous wrong."

The meshes of these provisions, says Mr. Wilson, are too open for modern refinement; for, not to repeat what he has already said concerning "allow" and "acknowledge," let the articles be taken according to an obvious classification.

"Forms of expression, partly derived from modern modes of thought on metaphysical subjects, partly suggested by a better acquaintance than heretofore with the unsettled state of Christian opinion in the immediately post-apostolic age, may be adopted with respect to the doctrines enunciated in the five first articles, without directly contradicting, impugning, or refusing assent to them, but passing by the side of them."

Then, with respect to what Mr. Wilson calls the pivot articles, concerning the rule of faith and the sufficiency of Scripture, he says they are "happily found to make no effectual provision for an absolute uniformity, whenever the freedom of interpretation of Scripture is admitted." Again, the articles which have a Lutheran and Calvinistic sound are found to be equally open, because they are, for the most part, founded on the very words of Scripture; and these, while worthy of unfeigned assent, are capable of different interpretations. Indeed, "the Calvinistic and Arminian views have been declared by a kind of authority to be both of them tenable under the seventeenth Article; and, if the scriptural terms of 'election' and 'predestination' may be interpreted in an anti-Calvinistic sense, 'faith,' in the tenth and following Articles, need not be understood in the Lutheran. These are instances of legitimate affixing different significations to terms in the Articles, by reason of different interpretations of Scriptural passages."

Leaving for the present the general argument, which seems more directed to what are called conscientious scruples, though in truth these ought not to be other than the legal difficulties of the case present, we will advert to the statutory enactments which are directed against clergymen who hold strange doctrines.

The 13 Eliz. c. 12, forbids, under certain penalties, the advisedly and directly contradicting any of the Articles by ecclesiastics, and requires subscription with declaration of assent from benefited persons. The section which expresses this we here subjoin:—

Section 2 enacts—"That if any person ecclesiastical, or who shall have ecclesiastical living, shall advisedly maintain or affirm any doctrine directly contrary or repugnant to any of the said Articles, and being convented before the Bishop of the diocese in ordinary, or before the Queen's Highness' Commissioners in causes ecclesiastical, shall persist therein, or not revoke his error, or, after such revocation, afterwards affirm such untrue doctrine, such maintaining or affirming and 'persisting,' or such afterwards affirming, shall be just cause to deprive such person of his ecclesiastical promotion; and it shall be lawful to the Bishop of the diocese, or the Ordinary, or the said Commissioners, to deprive such person so persisting, or lawfully convicted of such afterwards affirming; and upon such second deprivation pronounced, he shall be indeed deprived."

The 3rd section provides that no person shall be admitted to cure of souls without having subscribed, and publicly read, the Thirty-nine Articles in St. Paul's Church, with a declaration "of unfeigned assent" thereunto.

It is said in Burn's "Ecclesiastical Law" (Ed. Phillimore, 1842), that up to that date the case of the *Bishop of London v. Stone* (in the first volume of Dr. Haggard's Reports of Lord Stowell's decisions in the Consistory Court), was the only case reported where proceedings have been instituted against a clergyman under the above statute. In this case the offence was laid as "advisedly maintaining or affirming doctrines directly contrary to the Articles of Religion;" and Sir William Scott's judgment is worth perusing, not only as being an authority on this statute, but for the strong light in which he places the disadvantages which would arise from the preaching of diversity of doctrine, and for the manner in which he treats the whole subject.

"The purpose for which these Articles were designed," says he, "is stated to be 'the avoiding the diversities of opinion and the establishing of consent touching religion.' It is quite repugnant, therefore, to this intention, and to all rational in-

terpretation, to contend, as we have heard this day, that the construction of the Articles should be left to the private persuasion of individuals, and that every one should be at liberty to preach doctrines contrary to those which the wisdom of the State, aided and instructed by the wisdom of the Church, had adopted. It is the idlest of all conceits that this is an obsolete Act; it is in daily use, '*viridi observantiâ*,' and as much in force as any in the whole statute book, and repeatedly recommended to our attention by the injunctions of almost every sovereign who has held the sceptre of these realms.

"It is no business of mine, in this place, to vindicate the policy of any legislative act, but to enforce the observance of it. I cannot omit, however, to observe, that it is essential to the nature of every establishment, and necessary for the preservation of the interests of the laity, as well as of the clergy, that the preaching diversity of opinions shall not be fed out of the appointments of the Established Church; since the Church itself would otherwise be overwhelmed with the variety of opinion which must, in the great mass of human character, arise out of the infirmity of our common nature. For this purpose, it has been deemed expedient to the best interests of Christianity, that there should be an appointed liturgy, to which the offices of public worship should conform; and as to preaching, that it should be according to those doctrines which the State has adopted as the rational expositions of the Christian faith. It is of the utmost importance that this system should be maintained. For, what would be the state and condition of public worship, if every man was at liberty to preach from the pulpit of the church whatever doctrines he may think proper to hold? Miserable would be the condition of the laity if any such pretension could be maintained by the clergy.

"It is said, that Scripture alone is sufficient. But, though the clergy of the Church of England have been always eminently distinguished for their learning and piety, there may yet be, in such a number of persons, weak and imprudent and fanciful individuals. And what would be the condition of the Church if such person might preach whatever doctrine he thinks proper to maintain? As the law now is, every one goes to his parochial church with a certainty of not feeling any of his solemn opinions offended. If any person dissents, a remedy is provided by the mild and wise spirit of toleration which has prevailed in modern times, and which allows that he should join himself to persons of persuasions similar to his own. But that any clergyman should assume the liberty of inculcating his own private opinions, in direct opposition to the doctrines of the Established Church, in a place set apart for its own public worship, is not more contrary to the nature of a national church than to all honest and rational conduct. Nor is this restraint inconsistent with Christian liberty; for to what purpose is it directed, but to ensure, in the Established Church, that uniformity which tends to edification; leaving individuals to go elsewhere, according to the private persuasions they may entertain. It is, therefore, a restraint essential to the security of the Church, and it would be a gross contradiction to its fundamental purpose to say, that it is liable to the reproach of persecution if it does not pay its ministers for maintaining doctrines contrary to its own. I think myself bound at the same time to declare, that it is not the duty nor inclination of this court to be minute and rigid in applying proceedings of this nature; and that, if any Article is really a subject of dubious interpretation, it would be highly improper that *this court should fix on one meaning, and prosecute all those who hold a contrary opinion regarding its interpretation*. It is a very different thing where the authority of the Articles is totally eluded; and the party deliberately declares the intention of teaching doctrines contrary to them.

"With these observations on the law, I have only to inquire whether the doctrine which this gentleman has preached is contrary to the Articles? That will be a very short discussion on the evidence which has been laid before the court.

"The first article states the doctrine of the Trinity; the second, the Divinity of our Saviour, and the atonement by His death and sacrifice. It is alleged that Mr. Stone has, in a sermon, publicly impugned these doctrines, and that he has since committed these sentiments to the press. It is not necessary that I should state the particular terms in which these fundamental tenets have been impugned. The court has heard those observations repeated more frequently than it wished, and more than could be agreeable, it hopes, to many of the auditors. Mr. Stone himself has admitted, and is ready to admit, more so, perhaps, than those who had the management of his defence would have advised, the total opposition of his doctrines to the Articles in question. I have listened with patient attention to what he has offered this day, but I find it

little more than a repetition of his sermon. It is not necessary for me to go through the rest of the evidence, or to state the facts in detail. The preaching and the publishing are both abundantly proved.

"Then, what is the duty of the court? It cannot refuse its authority to carry into effect the statutes of the land. It might proceed immediately, as suggested by the King's advocate, after the persisting in those doctrines which we have heard this day, to pronounce the sentence of the law. But the court is disposed to act with the greatest indulgence to the party, and will now content itself with admonishing him, though not encouraged to expect any effect from this admonition, to appear the next court day to revoke his errors, with an intimation that, if he does not obey this admonition, the court will feel itself under the necessity of proceeding to inflict the particular penalty which the statute directs."—(*1 Hag. Cons. Rep.* 424 to 430.)

On the next court day Mr. Stone tendered a paper, which the judge characterised as "a mere promise of future silence, but no revocation of past error;" and he proceeded to say, "I am therefore, under the painful necessity of considering Mr. Stone as having declined to revoke his error, and to comply with the requisition of the statute; and I must direct the registrar to record that the party has not revoked his error. It is only necessary to observe further, that by the canons of the church (can. 122) it is prescribed, that when sentence of deprivation is to be passed, which I must declare to have been incurred by this offence, it must be pronounced by the bishop." Upon which, to complete the story, it appears that the Bishop of London was introduced into court, and, to give greater solemnity to the event, he was attended by the Dean of St. Paul's and two of the prebendaries. He then took the judge's chair, and the judge explained to him the nature of the offence, and the proceedings instituted against Mr. Stone. The bishop thereupon condescended to be the organ of the court by reading and signing the sentence of deprivation.

The Church Discipline Act (3 & 4 Vict. c. 86) is the statute under which proceedings are now taken against ecclesiastics. Its provisions are most frequently resorted to to punish the immoral and vicious, but it applies equally to those disseminating damnable doctrine; and the provisions of the statute of Elizabeth, just referred to, may be enforced under the procedure enacted by the Church Discipline Act. This was decided in the judgment *ex parte Denison* (4 E. & B. 309.) The third section of the last-named Act of Victoria includes any clerk "charged with any offence against the law ecclesiastical"—which language, Lord Campbell, C.J., held, "must certainly comprehend the charge of having preached heretical doctrine, doctrine contrary to the formularies of the Church." It certainly, therefore, would comprehend the charge of advisedly maintaining or affirming, in the published *Essays and Reviews* any doctrine repugnant to the Thirty-nine Articles.

The case of Denison just referred to, arose out of the notorious dispute between him and Mr. Ditcher; and this was another instance of the law being invoked to punish a heterodox pastor. The quarrel was not allowed to be terminated by the temperate, liberal, and Christian-like interposition of the bishop. (Bishop Bagot, in writing to the Archdeacon about the dispute, employed language which it would be well if the convoked priests would now consider. He says, concerning the speculations in which Dr. Denison had been indulging, "I do not consider it to be my duty to seek in our ecclesiastical courts for an authoritative decision thereon, and thereby narrow the terms of communion in our church." Again he remarks, "I am unwilling in any way to lessen the liberty of thought which she has allowed by seeking to obtain such a formal censure; yet I feel it to be my duty as your Bishop, to condemn the boldness with which you seem to me to have put it forward as being a truth necessary to be held by every faithful member of our church, and to admonish you for the future—if you claim the liberty which in my judgment the church allows you of holding, and of advocating which she discourages, your opinion—to maintain it with moderation and charity, and to abstain from condemning, as ignorant or unfaithful members of the church, those who like myself regret your views.") The opportunity was too good, and the object of attack too attractive, to admit of hostilities ceasing. The edifying exhibition was therefore presented of a malignant war between two ecclesiastics representing two parties in the church, whose theological opinions are obviously more antagonistic to each other than they are respectively to those held by the Essayists and Reviewers. If the Ditcherites are orthodox, the Denisonians are heretics. This is obvious, and on this particular occasion the archdeacon and his friends were

adjudged to be the enemies of the church and of theological truth. The archdeacon luckily escaped from the consequences of his crime by a technical point (*viz.*, by showing that the proceedings were taken a few weeks too late), and he has indeed, survived the blow to become an active member of Convocation, and is now a jubilant and vigorous persecutor of the Essayists, being chairman of the committee charged with the duty of devising proceedings against them. He will be able, therefore, to experience the difference which it is said is felt between hunting and being hunted.

There is yet another case now pending, in which the *Rev. Dunbar I. Heath*, the vicar of Brading, has been brought before the court for preaching heresy in his sermons—the Bishop of Winchester having been instigated to proceed against him by some zealous neighbours of the vicar. The “sound churchmen” are exhibited in rather a foolish position in this case; but they have been now taught the valuable lesson, that vague charges, however common in society, and commendable in Convocation, public meetings, petitions, and addresses, are held in contempt by the law. The prosecutors contented themselves, we understand, in alleging that Mr. Heath had published, in two sermons, certain matter which was contrary to certain Articles; and though they set out the passages in the sermons, they omitted to state what was the doctrine therein contained of which they complained. This would not do, and the Articles were remitted to be amended and rendered specific; and the promoters of the suit will have properly and fairly to show the court that what Mr. Heath has published is “directly contrary and repugnant to the Articles,” which is a very different thing to affirming that it is not agreeable to the clergy inhabiting the Isle of Wight.

(The reader should refer to *Hodgson v. Oakeley*, 4 Eccl. Ca. 190.—This was a case belonging to the time when certain of the clergy claimed to subscribe in the *non-natural* sense. Mr. Oakeley had written a letter to the Bishop of London, in which he declared that “the Articles were subscribable in an ultra-Catholic sense, so as to occasion no unnecessary renunciation on the subscriber’s part of any formal decision of the writer’s church, and Mr. Oakeley declared that he did so subscribe them. Proceedings were therefore taken against him by letter of request, calling upon him to answer the charge of having, by his publication, offended against the laws ecclesiastical. Mr. Oakeley did not appeal by counsel, but the promoter did. The Articles against Mr. Oakeley were, said the Judge, “very general;” passages from the pamphlet were set forth, and “the court has to collect the proof of the charge against Mr. Oakeley;” and he added, that if the proceedings were under 13 Elizabeth, there would be great difficulty in calling on him to answer the charge. The proceedings “were under the general law,” and, no defence being set up, Mr. Oakeley had his license revoked, and was inhibited from performing ministerial office.)

We are afraid the sole reason why proceedings are not more frequently taken by and against clergymen for heresies is derived from the undeniably liberal character of the costs in ecclesiastical courts. No greater injury could be inflicted on the church than to cheapen this division of litigation, for the number is large of those who would be glad to vindicate before the world their own soundness by persecuting others, and establishing the heterodoxy of their neighbours. Party spirit is so strong, and sectarian animosity so virulent, that the peace of the church would be destroyed, or its existence imperilled, if greater facilities were given for litigation among ecclesiastics. For the most part, the construction put by the judges upon the disputes of the kind of which we are speaking, is liberal, temperate, and favourable rather to giving latitude to than curtailing the limits of opinion. Take, for example, the judgment in the case of *Gorham v. Bishop of Exeter* (1 Cripp’s Church and Clergy Cases 260) which was not raised upon the statute of Elizabeth, but occurred by reason of the Bishop refusing to institute Mr. Gorham, because his views on baptism were erroneous; but the judgment in the appeal (which reversed that given below) is important, as containing principles which must be regarded in any litigation which the “Essays and Reviews” may call forth. It was laid down by Lord Langdale, that—1. If the Articles of the Church of England admit in any case of different interpretations, any sense of which the words fairly admit, so long as it be not repugnant to what the church has elsewhere allowed or required, may be allowed. 2. If such Articles are silent or ambiguously expressed upon any particular doctrine, it may be supposed that such doctrine was intended to be left to private judgment; and upon such doctrine all members of the church, having duly subscribed the Articles, and taken Holy Scripture for their

guide, are at liberty to exercise their private judgment, without offence or censure.

The possibility, says Lord Langdale, of probable difference of interpretation may have been designedly intended, even by the framers of the Articles themselves; and he urges that in such cases it seems perfectly right to conclude that those who impose the test command no more than the force of the words, employed in their literal and grammatical sense, conveys or implies; and that those “who agree to them are entitled to such latitude or diversity of interpretation as the form admits.” The question in *Gorham’s* case, decided eleven years since, was upon the efficacy of baptism, upon which views palpably contradictory are held and expressed by churchmen, and about which, moreover, our Articles and Formularies appear to be, without really being, most absolute, dogmatic, and determined. The mere fact, says Lord Langdale, that real opposite opinions “have been propounded and maintained by persons so eminent and so much respected, as well as by very many others, appears to us sufficiently to prove that the liberty which was left by the Articles and Formularies has been actually enjoyed and exercised by the members and ministers of the Church of England.” The Bishop of Exeter had tried to trap the priest by torturing him with one hundred and forty-nine questions in examination, but the latter escaped, and finally tripping up his superior, leaped cheerfully over his mitre into the preferment for which the Bishop protested he was unfit by reason of unsoundness of doctrine.

BANKRUPTCY AND INSOLVENCY BILL.

Mr. Rayner, the Secretary of the Huddersfield Chamber of Commerce, has received from Lord Chelmsford, in reply to Mr. Rayner’s letter inserted *ante*, p. 512, the following communication:—

“Sir,—You owe me no apology for having “expressed your views boldly” on the subject of my proposed amendments in the Bankruptcy Bill. I am not so wedded to any opinions which I may have formed, as not to be ready to receive thankfully any suggestions which may be made to me by persons of more experience than I can possess; and opinions strongly entertained, ought to be strongly urged, or they are of no avail. The difficulty upon this important subject is, that I have to find my way through the most opposite and conflicting opinions upon almost every point (pressed with great earnestness and force of reasoning) to a conclusion which, to my own judgment, will be the most advantageous to the commercial community. I have no other object in view than to make the Government Bill as thoroughly complete and satisfactory as possible. At the same time, I know that there are conflicting views and interests involved, which it is very hard to reconcile. I may frankly tell you that I am not a convert to the desirableness of transferring bankruptcy business to the county courts, but my views upon the subject are wholly immaterial, as I may tell you without any impropriety, that when the Bill leaves the committee it will be found to contain the clauses 7, 8, and 9 to which you refer.

“The other clauses mentioned in your letter will also remain, but with some modifications (Clause 118), upon which you lay the greatest stress, will be preserved almost in its integrity. The latter part of it, as to the bankruptcy allowance I felt the strongest objection to, and have succeeded in removing it from the Bill. I will not trouble you with my reasons, which I hope would be as satisfactory to others as they have been considered by a majority of the committee. I hope that the meeting which is substituted by the 119th clause of the Bill for the sitting of the court for the choice of assignees will be found to work equally well; that there will be the order and regularity of proceeding which is always desirable, and which can scarcely be anticipated at a first meeting of creditors who are generally at the moment of failure heated and irritated, against the bankrupt, and which is to be presided over by a registrar, who will have no functions to discharge except to be the passive recipient of proof of debts. I trust that in every respect where my views are opposed to the provisions of the Bill they may practically be found to have been erroneous; and I shall be quite indifferent to my judgment being overruled if the effect of it shall be the adoption of a measure which may satisfy the reasonable requirements of the community.—I remain, sir, yours faithfully, “CHELMSFORD.”

“John Rayner, Esq.”

THE VOLUNTEER REVIEW AT CAMBRIDGE.

The Cambridge University Corps having invited the Inns of Court Corps to a brigade field day, the review of these two volunteer corps took place on Saturday, the 18th instant, on "Parkers Piece," Cambridge. The ground chosen was not only well adapted for a review, but also afforded great facilities for allowing spectators every opportunity of witnessing it. The Inns of Court Corps to the number of about 500 mustered in Gray's-inn, early in the morning, and thence marched through the streets to Shoreditch station. The whole were commanded by Colonel Brewster, attended by Captain and Adjutant S. A. Wood. The corps debouched upon the review ground shortly after their arrival at Cambridge, and the six companies composing the corps present were respectively commanded by Captains Lisle, Bulwer, Chitty, Griffiths, King, and Roupell. The Cambridge University Corps came upon the ground in splendid order, six companies strong, but not quite so numerous as the other corps. Three companies were furnished by Trinity, which were under the command of Captains Ashfield, Hoffman, and Burn; one company was supplied by St. John's, under the command of Captain Bushell, and two companies from various colleges, under the command of Captains Sturgis and Willis; Colonel Baker commanding the whole.

Soon after their arrival his Royal Highness the Prince of Wales, attended by General Bruce and Major Teesdale, entered the enclosure, when Colonel M'Murdo took the command of both corps, and the evolutions commenced. They were necessarily of a simple character, and consisted entirely of skirmishing, retiring upon their supports, moving at double time, and forming squares. First both the regiments marched past the Prince in open column of companies, and in this apparently simple, though in reality severe test of a regiment's drill, the Inns of Court showed themselves perfect. They would have borne comparison in this respect with some good regiments of the line. After having fought over, rallied upon, and strengthened every corner of the common for nearly two hours, marching in quarter distance open column and skirmishing order, every movement being executed with the quickness and precision of regular troops, the review at last came to a close with a grand charge. Both corps formed a line two deep, extending over a great space of ground, and as the bugle low out its shrill clear notes, advanced, at a quick pace, with fixed bayonets, upon the harmless and unsuspecting British public. Total and immediate was the rout of the spectators before this formidable onslaught, and they rushed from the ground with as much eagerness as if they had in reality been given over to the wrath of an infuriated soldiery. With this bold advance, which was executed with rapidity and good order, the proceedings terminated.

Colonel M'Murdo then called the officers of both corps round him, and in a few words stated that he had been requested by his Royal Highness the Prince of Wales to express to each regiment the extreme gratification he had felt at witnessing the manœuvres of the day. For himself, the gallant colonel added, that he as their inspector was satisfied with what both corps had effected; but he considered that the captains of companies might, with advantage, learn a little more of the duty which properly belonged to them. The regiments then marched off the ground, followed by crowds, and all the members of the Inns of Court were afterwards most hospitably entertained at the different Colleges. Comparatively few of the London visitors quitted Cambridge on Saturday night, and those who were compelled to return by the special train did so with regret that one of the pleasantest days the corps has yet had was so soon ended. On this occasion, the Inns of Court, for the first time, displayed their beautiful flag, with the arms of the four Inns, which was worked and presented to the corps by Mrs. Selwyn, the wife of the member for Cambridge University. On the whole, notwithstanding the highly flattering notices of this review, which appeared in the morning journals, it was generally felt that the Inns of Court corps had barely sustained its high reputation, which was owing partly to the rush of new members at the last moment, and partly to the fact that there was no opportunity for their going through some of the more unusual and difficult evolutions, in which the corps has acquired remarkable efficiency.

From a return recently presented to Parliament it appears that there are no less than 1,357 magistrates in England and Wales who are in holy orders. A large proportion of them, however, do not act.

Admission of Attorneys.

Queen's Bench.

NOTICES OF ADMISSION.

[Candidates' names appear in Small Capitals, and Solicitors to whom articles or assigned in Roman type.]

TRINITY TERM, 1861.

- ANDREW, FREDERICK.—W. Andrew, Lincoln; P. Wigelsworth, Boston.
- BARKER, HENRY CHARLES.—W. Berry, 62, Chancery-lane.
- BASSETT, CHARLES.—W. Pagden, 71, Mark-lane.
- BENNETT, EDWARD GASKING.—J. N. Bennett, Plymouth.
- BENTLEY, FRANCIS.—G. W. Bentley, Worcester.
- BOTTERILL, HENRY.—J. Saxelbye, Hull.
- BOTTOMLEY, JOSEPH, jun.—C. S. Floyd, Huddersfield; N. Learoyd, Huddersfield.
- BROWN, GEORGE.—H. Newton, York.
- BROWN, GEORGE.—W. H. Brown, Chester.
- BROWN, THOMAS WATSON.—R. Brown, Sunderland.
- BUCKLEY, CHARLES.—J. Ponsonby, Oldham.
- BUCKLEY, THOMAS.—W. Heaton, Rochdale.
- BULL, HENRY.—H. W. Bull, 25, Ely-place.
- BURNETT, EDWIN.—Messrs. Beer & Rundle, Devonport.
- CARNELL, JAMES.—G. F. Carnell, Sevenoaks.
- CHURTON, WILLIAM HENRY.—J. G. Holden, Liverpool.
- CLEAR, JOHN.—E. Foster, Cambridge.
- CLIFTON, GEORGE HENRY.—F. Smedley, late of 40, Jermyn-street, St. James's.
- COOKE, NATHANIEL WEDD.—W. Ford, 31, Lincoln's-inn-fields.
- CROWDER, GEORGE AUGUSTUS.—W. Vizard, 55, Lincoln's-inn-fields.
- DAVIES, SAMUEL RICHARD.—J. Cooke, Ross.
- DAVIES, THOMAS.—T. J. Nelson, 2, Hatton-court, Thread-needle-street.
- DEMPSTER, GEORGE BUNDOCK.—J. Dempster, Brighton.
- DENBY, THOMAS WILLIAM.—T. Denby, 8, Frederick's-place, Old Jewry.
- DORSON, JAMES METCALFE.—D. W. Wire, 9, St. Swithin's-lane.
- EDDISON, FREDERIC.—E. Eddison, Leeds.
- EOLINGTON, WILLIAM MAHERLEY.—J. Hamant, Birmingham; S. Danks, Birmingham.
- EVANS, WILLIAM PICTON.—J. E. Evans, Haverfordwest.
- FARNFIELD, WILLIAM HENRY.—W. H. Moss, Hull; J. T. Moss, 38, Gracechurch-street.
- GRIFFIN, ROBERT.—G. Tallents, Newark.
- HAMPTON, EDWARD ADOLPHUS FREDERICK.—W. Daubeny, Cirencester.
- HARD, WILLIAM HUDSON.—T. H. Strangways, 10, King's-road, Bedford-row.
- HARE, FREDERICK TRELAUNY.—C. C. Whiteford, Plymouth.
- HARRISON, GEORGE WOODS WILLISHER ROGERS.—H. P. Sharp, 92, Gresham House, Old Broad-street.
- HAYMAN, ELLIS BARTLETT.—C. W. Bond, Axminster; J. G. G. Radford, Sidmouth.
- HEATH, DAVID WILLIAM.—M. Browne, Nottingham; J. Buttery, Nottingham; J. H. Buttery, Nottingham.
- HODSON, JOHN HUMPHRIES.—T. Hodson, Lichfield.
- HUMPHREYS, GEORGE JACKS.—T. Humphreys, 14, East India Chambers, Leadenhall-street.
- HUSTLER, WILLIAM OCTAVIUS.—A. Hustler, Halstead; W. H. Sams, Clare, Suffolk.
- JONES, WILLIAM.—W. Hughes, Conway.
- KARSLAKE, CHARLES JAMES.—H. Karslake, 4, Regent-street; P. Karslake, 4, Regent-street.
- KERSHAW, THOMAS OUSEY.—H. Lees, Stalybridge.
- LAVIE, GERMAIN.—T. Oliveron, 8, Frederick's-place, Old Jewry.
- LEIGH, RICHARD.—R. Leigh, Wigan; J. J. Blandy, Reading.
- LETTA, HENRY.—J. Letts, 8 Bartlett's-buildings.
- LEWIS, LOUIS.—J. G. Lewis, 10, Ely-place, Holborn.
- LOWE, CHARLES FREDERICK.—H. Newbald, Newark-upon-Trent.
- LOWTHAIN, ISAAC.—D. McAlpin, Carlisle.
- MARSHALL, EDWARD FIELD.—J. H. Marshall, 12, Hatton-garden.
- MARSHALL, JAMES CUTCLIFFE.—G. Goldney, Chippenham; C. P. Wood, 6, Raymond-buildings.
- MARTIN, GEORGE.—J. Bush, Bradford, Wilts.
- MATHEWS, JAMES LLEWELLYN.—Defective notice, no master named.
- MATTHEWS, CHARLES MILES.—E. Tennant, Hanley.
- MESSITER, FREDERICK.—G. Messiter, Frome; M. Messiter, Frome.

MICHAELMORE, HENRY.—T. W. Gray, Exeter.
 MOODY, JOHN, jun.—F. Baker, Derby.
 MORLEY, CHARLES EDWARD.—J. Loxley, 80, Cheapside.
 OLIVER, WILLIAM ATKINSON.—W. Snowball, Sunderland.
 OSWALD, JAMES FRANCIS.—E. Weatherall, jun., Inner Temple.
 PAMPHILON, FREDERICK WILLIAM.—W. Day, 1, Queen-street, May Fair.
 PEARSON, ROBERT CAPES.—T. T. Pearson, Crowle.
 PULLEN, CHARLES ALFRED.—E. Towsey, late of Quality-court, Chancery-lane; E. Lett, Quality-court, Chancery-lane.
 RAE, JOHN.—W. Philp, 26, Buckersbury.
 REDFERN, CLEMENT COTTERILL.—J. Richards, Birmingham.
 ROWE, OCTAVIUS.—H. J. Whitehead, Cambridge.
 SMALL, WILLIAM.—S. Sanderson, Berwick-upon-Tweed.
 SMITH, ARTHUR HEAVENS.—R. J. Roberts, Worcester.
 SOUTHER, HORACE ROBERT.—R. Southee, 16, Ely-place.
 SOUTHEE, VERNON.—R. Southee, 16, Ely-place.
 STOKES, JAMES JOHN.—R. S. Hawkes, 82, High-street, South-work; 60 & 61, Paradise-street, Rotherhithe.
 STOREY, THOMAS PICKWORTH.—R. Slaney, Newcastle-under-Lyne; W. Cooper, Tunstall; E. Doyle, 2, Verulam-buildings.
 TANNER, FRANK HERBERT.—R. D. Sharp, Christchurch.
 THOMAS, WILLIAM CRUMP.—W. H. Duignan, Walsall.
 TIDY, HARMAN EDGAR.—C. Robson, 13, Clifford's-inn.
 VIANI, JOHN.—R. G. Bassett, Southampton.
 WALKER, ISAAC.—J. Ward, Burslem.
 WATKINS, WILLIAM THEODORE PITT.—C. Harris, Bristol; R. W. Pigeon, Bristol.
 WATSON, CHARLES HENRY.—H. Watson, Aylesbury.
 WATT, FRANCIS JAMES.—T. Scott, Bromsgrove; W. Gregory, 12, Clement's-inn.
 WELLS, BERNARD.—A. Wells, Nottingham.
 WHITE, ROBERT.—J. M. Stevenson, Northampton; H. Shield, Northampton.
 WHITEFORD, FERDINAND MANGER.—C. C. Whiteford, Plymouth; J. N. Bennett, Plymouth.
 WIGMORE, WILLIAM.—E. D. Conyers, Driffield.
 WILLIAMS, EDWARD, jun.—T. L. Longueville, Oswestry.
 WILLIAMS, JOHN.—R. T. Watkins, Brecon; S. B. Evans, Brecon.
 WILLIAMS, THOMAS, jun.—T. Williams, sen., Cheltenham.
 WILLIS, CHARLES.—F. Willis, Leighton Buzzard.
 WOODBRIDGE, THOMAS ANTHONY, jun.—T. A. Woodbridge, 8, Clifford's-inn.
 WRIGHT, EDWARD GREETHAM.—G. M. Gray, 9, Staple-inn; N. C. Wright, 10, Bloomsbury-square.

IN AND ON THE LAST DAY OF TRINITY TERM, 1861.

ALDRIDGE, GEORGE BRAXTON.—H. M. Aldridge, Poole [Judge's Order.]
 ATKINSON, JOHN, jun.—Edward B. Steel, Cockermouth.
 BARNARD, JOSEPH GEORGE.—G. E. Williams, Cheltenham.
 BEDFORD, CHARLES.—H. Bedford, 4, Gray's-inn-square; E. Ball, Pershore.
 BEST, WILLIAM.—J. Ralfe, Winchester.
 BRADFORD, JOR.—R. Gardner, Leamington; R. S. Gregson, Angel-court, City; J. B. Allen, Bedford-row.
 BROWN, CHARLES ABRAHAM.—J. H. Todd, Winchester.
 BURNARD, JOHN THOMAS NEWMAN.—E. E. D. Grove, and J. G. Hick, Copthall-court.
 COODE, WILLIAM.—J. Coode, St. Austell. [Judge's Order.]
 DUMBLETON, HORATIO, B.A.—J. T. Bolton, Solihull, Warwick.
 GARVEY, RICHARD EDWARD.—J. T. Tweed, Lincoln; E. Jones, 4, Millman-place, Bedford-row.
 GRAY, BENJAMIN, jun.—E. Lawrence, 14, Old Jewry-chambers.
 HARRISON, ALEXANDER, jun.—H. Hawkes, Birmingham.
 HEYWOOD, B. ARTHUR, B.A.—E. Futvoe, 23, John-street, Bedford-row.
 JONES, GEORGE AP. EYTON PARRY.—F. Potts, Chester.
 LANE, EDWARD.—W. C. Rule, 36, Milk-street, Cheapside.
 MARTINDALE, HENRY FRANK.—F. Grain, Cambridge.
 MILLS, ALFRED THORNCROFT.—W. W. King, 25, College-hill.
 MINSTER, ARTHUR.—R. H. Minster, Coventry.
 PARRY, HENRY EDWARD.—Hugh Jones, Carnarvon.
 ROGERS, WILLIAM.—J. Johnston, Chancery-lane.
 SHAROOD, CHARLES JAMES.—C. Sharood, Brighton.
 THOMPSON, JOHN.—W. R. Dunstan, Northwich, Chester.
 WHALLEY, HENRY STANLEY.—J. E. Swift, Blackburn; J. Bolton, Blackburn.
 WOOD, BENJAMIN PHILIP.—J. T. Auckland, Cliffe, near Lewes; J. Edwards, St. Swithin's-lane.
 WYATT, GEORGE HARVEY.—J. H. Hearn, Newport, Isle of Wight; J. A. A. Mew, Newport, Isle of Wight.

TRINITY VACATION, pursuant to 23 & 24 VICT. c. 127.

ACKLAND, WILLIAM FITZROY.—J. T. Collins, Saffron Walden.
 CARTWRIGHT, JOHN POSTLETHWAITE.—F. W. Massey, Chester.
 ELLIOTT, SUTTON JOHN.—C. H. Binstead, Portsmouth.
 JONES, JOHN.—W. Jones, Newtown; G. Matthews, Newtown.
 LAWES, HENRY FRICKER, jun.—T. Dix, Bristol.
 NUNNELEY, FREDERICK HEYGATE.—W. E. Chapinan, jun., Boston; M. Staniland, Skirbeck.
 OVANS, JOHN LAMBERT.—C. R. Williams, 62, Lincoln's-inn-fields.
 STEAVENSON, FRANCIS THOMAS.—A. T. Steavenson, Darlington; R. Milnes, 160, Oxford-street.
 STIMSON, WILLIAM, jun.—F. Herbert, Mill-street, Bedford.

RE-ADMISSION.

LAST DAY OF TRINITY TERM, 1861.

Longbourne, John Vickerman, 8, Taviton-street, Gordon-square.

APPLICATIONS TO TAKE OUT OR RENEW ATTORNEY'S CERTIFICATES.

JUNE 13, 1861.

Baker, Alfred, Derby; Chipping Sodbury; and Sheerness.
 Dickinson, Robert, Newcastle-upon-Tyne, Northumberland; Nice, in South of France.
 Dowson, Benjamin, Nottingham.
 Evans, George Edward, St. Helier's, Jersey.
 Jones, George Newton Swinson, Aston, Warwick.
 Menpes, James Witherden, 7, Upper Park-place, Richmond, 15, Abbey-place, St. John's Wood.
 Osbaldeston, William, Charlton Kings, Gloucestershire; and Whippingham, Isle of Wight.
 Padley, Frederick John, 52, Lincoln's-inn-fields; 3, Great Ormond-street; 158, Cambridge-street, Pimlico.
 Pater, John, 49, Hunter-street, Brunswick-square; and Chester.
 Raven, Richard, 14, Park-road, Dalston.
 Smith, John William, 24, Whitehead's-grove, Chelsea.
 Steward, Frederick Fisher, Whitehaven.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have received the Royal assent:—

BLACKPOOL AND LYTHAM.
 BRADFORD, WAKEFIELD, AND LEEDS.
 BRECON AND MERTHYR.
 BRISTOL AND SOUTH WALES UNION.
 EXETER AND EXMOUTH.
 LANCASHIRE AND YORKSHIRE (Rootle Branch).
 OSWESTRY AND NEWTOWN.
 SHREWSBURY AND WELCHPOOL.

The following Bills have passed through committee in the House of Lords:—

CORNWALL.
 LLANTRESSANT AND TAFF VALE.
 NANTWICH AND MARKET DRATTON.

The following Bills have been referred to committee in the House of Commons:—

BOGNOR AND NANTILE.
 MUCH WENLOCK.
 SITTINGBOURNE AND SHEERNESS.
 SOUTH STAFFORDSHIRE.
 STOURBRIDGE.
 WEST MIDLAND (New line).
 WORCESTER, BROMYARD, AND LEOMINSTER.

Births, Marriages, and Deaths.

BIRTHS.

COOKE—On May 16, at 31, Wimpole-street, the wife of William Major Cooke, Esq., Barrister-at-Law, of a son.
 FRY—On May 17, the wife of Edward Fry, Esq., of Lincoln's-inn, of a daughter.
 NEVILLE—On May 20, the wife of William Ralph Neville, Esq., of Esher, Surrey, Barrister-at-Law, of a son.
 SANDARS—On May 15, at Minchenden Lodge, Southgate, the

wife of Thomas C. Sanders, Esq., Barrister-at-Law, of a son.

MARRIAGES.

MORRISH—MEDLAND—On May 15, at Crediton, Devonshire, Sydney S. Morrish, Esq., to Mary Ann, daughter of the late Robert Medland, Esq. Solicitor.

SLATER—MILLS—On May 7, James Slater, Esq., Solicitor, Darlaston, to Elizabeth, daughter of Samuel Mills, Esq., Darlaston House.

SMITH—FORD—On May 15, Richard Smith, Esq., 298, High Holborn, Solicitor, to Mary, daughter of Robert Lawson Ford, Esq., of St. John's-hill, Leeds.

DEATHS.

COOPER—On May 20, Jane, wife of H. R. Cooper, Esq., Solicitor, East Dereham, Norfolk, aged 40.

GALE—On May 14, William Godwin Gale, Esq., of 50, Lincoln's-inn-fields, aged 27.

PHIPPARD—On May 10, at Wareham, William Phippard, Esq., Solicitor, aged 36.

ST. LEONARDS—On May 19, at Boyle Farm, Thames Ditton, the Right Hon. Lady St. Leonards, in her 81st year.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	232	Stock Ditto A. Stock	104
3 per Cent. Red. Ann..	89	Stock Ditto B. Stock	132
3 per Cent. Cons. Ann..	91	Stock Great Western	72
New 3 per Cent. Ann..	89	Stock Lancash. & Yorkshire	109
New 2½ per Cent. Ann..	..	Stock London and Blackwall.	61
Consols for account ..	91	Stock Lon. Brighton & S. Coast	119
India Debentures, 1858.	96	25 Lon. Chatham & Dover	46
Ditto 1859. ....	..	Stock London and N.-Westm..	93
India Stock	228	Stock London & S.-Westm..	95
India 3 per Cent. 1859..	101	Stock Man. Sheff. & Lincoln..	42
India Bonds (£1000) ..	23 dis.	Stock Midland	120
Do. (under £1000).....	..	Stock Ditto Birm. & Derby	95
Exch. Bills (£1000)....	6 dis.	Stock Norfolk	54
Ditto (£300).....	6 dis.	Stock North British	62
Ditto (Small) ..	par.	Stock North-Eastn. (Brwck.)	102
RAILWAY STOCK.		Stock Ditto Leeds	59
Stock Birk. Lan. & Ch. June.	83	Stock Ditto York	90
Stock Bristol and Exeter ..	99	Stock North London.....	97
Stock Cornwall	6	Stock Oxford, Worcester, &	..
Stock East Anglian	17	Stock Shropshire Union ..	48
Stock Eastern Counties	50	Stock South Devon	41
Stock Eastern Union A. Stock	40	Stock South-Eastern	79
Stock Ditto B. Stock	29	Stock South Wales	65
Stock Great Northern	109	Stock S. Yorkshire & R. Dun	96
		25 Stockton & Darlington	40
		Stock Vale of Neath	83

London Gazettes.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, May 21, 1861.

GROUX'S IMPROVED SOAP COMPANY (LIMITED).—Commissioner Fonblanque has appointed June 12, at 2, to proceed in settling the list of contributions of this company.

FRIDAY, May 24, 1861.

PROFESSIONAL LIFE ASSURANCE COMPANY (REGISTERED).—The Master of the Rolls has appointed Robert Palmer Harding, 3, Bank-buildings, London, Accountant, Official Manager of this Company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, May 21, 1861.

FAWCHETT, JOHN, Farmer, Pallet Hill, Dacre, Cumberland. Cant & Fairer, Solicitors, Penrith. June 25.

FENTON, GEORGE, Baker and Corn Dealer, Kennal-green, Harrow-road, Middlesex. Philp & Son, Solicitors, 26, Bucklersbury, London. June 30.

FIDLER, JOHN, Plumber and Glazier, Penrith, Cumberland. Cant & Fairer, Solicitors, Penrith. June 10.

HABARD, RICHARD, Veterinary Surgeon and Blacksmith, Hampstead, Middlesex. Tatham & Procter, Solicitors, 36, Lincoln's-inn-fields, London, W.C. July 1.

HEMINGTON, THOMAS FISHER, Gent., Uplyme, Devonshire. Child, Solicitor, 11, Old Jewry Chambers, Old Jewry, London. Aug. 1.

JONES, ROBERT OWEN, Esq., Black Fen, near Eltham, Kent. Walker & Jerwood, Solicitors, 12, Fumival's-inn, London. July 18.

LUTTRELL, ANN SPRINGER, Widow, 22, Michael's-place, Brompton, Middlesex. Oliphson, Lavis, & Peachey, Solicitors, 8, Frederick's-place, Old Jewry, London. June 18.

NEWMAN, NOAH, Farmer, Newhouse Farm, Berkhamstead, St. Peter, Hertfordshire. Grover, Solicitor, Hemel Hempstead, Herts. Aug. 1.

TANNER, EDWARD, Sen., Farmer, Chesterton, Oxfordshire. Foster, Solicitor, Bleicester, Oxon. June 1.

WALKER, CHARLOTTE, Spinster, Kemp Town, Brighton. Fyson, Tathams, Curling, & Walls, Solicitors, 3, Frederick's-place, Old Jewry, London. July 1.

FRIDAY, May 24, 1861.

BEALE, JAMES, Wheelwright, Northiam, Sussex. Philcox, Baldock, & Philcox, Solicitors, Burwash, Sussex. July 8.

BOURNE, CHARLES, Gent., Atherstone, Warwick. Power & Pilgrim, Solicitors, Atherstone. August 1.

COLE, SCOTT, Widow, Talbot-inn, Hartlebury, Worcester. T. F. Cook, Solicitor, Stourport. July 1.

DODSON, PHILIP, Merchant & Builder, Weymouth and Melcombe Regis, Dorset. Henning, Solicitor, Dorchester. June 6.

FRANKLIN, BETSY, Widow, Devonport. Gard, Solicitor, 20, St. Aubyn-street, Devonport. Sep. 17.

GOUGH, WILLIAM, Wholesale Stationer, Bristol-road, Birmingham. Foster, Solicitor, Paradise-street, Birmingham. June 29.

HUBBARD, WILLIAM, Gent., Valletort-place, Stoke Damerel, Devon. Gard, Solicitor, 20, St. Aubyn-street, Devonport. Sep. 18.

JENKINS, MARIA ELIZA, Widow, Maney, Sutton Coldfield, Warwickshire. Foster, Solicitor, Paradise-street, Birmingham. June 29.

KNOX, ANDREW, Slater, 5, Bowyer-place, Camberwell, Surrey. Parker & Lee, Solicitors, 18, St. Paul's-churchyard, London. July 28.

LINDSAY, RALPH, Esq., Durham Lodge, Norwood, Surrey. Duncan, Solicitor, 81, Basinghall-street, London. August 1.

STEPHENSON, WILLIAM, Gent., Clarendon-road, Putney, Surrey. Lloyd, Solicitor, 1, Wood-street, Cheapside, London. August 1.

WALKER, JOHN, Smallware Manufacturer, 63, Thomas-street, Manchester, and Newton-gardens, Newton, Manchester. Needham, Solicitor, 3, York-street, Fountain-street, Manchester. June 24.

WILLIAMS, JAMES HENRY, Rutton Manufacturer, Newhall-street, Birmingham, and late of Wheeler-street, Loxells Aston Manor. Foster, Solicitor, Paradise-street, Birmingham. June 29.

WYATT, GEORGE, Bacon Factor, Plymouth, Devonshire. Gard, Solicitor, 20, St. Aubyn-street, Devonport. Nov. 17.

Assignments for Benefit of Creditors.

TUESDAY, May 21, 1861.

BIRNS, THOMAS, Ship Carpenter, Runcorn, Chester. Sol. Harrison & Ashton, Frodsham. May 9.

DIXON, THOMAS, Optician and Jeweller, Norwich. Sol. Shearman, & John-street, Adelphi, London. May 11.

LEE, WILLIAM, Builder, South Retford, Ordsall, Nottinghamshire. Sol. Mee, Burnaby, & Denman, Solicitors, East Retford. May 14.

MAGGS, FRANCIS, Flax Spinner, Honiton, Dorsetshire, and Penn Mills, Somersetshire. Sol. Hindley, 10, Old Jewry Chambers, London. May 11.

MORRELL, THOMAS, Painter, Llandudno, Carnarvonshire. Sol. Rees & Farrant, Llandudno. April 26.

MORGAN, JAMES, Hatter, 37, Elgin-street, Hereford. Sol. King & Plummer, 5, Exchange-buildings, East, Bristol. April 26.

SHAW, JOSEPH, Chemist and Druggist, Warrington, Lancaster. Sol. Danton & Greaves, Ashton-under-Lyne. April 3.

WOOLCOTT, JOSEPH, Linen Draper & Silk Merchant, 139, Regent-street, Middlesex. Sol. Druce & Sons, 10, Billiter-square, London, E.C. May 4.

FRIDAY, May 24, 1861.

ARNOLD, WALTER ALDOUS LE NEVE, Gent., Kelvedon, Essex. Sol. Stevens & Beaumont, Church-street, Great Coggeshall. April 15.

BARTER, JOHN, Grocer, Newton Abbot, Devonshire. Sol. Francis & Baker, Newton Bushel. April 30.

EVISON, JOHN, Butcher & Farmer, Louth. Sol. Bell, Louth. May 21.

FORD, FREDERICK, Ironmonger, Bedford. Sol. Eagles, jun., Bedford. May 18.

HAVELL, ANNE WEST, Professor of Music, Weymouth and Melcombe Regis. Sol. Howard, Weymouth. April 12.

HISSE, JEREMIAH, Baker & Licensed Victualler, Weymouth. Sol. Howard, Weymouth. Feb. 11.

HILL, SAMUEL WILLIAM, Confectioner, Weymouth and Melcombe Regis. Sol. Howard, Weymouth. March 12.

HUNT, JAMES, jun., Carpenter & Builder, East Cowes, Isle of Wight. Sol. Eldridge, Newport, Isle of Wight. May 12.

JOLLEY, ALFRED, Farmer, Banham, Norfolk. Sol. Garrod, Diss. May 14.

JONES, BENJAMIN, Dealer in Boots & Shoes, Brecon. Sol. Games, Brecon. May 15.

MCKENZIE, JOHN, Jeweller, Sheffield. Sol. Saunders, 41, Cheney-street, Birmingham. April 26.

MILLER, THOMAS, Butcher and Cord-wainer, Mayfield, Sussex. Sol. Spott, Mayfield. May 11.

MOORE, GEORGE, Victualler, Fore-street, Devonport. Sol. Edmonds and Sons, 8, Parade, Plymouth. May 6.

REEVES, GEORGE, Grocer and Carrier, Bracknell, Berks. Sol. Beale, 17, London-street, Reading. April 6.

SMITH, HENRY, Tailor, Liverpool. Sol. Martin, Well-house, Merseyside, Walton-on-the-Hill, Lancaster. April 26.

Creditors under Estates in Chancery.

Last Day of Proof.

FRIDAY, May 24, 1861.

DENT, WILLIAM FREDERICK (formerly Hippon), 61, Strand, Middlesex, and Royal Exchange, London. Dent v. Buckney, M.R. June 12.

(County Palatine of Lancaster.)

FRIDAY, May 24, 1861.

ACRON, ALICE, Butcher, Liverpool. Goodwin v. Fisk, Registrar of Court, 1, North John-street, Liverpool. June 24.

Bankrupts.

TUESDAY, May 21, 1861.

BLACKMORE, WILLIAM HENRY, Plumber, Painter, & Glazier, 11, Dean-street, Soho-square, Middlesex. Com. Evans: May 31, and June 27, at 11; Basinghall-street. Off. Ass. Bell. Sol. Dod & Longstaffe, 19, Great Portland-street, Oxford-street. Pet. May 17.

FOSTER, WILLIAM, Cloth Cap Manufacturer, Manchester. Com. Jemmett: June 7 & 28, at 12; Manchester. Off. Ass. Fraser. Sol. Booth, Brown-street, Manchester. Pet. May 17.

GUILLAUME, GUILLAUME, Watch and Clock Maker, St. Leonard's-terrace, Mount Radford, St. Leonard, Devonshire, and 25, Cathedral-yard, Exeter. Com. Andrews: June 4, and July 3, at 12; Exeter. Off. Ass. Hirtzel. Sol. Flood, Exeter. Pet. May 17.

LYNN, JAMES, Licensed Victualler, Mitre Public-house, Deptford, Kent. Com. Goulburn: May 31, and June 27, at 12; Basinghall-street. Off. Ass. Pennell. Sol. Martineau & Reid, 9, Raymond's-buildings, Gray's-inn, London. Pet. May 9.

MCCARTHY, PATRICK, Fent & Rag Dealer, Manchester. Com. Jemmett: June 6 and 27, at 12; Manchester. Off. Ass. Fraser. Sols. Sale, Worthington, Shipman, & Seddon, Manchester. Pet. May 10.
MINSHULL, LUKE, Banker & Scrivener, Bromsgrove, Worcestershire. Com. Sanders: June 6 and 27, at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, Birmingham; or Housman, Bromsgrove. Pet. May 13.
SERJEANT, WILLIAM, Builder & Contractor, 37, Liddell-street, Kingston-upon-Hull. Com. Ayrton: June 5, and July 3, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sol. Spurr, Kingston-upon-Hull. Pet. May 15.
SHORT, STEPHEN SAM, Boot & Shoe Manufacturer, 133, Shoreditch, Middlesex. Com. Holroyd: June 1, at 1; and July 2, at 2.30; Basinghall-street. Off. Ass. Edwards. Sol. Wells, 47, Moorgate-street, London. Pet. May 15.
STUART, JOHN, Draper, High-street, Portsmouth. Com. Holroyd: June 4, at 2.30; and July 9, at 12; Basinghall-street. Off. Ass. Edwards. Sols. Davidson, Bradbury, & Hardwick, 22, Basinghall-street, London. Pet. May 17.
TUCKER, NICHOLAS, Cattle Salesman, Moorwinstow, Cornwall. Com. Andrews: June 4, and July 3, at 12; Exeter. Off. Ass. Hirtzel. Sol. Kingdon, Holsworthy; or Turner & Hirtzel, Exeter. Pet. May 13.
WILSON, JOHN, Boot & Shoe Maker, Liverpool. Com. Perry: June 3 and 24, at 11; Liverpool. Off. Ass. Bird. Sol. Eddy, Liverpool. Pet. May 9.

FRIDAY, May 24, 1861.

BIRCH, THOMAS, Cotton Spinner and Manufacturer, Manchester. Com. Jemmett: June 11, and July 4, at 12; Manchester. Off. Ass. Pott. Sols. Brooks, Marshall, & Brooks, Manchester. Pet. May 17.
CAVE, GEORGE WILLIAM, Bleacher, Nottingham. Com. Sanders: June 6 and 25, at 11; Nottingham. Off. Ass. Harris. Sols. W. & R. Enfield, Nottingham. Pet. May 15.
COOK, JAMES, & HENRY BICKERTON GREENWOOD, Wine and Spirit Merchants, 44, Mark-lane, London (Cook & Greenwood). Com. Goulburn: June 5, at 2.30; and July 1, at 12; Basinghall-street. Off. Ass. Pennell. Sols. Marten, Thomas, & Hollams, Mincing-lane, London. Pet. May 23.
CROSWLEY, JOHN, JUN., Cotton Spinner, Manchester, and of Hebden-bridge, Yorkshire. Com. Jemmett: June 4 and 26, at 12; Manchester. Off. Ass. Herniman. Sols. Charlewood & Ormerod, Manchester. Pet. May 14.
EAST, WILLIAM, Currier, Sudbury, Suffolk. Com. Holroyd: June 4, and July 2, at 2.30; Basinghall-street. Off. Ass. Edwards. Sols. Maddox & Wyatt, 30, Clement's-lane, Lombard-street, London; or Sewell & Cardinal, Haisted. Pet. May 22.
VAN GELDER, HENRY, Merchant, 24, Crutched-friars, London. Com. Fane: June 6, at 2, and July 5, at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Boy & Cartwright, 4, Lothbury. Pet. May 14.
MARSH, JOHN WILLIAM, Printer, Bookseller, & Stationer, Tipton, Staffordshire, and Birmingham. Com. Sanders: June 6 & 27, at 11; Birmingham. Off. Ass. Kinnear. Sols. James & Knight, Birmingham; or Bourne & Son, Dudley. Pet. May 21.
M'CHERRY, WILLIAM, & WILLIAM M'NEILL, Provision Agents, 2, Adelaide-place, London Bridge (William M'Cherry & Co.) Com. Holroyd: June 4, at 11.30, and July 9, at 12; Basinghall-street. Off. Ass. Edwards; Sols. Hoppe & Hoyle, 3, Sun-court, Cornhill, London. Pet. May 15.
SMITH, JOHN EDWARD, Shirt & Collar Manufacturer, 2, Trump-street, Cheapside, London. Com. Fonblanque: June 4, at 1.30, and July 3, at 12; Basinghall-street. Off. Ass. Stansfeld. Sol. Brislley, 4, Pancras-lane, Cheapside. Pet. May 23.
SHAFER, ALEXANDER THOMAS, Licensed Victualler, Forsbrook, Dithorn, Staffordshire. Com. Sanders: June 6 and 27, at 11; Birmingham. Off. Ass. Whitmore. Sols. Litchfield, Newcastle-under-Lyne; or James & Knight, Birmingham. Pet. May 17.
STILLMAN, WILLIAM, Leather Cutter, Newbury, Berks. Com. Evans: June 4, and July 4, at 12; Basinghall-street. Off. Ass. Johnson. Sols. Rickards & Walker, 29, Lincoln's-inn-fields, or Cave, Newbury. Pet. May 21.
THOMAS, FREDERICK WILLIAM, Auctioneer & Commission Agent, 50, Basinghall-street, London (F. W. Thomas & Co.) Com. Fonblanque: June 4, at 11, and July 3, at 12.30; Basinghall-street. Off. Ass. Stansfeld. Sol. Chidley, 25, Old Jewry, London. Pet. May 2.
THOMPSON, GEORGE, Tailor, Stockport-road, Manchester. Com. Jemmett: June 11, and July 3, at 12; Manchester. Off. Ass. Pott. Sols. Reed, 3, Gresham-street, London; or Sale, Worthington, Shipman, & Seddon, Manchester. Pet. May 14.

BANKRUPTCIES ANNULLED.

TUESDAY, May 21, 1861.

READING, WILLIAM, Coach Builder, Mortimer-street, Cavendish-square, Middlesex. Nov. 7.
REYKES, THOMAS, Grocer & Builder, William-street, Swansea, Glamorganshire. May 16.
WOOD, PETER HENRY, Brewer, Manchester. May 17.

FRIDAY, May 24, 1861.

CRABB, WILLIAM, & JOHN COUCH CRABB, Cotton Spinners and Manufac. turers, Lees Hall, Higher-mill, Oldham, and Ashenbush-mill, Blackley. May 21.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, May 21, 1861.

AKSILL, JAMES, Contractor, Seven Sisters-road, Upper Holloway, Middlesex. June 11, at 11.30; Basinghall-street.—**BELL, THOMAS**, Machine and Roller Maker, Bolton, Lancaster. June 14, at 12; Manchester.—**COOPER, JOHN**, Butter Merchant and Commission Agent, Hanging Ditch, Manchester. June 13, at 12; Manchester.—**FREELAND ROBERT**, Manchester, and **JOHN FREELAND**, Kirkintilloch, Dumbartonshire, Scotland (Robert Freeland and Brother). June 19, at 12; Manchester: sep. est. Robert Freeland; sep. est. John Freeland.—**HIRST, JOSEPH BARBER**, Cloth Manufacturer, Holme, Almondsbury, Yorkshire. June 16, at 11; Leeds.—**HODGSON, JAMES LAYLAND**, Money Scrivener, Manchester. June 12, at 12; Manchester.—**MCCALLA, JOHN, and ALEXANDER FOTHERINGHAM**, Warehousemen and Commission Agents, Friday-street, Cheap-side, London. June 11, at 1.30; Basinghall-street.—**MOSS, WILLIAM**, Boot and Shoe Manufacturer, Macclesfield. June 13, at 12; Manchester.—**ROGERSON, JAMES**, Linen and Woollen Draper, East Hartlepool, Durham (James Rogerson & Co.) June 16, at 12.30; Newcastle-upon-Tyne.—**ROSENTHAL, SIMON JONAS**, and **HENRY SIMON ROSENTHAL**, Billiard Table Proprietors, 11, Dale-street, Liverpool, and 2, Newington,

Liverpool. June 10, at 11; Liverpool. Sep. est. Simon Jonas Rosenthal; same time joint estate.—**SNOWDON, ROBERT**, Carver and Gilder, Looking Glass and Picture Frame Manufacturer, and Dealer in Prints, Newcastle-upon-Tyne. June 14, at 12; Newcastle-upon-Tyne.—**STEVEN, ROBERT COCKBURN**, Grocer and Provision Dealer, West Hartlepool, Durham. June 19, at 12; Newcastle-upon-Tyne.

FRIDAY, May 24, 1861.

BURFORD, JOHN, and JAMES THOMPSON, Ironmasters, Bradley Hall Iron-works, Bilston, Stafford. June 24, at 11; Birmingham.—**FARRAR, JOSEPH**, Grocer and Tea Dealer, Bolton-street, and Fleet-street, Bury, Lancaster. June 19, at 12; Manchester.—**KILBY, WILLIAM**, Contractor and Builder, Church End, Willesden, Middlesex. June 4, at 2; Basinghall-street.—**HENRY MANN**, Miller, Chesterton, Cambridge. June 4, at 12; Basinghall-street.—**SEVENSTER, SYDNEY JAMES** Merchant, 72, Mark-lane, London. June 14, at 1; Basinghall-street.

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s; copies 1s., or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process.—Adv.

THE CHILDREN'S PHOTOGRAPHER.—Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary.—Adv.

WHY BURN GAS IN DAYTIME? Use Chappuis' reflectors; they diffuse daylight in dark places. The patentee and manufacturer is Mr. Chappuis, 69, Fleet-street.—Adv.

STATE FIRE INSURANCE COMPANY.—Chief

Offices, 22, Ludgate-hill, and 3, Pall-mall east, London.

Chairman—The Right Hon. Lord KEANE, Stetchworth-park, Newmarket.

Managing Director—PETER MORRISON, Esq.,

Capital, Half-a-Million.

13,926 new policies were issued during the year ending

31st of March, 1860, insuring £6,229,918 6 2

New premiums for the year ending 31st of March, 1860. 23,476 8 0

Total premium income for the year ending 31st of March,

1860 41,700 5 1

The increase of Government duty paid by the State Fire Insurance Company in 1859, exceeded that of 29 other companies, while the increase upon farming stock insurances effected with the State Fire Insurance Company during the year 1859 exceeded that of 26 other offices.

This Company grants insurances against Fire on every description of property, both at home and abroad.

Plate-glass insured against breakage.

Agents Wanted, to whom a liberal commission will be allowed. Application to be made to the Secretary, 22, Ludgate-hill.

WILLIAM CANWELL, Secretary.

BRITISH MUTUAL INVESTMENT, LOAN

and DISCOUNT COMPANY (Limited),

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £300,000, in 20,000 shares of £10 each. £3 per share paid.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. PATTESON & COBBOLD, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal, is 5 per cent.

LOANS.—Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained. JOSEPH K. JACKSON, Secretary.

SPECIAL NOTICE.

PELICAN LIFE INSURANCE OFFICE,

ESTABLISHED IN 1797.

No. 70, Lombard-street, E.C., and 37, Charing Cross, S.W.

DIRECTORS.

Octavius E. Coope, Esq. Henry Lancelot Holland, Esq.
 William Cotton, Esq. D.C.L., F.R.S. William James Lancaster, Esq.
 John Davis, Esq. John Lubbock, Esq., F.R.S.
 Jas. A. Gordon, Esq., M.D., F.R.S. Benjamin Shaw, Esq.
 Edward Hawkins, Jun., Esq. Matthew Whiting, Esq.
 Kirkman D. Hodgson, Esq., M.P. M. Wyvill, Jun., Esq., M.P.

Robert Tucker, Secretary and Actuary.

BONUS.

All Policies effected on the Return System, and existing on the 1st July, 1861, will participate in the next Division of Profits, subject to such of them as have not then been in force for five years, being continued until the completion of that period.

LOANS

On Life Interests in possession or reversion: also upon other approved Security in connection with Life Assurance.

••• For Prospectuses, Forms of Proposal, &c., apply at the Offices as above, or to any of the Company's Agents.

To Landowners, the Clergy, Solicitors, Estate Agents, Surveyors, &c.

THE LANDS IMPROVEMENT COMPANY is incorporated by special Act of Parliament for England, Wales, and Scotland. Under the Company's Acts, tenants for life, trustees, mortgagees in possession, incumbents of livings, bodies corporate, certain leasees, and other landowners, are empowered to charge the inheritance with the cost of improvements, whether the money be borrowed from the Company or advanced by the landowner out of his own funds.

The Company advance money, unlimited in amount, for works of land improvement, the loans and incidental expenses being liquidated by a rent-charge for a specified term of years.

No investigation of title is required, and the Company, being of a strictly commercial character, do not interfere with the plans and execution of the works, which are controlled only by the Enclosure Commissioners.

The improvements authorised comprise drainage, irrigation, warping, embanking, enclosing, clearing, reclaiming, planting, erecting, and improving farm-houses, and buildings for farm purposes, farm roads, jetties, steam-engines, water-wheels, tanks, pipes, &c.

Owners in fee may effect improvements on their estates without incurring the expense and personal responsibilities incident to mortgages, and with out regard to the amount of existing incumbrances. Proprietors may apply jointly for the execution of improvements mutually beneficial, such as a common outfall, roads through the district, water-power, &c.

For further information, and for forms of application, apply to the Hon. WILLIAM NAPIER, Managing Director, 2, Old Palace-yard, Westminster.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, PALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,987 10	£6,987 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1859, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order, E. L. BOYD, Resident Director.

EQUITABLE REVERSIONARY INTEREST SOCIETY, 10, Lancaster-place, Strand.

Persons desirous of disposing of Reversionary Property, Life Interests, and Life Policies of Assurance, may do so at this Office to any extent, and for the full value, without the delay, expense, and uncertainty of an Auction.

Forms of Proposal may be obtained at the Office, and of Mr. Hardy, th Actuary of the Society, London Assurance Corporation, 7, Royal Exchange.

JOHN CLAYTON, } Joint Secretaries.
F. S. CLAYTON, }

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1836.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

TO SOLICITORS.—An Established Auctioneer

wishes to enter into arrangements for the introduction of Business, viz.:—Sales, Valuations, the duties of Receiverships, &c., upon Half Terms. All communications strictly confidential. References.

Address, T. P., 15, Carey-street, Lincoln's-inn, W.C.

YATES & ALEXANDER,

6, HORSESHOE COURT, LUDGATE HILL, E.C.

Printers of the *Solicitors' Journal* and *Weekly Reporter*.

Possessing a large and efficient staff of men thoroughly accustomed to all kinds of LAW PRINTING, are enabled to offer to the Profession the advantages of the greatest accuracy and despatch in the printing of Bills Answers, Claims, &c.

OFFICES—6, HORSESHOE COURT, LUDGATE HILL.

(Entrance between No. 32, the State Fire Office, and No. 33, Benson's, Aldersmith.)

CHARING-CROSS HOSPITAL, West Strand.—

This Charity has now entered the 45th year of its existence, and the Governors indulge the hope that its operations will always be found worthy of adequate support.

Its exertions comprehend the relief annually of from 16,000 to 17,000 sick and disabled poor, including 3,000 cases of accident (many of great severity and danger), and constant accommodation for upwards of 100 in-patients in the wards. The annual cost is about £3,000. The following contributions are thankfully acknowledged:—

G. F. Heneage, Esq. £10 10 0 | Mrs. E. C., add £50 0 0
Mrs. F. C., add 50 0 0 | H. Cunliffe, Esq. 40 0 0

CHILDREN'S WARDS.

To render the Hospital still more efficient, the Council are anxious to bring into useful operation the Wards for Children, hitherto unoccupied for want of funds: a measure which alone remains to complete the designs of the founders. It has been estimated that the addition of £330 annually to the income of the Hospital would suffice for its accomplishment, an addition which it is earnestly hoped public benevolence will supply.

A generous benefactor has commenced a subscription for the purpose by a donation of £500, to which the following liberal contributions have been added, and the Council anxiously solicit the assistance of other supporters to the good work.

W. Stuart, Esq. £500 0 0	R. Few, Esq. £100 0 0
Dr. Golding 10 10 0	Ditto 3 0 0
J. Greenwood, Esq. 5 5 0	J. Wilkinson, Esq. 5 5 0
H. Walmisley, Esq. 50 0 0	Ditto 1 1 0
T. Tilson, Esq. 20 0 0	Charles Few, Esq. 50 0 0
Rev. R. H. Cooper 3 0 0	James Parker, Esq. 10 10 0
R. Cobbett, Esq. 10 10 0	Surplus of Subscription
Ditto 1 1 0	for a Testimonial to
E. Wilder, Esq. 10 10 0	Dr. Golding and Mr.
Lord Egerton of Tatton 50 0 0	Robertson 60 12 0

ENDOWMENT FUND.

To ensure the permanence of the useful objects of the Hospital, and to assist in providing against the serious losses which it sustains with painful frequency by the death of kind supporters, a Permanent Endowment Fund has been established, which, when further promoted by benefactions or bequests, will afford some steady source of income, in addition to that arising from casual and therefore uncertain subscriptions. The dividends from this source will substantially assist the regular disbursements of the Hospital, while the invested principal will be held intact and inviolate.

Very valuable assistance has been rendered by the legacies of deceased benefactors, and as upon this source the continued welfare of the Hospital must in great part depend, it may be respectfully stated to those benefactors who may be desirous to endow, by benefaction or bequest, a ward, or one or more beds, to bear in perpetuity the name of the donor, or of one whose memory he cherishes and would wish to identify with a permanent work of charity, that such desire can be fulfilled in accordance with the regulations of this Hospital.

The following additional contributions are thankfully acknowledged:—

Thomas Raymond Barker, Esq., add., £25,	The Rev. A. Chisold £50 0
making up £100 0 0	Messrs. Gale & Co. add. 5 5
	Messrs. Cox & Co. 100 0

Donations for the current objects of the Hospital, or for the Children's Wards, or the Endowment Fund, will be thankfully received by the Secretary, at the Hospital; and by Messrs. Coutts, Messrs. Drummonds, Messrs. Hoare, and Messrs. Herries; and through all the principal bankers.

April, 1861.

JOHN ROBERTSON, Hon. Sec.

WINES for the NOBILITY and GENTRY.

WINES for the ARMY and NAVY.

WINES for the CLERICAL, LEGAL, and MEDICAL PROFESSIONS.

WINES for PRIVATE FAMILIES.

PURE and UNADULTERATED GRAPE WINES from the SOUTH of FRANCE.

VENDED by the PROPRIETORS of the VINEYARDS.

THE FRENCH VINEYARD ASSOCIATION

have taken extensive cellarage at the West-end of London, for the purpose of introducing FRENCH WINES only to the British public at FRENCH TRADE PRICES; and the members of that Association being proprietors of the most esteemed growths in France, the Nobility, Gentry, and Families patronising such Wines, will become assured of their genuineness.

THE EMPRESS PORT,

20s. per dozen. Sent free, bottles included, to any British Railway Station, on receipt of an Order on Charing-cross Post-office for 22s. 6d., payable to A. Hoppe, Director.

THIS EMPRESS PORT,

is pure grape, of first-class quality, and delicious taste; the very Wine for family consumption.

CHAMPAGNE, equal to Moët's, 42s.

SPARKLING BURGUNDY

("The Glorious Bumper") at 48s. per dozen.

Pure CLARETS from 16s. to 84s. per dozen.

Tariffs of other Wines sent post free.

Cheques requested to be crossed "London and Westminster Bank."

FRENCH VINEYARD ASSOCIATION,

32, REGENT CIRCUS, PICCADILLY, LONDON, 1861.

PURE BUT ECONOMICAL WINES for RACES.

THE GUINEA DINNER SHERRY, admired by all.

THE CHANCELLOR'S CLARET, at SIXTEEN SHILLINGS.

Bottles and Cases included. Choice Wines moderate.

R. H. C. PALLET, 99, Leadenhall-street, E.C.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, JUNE 11861.

CURRENT TOPICS.

The Lord Justice Clerk of Scotland, as president of the second division of the Inner House, took occasion a few days ago, when considering the recent judgment of the House of Lords in the Marquis of Bute's case, to make some caustic observations upon the decision of their lordships in this case, and upon the reasons of the Lord Chancellor, contained in the opinion which he then expressed to the House. After the judgment of the House of Lords had been pronounced, all that the Scotch Court had to do was to pronounce an order for the carrying out of the directions contained in the judgment of the superior Court. There was no question whatever as to the jurisdiction of the House of Lords; and, of course, the Court of Session—somewhat too jealous, as it undoubtedly is, of its own jurisdiction—could not pretend either to disregard, or to impugn, what the House of Lords had done. The Court of Session, however, complains that the House of Lords, exercising in this case a purely appellate jurisdiction, has pronounced a judgment disposing of the case upon its general merits. But this is no more than what frequently occurs in all courts of appeal where there has been a miscarriage in the Court below, or where such Court has not judicially heard and decided the question, which, in fact, owing to some misconception, it refused to entertain. The Lord Justice Clerk, however, appears to have been very much offended by an observation which dropped from the Lord Chancellor, to the effect that the Court of Session had been influenced by a resentful feeling about the decision in the House of Lords in the well-known case of *Johnstone v. Beattie* (10 Cl. & F. 42). In that case it was held by the Lords, affirming an order of Lord Chancellor Cottenham, that Scotch testamentary tutors and curators were not testamentary guardians in England, according to the Act of Charles II. (12 Car. 2, c. 24), and that the Court of Chancery had jurisdiction to appoint a guardian to an infant, although not only her domicile but all her property were situated in Scotland; and it was further held (but against the opinion both of Lord Brougham and Lord Campbell), that although the Scotch testamentary tutors have the exclusive control over all the infant's property, they had neither authority over nor power to protect the infant in England, nor were they entitled by international law to be confirmed or appointed English guardians. Lord Campbell said in his judgment the other day that "Whatever opinion the Scotch judges may justly form of the decision of the House of

Lords in *Johnstone v. Beattie*, they would have acted with more dignity and more magnanimously, as well as judicially, if they had calmly and promptly considered what was for the benefit of the infant." The Scotch judge in replying upon this, observes, "It is truly lamentable that the Court of Session and the rules and principles which guide and regulate its proceedings, should be so little appreciated or understood in a court of appeal." And then he proceeds to lay down the startling doctrine that *Johnstone v. Beattie* is not an authority binding in Scotland, inasmuch as it was a decision upon an appeal from an English and not from a Scotch court. "When," says the Lord Justice Clerk, "that case was brought under the notice of the Scotch judges, it was universally felt that however sound an exposition it might furnish of the rules of English chancery law, it involved a violation of the principles of international law recognised in Scotland and all the States of the Continent of Europe, so direct and unequivocal, that I believe that the very last thing that would enter into the mind of a Scotch judge, would be to follow the authority, or adopt the principle, of *Johnstone v. Beattie*." The question here raised is certainly one of considerable importance, and affords another striking illustration of the disadvantage of the distinct judicatures and systems of law for the two countries of England and Scotland, and of the inconvenience which must always result from the anomaly of there being nevertheless the same Supreme Court of Appeal for both. According to the proposition of the Lord Justice Clerk, even where the House of Lords arrives at a clear and positive decision, establishing certain distinct propositions of law, yet they can be deemed as obligatory only upon that portion of the empire from which the appeal came, although the doctrine laid down is not of a local, but of a general character. According to the Lord Justice Clerk the Scotch judges are at liberty, not only to reject the authority, but also the very principle of the decision of *Johnstone v. Beattie*, although that principle, according to the judgment of the House of Lords, was founded upon what the House considered to be the rule of international law. Hitherto it has always been considered in this country, in Ireland, and in the colonies, that any decision of the House of Lords was always to be considered as a binding authority upon every interior court throughout the empire, and that *in pari materia* it was to be accepted as conclusive, although the judgment of the House of Lords might have been given upon appeal brought from a tribunal or even a part of the empire other than that in which the new case arises. At all events, it does appear utterly preposterous for the Court of Session to repudiate the authority of the House of Lords upon a question of international law, which, above all other departments of jurisprudence, is one in which the decisions of the House of Lords ought to be most unhesitatingly accepted. The time, in fact, has long since arrived when the three kingdoms ought to have one system of laws, of courts, and of procedure. There can hardly be a greater absurdity of the kind than the question which underlies the whole of this unseemly contention between the English and Scotch courts, which is simply, whether the infant Marquis of Bute is English or Scotch. Upon this, of course, a very lively and lasting discussion might be raised, but all to no other purpose than to involve the young Marquis and his friends in very needless, troublesome, and protracted litigation, and to prove to the world the absurdity of having such a thing as Scotch as distinct from English domicile, and of having different systems of jurisprudence and sets of tribunals for the two countries. It is certainly full time to put an end to the theory that each is to the other a foreign country, and that the Court of Session is to affect as much ignorance of a decree of the Court of Chancery as if it had been made by the French Court of Cassation. The Foreign Law Ascertainment

Bill, of which we gave an account last week, will do much to facilitate reciprocity between all the courts of the three kingdoms and the tribunals of really foreign countries, but it will do nothing towards abolishing the absurd anomaly of not only distinct but often very conflicting systems of law, and still more conflicting acts, of tribunals in England and Scotland, notwithstanding the two countries are now and have been for a considerable time to nearly every reason and intent of purpose a united and identical whole.

We have not yet heard of any instance in which the new General Order of Chancery relating to the *visu voce* examination of witnesses before the Court has been acted upon, and it appears not unlikely that it may share the fate of Sir Hugh Cairns' attempt to introduce a British jury within the precincts of Lincoln's-inn, which seems now to be regarded by Chancery practitioners as altogether obsolete. As, however, no cross-examinations can in future take place before the examiners of the court, it will be impossible to avoid in some cases the cross-examination of witnesses before the judge. But where any party desires that the evidence in chief may be taken *visu voce* at the hearing, the burden is thrown upon him to take out a summons before the judge at chambers, specifying distinctly what particular facts or issues he desires to prove *visu voce* at the hearing of the cause, the judge having the power to refuse the application; but so long as this practice continues it is not very likely that in many cases parties will be found willing to undergo the risk of a preliminary contest before the judge at chambers, which can hardly fail to involve an untimely general discussion of the whole case, and where, at most, an order can be obtained for leave to give oral evidence as to certain facts or issues, and not generally to prove the plaintiff's or defendant's case. It is therefore very probable that the effect of the recent General Order will be confined for the most part to the cross-examination of witnesses.

It does not appear that any thing has been yet definitively settled about the new examinations under the Attorneys and Solicitors Act of last session. The Incorporated Law Society, three months ago, proposed a detailed scheme which appeared at the time in these columns and was then the subject of a good deal of discussion, and of dissent, on the part of the ten years' clerks. It is said that this scheme has been ever since under the consideration of the chief judges of the common law courts and the Master of the Rolls, with whom it rests, according to the provisions of the Act, to regulate the examinations which it prescribes. We believe, however, that they have not yet arrived at a decision, and article clerks need, therefore, have nothing to fear about a preliminary examination, whether in general knowledge or in law, until the new legal year, which will commence next Michaelmas Term.

The country law societies are following the example of their metropolitan brethren, in presenting petitions to Parliament for the adjustment of the income-tax in favour of precarious and uncertain professional incomes. On Thursday last Mr. Horsfall presented to the House of Commons a petition from the Law Society of Liverpool, similar in terms to that which appeared in these columns a fortnight ago as having emanated from a very large number of the profession resident in London.

A general meeting of the Law Amendment Society was held on Monday the 27th instant, the Right Hon. Lord Brougham in the chair. The subject for discussion was the Amendment of the Patent Laws, upon which Mr. Thomas Webster read a paper, exposing the present lax system of dealing with petitions for letters

patent, and the marked incompetency of common juries to deal with the scientific facts and principles necessarily introduced into the trial of patent causes. He insisted that the granting of such letters should be accompanied with conditions strict enough to discourage worthless adventures, but at the same time sufficiently liberal to set others on the track of experiment and thought. At present, except in the few cases of rival claims and suspected fraud, there is no investigation into the merits of a project preliminary to granting a patent. The consequence is that a patent is no guarantee of value, but merely confers the right to maintain an action. Mr. Webster recommended that a board of examiners specially qualified should be appointed to report upon every petition for a patent; but that the adverse decision of the examiners should not have the force of an absolute prohibition. It is supposed that in the face of a strong opinion condemnatory of the undertaking coming from so high an authority, few would venture to proceed with it. At all events many would be deterred from pursuing a chimera, and the public would be protected from sham inventions. Nothing can be more unsatisfactory than the present method of trying patent causes. The question of fact which juries are called upon to decide are mostly hidden in a mass of technicalities, and after eliminating the jurymen who have any pretensions to science, by the process known as knocking the brains out of a jury, those left on the pane are utterly incapable of comprehending the evidence. What is the result? The verdicts go for the plaintiff. Mr. Webster suggested that the tribunal should be constituted on a system analogous to that adopted in the Admiralty Courts, where the elder brethren of the Trinity House are called in to assist the judge. Not only will the statement of witnesses be comprehended and duly weighed, but the character of the evidence itself will be raised. Cross-examinations will be more searching, and men will give their testimony with more care and exactness. Mr. Newton agreed to the changes recommended in this paper. He said that as to patents, litigation was frequently resorted to for the purposes of an advertisement. The plaintiff is safe of his verdict in two cases out of three. Disclaimers should be adjudicated upon by examiners. The greatest uncertainty now prevails on this subject. One law officer will allow anything to be struck out of the specification, but not a word may be inserted; while another will not object if the clause introduced be sufficiently ambiguous. The withdrawal of a specification and the substitution of another should be permitted here as in America.

Mr. Grove, Q.C., advertent to the statute of Monopolies (21 James 1, c. 3), observed that according to English law the granting of patents was purely a matter of royal favour. The public good was to be consulted over the individual interest of the patentee. Every patent should be thoroughly investigated in its inception. But the law officers of the Crown could not do this; they had too much work already. He submitted that there ought to be a separate court for the trial of patent causes alone. The presiding judge should have the power of calling in scientific assessors, and with the assistance of a jury do all the work, not only of the law officers, but also of the Privy Council, in extending the duration of patents.

THE COUNTY COURT PROCEDURE BILL.

Nearly fifteen years have elapsed since the county courts were first established under 9 & 10 Vict. c. 95. Soon after the passing of that Act, it was proved by experience that the new tribunals might be safely entrusted with a larger jurisdiction than was at first committed to them; and by the 13 & 14 Vict. c. 61, their ordinary jurisdiction was increased to £50. The legislation of almost each successive year has added some new matter to that with which alone

they could originally deal; and now, so multifarious are the matters within their jurisdiction, that the courts at Westminster, having only to adjudicate in causes of the gravest class, are comparatively deserted. Nor has the procedure in these courts been neglected. By the six or seven County Court Acts amending the 9 & 10 Vict. c. 95, and by numerous rules framed under the provisions of those statutes, a method of procedure has been developed which, though necessarily to some extent complicated, has been kept as simple as, perhaps, such machinery can be, to be practically available for the administration of justice. The object to be attained by it has been to provide a ready and inexpensive method for the trial of actions; to enable plaintiffs to bring the nature of their claims clearly before the Court; to prevent defendants from being taken by surprise at the trial by want of notice of the cause of action; and, by giving a power of appeal in matters of sufficient amount or moment to justify the expense of such a proceeding, to correct and restrain within reasonable limits the possible misapprehension of the judge. With a view to saving expense, it has been the policy of the county court legislation to dispense with the formal pleadings of the superior courts; but in order to attain the object for which these courts were constituted, to which we have briefly referred above, some proceedings in writing, whether styled particulars, notices, or pleadings, must be used, and certain forms must be adhered to; and it is impossible to confine within very narrow limits the rules and regulations which a suitor requires, in respect of these matters, for his guidance through the various stages of a suit. It is obvious, from these remarks, that the laws applicable to the county courts, dispersed as they are over so many Acts of Parliament, are now in a state to call for consolidation. It is to the statute itself that both the judge and the suitor must look, if they would wish to be perfectly well informed upon a point in doubt. Books of practice are of great assistance; but they are liable to inaccuracies; and, though an author may have spared no pains in his researches, it is impossible, in making use of a treatise, not to feel that the book may possibly be imperfect, and that some matter bearing on the question in hand may have escaped him. It is therefore especially important with reference to these courts, to which suitors so often resort unaided by the assistance of professional men, that, as far as possible, all matters touching their practice should be embodied in one statute.

A Bill for consolidating and amending the statutes relating to the procedure of these courts is now before Parliament. It has been prepared and introduced by Mr. McMahon and Mr. Serjeant Piggott. The amendments in the law proposed to be effected by this measure, to which we shall presently advert, would add much to the efficiency of the system, and in some respects may claim the approval of the public; but we regret that these gentlemen, instead of extending their labours to the consolidation and amendment of the whole of the county court law, have introduced an incomplete and partial measure. It would have been better either to have introduced a general consolidation Bill or to have limited the operation of this to those alterations in the law which it proposes to effect; and we have reason to know that several county court judges, who are most competent to form an opinion, consider that the interests of the public would have been better consulted if one of these courses had been pursued. The Bill necessarily proposes to repeal wholly or in part numerous sections of former statutes, nearly the whole of which, with slight alterations, are re-enacted in the Bill; but the condition to which the body of the county court laws would be reduced by the amputation of so many important members seems to us so precarious and liable to lead to inconveniences of construction, both with reference to the county court statutes and other Acts of Parliament referring to them,

that upon that ground only, if upon no other, we think the Bill open to objection. Whatever may have been the amount of caution exercised by the framers to prevent those inconveniences from occurring, we cannot think that so much matter can be removed from the previous Acts without causing confusion, without interference with the context and prejudice to the now settled interpretation of those and other Acts. If, however, the framers of the Bill would take the trouble of excising those parts which are merely re-enactments of former statutes, and would introduce the amendments as they stand as an independent amending Bill, there can be little doubt that the measure would be favoured; and the system having been thus rendered complete, the task of consolidating the whole would present no difficulty. Another reason for not passing the Bill in its present form is, that in dealing with fraud summonses, and powers of committal, it would affirm the law in this respect as it now stands. But the policy of permitting the law with regard to imprisonment to remain unchanged, is open to grave question; and, as a constitutional question, demands more serious consideration than it has hitherto received. The alterations which the Bill proposes to effect are, by enabling the courts to deal with equitable defences (sect. 37), by enabling defendants to interplead (sect. 27), by providing that by consent a special case may be stated for the opinion of a superior court (sect. 30), by enabling the judge to reserve leave to either party to move in a superior court to enter a verdict or nonsuit, so as to get rid of the delay and expense of an appeal, when the question is simply one of law (sect. 48), and, finally, by extending various clauses of the County Court Statutes to the London Sheriff's Court (sects. 135—137). All these changes deserve approval. The Legislature has not hitherto seen fit to entrust the judges of the superior courts with that jurisdiction by which alone complete justice can be administered in cases where equitable questions arise; but the instalment of equitable jurisdiction which has been conferred upon them by the Common Law Procedure Acts, has been found by experience to work well; and there is the stronger reason for vesting similar powers in the judges of county courts, since, having regard to the amount claimed in ordinary suits in those courts, if such defences are disallowed, a defendant, practically speaking, having no means of restraining the action, must necessarily submit to injustice. The advantages of enabling a defendant to interplead are too obvious to call for comment. It is very requisite also that the judge should be enabled to state a case for a superior court. It is a power now enjoyed by stipendiary and other magistrates, by chairmen of quarter sessions, and by judges *ad nisi prius*. It not unfrequently happens in county courts that, although the claim in a suit is of small amount, important interests are involved in the determination of the rule in point of law; and, where he entertains a doubt, it is more for the benefit of the suitor that the question should be raised by a case for the Court, than that he should be driven to the complicated and expensive process of appeal. The tendency of the Bill, so far as it relates to the Sheriff's Court of London, is to render that Court, under the title of the County Court of London, an integral part of the county court system. That Court, regulated as it is by a local statute, and at the same time claiming peculiar privileges as an ancient Court of Record, is at present an anomaly. Practically, however, its jurisdiction and procedure are those of the county courts. It appears to have been the intention of the framers of the Bill, by rendering the procedure of the Sheriff's Court identical with that of the county courts, to assimilate the courts still further, and, without interfering with the ancient jurisdiction of the former, to place it in other respects upon the same footing as the metropolitan county courts. We think that the amendments would add much to the efficiency of the county court system. We recommend them to the favourable consideration

of legal members; and hope that the authors of the Bill, to whom the country is indebted for suggesting them, will use every effort to carry them through the House.

ON THE LAW OF TRADE MARKS.

No. III.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Of the Remedies against Piracy of a Trade Mark (continued).

III. We have thus considered* all those cases in which the jurisdiction of the Courts of Criminal and of Common Law has been exercised, to punish the fraudulent imitation of a trade mark; that they are few, in comparison with those which we shall have to examine, shows sufficiently that hitherto the protection afforded by the Court of Equity to a trader, in respect of his property in, or his right to use, a distinguishing mark or name, has been considered more effectual than those methods which I have already discussed.

I have referred to the case of *Millington v Fox*, 3 My. & Cr. 338, in illustration of the proposition that only where the legal title is clear will a Court of Equity interfere by injunction to restrain the use of a trade mark.

When that title is not clear, there are two courses open,—either to grant the injunction, at the same time ordering the plaintiff to bring an action at law to prove his title; or to suspend the injunction, and to order an account to be kept by the defendant of the profits which he may have made by the use of the mark or name alleged to be pirated, leaving it to the plaintiff to try his legal right or not, as he may consider advisable. The balance of authority is perhaps in favour of the latter course, and the reasons for which it is preferable are very fully stated by Lord Cottenham in *Spottiswoode v. Clarke*, 2 Ph. 154, in the following words:—“I have often stated it to be my opinion, that unless a case of this kind, depending upon a legal right, is very clear, it is the duty of the Court to take care that the right be ascertained before it exercises its jurisdiction by injunction, and that it may commit great injustice by interfering until that question has been decided.” His Lordship then points out the objections to this immediate interference in questions of disputed title; first of all on the ground that in pursuing this course the Court compels future litigation, whereas by suspending the injunction it enables the plaintiff to pause and consider whether it is worth his while to begin that course of litigation which will be requisite to establish the right on which he insists; in the second place, that in granting the injunction the Court is expressing a strong opinion upon the legal question, and thus prejudicing the defendant's case.

The strongest objection, however, certainly is, that the Court runs the risk of doing the greatest injustice in case its opinion upon the legal right should turn out to be erroneous. If the plaintiff proves his title by a successful action at law, he is indemnified by the defendant, on the account which the Court has directed the latter to keep. On the other hand, if the plaintiff fails in his proof at law, there is no means of compensating the defendant for the loss he has sustained by the suspension of his trade during the operation of the injunction. This is, no doubt, quite a sufficient reason for withholding that remedy, unless there be a very clear preponderance of proof in favour of the plaintiff in the first instance, or some conduct be shown on the part of the defendant which renders it unadvisable to permit him to continue his trade upon the footing of an account to be taken. Similar principles have been applied in the exercise by the Court of its jurisdiction in patent and copyright cases, and on the same grounds, and in *Stevens v. Keat-*

ing, 2 Ph. 333, the same learned judge uses these terms, “that if the injunction having been once granted turns out to be unfounded, you are doing an irreparable injury to the parties restrained, whereas by withholding it you may be permitting some injustice, but certainly not an injustice at all equal to that which you are doing by improperly granting it.” In the latter case the Court went so far as to fix the time within which the plaintiff was to bring his action; and on his failing to proceed to trial of that action upon grounds which were by the Court considered to be insufficient to justify his delay, and upon a subsequent motion on the part of the defendant, the injunction which had been granted on the merits of the case was dissolved, and the defendant was directed to keep an account of his profits.

We come then to consider what are some of the circumstances which have been held to give a good legal title to the use of a trade mark, and when, on the other hand, the Court has considered it necessary to have that preliminary question decided by a trial at law. Long continued usage of a particular mark or stamp has been held to be a valid ground of title (*Mottley v. Downman*, 3 My. & Cr. 1; *Croft v. Day*, 7 Beav. 84; *Millington v. Fox*, 3 My. & Cr. 338). In *Knott v. Morgan*, 2 Kee. 213, the adoption and use by certain omnibus proprietors of particular names and figures painted on their vehicles was held to give them a title to those names and marks sufficient to support an application for an injunction to restrain the defendant from running his omnibuses under marks colourably imitated from those of the plaintiffs. We find that the use of a name or mark may be transmitted from one person to another by devise, by succession, or by agreement *inter vivos*, so as to give an undisputed title in the holder. On the other hand, in *Lewis v. Langdon*, 7 Sim. 421, it was considered that the question of title to use the name of a partnership firm, as between the personal representatives of a deceased partner and the surviving partner was a proper question to refer to the decision of a court of law. In *Perry v. Truefitt*, 6 Beav. 66, it was contended that the plaintiff had, by inventing and using without interruption for six years, a name which he had applied to his “Balm” for the hair, acquired a title to that name, which the Court would protect by perpetual injunction. There, however, the course which Lord Cottenham, as I have before stated, considered to be the more advisable, was followed, and on the plaintiff's failing to bring his action at law, his motion for the injunction was dismissed. In *Rodgers v. Nowill*, 6 Hare 325, the question of title was raised on the part of the defendants by a statement that a firm under the title of J. Rodgers and Sons (which was the style adopted by the plaintiffs), had carried on business for some years in Sheffield; that the plaintiffs had no exclusive right to use that name or stamp, which the defendants as partners of, or successors to, the firm were entitled to use. One point of some importance was raised in this case, as to whether the plaintiffs were entitled to any decree, inasmuch as they had not established their legal title at the hearing. It is no doubt an act of indulgence to a plaintiff to give him, by retaining his bill, an opportunity of proving his title at law, when he has neglected to bring forward at the hearing any evidence of title which would support a decree; and in *Bacon v. Jones*, 4 My. & Cr. 433, the bill was dismissed on this account. It is said (in *Rodgers v. Nowill*) that in cases between traders affecting the conduct and profits of their business, the omission on the part of a plaintiff to establish his legal right either before the bill is filed, or if not, to establish it by the leave of the Court before the hearing of the cause, is a circumstance always unfavourable to a claim for indulgence at the hearing. That it is a great hardship on a tradesman to call him to account for what he has been doing for three or four years during the progress of a suit, and a hardship which is unnecessary and of no advantage to the plaintiff; and it seems that generally

**And*, p. 523.

the Court will in such cases dismiss the bill of a plaintiff who at the hearing fails to bring forward sufficient evidence of his title.

The foregoing are some of the more important cases showing the grounds on which the Court acts in restraining the violation of a trade mark where the legal right is clear, "where there has been such a length of exclusive usage of the name or mark of the plaintiff as to justify the Court in interfering" (*London and Provincial Life Assurance Society v. London and Provincial Joint-Stock Life Insurance Company*, 11 Jur. 938) it will do so in a summary way against the defendant. On the other hand, when the question of right is not so clear and indisputable, it will order the plaintiff, while it gives a temporary protection to his title, to maintain his right by a trial at law, or will give him an opportunity by the same means of asserting that right, if on further reflection he should find it worth his while to do so. We shall have in the next place to consider who are the persons entitled to appeal to the Court for its protection in one or other of these forms, and to notice the distinctions which exist between the rights of British subjects and those of aliens on this head.

SEARCH FOR INCUMBRANCES: JUDGMENTS IN PALATINE COURTS.

(COMMUNICATED.)

Some weeks ago several correspondents, qualified by experience, furnished you with observations called forth by Lord St. Leonards' latest Act relating to judgments—23 & 24 Vict. c. 38—from which the undeniable conclusion resulted that this branch of the law was left in a most difficult and incongruous state.

I now trouble you with a few remarks on a phase, which was not presented to your readers, regarding its operation in the Counties Palatine.

1. I presume that the last statute (if we except ss. 3 & 4, the object of which is to extend to "heirs and executors" the protection given, in regard to registration by previous Acts to purchasers and mortgagees) does not modify or affect to alter the effect of judgments registered or unregistered as such, under former Acts, which effect is laboured to be shown in the communications of your learned correspondents.

2. The statute merely superadds a further condition to the practical efficacy of future judgments by prescribing the issue of execution also prior to the conveyance, and the registration of such execution, and its being put in force within three calendar months. It is to be noted that the statute pursues a negative expression, *privative* of the effect of judgments otherwise rightly constituted, but not conforming with the new enactment (*scilicet*, as to execution), but does not enact affirmatively that a judgment complying with the former requirements and with that Act is to have a particular or certain effect, unless the preamble can be strained to that import. I need not dilate on the consequence of this, in the state in which it leaves judgments antecedent to the Act, which are expressly excluded from its operation.

3. At the end of s. 2 are words transferring the new enactment to executions on future judgments of the Courts of Common Pleas of Lancaster and of Darham (alike without predicating the obligation of such judgments), under which words the prothonotary and proper officers have opened registers of executions on judgments of those palatine courts respectively.

4. I would now apply this state of enactments in considering the searches which caution prescribes for judgments and incumbrances that may affect lands purchased in a county palatine; broadly, as to judgments signed before the passing of 23 & 24 Vict. c. 38 (23rd July, 1860), the future registration of which (observe) is not precluded and which for many years

must remain of moment to any title; and more narrowly in their effect on leasehold lands there situate.

5. The 1 & 2 Vict. c. 110, s. 13, declared a judgment (registered as required, s. 17) to be a charge upon all lands of whatsoever tenure as against purchasers, mortgagees, and creditors. By s. 21 of the same Act a corresponding register is established of judgments of the palatine courts.

6. Then came the 2 Vict. c. 11, s. 5, which enacted that as against purchasers and mortgagees without notice, no judgment, although duly registered, should bind further than it did before the 1 & 2 Vict. This enactment is by 18 & 19 Vict. c. 15, s. 3, extended to judgments of the palatine courts.

7. The 2 Vict. c. 11 applied to judgments of the superior courts, which would then affect lands in the county palatine, if registered there; but the statute did not apply to judgments of the palatine courts until the passing of the 18 & 19 Vict., which required all judgments to be registered in the palatine court.

8. I need not remark that before the statute 1 & 2 Vict. c. 110, on a judgment, one moiety only of freehold lands could be seized under an *elegit*, which it might be, although the purchaser had had no notice, and although the defendant in judgment had parted with the property; and that leasehold lands were not bound at all prior to the delivery of the writ to the sheriff.

9. After the passing therefore of the statute 2 Vict. c. 11, say from 1840, it was expedient, as to freehold lands in Lancashire, to search the register in the common pleas at Westminster for judgments in the superior courts which then bound lands in Lancashire, on account of the old liability of one half of the land, and to search the like register of judgments of the common pleas at Lancaster entered in that court. As to leaseholds, neither was necessary; and the only way to guard against the possibility of executions was to search the sheriff's office, when he would allow it, or to examine the imparlance book for the issue of process.

10. In this state of things the 18 & 19 Vict. c. 15, passed, which declared that no judgment of any court shall bind lands situate in the county palatine unless registered in the palatine court. This Act is still in force, and necessarily gave rise to the practice of registering at Preston a judgment obtained in one of the superior courts; but it was not *converso* necessary to register in London a judgment of the common pleas at Lancaster, on account of sect. 21 before mentioned of 1 & 2 Vict. c. 110.

11. It would seem, therefore, since the 18 & 19 Vict. to have been sufficient as to all judgments affecting lands in Lancashire to search the register kept at Preston.

12. I have remarked that as to old judgments (before July 23, 1860) the Act 23 & 24 Vict. c. 38, makes no alteration; for these, which will long continue (by re-registration) to be material, the same registers must still be searched. For judgments of later date it might have seemed that by this statute the search was transferred from the register of judgments to the new register of executions, but for the circumstance that the reference in the latter being required to be in the plaintiff's name, and not in the defendant's, makes it necessary to obtain from the judgment register a clue to the name of such plaintiff. To dispense with an execution so found it must be proved that three calendar months have elapsed, and that it has not been proceeded on.

13. But applying this to the county palatine, will an execution, duly registered in London on a judgment of a superior court registered in London, but not registered in the judgment register of the county palatine pursuant to 18 & 19 Vict. c. 15, s. 2, have any effect on lands situate in that county? It would seem not, since the statute 23 & 24 Vict. c. 38, has not repealed that Act, nor has it by affirmative words, in establishing a register of executions, given to judgments, which are the root of them, a greater force than they before possessed under the

modifications in the 2 Vict. c. 11, and the 18 & 19 Vict. c. 15. If this be a correct deduction it is still not necessary as to lands so situate to search for the judgment, as the parent stock, in any other register than the judgment register in the county palatine; since, on the theory, a judgment of any court not there registered has no force on such lands; and it must be presumed that there is no virtue in the execution, independently of the judgment its root. A modern judgment is further ineffectual unless the writ of execution be also registered under 23 & 24 Vict. c. 38, and be promptly proceeded on.

14. Arrived at this point, what is incumbent on the purchaser of leasehold lands? Since the 2 Vict. c. 11, restoring the old law, if he have no notice, he is not (*malgré* the statute 23 & 24 Vict. c. 38, which only uses negative words, *vid. pl. 2*) bound until the writ is in the hand of the sheriff, and to its efficacy are superadded the other conditions, that the judgment (by inference from the second section of that Act) has been registered in such way as the law required (*semble*, in the county palatine also when the lands are there situate, 18 & 19 Vict. c. 15, s. 2), and that the execution, if in a superior court, has been registered with the senior master of the common pleas at Westminster, or if in the palatine court, with the prothonotary, and that it is enforced within three months from that registry.

15. As to leaseholds, if a purchaser without notice could simply search the sheriff's office for the writ, he would be safe; but as this will not often be allowed, he is to discover the probability of an execution having issued by following the vendor's name (under the present lame index) to the register of judgments; and as it is argued that no judgment whatever not registered in the county palatine can affect lands in that county, this local register of judgments becomes, as of freehold lands, so of leasehold, the sole and ultimate source of information in inquiries as to such property.

16. As to leaseholds in general, and as to freeholds in respect to judgments entered since the 23 & 24 Vict. it might be deemed unnecessary to search for incumbrances incurred by former proprietors who ceased to be such at a period more remote than three calendar months, except upon the supposition of a case where the execution has been re-registered, and the writ lying previously in the sheriff's hands had for some good reason not been put in force. The power of re-registering the writ of execution seems to be a matter not concluded by the late statute.

G.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF PROBATE AND DIVORCE.

May 24.—*Dr. Phillimore, Q.C.*, said it would be a great convenience to the gentlemen practising in this court if his lordship would make it a rule not to take a new case after two o'clock on Saturdays. He believed that such a rule would be in accordance with the practice in the other courts.

His LORDSHIP said he thought it was a very reasonable request. He could not promise to rise at two o'clock on Saturdays, as that might involve inconvenience to the suitors; but he had no objection to say that he would not begin a new case after two o'clock.

Dr. Phillimore, on behalf of the bar, thanked his Lordship for granting their request.

Parliament and Legislation.

HOUSE OF LORDS.

Thursday, May 30.

BANKRUPTCY AND INSOLVENCY BILL.

The LORD CHANCELLOR said he was instructed by the Select Committee on the Bankruptcy and Insolvency Bill to lay that Bill on the table, with the amendments which had been made

upon it. In order not to occasion premature discussion, he would remain silent at present in regard to the amendments which had been made by the committee. Indeed, he thought some of them might be better called alterations than amendments, and they were such important alterations as would require the serious consideration of their lordships. He would move that the Bill, with the alterations, should be reprinted, so that their lordships would be able to see in what respect it differed from the original. Ample time would be given for the consideration of the Bill in its altered form. Of course it would be necessary for the Bill to pass through a committee of the whole house, and he hoped that in the end it would be made generally acceptable. He would now content himself with moving that the Bill be reprinted and fixing Monday week for its consideration in committee.

The motion was agreed to.

CRIMINAL PROCEDURE.

LORD BROUGHAM laid on the table a Bill, precisely similar to that of last year, for assimilating, in so far as the liberty of counsel to speak is concerned, the procedure in criminal cases to that which prevails in civil cases.

The Bill was read a first time.

HOUSE OF COMMONS.

Tuesday, May 28.

EXPIRING LAWS.

On the motion of Mr. PEEL, the following members were appointed a committee to inquire what temporary laws of a public and general nature are now in force, and what laws of the like nature have expired since the last report on the subject; and also what laws of the like nature are about to expire at particular periods, or in consequence of any contingent public events:—Mr. Peel, Mr. Massey, Sir S. Northcote, the Attorney-General, the Solicitor-General, Mr. Adderley, Mr. Cowper, Sir W. Jelliffe, Mr. Baring, Mr. Williams, Mr. Brand, Lord J. Manners, and Mr. Knatchbull-Hugessen. Power to send for persons, papers, and records.

COURTS OF JUSTICE BUILDING BILL.

On the motion of Mr. COWPER, the following members were named as the committee on the Courts of Justice Building Bill:—Mr. Cowper, Lord J. Manners, Sir J. Shelley, Mr. Murray, and Mr. Mellor; and four members to be added by the Committee of Selection.

Thursday, May 30.

LIVERPOOL LAW SOCIETY.

Mr. HORSFALL presented a petition from this Society praying that the income tax might be more equitably levied.

Recent Decisions.

COMMON LAW.

CLERK, NATURE OF HIRING—NOTICE OF DISMISSAL.

Davis v. Marshall, Exch., 9 W. R. 520.

It has been long established that a clerk or other person serving in an office of business, though employed in some sense *intra mania*, does not fall within the rule which governs the hiring and dismissal of a domestic servant—*viz.*, that where there is no express stipulation as to the time that the service is to last, it may be determined by either party at pleasure by giving a month's warning, or, in lieu thereof, a month's wages. The general rule, on the other hand, as to the engagement of a clerk is, that it will be presumed, in the absence of evidence the other way, to be a yearly hiring; and, as such, determinable only at the end of the current year, after (it is apprehended) reasonable notice. *Beeston v. Culyer* (4 Bing. 309) is a leading case upon this subject. In that case it was held without any hesitation, by all the judges of the Common Pleas, that the above distinction between menial servants and persons who, like clerks, must be presumed to have superior acquirements, was a sound one. The only question on which they felt any doubt was, as to any and what notice was required prior to the termination of the engagement at the end of any particular year. They said that the general principle of such a hiring was the same as that which governed the hiring of a house—*viz.*, that the contract was for a year at first, and then, if nothing to the contrary was said on either side, went on from one year to another; but they declined to say whether all the incidents of

a yearly tenancy were to be grafted on the engagement of the clerk; and, in particular, whether a half-year's notice, concluding with the day on which the hiring commenced, or even whether any notice at all, was required. It is to be observed that in some text books it is intimated that the question whether the hiring in any particular case be a yearly one, depends on whether the salary be payable by the year or otherwise (see *Step. Com.* 4th ed. p. 240); but this proposition is incorrect according to the present case, in which the Court said that the payment of the salary of a clerk monthly or quarterly did not affect the question of the yearly hiring, as periodical payments were necessary to this class of persons.

LAW OF EXECUTION—EFFECT OF TAKING DEBTOR IN EXECUTION—ATTACHMENT OF DEBTS.

Hartley v. Shemwell, Q. B., 9 W. R. 520.

This case should be read in connection with a decision of the Court of Exchequer, of which an account was given a few weeks ago.* It is somewhat difficult to reconcile the views which the respective Courts appear to hold as to the effect of taking a debtor in execution. At the same time, it is to be observed that the present case is not precisely on "all fours" with the previous one, though it gives some reason to suspect a discordance of opinion between the two Courts. It will be recollected that in *Jorralde v. Parker*, it was held upon demurrer to be a good plea by a garnishee that he had been already taken in execution by the original judgment debtor for the debt attached; and this was so considered by reason, chiefly, of the principle laid down in *Burnaby's Case* (1 Str. 658), to the effect that to take the body of a debtor in execution satisfies the debt in point of law. In the present case the same point arose at a different stage of the proceedings and in a different shape. No action had been brought against the garnishee, and, therefore, there was not the opportunity to raise the question of law by way of demurrer; but an order to attach a debt due to the original judgment debtor had been made by a judge, which order it was sought to have rescinded on the ground that for the debt so attached the garnishee was, at the time of the order, in custody under a *ca. sa.* on a judgment obtained against him by the original judgment debtor. This rule was refused, Mr. Justice Crompton saying, "A judgment debt is not extinguished by the imprisonment of the debtor under a *ca. sa.*, although the judgment creditor cannot touch the property of the debtor." No reference seems to have been made to *Jorralde v. Parker* or to *Burnaby's Case*; and though the proposition stated by the Queen's Bench as to the operation of a *ca. sa.* seems to be borne out by the authorities,—yet the judgment of the Exchequer, being upon a demurrer to a plea, is perhaps entitled to the greater weight, as having been given with more solemnity and deliberation.

Foreign Tribunals and Jurisprudence.

COMMON PLEAS, PHILADELPHIA.

Colladay v. Baird.

This case, which was decided by the Court of Common Pleas in Philadelphia, but mainly upon English authorities, will be interesting to readers who are concerned with the law of trade marks. The case decides that:—

A person who has appropriated to himself a particular label, sign, or trade mark, indicating that a certain article is made or sold by him or his authority, and with which label or trade mark the article has become identified, is entitled to the protection of a Court of Equity, which will restrain any one who attempts to pirate the good will of his friends or customers by using such label, sign or trade mark without his authority; but there must be, between the genuine and fictitious marks, such general similarity or resemblance of form, colour, symbols, designs, and such identity of words and their arrangement, as to have a direct tendency of misleading buyers who exercise the usual amount of prudence and caution; and there must also be such a distinctive individuality in the mark employed by the counterfeiter as to procure for him the benefit of the deception resulting from the general resemblance between the genuine and the counterfeit labels or trade marks.

Upon a motion for an injunction,

The following judgment was delivered by

LUDLOW, J.—The complainant, in his bill, alleges that he is the manufacturer of a certain style of goods known in the

market as "Aramingo Check;" that, at great labour, care, and expense, he has been able to produce a superior article, which he now manufactures and sells in large quantities, especially in the city of New York; that in the year 1854, he devised and adopted a certain trade mark, or name, to wit, the words "Aramingo Mills," and that he caused tickets, or labels, bearing the said trade mark, to be lithographed and printed. These labels, or tickets, the complainant used, by placing one of them outside of each piece of goods forwarded to market for sale; and thus the trade mark became identified with the goods manufactured by the complainant, although his name does not appear upon the label as manufacturer. The complainant further alleges, that the defendant, intending to deprive him of the exclusive use and benefit of his trade mark, cunningly devised a label upon which the words "Aramingo Mills" appear; and thus, by a colourable artifice succeeded in defrauding him of a portion of his well-earned reputation and profit, having introduced an article of check, into the New York market, and sold the same, in appearance similar, but in fact inferior, to the article manufactured by him, the complainant.

The defendant declares that true it is that the goods so manufactured are so made at a place called the "Aramingo Mills," but that these mills have long been known by that name, and that the complainant has no exclusive right to the use of the name as a trade mark; that the defendant also manufactures his goods at the same establishment, being in fact the lessor of the complainant; he further denies that he ever, in any way, intended or did introduce his goods into the market by a fraudulent device; and that, although upon the label now used by him the words "Aramingo Mills" appear, yet that he has a perfect right to use them, especially as he intends to succeed in business by his own name and fame as a manufacturer, and has, therefore, among other things, inserted his name in full upon the label.

This brief statement of the bill filed, and the affidavits presented, will enable us clearly to understand the true principle involved in this case, and while we have been unable to discover, in print, any adjudged case of authority in Pennsylvania, yet the subject is not new, and has repeatedly received the attentive consideration of justice both in this country and in England. The principle has been firmly established that while a manufacturer has no copyright in a label, he yet may adopt a trade mark, which so far becomes his own property as to entitle him to the protection of courts of law and of equity.

In *Patridge v. Menk*, 2 Sandf. Ch. 622, the principle is stated, and we think, accurately, thus, "The court proceeds upon the ground that a complainant has a valuable interest in the good will of his trade or business, and having appropriated to himself a particular label, sign, or trade mark, indicating that the article is made or sold by him or by his authority, or that he carries on business at a particular place, he is entitled to protection against one who attempts to pirate upon the goodwill of his friends or customers, or the patrons of his trade or business, by using such label, sign, or trade mark, without his consent or authority."

The leading English cases at law and in equity upon this subject, will be found collected in a note to *Coats v. Holbrook*, 2 Sandf. Ch. p. 599. Also *Clement v. Maddick*, 16 Leg. Intg. p. 236. While in *Taylor v. Carpenter*, decided by Judge Story, and said to be badly reported, in *Law Reg.* 437; in *Coats v. Holbrook*, *Taylor v. Carpenter*, (a New York case,) *Patridge v. Menk*, 2 Sandf. Ch. p. 586 to 628, as also in *Coffeen v. Branton*, 4 McLean, 516, *Howard v. Henriques*, 3 Sandf. s. c. 725, when the name of a hotel was treated as trade mark, *Davis v. Kendall*, 11 Am. L. Reg. 680. *Dayton v. Wilkes*, 16 Leg. Int. 292. *Coats v. Piatt*, 19 Leg. Int. 213, will be found the leading American views upon this subject, down to a recent period of time, and which fully sustain the principle which we have heretofore stated.

While the general principle is thus established a difficulty frequently arises in determining the particular circumstance of each case; or as in this instance in determining how far one may use a name adopted by another, as a trade mark, and yet not conflict with his legal or equitable rights.

It may be remarked in general, that while an imitation or fac-simile or a mere colourable artifice will bring the offending party clearly within the rule, no decision has ever yet declared the right of a manufacturer to be absolute in a name as a name merely; it is only when that name is printed in a particular manner upon a particular label, and thus becomes identified with a particular style of goods, or when a name is used by a defendant in connection with his place of business (and not his manufactured goods), under such circumstances as to deceive the public, and rob another of his individuality, and

* *Jorralde v. Parker*, *sup.* p. 409.

thus destroy his fame and injure his profits, [see *Howard v. Henriques*, 3 Sandf. 725, a case which will be hereafter commented upon], that it becomes a *trade mark*, or in the nature of a trade mark, and as such entitles its possessor or proprietor to the protection of courts of justice. Hence the true rule to test the question of a piratical use of a name is not simply to discover that a name has been used in a particular manner by a defendant, but to determine how far the use of it in the manner said to be piratical, has either in fact deceived the public or is calculated to deceive persons of ordinary intelligence.

In *Croft v. Day*, 7 Beavan 88, the Master of the Rolls lays down the following rules:

1st. There must be such a general resemblance of forms, words, symbols, and accompaniments as to mislead the public.

2nd. A sufficient distinctive individuality must be presented so as to procure for the person himself the benefit of that deception which general resemblance is calculated to produce. The Vice-Chancellor in *Patridge v. Menk*, 2 Sandf. Ch. 624, applies the following tests:

1st. The Court will not interfere when ordinary attention will enable purchasers to discriminate.

2nd. It must appear that the ordinary mass of purchasers, paying that attention which such persons usually do in buying the article in question, would probably be deceived.

These principles run through all the cases, so that while one, who ignorantly or by design uses an imitation or fac-simile of the trade mark of another, is within the rule, so also is that defendant who employs a colourable artifice, not strictly speaking a fac-simile or imitation. And to this last point, see *Coffeen v. Brunton*, 4 McLean, above cited. Let us now apply these principles and tests to the case in hand.

The label of complainant is printed upon paper of a pinkish hue, bearing at the top thereof in large capitals, and in a semi-circular form the words:

ARAMINGO MILLS.

Immediately beneath these words is a circular vignette, supported upon each side by two oval vignettes; below, in large capitals, are the words "CHECKS" and "WARRANTED," and then in small capitals, "INDIGO BLUE."

The label of defendant is printed upon paper of a "buff" tint, with a fanciful and deep pink boarder, within which is an oval space and on which the following words are printed and arranged thus:

SUPERIOR
DOMESTIC
POWER LOOM GOODS,
Manufactured by
WILLIAM BAIRD,
At Aramingo Mills,
FRANKFORD, PA.
Warranted Fast Colors.

The words "AT ARAMINGO MILLS," are printed in small capitals.

The most casual observer will at once discover that these two labels differ in many important particulars.

The label of complainant is nearly one-third larger than that of defendant, the colour of the ink used is different, as well as the size of the letters, the one has three distinct vignettes, the other none whatever; the words upon each of the labels, except the two "Aramingo Mills" are different; the most ignorant person must at once, at a glance, detect these differences so far as they relate to the general appearance of the labels—even the objectionable words themselves present marked features which cannot escape the observation of any one. In the complainant's label they strike the eye at once, because they are printed, we before said, in large capitals, at the top of the label, and in black ink, while in the defendant's they are introduced near the end in small capitals, of a pinkish tint, and although distinct, present no striking peculiarities.

The label of the defendant cannot be said to be in any sense an imitation or *fac-simile* of that of complainant; nor can it be said to be even a colourable imitation, device or artifice. If, then, we sustain the present motion, we are driven to the position that the mere use of the words "Aramingo Mills" upon the label of defendant, renders him liable for the piratical appropriation of a trade mark.

That the legal effect of such a position would be doubtful, appears, we think, by an application of the principles and tests heretofore referred to in this opinion.

If, from abundant caution, we were disposed to adopt a most liberal doctrine—one radical in its practical operation—and

grant this motion, a particular reference to a few of the adjudged cases, presenting facts most strongly in favour of the complainant's views, will convince us that the decision would be one of doubtful propriety.

In *Patridge v. Menk*, the name "A. Golsh" was the valuable portion of the label, because the friction matches made by him had acquired an extensive reputation with the trade as "Golsh's Matches," and although it appeared that the defendant had printed, certainly upon one of the labels used by him, the same name but in connection with the words *late chemist for*, in small capitals; yet the Vice-Chancellor dissolved the injunction upon the ground that a purchaser seeking for the Golsh match, would at once, upon reading the label, discover the difference between the maker of that and any other article. The Chancellor upon appeal affirmed this decision.

So in *Spottiswood v. Clarke*, an English case, reported in Sand. Ch. 638, the Lord Chancellor dissolved an injunction which the Vice-Chancellor had granted, with liberty to the plaintiff to bring an action at law, where the plaintiff in the case was the owner of a publication called "The Pictorial Almanac," and the defendant of one called "Old Moore's Family Pictorial Almanac," although the covers of each book were to a certain extent similar, both being decorated with a pictorial representation of the Observatory at Greenwich, and in the title as printed on the cover, making use of nearly the same expressions.

The two strongest cases which can be cited in favour of the complainant are *Coffeen v. Brunton*, 4 McLean 516, and *Howard v. Henriques*, 3 Sandf. 725. In each of these the principles applicable to the subject under consideration were carried much further than in any other of the adjudged cases. In the first, the plaintiff insisted upon his right to the use of the name "Chinese Liniment," and that his right had been interfered with by one who printed the words "Ohio Liniment" upon his label. Judge McLean granted the injunction, but upon the ground that "from the body of the label and of the directions for the use of the medicine, it is clear that the language of the defendant so assimilated to that of the plaintiff as to appear to be the same medicine." The alterations being only colourable. This case is clearly distinguishable from the present; here the differences between the two labels as to the words "Aramingo Mills" are such as to guard the purchaser.

In *Howard v. Henriques*, the Court went one step further, and declared that the proprietor of an hotel, called the "Irving House" or "Irving Hotel," had—although the name did not appear upon the building—such a right to it as to secure the protection of the Court against one who endeavoured to use it in connection with and upon his place of business.

This case, strong as it is, can, we think, easily be distinguished from the present. The "Irving House" or "Hotel" became identified with a particular building; here the goods are identified, not with the "mills"—that is the building—but with the label bearing the words "Aramingo Mills." They are known in the market by the label, and the label alone. Besides, while the principles established before the decision in *Howard v. Henriques* may have been correctly extended to meet that case, yet, in weighing its authority it ought not to be forgotten that the circumstances attending it were peculiar, for the name in dispute was that of an hotel, and although not displayed upon any particular part of the building, was, as a matter of fact, as well known as "the City Hall" or "the Trinity Church," and the assumption of the name under the circumstances as a palpable fraud, and so considered by the Court.

In the Omnibus Case *Knott v. Morgan*, 2 Keene R. 213, the device was clearly colourable, for, in addition to the fact that the omnibuses bore the same external decorations, the carriages were named "The London Conveyance Company," and "The London Conveyancer Company," an artifice well calculated to deceive a transient traveller.

In conclusion, having endeavoured to show that this case does not fall within the principles applied to cases involving the use of a trade mark by means of an imitation fac-simile, or colourable artifice, and which relate to personal property, to manufactured articles, and to such things as are necessarily moveable. We might refuse this motion, because the complainant puts his case upon the ground that he has been injured by the piratical use of his label; willing, however, to go further, and grant the relief sought, if the facts established required it, we have examined the law upon the question of the use of a name merely, and for the purpose of illustrating the principles, we have cited at length the leading cases upon the subject. The result of this examination has been to lead the mind to a serious doubt. This doubt has been strengthened

from a knowledge of the fact, that the defendant manufactures his goods at the "Arumingo Mills," or in an establishment occupied by the complainant, and which, for some years, has been known by that name.

Without, therefore, deciding the question, (which is also a matter of doubt,) as to the real intention of the defendant in using the objectionable words upon his label in the present state of the law, we are not prepared to say absolutely that the use of the name printed as it in fact is upon defendant's label is a violation of the law. We must therefore adopt the judicious course pointed out in *Patridge v. Menk*, and *Spottiswood v. Clarke*, and leave the complainant to maintain his right by an action at law. We refuse to grant this motion.

(From the *Philadelphia Intelligencer*.)

THE JURIDICAL SOCIETY.

The following paper "On Promotion at the English Bar—its Effect on the Barrister, the Crown, and the Suitor," was read by EDWARD WEBSTER, Esq., Barrister-at-Law, at a meeting of the Juridical Society, on the evening of the 27th May, 1861. W. T. S. Daniel, Esq., Q.C., in the chair.

Some persons may suppose a member of the Bar to be, from personal interest, incapable of giving the subject of the present lecture, a calm and unbiassed consideration; and, as he has freely adopted his profession, that he cannot honourably object to any of the customs affecting it. Hence it may be alleged, that the Bar should leave their fellow citizens not of the legal profession to question, if there be any cause for questioning, the expediency of certain selected members of the Bar having conferred upon them at the will of the Crown, and without any public services, a grade of honour and exclusive forensic privileges. So far from being incapable, a barrister is of all persons the best qualified to arrive at an impartial judgment, upon the expediency of abandoning, retaining, or amending, any of the customs affecting his profession, and if there be reasonable grounds for apprehending, either that they are not the best that can be devised, or that they are in their operation injurious, he has a right to canvass them, and to have them fully and publicly considered, especially by a Society professing to be juridical. It may, however, be, and is readily, admitted, that the interests of the Bar are inseparable from those of the State, and therefore, however open to objection the principle may be, if there be any principle at all, on which promotion at the Bar is made, yet, if it be that best adapted for the Crown and the suitor, the Bar should be silent. It is then on public grounds that I venture to bring the present subject to the notice of this Society.

In the reign of Henry VIII., those four associations called the Inns of Court appear to have been formed by persons voluntarily united for the common purpose of becoming proficient in the highest branches of the law.

They appear to have consisted of members divided into four grades, of which the apprentices or inner "baristers" or barristers, (Waterhouse, Comm. 544, Or. Jur. 158), now called the students, were the lowest. The next in rank were the "utter baristers," or barristers, which expression denoted a degree for legal learning given by the inns of court to which the apprentice belonged, but which degree conferred no right to undertake the duties of a barrister-at-law (Or Jur. 311, 5 vol. Foss—Manning's Serjeant, 180; 5 Reeve's His. 247). The next in rank were juriconsults, called counsel or counsellors, or barristers-at-law, and the remaining members were the benchers, who were the governing body of the inn, and who were, from time to time, selected from amongst those counsel of the inn who were of not less than twelve years' standing, men of learning, practice, and good and honest conversation, (Dugdale's Or Jur. 144, 316), or at the Inner Temple from utter barristers, (id. 162). The probationary course of study required from a member of the inn, before he became entitled to undertake the duties of a counsel, were in the reign of Henry VIII. as follows; namely, after he had obtained the degree of utter barrister, a further period of legal study for ten years was required from him, which period was in the reign of Elizabeth reduced to five, (Foss, vol. 5, 424) at the end of which time he was entitled to plead in any court at Westminster, and to subscribe any action, bill, or plea, (Or Jur. 312). Possibly the term "barrister-at-law" was used to denote the advance from the degree of utter barrister to that of counsel.

The benchers from amongst themselves also chose readers of two kinds, one called a single, the other a double reader, a reader becoming a double reader by officiating as reader a

second time, after an interval of nine or ten years. The office of reader comprised the duties of tutor, judge of the mootings, (which were contentious arguments on some legal question by members of the inn below the rank of counsel,) and lecturer, and the educational department of the inn was chiefly under his supervision and guidance. The office of reader was therefore one of much importance, and from the double readers the Crown selected its law officers, including the royal or Crown serjeants (Or Jur. 144.)

Serjeants' Inn had always stood alone in its customs. It was as regards the Bar, the stronghold of the Crown, being composed of barristers selected and compellable (Wynne's Tracts, 336,) by the Crown, to take upon themselves the state or degree of serjeant-at-law; without which state or degree no barrister could become a judge of any of the three Common Law Courts at Westminster. The serjeant-at-law bound himself to serve the King and his people, and also undertook not to take any fees for any matters, where the Crown was a party, against the Crown; and if called upon he was bound to counsel the Crown. (Manning's Serjeant, 191.) His liberty of appearing as counsel for one of the people against the Crown, was therefore so much restricted, that the serjeant-at-law was virtually retained by the Crown; and, doubtless, in consideration of this and for the purpose of keeping up the influence of the Crown in the inns of court; the serjeants in the Court of Common Pleas when at Westminster (4 Inst. 72) had a monopoly as against the whole of the other members of the Bar, except the law officers of the Crown, who when engaged for the Crown and not otherwise had a right of pre-audience over the serjeants. (3 Bulstrode, 32.)

In all the other courts, for anything appearing to the contrary, the Bar of England was up to the year 1668 one body; each member having a right of pre-audience, and a seat in court according to his rank or seniority. So jealous were the inns of court of any interference in their affairs by those nominees of the Crown, the serjeants-at-law that upon a barrister becoming a serjeant at law, he was obliged formally, and with much ceremony, to take leave of his inn. The law officers of the Crown then consisted of the Attorney-General, the Solicitor-General, the Royal Serjeants, the Attorney of the Court of Wards and Liveries, the Attorney-General of the County Palatine, and the Attorney-General of the then Court of Augmentations. (2 Campbell L. C. 292; Or Jur. 144.)

Francis Bacon, afterwards Baron Verulam, Viscount St. Albans, in the year 1580, became a member of Gray's inn, and in the year 1583 he appeared in the dress of an utter barrister, (1 Birch's Memoirs, p. 33). It is reasonable, therefore, to presume that he had then obtained that degree, although Lord Campbell states that he was not called to the Bar until 1586, (2 Campbell, L. C., p. 24), which, considering the then existing rules of the inns of court, may be true. Having become the reader, and having been invited to the bench of his inn, he in 1586 applied to his uncle the Lord Treasurer to be called "within the bars," (16 vol. Mont. Bacon, p. 23), an expression somewhat singular and of doubtful meaning. It probably meant that he might be permitted to practise at the bar before his time came, according to the rules of Gray's inn. Be that as it may, he in 1586, took his seat within or at the bar, as an ordinary counsel, in whose favour, owing to his marvellous learning and ability, and his extraordinary interest with those in power, the rules of his inn were departed from. In the year 1590, he was sworn "Counsel Extraordinary" to the Queen without fee or reward, and soon after the accession of James I., he was constituted by letters patent the king's counsel learned in the law, with a salary of £40 a-year, having been previously knighted. Sir Francis Bacon was, therefore, the first barrister specially appointed by patent to act as counsel to the Crown.

According to a very learned serjeant, (Woolrych, Jour. L. A. S. 1857-8, p. 106) who is contradicted by the late Sir William Follett, (Manning's Serjeant, 25) between the appointment of Sir Francis Bacon in 1590, and that of Mr. North in 1668, presently mentioned, other king's counsel were appointed, but it does not appear that their appointment, or that of Bacon, interferred in any way with the government of the inns of court. At what period in particular a space in the courts at Westminster was appropriated to the exclusive use of certain selected members of the bar, nowhere, it is believed, authentically appears; but at or very soon after The Restoration there was such a space.

From what has been stated, it will appear that the inns of court were voluntary associations for educational purposes; that those associations enacted a long, severe, and

improving course of legal study before any member could take upon himself the high and responsible office of a juriconsult or counsellor, that they had trained officers to superintend the legal education of the members; and that from those officers the Crown selected its law officers, and that each inn was governed by an independent self-elected body chosen from barristers-at-law, members of the inn of not less than twelve years' standing. A more efficient system for providing a continued supply of independent, honourable, and learned lawyers could not be devised.

Mr. North, a barrister-at-law, having unsuccessfully, but most ably, appeared as counsel for the Crown on an appeal to the House of Lords in the year 1668, (3 St. Trials, 333), the Duke of York induced the King to mention to Lord Keeper Bridgeman his wish that he should take his place within the bar. The wish was complied with, and Mr. North accordingly became by patent king's counsel, and took his place within the bar, and although the benchers had always previously on a vacancy occurring, elected one of their own body to the bench, Mr. North boldly claimed to be made a bencher. The benchers resisted this attempted infraction of their ancient laws; but Mr. North had for his allies the sovereign and the judges, the latter of whom, to please the Crown, arbitrarily stopped the current of public justice; for they refused to hear the benchers as counsel in the courts at Westminster until Mr. North's claim should be granted. (Life of L. K. Guildford, vol. 1, p. 67, 68). Unfortunately for the Bar, and to their own great disgrace, the benchers yielded to this outrage on themselves and the suitors; and thus the Crown for the first time violently obtained a voice in the government of the inns of court, and thereby virtually destroyed that free and independent constitution they had for nearly three centuries possessed.

The effect of this unlawful act as regards at least one of the inns of court, namely, Lincoln's-inn, has for a long time been, and still is, to suspend indefinitely the exercise of its ancient right to elect members of the bar of twelve years' standing to the office of bencher, that inn now calling to the benchers' table only those members of the bar to whom rank has been given by the Crown. That inn is, therefore, practically no longer governed by members of the Bar, as such, but by an unlimited number (now upwards of sixty) of nominees of the Crown. Of this The Bar has a just right to complain, as they are by this modern custom virtually deprived of their ancient right to become by selection of The Bench governing members of their inn. Formerly, a barrister was called to the bench very sparingly, (Dug. Or Jur. 316); but now a crowd of governors is practically forced upon the inns of court, not necessarily selected from that class of barristers who were formerly alone eligible for the office. According to a very learned writer, the usurpation by the Crown in Mr. North's case contributed to a cessation of all educational discipline in the inns of court. (Macqueen, Early History of the Inns of Court, p. 22.) He did more, thenceforward the education for the bar gradually degenerated into a form— which any member capable of reading the three first words of a written and much worn exercise could comply with. How could it be otherwise since the law officers of the Crown were no longer taken from the readers of the inns of court? Under this arbitrary principle of selection, the bar of England has since been, and is still, divided into two sections, called the inner bar and the outer bar, the inner bar having a right of preaudience over the outer bar, and having also higher rank. From this and from no other cause it attracts to it, what is termed, leading business. The barrister on becoming a member of the inner bar ceases to prepare the pleadings in causes— those written instruments of litigation which astonish by their length the unlearned beholder. The business of the inner barrister in court becomes oral. He plans the line of argument to be followed by his coadjutor of the outer bar, and replies to the arguments of the opposing counsel. If and when necessary, he comes to the aid of his junior at the outer bar; and all the most important proceedings in court are committed to him. Hence the outer bar is subservient to the inner bar, and has ancillary duties to perform towards it.

Now, if it could be truly alleged that there is necessarily more forensic learning—more forensic ability—secured to the public by this division, than there would be if the bar were one and entire, then the present system should remain unchanged; but we venture to state as a fact, not open even to argument, that this is not the case, and that there would be the same amount of learning and ability were the bar one entire body; and that even in its present divided state there is, and must be, the same amount of learning and ability at each bar, because

the requirements from each are the same, except where, on forensic grounds only, an outer barrister of very rare and exceptional learning and talent has been called to within the inner bar, and has thereby caused a disparity; but the responsibility of each of the two bars, if at all unequal, is greater at the outer than at the inner bar; for it is chiefly on the advice of the outer barrister that litigation originates, and the responsibility of advising litigation is greater than that of conducting it after it has begun.

Those members of the inner bar whose superiority places them at the head of it, would, under a system of free competition enabling every barrister to take leading business, be in a higher position than they are at present, since they would have the whole bar to contend with instead of the limited number of competitors forming the inner bar.

It is not then owing to a division of the bar into two grades that it is so distinguished for learning and talent, neither is it owing to that division that these distinguished men are at the head of it.

The present system of promotion frequently operates so as to cause unavoidable damage as regards a barrister's professional income, since not to advance at the bar is to retrograde, and although it may be alleged that this would be true were there no division, yet there is this great distinction, viz., that whereas, if the bar were one body, the barrister would alone be responsible for any diminution of his employment; under the present system of two bars he is not so, because he may be, and oftentimes is, prevented handling the instrument necessary for his advance, whilst it is put into the hands of his rivals it may be not a whit better entitled to it than himself. The barrister, however, has no right to complain if the system be the best for the State; indeed, he cannot, without covering himself with ridicule, complain, in so far as his position is occasioned solely by himself. He enters the profession in common with other men. The same instruments are within his power, and the start in the professional race is fair and open to every competitor. Some have, indeed, when starting the aid of a friendly solicitor, and doubtless, the absence of this support has, it may not be unfrequently, made the profession hopeless. Such instances of failure are, however, we believe though not very rare, exceptional. Moreover, early in his career the young barrister, if he should perceive his prospects at the bar likely to disappoint him, may betake himself to some other calling; but in the more advanced stage of his profession, when the rank and privileges of the inner bar become under the present system necessary to secure an increasing and to prevent a decreasing professional income, if the barrister be denied this advancement from some unknown cause, it may be an entirely mistaken estimate of his powers, his condition is such that unless the system causing this unmerited injury compensates the State by producing some great public good, it ought not to be allowed to continue. For the evil just referred to, a simple remedy and one apparently very just and one moreover consistent with the maintenance of the inner and outer bars may be suggested. It is this, that after twenty years' standing a barrister should be entitled to take his seat within the inner bar, wearing a bar dress denoting that though not a Queen's Counsel, yet that his vocation is that of a leading counsel; but this remedy is imperfect, if it be expedient to throw down the wall of partition between the two bars.

It is well known to the legal profession that Queen's Counsel have practically no duties whatever responding to their title. That for the most part they have never to advise or act for the Crown. That they are ordinarily never called upon to act as one of the council mentioned in their letters patent, nor yet in any barristerial or forensic capacity. "Queen's Barristers unattached" would therefore be their proper appellation; for as regards their learning and ability, they are the same men they were after receiving their letters patent, and they undertake no responsibilities by virtue of their appointments beyond the negative duty of not appearing in court against the Crown unless licensed so to do. It is not, then, in consideration of employment by the Crown, that outer barristers desire this advance. They have in view other advantages, and those advantages are professional and private. The chief professional advantage is the right to participate in the lucrative business of the inner bar; for though a suitor may, if he pleases, have his suit conducted by any one, or any two or more counsel, without reference to their being either within or without the bar, yet in all important matters a member of the inner bar is in fact, nay, if the suitor be not betrayed, must be employed, either alone or with an outer barrister. Hence a monopoly of the most enriching business is enjoyed by the inner bar, namely, the briefs given to the leading counsel, which briefs are called

leading briefs, being duplicate copies of the briefs given to the outer barrister, but having in anticipation of the coming service far higher fees marked upon them.

So far as the barrister is concerned, therefore, the right to practise within the inner bar confers very considerable professional advantages, provided he possesses the learning and talent necessary to enable him to avail himself of them; but instances not unfrequently occur, at least beyond the common law courts, of barristers when within the inner bar, having little or no employment, although they in their former sphere had a very considerable business. So many examples proving this have existed, that confidence in the mode of selection must be greatly shaken. Whether the advancement answers, is therefore contingent upon the counsel having the talent for that leading and oral business which, under the present system, belongs exclusively to the inner bar, and it is impossible to predicate whether the outer barrister is or is not adapted for it; and hence a barrister of the outer bar may even with a small amount of business at the outer bar, be nevertheless well qualified for the inner bar. At a certain stage of his profession it is frequently necessary under the present system for the barrister to apply for rank. If he obtains it, and fails, he is generally a sufferer both in fortune and professional reputation. If he applies, and does not obtain it, he is from that time in a state of professional decadence; if he obtains it, and is successful, he has to receive many well deserved rewards; but if the bar were one, if it were free, if there were no division, no artificial monopoly, whilst the successful barrister would continue to be rewarded, neither of the two disappointments referred to could possibly occur. An unsuccessful member of the inner bar has, however, private advantages of some value to modify his discontent. He is introduced by custom to The Sovereign by the Lord Chancellor; a privilege of some domestic value, and he becomes though not of right, yet by custom, a bench of his inn of court, and has all the personal advantages arising from that position; and were the grade he possesses really a test of forensic merit, he might be justly considered in general society, as wearing a well merited ribbon of professional honour, given to him by the highest law officer of the Crown.

When the Lord Chancellor had his own Court, and the Rolls, and the three Courts at Westminster only to superintend, and when the number of Queen's counsel was practically limited to ten or a dozen, it was perhaps possible that he might have such personal knowledge of the forensic ability of every candidate for the rank of the inner bar, as to be able to decide justly, on forensic grounds, whether he ought or ought not to have it; but now that there are twelve courts in the metropolis in which barristers practise, and the number of Queen's counsel when created under the present system may exceed a dozen at a time, and is practically unlimited, it is impossible that the Lord Chancellor can have such knowledge, and therefore he must, before giving rank at the bar, resort to extraneous information—a circumstance which necessarily, in the exercise of patronage, generates great evils. If a large business at the outer bar were the only test, less injustice would arise; but such a test would to a great extent transfer this patronage of the Crown, to that of the large firms of solicitors, and moreover would be fallible, since the quantity of business at the outer bar is no test, or a very imperfect test, of the barrister's capacity to conduct business belonging to a leading counsel.

Time seems to be no criterion by which the rank is conferred. It may vary from twelve years, or less than twelve years' standing, to a standing at the bar of nearly three times twelve. Hence, the drudgery of the outer bar has to be endured for the periods the most unequal and uncertain. On such a principle, it is impossible that rank can be awarded, for the individual members of the bar do not differ in talent and learning in the proportion these periods bear to each other. If they did, the bar could not maintain its high status. What, moreover, is the effect, as between the barrister of twelve and the barrister of thirty-two years' standing, both being advanced together? That the former obtains a gift of the opportunity of twenty years leading professional business, of which the latter has been deprived. In truth, there is no principle or rule by which promotion conferring exclusive forensic privileges can be made, which on investigation does not prove to be unsatisfactory, which in its operation is not either erroneous, or unjust, or corrupt, or arbitrary. The advancement to the inner bar has, it would seem, apparently been given as a "donceur"—on the abolition of Doctor's Commons—it has been conferred, apparently, as the reward for political fidelity;—it has, apparently, been conceded to the owners of great

wealth on account of their wealth; even the sentiments of certain religious bodies, not belonging to the State Church, appear to have been regarded as a material element when granting it. In fine, it is an honour given apparently, or in fact, not infrequently on grounds extra-forensic, save that the recipient must have been called to the bar by his Inn of Court under customs in name educational, but in truth requiring no compulsory legal education whatever. What is the result? That the number of Queen's counsel is far beyond the exigencies of the Crown—the title has been termed, but not by your lecturer, a mock dignity (14 Law R., 314); and, be it here remarked, the Crown should not disparage itself by creating mock dignities. But, how does it affect the bar? Disappointment—as frequently to the successful as the unsuccessful candidate—errors in selection—and unintentional but grievous practical injustice. So far then as the barrister is concerned, the present system of promotion at the bar confers upon him no advantages whatever, nay it places him oftentimes at a disadvantage by surrounding him against his will, and from no cause for which he is responsible, with circumstances inimical to his progress, and in which in a free country no man depending on his labour ought to be placed. It now remains to consider how the present system affects the Crown and the suitor. It appears to us that to justify its continuance one at least of the three following propositions must be established.

1st. That in order to train counsel for the office of judge, it is necessary that besides the law officers of the Crown there should be a department or section of the bar with exclusive forensic privileges.

2nd. That in order to maintain our monarchical constitution, it is necessary that the Crown should have the power of conferring rank and exclusive forensic privileges on such members of the bar as the Crown may from time to time select for the purpose.

3rd. That it is an advantage to the suitor that there should be, besides the law officers of the Crown, a section of the bar with exclusive forensic privileges.

Even if it be true that members of the inner bar are better adapted for judicial duties than men of the same standing at the outer bar, yet this arises from the latter, under the present system, being deprived of the opportunity of going through the same training. Moreover, there are examples of very eminent judges being advanced to the judicial office direct from the outer bar. It seems indeed almost too obvious for remark, that the hearing of suits in open court, conducted by and in the presence of a learned bar, and skilful solicitors, must, whether there be one, two or more grades at the bar, afford a supply of learned and well qualified lawyers for the office of judge, and if an example were wanted in order to prove the unsoundness of the first proposition, the Scotch judges may be referred to. On what principle then does the Crown interfere and destroy, or at least prevent, that free, legitimate, and honourable competition which would otherwise exist at the bar? Is it to maintain the influence of the Crown? If so, it should be confined simply to a title of honour, without any exclusive forensic privileges—for if the rank be coupled with a position—which causes a monopoly, whereby the suitor is damaged, and the barrister is benefited at his expense—it is difficult to distinguish the principle adopted towards the bar by the Crown from that on which a successful election too frequently occurs. Money, indeed, is not given, but rank and exclusive privileges, and personal advantages are.

If it be alleged that the loyalty of the bar is secured by there being two grades, one with and one without the royal favour, the answer is that such an allegation is a libel; for it may be truly affirmed that the loyalty of the bar to the Sovereign would be as sound and as ardent as it is now, were the bar not divided into two ranks. Why is this system of promotion not applied to other professions? There is no long array of physicians in silk gowns, with the senseless appendage of Q. P. added to their names—It may be argued that the Crown ought to have the power in order to enable it to bring forward young and talented men early in their professional career; but to justify that, it must be proved that such men would remain in obscurity, and unemployed under a system of free competition. It may, I think, then be considered as proved that to the extent to which the monopoly of the inner bar interferes with free and honourable competition, it is alike injurious to the barrister and the Crown, and it appears to us that no damage to the Crown could arise from the bar being entirely free, since it must select from the bar its ordinary law officers, and its advocates, and also its judges, and this necessity would alone secure that legitimate influence which the Crown ought to have over all large and influential public bodies.

If, however, this were not considered sufficient, the Crown might have power to confer on a barrister of very distinguished learning and ability an order of honour under the name of "The Crown's order of learning," or some other name with a garb to distinguish the recipient when in court, but without giving him any exclusive privileges, and which the Lord Chancellor would for his own credit never grant except it were merited, since the honour would be useless in court unless supported by corresponding ability.

And now as regards the suitor, it may I think be taken as an axiom that in proportion to the difficulty and necessity of obtaining an article of exchangeable value, the price of the article increases, and that the services of counsel are articles of exchangeable value, and necessary to the suitor.

If this be so, and the present system of promotion at the bar limits the area within which those services are produced, to that extent it artificially increases their value.

When John Stuart Mill wrote the following passage he certainly was in error. The passage is, so far as it applies to the present subject, as follows:—

"All professional remuneration is regulated by custom. The fees of (*inter alia*) barristers are nearly invariable. Not certainly for want of abundant competition, but because the competition operates by diminishing each competitor's chance of fees (vol. 1, 290) not by lowering the fees themselves."

Now, the principle on which fees are given to counsel is uncertain in its operation; they are by no means invariable in amount, being frequently, nay, I think generally different. The fees, for example, for the plaintiff and defendant are often marked very differently on precisely the same papers, varying also very much with the pecuniary condition of each suitor, and it is a fact which cannot be disputed that the exchangeable value of the forensic talent of each counsel varies subject to this exception, viz, whilst the fees marked on briefs given to members of the outer bar approximate to each other, being calculated by the brief sheet or folio, the fees given to members of the inner bar vary in the most extraordinary manner, high talent and position, especially if duly appreciated and insisted upon by a clever clerk, commanding fees oftentimes double what would be marked for an ordinary member of the bar. Hence far larger fees are given to some counsel than to others. Indeed, certain counsel will not render their services in some of the courts without a fee of a certain amount.

In the Court of Chancery the necessity for giving there high fees operates most grievously, since it frequently happens that there are many parties to a suit, each of them employing at this large cost, a member of the inner bar.

As to the fact, that fees vary in a great degree and are subject to no certain principle, I have received, very thankfully, information from three gentlemen, eminently qualified to give a correct statement on the subject. (viz. Mr. Skirrow, of the firm of Gregory & Co. Bedford-row; Mr. Follett, the taxing-master; Mr. White, senior, of Great Marlborough-street.)

In a former page Mr. Mill had stated, in substance, that the natural effect of unimpeded competition is that there cannot be two prices in the same market (p. 288,) and in a subsequent page (p. 291) he observes. "Where competition though free to exist, does not exist, or where it exists but has its natural consequences overruled by any other agency, the conclusion before referred to will fail more or less of being applicable."

To say that no competition at the bar exists would be untrue, but that its natural consequences are overruled by the present system of promotion cannot, I think, be denied. In short, the law of custom, to the extent to which the forensic talent at the outer bar is displaced, or remains unemployed by the exclusive employment of the inner bar, overrules the natural law of competition. Capital employed causes the production of wealth, and capital saved and again employed causes its reproduction in an augmented ratio. With the increase of wealth, the necessity for legal professional assistance also increases, and hence an increased demand for the services of the Bar. Now, if the demand for forensic services remained stationary, and the number of barristers increased, competition would undoubtedly operate by diminishing each competitor's chance of fees, because the same amount of money and business would have to be distributed amongst an increasing number of competitors; but if the demand for forensic services increases with the wealth of the country, then the chances of each competitor either remain the same or are increased or diminished according to the laws of supply and demand.

Forensic talent.—I mean successful forensic talent—is a quality which depends in part upon nature, in part upon culti-

vation, and until cultivated its qualities remain unknown. To the extent to which the law of custom overrules that of competition the development of this talent is impeded. It may be alleged with perfect truth, that under the present system of monopoly, a large amount of fruitful talent at the bar, especially amongst young barristers, is always unknown and undiscovered, and hence the suitor has not the advantage of it.

It is then proved that the remuneration of barristers under a free system of competition, would depend upon their personal qualifications, and that the suitor would have a larger selection than he has at present; hence, according to the laws of political economy, if the suitor had six men of equal ability from which to select his advocate instead of three, the exchangeable value of forensic services would be one half of what it otherwise would be. It is thus proved that if there were no monopoly at the bar, the suitor would be largely benefited. Moreover, under the present system, whenever the Crown and the subject litigate against each other, the suitor is debarred from employing any of the counsel, who have received their patents as Queen's counsel. True it is, that a licence to appear against the Crown is never refused to the Crown's counsel, but is there any just reason why the Crown should have this monopoly at all? Is there any State necessity for it? Is it reasonable that the suitor and the Crown should not have equal power to avail themselves of the most competent advocates?

It has been observed that, with very rare exceptions, the learning and ability at each bar must always be equal—the responsibility the same; or, if at all unequal, that there is more responsibility at the outer bar. If this be so, can any injustice be greater than that in consequence of an arbitrary division of the bar into two unequal ranks, the higher in rank should receive in exchange for the same amount of skill, labour, learning, and anxiety, a reward at least one-third—and frequently far more than one-third—higher than his fellow-labourers? Whenever this occurs, the outer bar and the suitor have a common and unanswerable cause of complaint against the present system of promotion at the bar.

Let it, then, be supposed that the Crown did not exercise this barren prerogative, and, consequently, that the Crown and the suitor were, as regards all barristers not being law officers of the Crown, on an equality. The whole bar would then be entitled to take leading business, and it would be optional for a barrister, whatever his standing might be, to act as leader or as junior, or to unite those capacities, in conducting causes in court.

Is it not certain that under such a system the public would have a far larger amount of learning and talent at command than they have at present? In short, that law of political economy, applicable to all artificial productions depending for their value on skilled human labour, would apply to the bar—viz, that competition keeps down prices, and produces at the same time the best article. The talent of each barrister would furnish him in the early part of his career with the kind of business for which it was best adapted. In many cases it would be entirely unnecessary for more than one counsel to appear for a suitor. The career of each barrister would be—as it ought to be—dependent upon his own merit, and the bar would be in a more independent, and therefore a more honourable, position than it now is.

The Crown would not only be as well protected, but would be free from all imputation of favouritism, and the suitor would find law expenses materially reduced, and would, nevertheless, have his cause more efficiently advocated.

It will be observed that the object of this article is chiefly to advocate a freer system of competition at the bar. That question is not entirely unaffected by example or precedent. At the Scotch bar there is, as has been already intimated, free competition; there are no Queen's counsel, no inner bar. That the Scotch system works well seems certain; for there has been no attempt, or no successful attempt, to change it since its establishment some centuries ago. Even in England, a question analogous in principle to that now before the society has been raised, and determined in favour of freer competition. That question arose under the following circumstance. So far back as the year 1755, Lord Chief Justice Willes proposed to the other judges, that the Court of Common Pleas should be opened to the whole bar. They were, however, against the plan; but in April, 1834, the Crown, by Royal mandate under the sign manual, ordered that the exclusive right of the serjeants-at-law of practising, pleading, and audience in that court, should, on the first day of Trinity Term then next ensuing, cease. In January, 1839, a petition to the Crown was presented by certain serjeants-at-law, praying that the legality and expediency of the mandate should be

duly investigated, and the petition was referred to the judicial committee of the Privy Council, and was soon afterwards heard. In 1840, the Court of Common Pleas declined to give effect to the mandate (Manning's "Serjeant-at-Law," p. 329), and ultimately the Legislature passed an Act in 1846 (9 & 10 Vict. c. 54) whereby the Court of Common Pleas was thrown open to the whole bar. Experience has proved that this step was in the right direction, the Crown, the suitor, and the bar having all received great advantages from the discontinuance of the serjeants' monopoly; and hence arises a strong presumption that analogous benefits would ensue from a still further extension of the principle of competition.

If the bar had always been one and entire, many barristers of the inner bar, who are now comparatively impoverished, would be in the receipt of their former professional income; and if the Crown were to have power to confer the title of honour I have suggested, the emulation of the bar amongst themselves would in no respect flag, since a title so obtained would be often the precursor to a judicial appointment. I think, moreover, that in accord with the ancient customs of the inns of court every young barrister who has obtained honour from the inns of court should be entitled to wear in court a bar-dress, denoting what he has already achieved.

Whether the ideas now promulgated will receive support, time will show. If they are not founded in justice and reason, they will rapidly fade into oblivion; but if they be founded in justice and reason, they will, notwithstanding the opposition they are certain for the present to excite, gradually operate on public opinion, and especially that of the bar, and by increasing in volume and in strength, will ultimately remove the boundary between the two bars, and will restore to the inns of court their ancient independence and self-government. Whatever the result may be, this is an endeavour to reinstate the bar in its ancient liberties and its ancient independence, and to free the suitor and the bar from a pernicious forensic monopoly, and to prevent the possibility of the Crown, as the fountain of honour, being sullied by favouritism when conferring rank at the bar.

It may then, I think, be considered as proved—

First,—That an inner bar is not necessary to train advocates for the office of judge.

Secondly,—That there is no sound principle on which exclusive forensic privileges can be granted.

Thirdly,—That it is unnecessary for State purposes that the Crown should have the power of granting such privileges.

Fourthly,—That the existence of the two bars restricts the suitor in his choice of counsel, and thereby largely and unnecessarily increases the expenses of litigation.

In conclusion, I will remark that the subject is one in which every member of the bar, and especially every young barrister, has a very material interest. The pursuit of truth has induced me to prepare and read this lecture, which expresses the deliberate conviction arising from the experience and observation of many years, and which would, if it had not been read before this learned society, have been in some other manner brought to the notice of the legal profession, under any circumstances not rendering the publication of it impossible.

If it should directly or indirectly attract the attention of the public to the manner in which law expenses are largely and unnecessarily increased, and of the bar to its own best interests, my labour will not be vain. Gentlemen, I thank you for your patient attention. I have now finished.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Commons:—

BISHOPSTORTFORD, DUNMOW, AND BRAINTREE.

BOGNOR.

HEREFORD, HAY, AND BRECON.

LIGHTMOOR TO COALBROOKDALE.

LYNN AND HUNSTANTON.

THE METROPOLITAN RIFLE RANGE COMPANY (LIMITED).

Capital, £60,000, in 12,000 shares of £5 each. Honorary Directors:—His Grace the Duke of Wellington; Earl Grosvenor, M.P.; Viscount Ranelagh; Major-General Lord

Frederick Paulet, C.B.; Lord Radstock; Lient-Colonel the Hon. C. H. Lindsay; Major-General Hon. Sir J. Yorke Scarlett, K.C.B., Adjutant-General; Lient-General Sir F. Love, K.C.B., K.H.; Sir Duncan McDougall; Lient-Colonel Bathurst; Lient-Colonel Hicks. Directors: William Dent, Esq., Tokenhouse yard; Thomas Hughes, Esq., Old-square, Lincoln's-inn; Andrew Johnston, jun., Esq., 83, Upper Thames-street; R. W. Kennard, Esq., M.P., Upper Thames-street; Frederick Mildred, Esq., Nicholas-lane; Henry Vavasseur, Esq., Summer-street, Southwark (with power to add to their number.) Solicitor: J. Bell, Esq., 21, Abchurch-lane. The object of this company is to construct a permanent practice ground in the neighbourhood of London, easily accessible to every part of the metropolis, with an ample supply of butts at the various ranges, up to 1,000 yards, sufficient to accommodate all the metropolitan rifle corps. A piece of land has been secured at Kensal-Green, upwards of 1,100 yards in length, which will admit of butts of an aggregate breadth of more than 1,500 feet. Forty-six targets will be erected in the first instance; they will be so arranged as to allow the whole of them to be used with perfect safety at all the different ranges, at the same time the long-range butt being 70 feet high. The firing stations will be partially covered, so that the practice may go on without interruption in unfavourable weather. The electric self-registering target, adopted by Government, will be used, by which the point struck by each shot is instantaneously recorded at the firing station. The price of the land is expected to be about £30,000, but a competent surveyor will be engaged by the company to value it. As this land, owing to its proximity to London, must yearly increase in value, it will always form a valuable asset in the company's hands. The vendor has offered to take £5,000, in paid-up shares, and to let £10,000 remain on mortgage at £4 per cent. In addition to the armouries, &c., it is proposed to erect a large covered hall for drill, &c. The terms of subscription for the use of the range, suggested for the first year, and to be continued, subject to such future alterations as the company may deem desirable, are as follows:—For a corps of 1 company, 25 guineas per annum; 2 companies, 50; 3 or 4, 75; 5 or 6, 100; 7 or 8, 125; a battalion of more than 8, 150; for a corps of more than 1 battalion, 125 guineas per battalion; individual subscription for volunteers, 1; non-volunteers, 2. The use of the large drill hall, if erected, will be allowed to corps requiring it on terms to be arranged by special contract in each case. It is further proposed that every volunteer, being an original subscriber for not less than ten shares, shall, until he transfers his shares, be entitled to a life admission to the range, and this privilege will follow the transfer. All profits beyond 8 per cent. will be set aside as a reserve fund, which will be appropriated by the honorary and ordinary directors jointly, subject to the approval of a general meeting of shareholders, to the furtherance of the volunteer movement. The Duke of Cambridge and Lord Herbert have seen the plans, and highly approve them. Major-General Hay has inspected and approved the ground. For further particulars, prospectuses, and forms of applications for shares, apply to the secretary, J. H. P. Bland, Esq., at the company's temporary offices, No. 21, Abchurch-lane, E.C.; or to the company's brokers, Messrs. Sandeman and Dobree, 2, Royal Exchange-buildings.

Law Students' Journal.

BAR EXAMINATION.

At a public examination of the students of the Inns of Court, held at Lincoln's-inn Hall, on the 15th, 16th, and 17th days of May, 1861, the council of legal education awarded to Hugh H. O. R. Macdermott, Esq., a studentship of fifty guineas per annum, to continue for a period of three years; Emanuel Maguire Underdown, Esq., John Houston, Esq., Charles Carleton Massey, Esq., certificates of honour of the first class; Charles Owen, Esq., John Bamfield Street, Esq., James Watson, Esq., Joseph Inglesant, Esq., Reginald Carew Glanville, Esq., Robert Dalby Dalby, Esq., John Alfred Hudson, Esq., the Hon. Evelyn Melbourne Ashley, Christ. John Cottingham, Esq., Chas. Bertie Pulleine Bosanquet, Esq., certificates that they have satisfactorily passed a public examination.

MESSAGERS OF THE BANKRUPTCY COURT.—A return has been issued showing the income of the "messengers" of the Bankruptcy Court, who have been described by the Attorney-General

as performing slight duties, which might be executed by very subordinate officers. Four of the "messengers" of the court in London state their "net receipts" last year at above £1,000 each, one at £1,230, and the net receipts of one of the messengers at Birmingham were £1,118. This is about the same remuneration as that of a County Court judge. These charges being paid or deducted, like the solicitor's bill and the official assignee's remuneration, out of the assets of the several estates, are not included in the return of the "cost of the court," which is about £80,000 a-year, the chief items being £52,000 for salaries of the commissioners, the registrars, and other officers paid by salary, and £20,000 for the inevitable "compensations" and for retiring annuities. The "judicial statistics" of last year stated the official assignees' charges for a year to be rather more than £50,000, the messengers', and brokers', and auctioneers' £47,000; the solicitors' bills above £130,000; the assets administered about £1,000,000.

OFFICIAL ASSIGNEES.—In the year 1860 the nine London official assignees received among them, for remuneration for their services, the sum of £22,563, and the 18 country official assignees, £25,821. About a third of the income (rather more in London) was absorbed by clerks' salaries and office rent and expences. The result was, that the net income ranged in London from £795 to £2,487, and in the country from £378 to £2,117, with one remarkable exception at Newcastle, where the official assignee's expences amounted to no less than £1,058, and his receipts were only £969. But the receipts of the whole body were sufficient to give a net income for each of the 27 of about £1,200 a year, if equally divided, or, in London, of above 1,700. The new Bankruptcy Bill proposes to allow them to fall in number to five in London, and seven in the country. Last year the four at Liverpool had only 78 bankruptcies to divide among them. The number of new bankruptcies in the year gave an average of 69 for each London official assignee, and 37 for each country assignee; the whole number was 1,287; the year's payment to the official assignees was £48,384. But a portion of their business arises not from bankruptcies, but for petitions arrangements, so that £45,000 may be as much as they received from bankrupt estates, or about £35 per each bankruptcy of the year.

It is stated that the health of Matthew Davenport Hill, Esq., Q.C., Recorder of Birmingham, is in such a precarious state as to necessitate his leaving England for Guernsey.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	234	Shra. Stock Ditto A. Stock	105
3 per Cent. Red. Ann..	87½	Stock Ditto B. Stock	132
3 per Cent. Cons. Ann..	92	Stock Great Western	78
New 3 per Cent. Ann..	89½	Stock Lancash. & Yorkshire ..	111½
New 2½ per Cent. Ann..	89	Stock London and Blackwall ..	61
Consols for account ..	92	Stock Lon. Brighton & S. Coast ..	119½
India Debentures, 1858..	25	Stock Lon. Chatham & Dover ..	46
Ditto 1859..	96	Stock London and N.-Watn..	94½
India Stock	224	Stock London & S.-Westm..	95
India 5 per Cent. 1859..	101½	Stock Man. Sheff. & Lincoln..	43½
India Bonds (£1000) ..	dis.	Stock Midland	121½
Do. (under £1000).....	20 dis.	Stock Ditto Birm. & Derby ..	95
Exch. Bills (£1000)....	2 dis.	Stock Norfolk	55
Ditto (£500).....	5 dis.	Stock North British	63
Ditto (Small) ..	dis.	Stock North-Eastn. (Brwck.) ..	103
		Stock Ditto Leeds	59½
		Stock Ditto York	96½
		Stock North London.....	97
		Stock Oxford, Worcester, & Wolverhampton ..	..
		Stock Shropshire Union ..	44
		Stock South Devon	41
		Stock South-Eastern	80½
		Stock South Wales	64
		Stock S. Yorkshire & R. Don ..	95
		Stock 25 Stockton & Darlington ..	40½
		Stock Vale of Neath	83
RAILWAY STOCK.			
Stock Birk. Lan. & Ch. June.	43		
Stock Bristol and Exeter....	99		
Stock Cornwall	6		
Stock East Anglian	18		
Stock Eastern Counties	50		
Stock Eastern Union A. Stock.	39½		
Stock Ditto B. Stock	20		
Stock Great Northern	110½		

Births and Deaths.

BIRTHS.

BELDAM—On May 26, the wife of Edward Beldam, Esq., of Lincoln's-inn, Barrister-at-Law, of a son.
M'GAURAN—On May 23, at Dublin, the wife of Edward M'Gauran, Esq., Solicitor, of a daughter.
MERRIMAN—On May 22, at Dublin, the wife of Michael Merriman, Esq., Barrister-at-Law, of a daughter.

SHANNON—On May 24, at Derry, county Clare, the wife of James Shannon, Esq., Solicitor, of a daughter.

DEATHS.

BAKER—On March 15, at Newcastle, New South Wales, John Thomas Baker, Esq., Justice of the Peace, son of the late Robert Baker, Esq., Town Clerk of Newbury.
COPEMAN—On May 25, suddenly, at his residence, Wavertree, Liverpool, Henry Copeman, formerly of Kingston-upon-Hull, Solicitor, in the 57th year of his age.
SANDERSON—On April 20, at Tobago, in the 52nd year of his age, his Honour Edward Dyer Sanderson, Chief Justice of that island, and one of the Judges of the Circuit Court of Appeal in the Windward Islands.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimant appear within Three Months:—

WOOD, GEORGE, Gent., of the Crown, Brewer-street, Golden-square, £50 New Three per Cents.—Claimed by THOMAS WOOD, administrator with the will annexed of the said George Wood.

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, May 31, 1861.

BEDDOME, RICHARD B., and **J. ARTHUR BEDDOME**, Attorneys & Solicitors 27, Nicholas-lane, London; by mutual consent. July 1.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, May 28, 1861.

CHESTER MUSIC HALL COMPANY.—Vice-Chancellor Wood order for a call of 7s. per share, on all contributors, to be paid on or before June 1, to Robert Palmer Harding, Official Liquidator, 8, Bank-buildings, London.
PROFESSIONAL LIFE ASSURANCE COMPANY (REGISTERED).—Creditors to meet before the Master of the Rolls, on June 6, at 12, at Chambers, Rolls Yard, for the purpose of appointing one or more person or persons to represent all the creditors of the Company.

FRIDAY, May 31, 1861.

SHOREHAM, HORSHAM, AND DORRING RAILWAY COMPANY.—Petition for winding up presented to the Master of the Rolls on May 29.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, May 28, 1861.

BOWEN, JOHN, Esq., M.D., Carmarthen. Price, Solicitor, Carmarthen. July 1.
CALVERT, THOMAS BARNES, Oil Merchant, 46, Cross-street, Finsbury, Middlesex, and 13, Green-terrace, Middleton-square, Islington, Middlesex. Tanqueray, William, & Hanbury, Solicitors, 34, New Broad-street, London. July 9.
COATES, WILLIAM, Farmer, Uttoxeter, Staffordshire. Hand, Solicitor, Uttoxeter. July 10.
DAVIES, JOHN, Master Mariner, 62, Highfield-street, Liverpool, Lancaster. Jones, Solicitor, 55, Castle-street, Liverpool. July 10.
LAPWORTH, ALFRED, Carpet Manufacturer, 22, Old Bond-street, and 2, Stanhope-street, Hyde Park-gardens, Middlesex. King & McMillin, Solicitors, 4, Dane's-lane, Strand. July 1.
LEVETT, REV. WALTER, Clerk, formerly of Bray, Berks, but late of Reading, Berks. Hobbs, Solicitor, Reading. July 25.
NUTTER, WILLIAM, Yeoman, Cappers, Forest of Pendle, Lancaster. Haworth, Solicitor, Edgemoor, near Burnley, Lancashire. July 31.
THOMPSON, ANN, Widow, Penrith, Cumberland. Arnison, Solicitor, Penrith. July 6.
WRIGHT, JOHN, Husbandman, Edenhall, Cumberland. Arnison, Solicitor, Penrith. July 9.

FRIDAY, May 31, 1861.

CRAWLEY, PHILIP, Gent., formerly of Devonshire-place, Edgware-road, Middlesex, and late of 3, Brunswick-road North, Brighton. J. & C. Rogers, Solicitors, 23, Manchester-buildings, Westminster. July 15.
DAWSON, ROBERT KEARSELEY, a Colonel of the Royal Engineers, Lee-grove, Blackheath, Kent. Frances Jane Dawson, executrix, Lee-grove. July 1.
GOUDRY, ANN, Widow, Norton, Durham. Dobing, Solicitor, Stockton and Hartlepool. July 1.
THORNTLEY, JOHN, Gent., 1, Polygon, Somers'-town, St. Pancras, Middlesex. Denton & Hall, Solicitors, 15, Gray's-inn-square, Middlesex. July 13.
WALLER, ANN, Widow, King-street, Woolwich, Kent. Pearce, Solicitor, 12, Rectory-place, Woolwich. July 1.
WIRE, DAVID WILLIAMS, Esq., St. Swithin's-lane, and Turnwheel-lane, London, and of Stone-house, Lewisham, Kent. Andrew, Atkins, & Irvine, Solicitors, 5, White Hart-court, Lombard street, E.C. July 31.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, May 28, 1861.

ANDERSON, JOHN, Gent., formerly of the county of Forfar, in Scotland, but late of 11, West-square, St. George's-road, Southwark, Surrey. Anderson v. Hillman, V. C. Wood. June 17.

BABB, GEORGE, Town Clerk and Solicitor, Great Grimsby, Lincolnshire. *Moody v. Babb*, V. C. Stuart. July 8.
BRADLEY, WILLIAM ORTON, Timber Merchant, Bishopwearmouth, Durham. *Bradley v. Bradley*, M. R. June 25.
CORRAL, THOMAS, Boatwain, Royal Dockyard, Sheerness. *Brock v. Kellock*, V. C. Stuart. June 24.
FLORIO, MARY, Widow, 5, John-street, Elliott's-row, St. George's-road, Southwark, Surrey. *Sprigmore v. Florio*, V. C. Stuart. June 7.
GARDNER, RICHARD, Esq., Eaton-square, Middlesex. *Gardner v. Jervis*, V. C. Wood. June 15.
HOLMAN, THOMAS, Esq., Folkestone, Kent. *Holman v. Holman*, M. R. June 24.
HUSKISSON, CHARLES, Esq., King's Norton, Worcestershire. *Huskisson v. Underhill*, V. C. Kindersley. June 20.
SIMPSON, JOHN, Farmer, Colkirk, Norfolk. *Bircham v. Simpson*, M. R. June 25.
WILLSON, GEORGE SAMUEL, Engraver, 5, Twemlow-terrace, London-fields, Hackney, Middlesex. *Willson v. Willson*, V. C. Kindersley. July 4.

FRIDAY, May 31, 1861.

AVENELL, JAMES, Brick and Tile Maker, formerly of Crookham Common, and late of Freemantle, Southampton. *Avenell v. Avenell*, M. R. June 25.
BLAKESLEY, CHARLES, Esq., Darlington Hall, Meriden, Warwick. *Blakesley v. Blakesley*, V. C. Wood. June 28.
BRITTAIN, GEORGE, Esq., 1, Streatham-street, Bloomsbury, Middlesex. *Tutner v. Brittain*, M. R. June 27.
CHAMBERS, GEORGE, Newark. *Harmar v. Stirling*, M. R. June 28.
GABY, RALPH, Gent., Chippenham, Wilts. *Gaby v. Gaby*, M. R. July 1.
PORTER, GEORGE, Architect and Surveyor, Fort-place, Bermondsey, and Paragon, Streatham. *Matthews v. Matthews*, V. C. Wood. June 20.
THOMAS, FRANCIS SANDOM, otherwise FRANK SANDOM THOMAS, Hyde-valle, Greenwich. *Russell v. Thomas*, M. R. June 24.
WEST, JAMES ELDRIDGE, Tonbridge, Kent. *Charlton v. West*, M. R. June 28.
WILLSON, GEORGE SAMUEL, Engraver, 5, Twemlow-terrace, London-fields, Hackney, Middlesex, also ELIZABETH WILLSON, Widow, St. Thomas square, Hackney. *Willson v. Willson*, V. C. Kindersley. July 4.
WOOD, CATHERINE, otherwise Catherine Crane, Worcester. *Jones v. Southall*, M. R. June 24.

Assignments for Benefit of Creditors.

TUESDAY, May 28, 1861.

BEAKPARK, HENRY EDMUND, Nursery and Seedsman, Bootham, York. *Sol. Smith*, York. May 22.
DAVIES, JOHN, Grocer, Draper, and Shopkeeper, Aylburton, Gloucestershire. *Sol. Bevan*, 3, Small-street, Bristol. May 2.
MAJOR, FRANCIS, Flax Spinner, Bourton, Dorsetshire, and Penn Mills, Somersetshire. *Sol. Hindley*, 10, Old Jewry Chambers, London, E.C. May 11.
WALCOT, CHARLES, Fringe Manufacturer, Bristol. *Sol. Bevan*, 3, Small-street, Bristol. May 1.
WILD, WILLIAM, Manufacturing Chemist, Ollersett New Mills, Derbyshire. *Sol. Atherton*, 51, King-street, Manchester. April 29.

FRIDAY, MAY 31, 1861.

BINNS, THOMAS, Ship Carpenter, Runcorn, Chester. *Sols. Harrison & Ashton*, Frodham. May 6.
DAKIN, GEORGE, Ironmonger, Diss, Norfolk. *Sol. Browne*, Diss, Norfolk. May 29.
DOUGLAS, SNOWDON, Draper, Morpeth, Northumberland. *Sols. Hodge & Harle*, Wellington-place, Pilgrim-street, Newcastle-upon-Tyne. May 13.
FITZMAURICE, MARK, Glass Dealer, Liverpool (J. H. Lewis & Co.) *Sol. Almond*, 4, Pekin-buildings, Liverpool. May 4.
HEWITT, HENRY WOODHEAD, Chemist & Druggist, West Bar Green, Sheffield. *Sol. Fretton*, Sheffield. May 4.
JONES, JOHN, Draper, Wrexham, Denbighshire. *Sols. Cooper & Sons*, 44, Pall Mall, Manchester. May 3.
MAJOR, HENRY VINTER, Draper, Gloucester. *Sols. P. & C. Cooke*, 2, College-green, Gloucester. May 7.
NEAL, CHARLES, Jun., Joiner & Builder, Bradford. *Sol. Dawson*, 43, Market-street, Bradford. May 24.
STOTHARD, NEWBY, Shipbuilder & Publican, Bishop Wearmouth. *Sol. Robinson*, 40, Villiers-street, Sunderland. May 27.
TAYLOR, GEORGE, Boot & Shoemaker, Great Ilford and Barking, Essex. *Sol. Rawlings*, Romford, Essex. May 7.
WHITTINGHAM, JOHN, Provision Dealer, Irlams-o'-the-Height, Lancashire. *Sol. Partington*, 1, Town Hall-buildings, King-street, Lancashire. May 11.
WHISKE, JOHN, Shoemaker, Great Driffield, Yorkshire. *Sol. Allen*, Great Driffield. May 28.

Bankrupts.

TUESDAY, May 28, 1861.

BATFIELD, RICHARD JURY, & JOSEPH VERNON NEEDHAM, Gun Manufacturers, Birmingham. *Com. Sanders*: June 10, and July 8, at 11; Birmingham. *Off. Ass. Whitmore*. *Sols. Southall & Nelson*, Birmingham. *Pet. May 16*.
BURGER, ENIL A., Merchant & Agent, Bristol (Burger & Co.) *Com. West*: June 10, and July 9, at 11; Bristol. *Off. Ass. Miller*. *Sols. Strick*, Swansea; or *Brittan & Sons*, Bristol. *Pet. May 13*.
BUTTERWORTH, THOMAS TAYLOR, Licensed Victualler & Coal Dealer, Birmingham, and of Gt. Bridge, Staffordshire. *Com. Sanders*: June 10, and July 8, at 11; Birmingham. *Off. Ass. Whitmore*. *Sols. Sutton & Jelf*, Birmingham; or *James & Knight*, Birmingham. *Pet. May 27*.
CLARK, JAMES, BENJAMIN CLARK, & JOHN RICHARD CLARK, Cotton Spinners & Manufacturers, Worsley, Lancashire, and of Clayton, Lancashire (Richard Clarke & Sons). *Com. Jennett*: June 13, and July 4, at 12; Manchester. *Off. Ass. Herniman*. *Sols. Marsland & Edge*, 23, John Dalton-street, Manchester. *Pet. May 18*.
EDMONSTON, ROBERT, & THOMAS HIGHAM, Stuff Manufacturers, Bailiff Bridge, Birstal, Yorkshire (Edmonston & Higham). *Com. West*: June 14, and July 8, at 11; Leeds. *Off. Ass. Young*. *Sols. Wood*, Bradford; or *Carras & Cudworth*, Leeds. *Pet. May 18*.

GADSBY, BENJAMIN, Brush Maker & Grocer, Moor-street, Birmingham. *Com. Sanders*: June 10, and July 8, at 11; Birmingham. *Off. Ass. Kinnear*. *Sol. Chesshire*, Birmingham. *Pet. May 16*.
HALL, GEORGE WESTBURY, Merchant, 43, Lime-street, London. *Com. Evans*: June 11, and July 11, at 12; Basinghall-street. *Off. Ass. Bell*. *Sol. Watson*, Moorgate-street. *Pet. May 20*.
LEMERE, JAMES, Oil & Colourman, 37, Victoria-row, Old Ford North, Bow, Middlesex, and late of 3, Broadway, Stratford, Essex, and of 3, Crosby-row, Walworth, Surrey, and also of 129, High-street, Shoreditch, Middlesex. *Com. Holroyd*: June 11, at 2; and July 9, at 1; Basinghall-street. *Off. Ass. Edwards*. *Sol. Reeve*, 10, Tokenhouse-chambers, Tokenhouse-yard, Lothbury, London. *Pet. May 24*.
MARSHALL, WILLIAM SEYMOUR, Cooper & Hardwareman, Durham. *Com. Ellison*: June 7, and July 12, at 12; Newcastle-upon-Tyne. *Off. Ass. Baker*. *Sols. Harle & Co.*, 20, Southampton-buildings, Chancery-lane, London, and 2, Butcher Bank, Newcastle-upon-Tyne. *Pet. May 24*.
OWENS, THOMAS, Flour Dealer & Grocer, Holyhead, Anglesey. *Com. Perry*: June 6 and 28, at 12; Liverpool. *Off. Ass. Morgan*. *Sols. Evans, Son, & Sandys*, Commercial-court, Liverpool. *Pet. May 18*.
PRESTON, PATRICK, Boot & Shoe Manufacturer, Liverpool. *Com. Perry*: June 10 and 28, at 12; Liverpool. *Off. Ass. Morgan*. *Sol. Quinn*, 21, Cable-street, Liverpool. *Pet. May 25*.
SAVIER, JOHN, Jun., Manufacturer of Patent Manure, Leeds and Wakefield, Yorkshire. *Com. West*: June 14, and July 5, at 11; Leeds. *Off. Ass. Young*. *Sols. Stewart*, Wakefield; or *Bond & Barwick*, Leeds. *Pet. May 18*.
SIMONS, GEORGE, Manufacturer of Fancy Hosiery, Leicester. *Com. Sanders*: June 7, and 28, at 11; Nottingham. *Off. Ass. Harris*. *Sol. Stretton*, Leicester. *Pet. May 21*.
WHITTEM, WILLIAM, Grocer & Draper, Meriden, Warwickshire. *Com. Sanders*: June 7 and 28, at 11; Birmingham. *Off. Ass. Whitmore*. *Sols. Minster & Son*, Coventry; or *Roece*, Birmingham. *Pet. May 27*.
WILMOTT, SAMUEL, Lace Manufacturer, Nottingham. *Com. Sanders*: June 7 and 28, at 11; Nottingham. *Off. Ass. Harris*. *Sols. Freeth, Rawson, & Browne*, Nottingham. *Pet. May 24*.

FRIDAY, May 31, 1861.

BROWNE, ENEWSTER CHARLES, Music Seller & Agent, Birmingham. *Com. Sanders*: June 17, and July 8, at 11; Birmingham. *Off. Ass. Kinnear*. *Sols. James & Knight*, Birmingham. *Pet. May 25*.
CHAPMAN, JOHN, Boot & Shoe Maker, Sidney-street, Cambridge. *Com. Holroyd*: June 11, at 2.30, and July 16, at 1; Basinghall-street. *Off. Ass. Edwards*. *Sol. Richardson*, 15, Old Jewry-chambers, London. *Pet. May 20*.
DIAMOND, THOMAS FUGGLE, Warehouseman & Commission Agent, Blue Hoar-court, Friday-street, London. *Com. Fane*: June 13, at 12, and July 5, at 1.30; Basinghall-street. *Off. Ass. Whitmore*. *Sol. Reed*, 3, Gresham-street. *Pet. May 29*.
HARGRAVE, RICHARD, Worsted Stuff Merchant, Leeds (Jennies & Hargrave). *Com. Ayrton*: June 11, and July 29, at 11; Leeds. *Off. Ass. Hope*. *Sols. Rawson, George, & Wade*, Bradford, or *Bond & Barwick*, Leeds. *Pet. May 21*.
HILL, JOHN, & WILLIAM HILL, Coal Merchants, Nottingham. *Com. Sanders*: June 13 & July 2, at 11; Nottingham. *Off. Ass. Harris*. *Sols. Coope*, Nottingham, or *Harrison & Wood*, Birmingham. *Pet. May 28*.
PARKER, JOSEPH, Coal & Brick Merchant, Birmingham. *Com. Sanders*: June 14 & July 11; Birmingham. *Off. Ass. Kinnear*. *Sol. Suckling*, Birmingham. *Pet. May 30*.
ROONEY, GEORGE PATRICK, Licensed Victualler & Builder, Liverpool. *Com. Perry*: June 13 & July 4, at 11; Liverpool. *Off. Ass. Bird*. *Sol. Quinn*, Cable-street, Liverpool. *Pet. May 29*.
SMITH, JOHN, Stuff Manufacturer, Bradford. *Com. Ayrton*: June 14 & July 5, at 11; Leeds. *Off. Ass. Young*. *Sols. Bond & Barwick*, Leeds. *Pet. May 25*.
TROOD, EDWARD, & EDWARD TROOD, Jun., Grocers, Bridgwater, Somersetshire. *Com. Andrews*: June 12, and July 10, at 12; Exeter. *Off. Ass. Hirtzel*. *Sols. Smith*, Bridgwater; or *Turner & Hirtzel*, Exeter. *Pet. May 30*.
WADSON, JAMES, Innkeeper & Common Brewer, Fleet, Lincolnshire. *Com. Sanders*: June 13, and July 2, at 11; Nottingham. *Off. Ass. Harris*. *Sol. Maples*, Nottingham. *Pet. May 30*.
WOOLFORD, GEORGE, Butcher, Lydiard Millicent, Wilts. *Com. Hill*: June 11, and July 9, at 11; Bristol. *Off. Ass. Miller*. *Sols. Townsend & Ormond*, Swindon; or *Henderson*, Bristol. *Pet. May 23*.

BANKRUPTCY ANNULLED.

TUESDAY, May 28, 1861.

FRANCIS, WILLIAM, & JAMES HOOPER, Leather Factors & Copartners, New Leather Market, Bermondsey, Surrey (William Francis & Co.) May 23.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, May 28, 1861.

CASTLE, RICHARD, Cattle Dealer, Wantage, Berks. June 12, at 12; Basinghall street.—**CHOWN, HENRY CHARLES**, Shoe Dealer, Sheffield. June 8, at 10; Sheffield.—**CLAFE, WILLIAM, Jun.**, Timber Merchant, 1, Southwark-bridge-road, Southwark, and 12, Rockingham-row, New Kent-road, Surrey. June 19, at 1.30; Basinghall-street.—**COLE, RICHARD**, Lockington, Merchant, 80, Cornhill, London. June 19, at 1; Basinghall-street.—**JACOBSON, THOMAS**, Contractor, 10, Cannon-street, London. June 25, at 12; Basinghall-street.—**JACOBS, ABRAHAM, JOHN JACOBS, & HENRY JACOBS**, Merchants, 14, Crown-street, Finsbury, Middlesex. June 19, at 1.30; Basinghall-street.—**LAYDLAW, ALEXANDER W.**, Wine Merchant, 3, Bury-court, St. Mary Axe, London. June 19, at 1.30; Basinghall-street.—**LAURENCE, THOMAS, WILLIAM MORTIMORE, & FRANCIS BENJAMIN SCHRAEDER**, Leather & Hide Factors, St. Mary Axe, London. June 21, at 11; Basinghall-street: joint estate: same time, report of Francis Benjamin Schraeder.—**MARRIAGE, THOMAS, & WALTER MARRIAGE**, Millers, Barnes Mill, Springfield, near Chesham, Essex. June 20, at 12; Basinghall-street.—**FURKINS, JOHN**, Haberdasher & General Merchant, Oakham, Rutlandshire. June 25, at 1; Basinghall-street.—**SEAGOOD, OLIVER ALFRED, & HENRY WILLIS SMITH**, Builders & Contractors, Wellington-road, Holloway, Middlesex. June 20, at 11; Basinghall-street.—**SIMONS, GEORGE, & MOSES SIMONS**, Watch Manufacturers, 49, King's-square, Goswell-road, Middlesex (G. & M. Simons.) June 25, at 1; Basinghall street.—**SPENCER, TIMOTHY**, Tailor, 4, Ar-

tillery-place, Woolwich, Kent. June 19, at 12; Basinghall-street. — STEPHENSON, JAMES JOSIAH, known as JAMES STEPHENSON, Cabinet Maker & Upholsterer, 36, Crawford-street, Bryanstone-square, Middlesex. June 19, at 12.30; Basinghall-street. — WATT, JAMES, Canvas Merchant & Baker, 29, Mark-lane, London, and King-street, Hackney-road, Middlesex (James Watt & Co.) June 19, at 1; Basinghall-street.

FRIDAY, May 31, 1861.

ARNOLD, PHILIP, & JOHN ARNOLD, Straw Plait Merchants, Luton, Bedfordshire. June 21, at 11.30; Basinghall-street. — FITSPATRICK, TERENCE, Newark-upon-Trent, Nottinghamshire, and BERNARD FITSPATRICK, Nottingham, Travelling Drapers. June 21, at 11; Nottingham. — HIRST, JOSEPH BARBER, Cloth Manufacturer, Holme, Almondsbury, Yorkshire. June 17, at 11; Leeds. — HOME, THOMAS WILLIAMS, Hotel Keeper & Perfumer, late of 4, Albermarle-street, Piccadilly, and now of 20, Pelham-terrace, Brompton, Middlesex. June 14, at 11.30; Basinghall-street. — HOWES, JAMES VINCENT, Leather Seller, 31, Chiswell-street, Middlesex. June 21, at 2; Basinghall-street. — HUGHES, Wm. Grocer & Provision Dealer, Leicester, June 25, at 11; Nottingham. — JENNINGS, THOMAS CRICKETT, Tea, Coffee, & Spice Dealer, Ipswich. June 21, at 1; Basinghall-street. — JOHNSTON, FREDERICK, Boarding and Lodging House Keeper, 46, Eastbourne-terrace, Paddington, and 10, Curzon-street, May Fair, Middlesex. June 11, at 2; Basinghall-street. — LATHAM, EDWIN, and WILFRED, LATHAM Commission Merchants, Liverpool. June 24, at 11; Liverpool. — MARTIN, SEPTIMUS FREDERICK, Wholesale Shoe Warehouseman, 25, Dowgate-hill, London (S. Frederick Martin & Co.) June 25, at 1, Basinghall-street. — MONTGOMERY, ACHTUBALD, Merchant, 3, Great Winchester-street, London, and 11th-street, Clapham (A. Montgomery & Co.) June 25, at 11; Basinghall-street. — Joint estate. — NICHOLS, BENJAMIN HUMPHRY, Innkeeper, Fox Inn, Wilbarston, Northampton. June 25, at Basinghall-street. — PAYNE, PHILLIP HENRY, Leather Merchant, 252, Euston-road, Middlesex, formerly of 31, Bush-lane, Cannon-street, London. June 18, at 11.30; Basinghall-street. — POAD, WILLIAM PALMER, Draper and Mercer, Portsmouth. June 21, at 12.30; Basinghall-street. — RAPHAEL PHILIP, Wine and Spirit Merchant and Publican, St. James' Tavern, Duke-street, Aldgate, London. June 12, at 2; Basinghall-street. — SNOWDON, ROBERT, Carver and Gilder, Looking Glass and Picture Frame Manufacturer, and Dealer in Prints, Newcastle-upon-Tyne. June 14, at 11.30; Newcastle-upon-Tyne. — THOMPSON, JAMES and JOHN BRADFORD, Ironmasters, Bradley Hall Ironworks, Bilston, Stafford. June 24, at 11; Birmingham. — YOUNG, IRON JAMES CHRISTOPHER, Duke of Wellington Public-house, Stone Bridge Common, Kingsland, Middlesex. June 12 at 11.30; Basinghall-street.

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s.; copies 1s., or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process. — ADV.

THE CHILDREN'S PHOTOGRAPHER. — Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary. — ADV.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £300,000, in 20,000 shares of £10 each. £3 per share paid.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. PATTESON & COBOLD, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS. — The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal, is 5 per cent.

LOANS. — Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained. JOSEPH K. JACKSON, Secretary.

STATE FIRE INSURANCE COMPANY. — Chief

Offices, 32, Ludgate-hill, and 3, Pall-mall east, London.

Chairman — The Right Hon. Lord KEANE, Stetchworth-park, New market.

Managing Director — PETER MORRISON, Esq.,

Capital, Half-a-Million.

13,996 new policies were issued during the year ending 31st of March, 1860, insuring £6,829,918 6 3
New premiums for the year ending 31st of March, 1860. 23,476 8 0
Total premium income for the year ending 31st of March, 1860 41,760 5 1

The increase of Government duty paid by the State Fire Insurance Company in 1859, exceeded that of 39 other companies, while the increase upon farming stock insurances effected with the State Fire Insurance Company during the year 1859 exceeded that of 26 other offices.

This Company grants Insurances against Fire on every description of property, both at home and abroad.

Plate-glass insured against breakage.

Agents Wanted, to whom a liberal commission will be allowed. Application to be made to the Secretary, 32, Ludgate-hill.

WILLIAM CANWELL, Secretary.

LAW STUDENTS' DEBATING SOCIETY, AT THE LAW INSTITUTION, CHANCERY LANE.

Gentlemen are requested to supply the Secretary, during the Vacation, with Questions for Discussion.

QUESTIONS FOR DISCUSSION.

For Tuesday, 4th June, 1861. President — Mr. BRADFORD.

Mr. HILLS will move — "That the Resolution of the Society of the 6th January last, which provides 'That no Member of this Society other than the opener of the debate shall in future be permitted to speak on any question for a longer period than twenty minutes,' be, and the same is hereby rescinded."

Mr. KENRICK will move — "That the votes on the election of Members be taken by show of hands instead of by Ballot."

The SECRETARY will move — "That the Annual Dinner of the Society do take place in the month of July next. That a Committee of four Members be appointed to make the necessary arrangements, and that such Committee be empowered to draw on the funds of the Society, for any sum not exceeding £25 towards the expense of the dinner."

275. — A leasehold property was sold subject to an underlease; the lease and underlease were produced at the sale. The lease contained a covenant to pull down the messuages on that part of the ground not under-leased, and to re-build at the end of the term, and the covenants in the underlease differ materially from those in the lease. Can the purchaser refuse to complete the contract?

Hall v. Smith, 14 Vesey, 430; Darlington v. Hamilton, 1 Kay, 550; Martin v. Cotter, 3 Jo. & Lat. 496; Jones v. Edney, 3 Camp. 285; Grosvenor v. Green, 5 Jur. N. S. 117.

Affirmative — Mr. ULLITHORNE and Mr. WHITE.

Negative — Mr. JACKSON and Mr. BAKER.

For Tuesday, June 11th, 1861. President — Mr. GREEN.

XCVIII. — Has the establishment of the Divorce Court proved beneficial to the country?

Mr. D. MILLER is appointed to open the debate, and Messrs. BEAL, FAWCETT, and COLLINS, to speak on the question.

For Tuesday, June 18th, 1861. President — Mr. DOWSE.

276. In the case of a Marine Policy of Insurance in the usual printed form, effected with British Underwriters; is a foreign assured entitled to recover for a loss occasioned by the act of his own Government?

Conway v. Gray, 10 East. 536; Campbell v. Innes, 7 B. & Ald. 423; Flint v. Scott, 15 East. 528; and 5 Taunt. 674; Simeon v. Bazett, 3 M. & S. 96.

Affirmative — Mr. CRUMP and Mr. HINCHLIFFE.

Negative — Mr. A. LINDO and Mr. OLIVER.

For Tuesday, June 25th, 1861. President — Mr. WINGATE.

277. — Is a landlord who distrains crops and produce, which the tenant is bound to use on the premises, at liberty to sell the same, subject to an agreement similar to that to be entered into by a purchaser under an execution?

Abbey v. Fetch, 8 M. & W. 419; Ridgway v. Lord Stafford, 6 Ex. 404; Wilmut v. Rose, 3 El. & Bl. 56 Geo. 3, c. 50, s. 11.

Affirmative — Mr. HILLS and Mr. TILLY.

Negative — Mr. PEACHY and Mr. AMOS.

For Tuesday, 2nd July, 1861. President — Mr. WINCKWORTH.

ANNUAL MEETING.

The Report of the Committee will be read.

The Treasurer will lay before the meeting a statement of Receipts and Payments of the Society during the past year, and a List of Unpaid Fines and Subscriptions.

Members who have been absent from six successive Meetings, without written notice, must show cause at this Meeting, why their names should not be erased from the list of Members.

The Officers of the Society for the ensuing year will be elected.

ALL MEMBERS ARE REQUESTED TO ATTEND PUNCTUALLY.

The Society will adjourn for the Long Vacation, until Tuesday, 29th October, 1861.

Gentlemen are requested to send in questions for Discussion. Members requiring books from the Library, should apply for them five minutes before Seven o'clock on the Evenings of Debate.

GEO. L. WINGATE, Secretary,
9, Copthall court, E.C.

AN INDISPUTABLE LIFE POLICY IS ALTO-

GETHER DIFFERENT FROM

AN ORDINARY LIFE POLICY.

It is different in meaning, construction, and effect, being really a LIFE-DEBENTURE, as shown by the Opinions of the Attorney-General, and the Lord Advocate of Scotland, copies of which, and Prospectuses, forwarded to applicants.

INDISPUTABLE LIFE ASSURANCE COMPANY OF SCOTLAND.

EDINBURGH — 13, QUEEN STREET.

ALEX. ROBERTSON, Esq., Manager.

LONDON — 54, CHANCERY LANE.

JAS. BENNETT, F.S.S., Resident Secretary.

AGENTS WANTED in Places where the Company is not already represented.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826. — This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, JUNE 8, 1861.

CURRENT TOPICS.

A case decided on Monday last by the Lords Justices upon an appeal in the Court of Chancery definitively affirms the right of suitors in every case, and at every stage of a cause, requiring judicial consideration, and not involving merely official details, to have the decision of the judge himself, whether in court or in chambers, and not of one of his chief clerks. In the case in question, namely, *In re The Agriculturist Cattle Insurance Company*, the chief clerk had appointed an official manager to this company, which was being wound up under an order. The appointment being objected to by the appellants, the learned judge (the Master of the Rolls) refused to consider the question of the appointment, and required its opponents to show that the gentleman appointed was an improper person, thus involving the hearing of the case as on an appeal from the decision of the chief clerk. In remarking upon this state of facts Lord Justice Turner, in a very elaborate and emphatic judgment, observed that "every suitor has the unqualified right to have his case heard before the judge himself." The question raised upon this appeal has been frequently discussed in an incidental manner, but never expressly or satisfactorily settled until now. Practically a very large amount of business of a quasi judicial character comes before the chief clerks, and no doubt, in very many instances, where it can be done with the consent of competent parties, such a proceeding is extremely convenient and economical, and very much tends to the progress of business. But where the parties are at arms length, and determined upon having their rights decided by the judge himself, it is certainly very desirable that they should not be driven to undergo a preliminary contest before the chief clerk; and this rule has hitherto operated unjustly, and with great severity in many cases, where the party who has failed before the chief clerk has been obliged to submit to the risk of an intermediate appeal to a court to which he was entitled to have come in the first instance.

The Bankruptcy Bill as amended by the Select Committee of the House of Lords has been printed, and by this time its provisions as altered are generally understood. We shall, therefore, refer to them but briefly. The new print of the Bill shows at a glance the alterations which have been made. The principal one is that which strikes out the clauses relating to the constitution of a new Court of Appeal, and the appointment of

a chief judge. The effect of the Bill as it now stands would be to leave the law of bankruptcy to be administered by the present commissioners and the judges of county courts, with an appeal from both to the Lords Justices of the Court of Chancery, according to the existing practice. An important change has also been made in the clause relating to the persons who are to be subject to the Act. According to the 81st section, as it stood originally, all debtors, whether traders or not, were to be liable to be adjudged bankrupts, and it was to be no longer necessary to show any trading on the part of the debtor; but the Bill as amended provides that no debtor who is not a trader shall be adjudged bankrupt, except in respect of an act of bankruptcy described as applicable to a non-trader. Another change made is in reference to the appointment of creditors, to the exclusion of official assignees. The Bill provided that creditors might at their option resort either to the official assignee or appoint their own assignee, to whom the official assignee was to render accounts, and who might in fact be thus made the manager of the bankrupt estate. The Select Committee have struck out all the clauses providing for this scheme; and the Committee also refuse to permit private arrangements to be effected unless all the creditors can be found. The whole of the set of clauses relating to the powers of the Court of Bankruptcy in aid of the Court of Chancery have been struck out, and so also has been the clause enabling a judge or commissioner to direct the indictment and criminal prosecution of a bankrupt. The greater number of alterations made in the Bill have been by way of subtraction, but there are some important additions. Among the latter are to be especially noticed a clause enabling the Court to dispose, for the benefit of creditors, of any estate at law or in equity, which at adjudication or afterwards before order of discharge, a bankrupt has in copyholds, and to make an order vesting the estate in such manner as the Court shall think fit; and also a clause providing against the sale of the life estate in remainder of a bankrupt before it falls into possession, and another providing that the estate tail of a non-trader insolvent not in possession shall not be barred without his consent. In addition to the alterations made by the Select Committee, Lord Chelmsford has given notice of his intention to move that a non-trader be not liable to be made bankrupt except on the petition of a creditor whose debt is contracted after the passing of the Bill. The Select Committee merely inserted a clause providing that a non-trader shall not be made bankrupt on a debt contracted already, if he is at the commencement of the Act entitled to any estate or property which is subject to forfeiture in case he should be bankrupt. Some minor distinctions have been made in the Select Committee between a trader and a non-trader. A proviso has been inserted that a non-trader abroad already shall not be deemed to remain abroad with intent to defeat or delay his creditors (an act of bankruptcy) until the expiration of six months after the passing of the Bill. Lying in prison for debt for fourteen days is to be an act of bankruptcy in a trader, but it must be for two months in the instance of a non-trader (an execution against a person's goods is not by the Bill an act of bankruptcy if he is not a trader). A non-trader is also to be allowed longer time (two months, as against seven days for a trader) before a judgment-debtor summons can be taken out against him on non-payment of money ordered to be paid by a decree in equity; but the same distinction was already in the Bill in respect to judgment-debtor summonses for judgment debts. Lastly, the power given in the Bill to the Bankruptcy Court to refuse the bankrupt's "order of discharge" or sentence him to a year's imprisonment, if the Court shall be of opinion "that his insolvency is attributable to rash and hazardous speculation or unjustifiable extravagance in living," has by the Select Committee been limited to the case of traders.

The Select Committee have made numerous minute alterations in the language of the Bill, but we regret to find they have allowed Schedule G. to stand. Some weeks ago we pointed out the inconvenient and anomalous mode adopted in this schedule of repealing former Acts of Parliament, the effect of which if passed into law will involve the statutes relating to bankruptcy in far greater confusion than they have ever yet been.

It is understood that Sir Richard Bethell had made all his arrangements and was fully prepared on Tuesday evening last for the introduction to the House of Commons of his concentration of courts scheme; and a number of gentlemen interested in the question were present in the hope of hearing his speech on the occasion. The great delay, however, which has been caused to all other business by the debates upon the Budget, has up to the present time prevented the Attorney-General from bringing forward his measure, and we fear it is now so late in the session that it must be postponed until next year.

MARITIME PUBLIC LAW—BELLIGERENT RIGHTS. No. I.

A brief account of belligerent rights in general may facilitate a view of the present state of international law, as regards such rights at sea. We may premise that writers on this subject are unanimous in the opinion that the rights of belligerents are unaffected by the character of the war, whether it be just or unjust, international or civil. Certain modes of offence and redress, short of war, were formerly often resorted to by sovereign states against each other. These species of hostilities, which were the originals of the present rights of belligerents, are usually divided into four classes. The first consists of embargoes or sequestrations on the property of the enemy found within the territory of the antagonist state. To the second class belongs the taking of forcible possession of the thing in dispute. The third comprehends the right of vindictive retaliation (*retorsio facti*), or of equitable retaliation (*retorsion de droit*), which latter phrase is used to denote the meting to the other nation the precise measure which itself has used. The fourth consists of reprisals upon the persons and property of the enemy. This last species of redress includes all the former ones, and is inferior only to actual war, without which it has seldom in later times been practised. Reprisals are termed positive, when they are comprised under any of the foregoing classes, or negative, when a state merely refuses to fulfil its engagements. Reprisals are also either general, or special. The former consist of commissions or letters of marque delivered in time of war to the officers and subjects of a belligerent. Special reprisals mean letters of marque delivered in time of peace by the supreme authority in a state to such of its subjects as have suffered injury from the government, or subjects, of another state. These guerilla hostilities show, as it were, that the individual has not surrendered all his rights of self-defence to the body politic; at least, not without an implied condition that these are to be regranted to him upon a fitting occasion. This species of political disintegration has, however, become almost obsolete in time of peace. That it is not equally avoided in time of war we may observe in the present tactics of America.

The latest formal declaration of war by heralds-at-arms was made by France against Spain at Brussels in 1635. The present usage is to publish a manifesto, such as appeared in the *London Gazette* in 1854 upon the breaking out of the Russian war, or such as was lately issued by the American Presidents.

It has been almost settled by modern usage, that property of the enemy lying within the territory of a belligerent state, and debts due to the former, espe-

cially public debts, or funded property, are not liable to confiscation, at the commencement of hostilities. This, however, is not an inflexible rule. Great Britain has frequently condemned, as droits of Admiralty, the property of the enemy found in its ports at the commencement of war. The law of early times, as found in *Magna Charta* itself, was less severe. "The enemy's merchants," the Great Charter declares, "are to be kept and treated as our own merchants are kept and treated in their country." The right of withdrawing property, and other like conditions, are usually provided for by express treaties. The right of the supreme authority to issue letters of marque and reprisal for future seizures, after war has been fully announced, is unquestioned. Any subsequent trading with the enemy without an express ordinance or license, is illegal, and may be punished by confiscation; *The Franklin*, Robinson's Adm. Rep., vol. iv. p. 195. Ravaging an enemy's territory is not deemed lawful, unless it be indispensable for strategic operations, or retaliation.

The ancient laws of war have been long relaxed as to the confiscation of private property on land. But, prior to 1854, the maritime code of warfare, in general, showed little lenity. This dissimilarity in the operation of the laws of war by land and by sea, has been advocated upon the ground that contributions are levied by land, even though the territory be not ravaged, that the object of warfare by land is territorial acquisitions, and, consequently, that the conqueror is expected to treat his future subjects with leniency; but that the sole object of maritime warfare is the destruction of the enemy's power. These data appear to us to be wholly unwarranted. Wars by land and by sea have, or may have, the same object—conquest, self-defence, or revenge. But, in neither of these cases, can we find any ground for justifying the establishment of a different code for the immunities of private property on land, from that which regulates the security of the same property when at sea. It appears to be altogether unreasonable, that a strict code should prevail with naval powers, and a lax one with states whose strength is chiefly military—that the former should permit and authorize privateering, and every species of injury to the private property of the enemy; but that soldiers and volunteers should not be permitted to do similar acts on land. Nevertheless, captures made by private armed vessels without a commission, and without the plea of self-defence, are so far deemed legal by the law of nations as to prevent the captors from being punished as piratical. Such captures are termed prizes of war, or droits of Admiralty, and are condemned to the Government.

The practice of issuing commissions by the state to private armed vessels has been hitherto sanctioned by the laws of every maritime nation. Various efforts have been made by philanthropists and statesmen to have this system abolished. The treaty negotiated by Franklin between the United States and Prussia, in 1785, stipulated against this system. The French Legislative Assembly, in 1792, unsuccessfully proposed that both privateering, and the taking of private property by sea, should be abolished by mutual agreement amongst nations. The United States Government proposed to conclude a compact to this effect with Great Britain in 1824; but the offer was declined, notwithstanding that England has more private property to lose upon the ocean, than any other nation. The United States has deserved well of juridical philanthropists with respect to this question. The treaties of that country in 1778 with France, in 1794 with England, in 1782 with the Netherlands, in 1836 with Peru-Bolivia, in 1788 and 1799 with Prussia, in 1795 with Spain, and in 1783 and 1816 with Sweden, all provided that, if any citizen or subject of either of the contracting parties took a commission or letters of marque for privateering against the other, from any power with whom the other was at war, he might be

treated as a pirate. Latterly, neutral states forbid their subjects from accepting letters of marque from belligerents. The neutral powers did so during the late Russian war, and even forbade the entry of foreign privateers into their ports; and neither England or France issued letters of marque during the Russian war.

The national courts of the captor have exclusive jurisdiction to determine the validity of captures made during war under the authority of the captors' government. To this rule there are only two exceptions:—where the capture is made in a neutral state; or when it is made by armed vessels fitted out within the neutral territory. In these cases, the courts of the neutral state have exclusive jurisdiction, and no consular authority of the country of the captor is ever allowed to have a voice as to such prize of war. The sentence of the court of the capturing nation is conclusive as to the rights of the parties before it. The sentence, however, if unjust (*plane contra jus judicatum*), affords ground for reprisals to the injured nation. Municipal courts differ from courts of prize in this respect; the sentences of the former in questions of international law having never been deemed to afford ground for reprisals or a *casus belli*. However much we may sympathise with the recent political changes on the Continent, yet we do think that a Government ought in all cases to prohibit its subjects from engaging in the service of belligerents, and, *a fortiori*, in cases of civil war. It was with pleasure, therefore, we saw that the foreign enlistment Act, 59 Geo. 3, c. 69, was brought fresh to the public mind by the recent royal proclamations.

The unlawfulness of belligerent captures on neutral territory is incontestably established. How far this acknowledged immunity extends to vessels on the high seas is a question which has, as we have shown, experienced a variety of practical solutions. The vessels of every State are subject only to the municipal laws of the State to which they belong, except as to crimes, such as piracy, which every nation has obviously an equal right to punish, or other offences that manifestly involve a violation of international law. Is the belligerent right of capturing enemy's property inconsistent with the claims of municipal law, or does it follow from the general principles of the international code? The right of capture may confessedly be exercised within the territory of a belligerent, or in a place belonging to no one—in short, in any place except in the territory of a neutral State. Is the vessel of a neutral on the high seas to be considered as protected against visitation and search, just as the residence of the owner confessedly is? As to the *public* vessels of neutrals, the rights of visitation and search have never been claimed by belligerents. Private vessels on the high seas, however, are not considered to be equally privileged. The general rules of international law as to such maritime captures are—that the goods of an enemy on board a neutral vessel may be confiscated; but that the goods of a neutral on board an enemy's vessel are free. The constant practice of belligerent nations from the earliest times has been to adhere to the former proposition; and even the neutral vessel has sometimes shared the same fortune. The marine ordinances of Louis XIV. prescribed this regulation from the year 1681 to 1744. This extreme rule, however, has been confined to special periods in the jurisprudence of France and Spain. It has not prevailed with other countries. As the goods of an enemy found on board the ships of a neutral or of an ally are liable to capture, so a converse rule has been, though without equal reason, sought to be established—that the goods of an ally on board an enemy's vessel should follow the fate of the vessel. This rule, which obtains in the marine ordinances before mentioned, violates all justice and principle. An enemy's goods are liable to be seized anywhere except on neutral territory, and a ship is not territorial or immovable; but the goods of a friend are not in other cases deemed liable to capture in any place, unless they are contraband of war,

or are connected with a breach of blockade. The maxim "Free ships, free goods," does not, therefore, except by a verbal antithesis, involve the converse proposition, that "enemy's ships make enemy's goods." Accordingly, this view was held in the case of *The Nereide*, 1 Cranch Rep. vol. 9, p. 388, *Amer. Rep.* upon the construction of the treaty concluded between America and Spain in 1795. Trading with the enemy was almost completely legitimated, as to England and France, by the declaration made by these powers in March, 1854. This manifesto adopted the rule "Free ships, free goods;" it relinquished the right of confiscating neutral goods in enemies' vessels, and authorised not only neutral trade with the enemy, but even allowed British merchants so to trade, provided the goods were embarked on board neutral vessels—a provision which British merchants were not likely to infringe by sending their ships into the enemy's ports, where they would be sure of meeting a fate similar to that experienced by the trireme which carried Regulus to Carthage.

There has been a constant tendency for the past two centuries to adopt in practice the maxim "Free ships, free goods." The States General of the United Provinces, the greatest carriers in Europe, as Adam Smith observes, obtained this concession in 1650 from Spain; in 1662 from France; and in 1668 and 1774 from England. The same stipulation "Free ships, free goods," with the technical and unreal correlative "Enemy's ships, enemy's goods," was contained in the treaty concluded between France and Spain in 1659, and in that formed by England with Portugal in 1654. This stipulation was omitted in the revised treaty of 1810. The same principle is adopted by the treaties of Utrecht of 1713, 1721, and 1739; by the treaty of Aix-la-Chapelle of 1748; of Paris in 1763; and of Versailles in 1783, between Great Britain, France, and Spain. The celebrated armed neutrality of 1780 adopted the maxim "Free ships, free goods," without the dark correlative. The two maxims were again adopted by the commercial treaty concluded in 1786 between France and England. But the treaty of Amiens in 1802, and that of Paris in 1814, omit all mention of such provisions. During the protracted wars of the French Revolution, liberal principles were discarded by all parties alike. In 1807, however, the principles of the armed neutrality were proclaimed anew by Russia. In 1780, the American Government adopted the principles of the armed neutrality, upon condition that they should be reciprocally acknowledged by the belligerent states. Since that time they have recognised the general law of nations already stated—that the goods of a friend found in the vessel of an enemy are free, and that the goods of an enemy found in the vessel of a friend are lawful prize; but the States have always endeavoured to render the law more liberal. In 1785, they stipulated with Prussia that "Free ships should make free goods," without the obnoxious correlative "Enemy's ships enemy's goods." The former maxim does not mean that a neutral flag can be used to protect enemy's property in the ship as well as the cargo; *The Citade de Lisboa*, Robinson's Adm. Rep. vol. vi. p. 358. The belligerent policy of England has, as a general rule, conformed to the above-mentioned law of nations, which is based upon the *Consolato del Mare*. The rule, however, that neutral goods on board an enemy's vessel are free, has been often rendered nugatory by an arbitrary law of contraband, and by the prohibition of the enemy's coasting and colonial trade, which sometimes involved a cessation of all neutral commerce. The plea of the right of search has also often enabled England to institute a police over all neutral navigation. These investigations have been extended even to the ascertainment of the nationality of the crew, with a view of subjecting them, if liable, to impressment for the British military marine. The decrees of Francis I. of France, in 1543, were the most severe of the laws

of any nation in respect to neutrals. These ordinances condemned enemy's property on board neutral vessels, the vessels themselves and the rest of the cargo, and also the goods of a friend when found on board an enemy's vessel. If England and France maintained, during war, the peculiar principles of their respective maritime codes, all neutral commerce should cease. Neutral property, if in an enemy's vessel, would be good prize to the French cruiser, while neutral ships would be searched by English officers and brought into an English port to the interruption of the voyage. Any allowance, either as freight or for damages, would be a very inadequate compensation for these hardships. Accordingly, the changes effected by the declaration of 1854 were recommended by rude necessity.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY, LINCOLN'S-INN.

(Before the LORD CHANCELLOR.)

June 5.—*In re Ward*.—This was a petition of several freeholders and justices of the peace for the county of Stafford, including the Lord-Lieutenant of the county, praying that the Lord Chancellor would be pleased to remove William Webb Ward, coroner of one of the districts of the said county of Stafford, from his office, in consequence of misbehaviour in his said office. The petition prayed the removal of Mr. Ward from the office of coroner, on the ground that he had been guilty of habitual carelessness and neglect in the discharge of his duties, and that he was totally unfit for such office.

The LORD CHANCELLOR, in giving judgment, said that he was of opinion all the allegations in the petition had been fully substantiated. Mr. Ward appeared to have hardly acted like a rational creature, and he had been guilty of a grave dereliction of duty in not proceeding with an inquest after a jury had been duly summoned. The order would be that Mr. Ward be removed from his office of coroner, and that a writ be issued for the election of a new coroner.

COURT OF QUEEN'S BENCH, WESTMINSTER.

(Sittings in Banco, before Lord Chief Justice COCKBURN, and Justices WIGHTMAN, CROMPTON, and BLACKBURN.)

June 3.—After hearing motions, the Court took the New Trial Paper, but considerable difficulty was experienced in proceeding in consequence of the absence of the leading counsel at the *Nisi Prius* sitting at Guildhall.

Lord Chief Justice COCKBURN, in allusion to this circumstance, said the Court had not yet come to any final determination, but were deliberating on the propriety of putting an end to the London sittings at *Nisi Prius* during term. It was proposed to add to the London sittings after term, and only to take undefended causes in London during term.

Mr. Bovill, Q.C., said he thought this arrangement would be a great convenience to the public.

June 4.—*Day v. Hemings*.—This case came before the Court upon demurrer to the defendant's pleas.

The plaintiff, T. F. A. Day, was a printer in Carey-street, Lincoln's-inn, and he sued the defendant, William Hemings, a chancery barrister, to recover the sum of £222 5s. 1d., being the balance of an account for printing the *Law Chronicle* for the defendant, who was editor and proprietor. The defendant, among other pleas, pleaded that the printing in question was done in the city of Westminster and county of Middlesex, by a printing press, types, &c., which the plaintiff had not caused to be registered by the clerk of the peace for the county of Middlesex, as required by the statute, the 39th Geo. 3, c. 79, amended by 2 & 8 Vict. There was a second plea, in which the defendant pleaded that the said printing press and types were not registered by the clerk of the peace for the city of Westminster. To these pleas the plaintiff demurred.

Lord Chief Justice COCKBURN said that, however willing the Court might be to get rid of such a defence as that raised, if they could, the statute seemed clear that if the printing press was not registered, the plaintiff could not recover. However they might regret it, they were still bound by the statute. On the face of the plea, the defence did not appear to be a

meritorious one. It might be, however, that upon the whole transaction such a plea might be honestly pleaded, and the defendant might feel that he had a right to defend himself *per fas et nefas*. Still, it seemed to partake more of the *nefas*, and, if the learned counsel could show the Court how to get rid of it, they would gladly do so.

It was then argued for the plaintiff that the statute of Victoria substituted the office of the clerk of the peace for Middlesex as the place of registry, instead of the office of the clerk of the peace for Westminster, and the answer to the one plea was, that the printing press might have been registered in Middlesex, and the answer to the other plea was, that it might have been registered in Westminster.

Lord Chief Justice COCKBURN said he thought that would do, and called upon the defendant's counsel to support his pleas; but he failed to satisfy the Court that either of the pleas, by itself, was an answer to the action; and

The COURT, with evident pleasure, gave judgment for the plaintiff.

COURT OF DIVORCE AND PROBATE.

(Before Sir C. CRESSWELL.)

June 5.—*Vivian v. Vivian*.—This suit by a wife came before the Court upon an application for alimony *pendente lite*.

Mr. Vivian was examined in support of his answer to the petition for alimony, and cross-examined by Dr. Phillimore. In his cross-examination he denied that at an interview at which Mr. Smart and a gentleman named Peate were present, he had, in answer to a question, stated a certain sum as the amount of his property. Mr. Peate was afterwards called by Dr. Phillimore to contradict him upon this point, and at the close of his examination.

Mr. Smart said he felt bound to tender himself as a witness to corroborate the statement of his client.

The JUDGE ORDINARY.—If you choose to do so no one can prevent you. You must exercise your own discretion. I have never seen such a proceeding before in the course of forty-two years' experience.

Mr. Smart then went into the witness-box and took the oath, and gave an account of the interview in support of the respondent's statement.

His LORDSHIP awarded alimony at the rate of £180 a-year.

On the 4th instant, at what is called a Court of Hastings, held in Guildhall, in the presence of the Lord Mayor, Alderman and Sheriff Abbas, Mr. Sheriff Lusk, Alderman Rose, and several members of the livery, the legal formalities for giving effect to the recent endowment of five scholarships in connexion with the City of London School were consummated. At the conclusion of the ceremony, Mr. Tee, of the Lord Mayor's Court, who acted as Clerk of the Court of Hastings, proclaimed the circumstances under which the several endowments were made, and in this the interest of the occasion lay. The first consisted of a grant to trustees of £2,000 Three per Cent. Consolidated Bank Annuities, by Baron Lionel Nathan de Rothschild, to found and endow a scholarship for the maintenance and education, at an English or foreign university, of one scholar, to be selected from among the pupils of every religious persuasion in the City of London School, and to be tenable for four years, provided he shall properly conduct himself, and shall with due diligence pursue his studies for the purpose of qualifying himself to graduate at the university to which he may belong, "with honour to the founder of the scholarship and with credit to himself and the school." The next is a scholarship founded and endowed with the sum of £1,333 odd, by the Jews' Commemoration Fund Committee. This, like the preceding one, is to be open to all the pupils of the school of every religious persuasion, who are not more than sixteen, and shall have been three years in the school, and it is tenable for three years. The third is "the Masterman Scholarship," endowed with £1,000, the surplus of a fund subscribed by merchants, bankers, traders, and citizens for a testimonial to Mr. Masterman on his retirement from Parliament. The dividends are to be applied in enabling a scholar of the school to continue his studies at a university for a period of four years from the date of his matriculation. Lastly, Mr. Tite, M.P., has given £1,500 for the foundation of two scholarships, one of £25, and the other of £20 a year, open to pupils not more than sixteen, and who have been three years in the school, by a competitive examination, and to be held during good behaviour and so long as the successful competitor remains at the school.

A deputation had an interview on Friday, the 31st ult., with the Right Hon. F. Peel, at the Treasury, with reference to the present mode of payment of procurators fiscal in respect of proceedings in criminal cases in Scotland.

The following gentlemen were called to the bar on the 6th inst. Inner Temple:—William Willis, Esq., B.A. (holder of the Studentship awarded in Michaelmas Term, 1860); Joseph Green, Esq., B.A., (Certificate of Honour); Emanuel Maguire Underdown, Esq. (Certificate of Honour); Montague Woodinass, Esq., B.A.; St. Aubyn Barrett Lennard, Esq., M.A.; Reginald Carew Glanville, Esq., B.A.; Andrew Thomson, Esq., B.A., LL.B.; John Simson, Esq., Thomas Child Hayllar, Esq., S.C.L.; Markham John Law, Esq., B.A.; Daniel Birt, Esq., George Thomas Edwards, Esq., B.A.; Arthur Yardley, Esq., and Stuart Rendel, Esq., M.A.

Middle Temple:—John Houston, Esq. (holder of the Certificate of Honour, first class for the Council of Legal Education); James Johnson, Esq., Anthony Blake Rathborne, Esq., Robert Armstrong, Esq., Henry Finch, Esq., George Rattray Fenton, Esq. and William Draper Bolton, Esq.

Lincoln's-inn:—Gerald Fitz Gibbon, jun., Esq., George Holford, Esq., M.A.; Daniel Jones, Esq., M.A.; Thomas Watson, Esq., B.A.; Charles Nicholas Warton, Esq., Robert Dalby, Esq., B.A.; Charles Henry Blake, Esq., B.A.; George Hanbury Field, Esq., M.A.; Augustin William Langdon, Esq., B.A.; John Lindsay Johnston, Esq., M.A.; William Henry Burch Rosher, Esq., Thomas Daniel Tremlett, Esq., M.A.; Anthony Wood Freeland, Esq., B.A.; Richard Welford, Esq., John Irving Courtenay, Esq., M.A.; Christopher John Cottingham, Esq., J. Bamfield Street, Esq., B.A.; and Regd. Parker, Esq., B.A.

Gray's-inn:—Lawrance Counsel, Esq., George Harry Palmer, Esq., M.A.; Samuel Kydd, Esq., William Brook Bridges Stevens, Esq., and William Henry Clarke, Esq., LL.D.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, June 3.

BANKRUPTCY BILL.

Lord CHELMSFORD gave notice that in committee on the Bankruptcy Bill he should move as an amendment the omission of the retrospective clauses of the Bill affecting non-traders.

MARRIAGE LAW (IRELAND) AMENDMENT BILL.

On the motion that this Bill be reported with amendments, Lord REDERDALE proposed that his clause for the registration of places of public worship for Roman Catholics in Ireland should be added to the Bill.

The LORD CHANCELLOR was glad of this opportunity of correcting a misapprehension which had gone abroad, that he had consented to the two clauses of his noble friend being added to the Bill. He had consented to certain amendments moved by the noble lord, which he thought unnecessary but harmless, being introduced with the most laudable object of preventing clandestinity, and to preserve the evidence of marriage; but the other two clauses he had strongly condemned, and, instead of carrying them out, he said he would rather abandon the Bill altogether. The clause was condemned in Ireland, not only by Roman Catholic priests, but by persons of all religious persuasions.

The BISHOP OF DOWN AND CONNOR said the clause was most objectionable in its character, and would have a very injurious effect.

The clause was negatived without a division.

Wednesday, June 5.

MARRIAGE LAW AMENDMENT BILL.

On the motion of the LORD CHANCELLOR this Bill was read a third time and passed.

Friday, June 7.

THE BANKRUPTCY BILL.

Lord HILL presented a petition in favour of this Bill.

The LORD CHANCELLOR presented a petition to the same effect. The petition was especially in favour of those clauses of the Bill which conferred jurisdiction on the county courts.

HOUSE OF COMMONS.

Monday, June 3.

CRIMINAL LAW CONSOLIDATION BILLS.

In reply to Mr. HADFIELD,

The SOLICITOR-GENERAL stated that he was unable to name a day on which he would proceed with these Bills. He would however, bring them forward as early as the exigencies of the public business would allow.

Tuesday, June 4.

PUBLIC SCHOOLS.

Mr. G. DUFF asked the Secretary of State for the Home Department whether the Government was prepared to advise her Majesty to issue her Royal commission to inquire into the colleges of Eton, Winchester, and Westminster, as well as of Harrow, Rugby, the Charterhouse, Christ's Hospital, and all endowed, collegiate, cathedral, and prebendal schools in Great Britain and Ireland in which the Greek and Latin languages are taught, with a view to ascertain whether the great resources of these institutions might not be rendered more serviceable to education and learning.

Sir G. C. LEWIS said he had announced on a former occasion that the Government were willing to accede to the principle of an inquiry into the large public schools. The doubt which they had was whether an inquiry by a Royal commission would be sufficiently effective for obtaining the desired information; but he had since communicated with the authorities of the principal public schools, and he found that they were generally disposed to give information to a Royal commission. There would, therefore, be no necessity for doing what he should have been very unwilling to resort to—viz., asking Parliament to pass a Bill giving compulsory powers to a Royal commission for the purpose. The case of one public school—Winchester—was yet, however, under the consideration of the Government. A doubt arose in that case from the fact that it had recently been made the subject of a detailed examination by the Oxford University Commission, and as Winchester College therefore had been investigated recently and regulated by competent authority, it might not be necessary to include it within the scope of the inquiry.

In reply to a subsequent inquiry from Mr. G. DUFF,

Sir G. LEWIS said that his understanding of the commission was that it would include all endowed schools in which the Greek and Latin languages were taught, but with respect to prebendal and cathedral schools he would not give any positive answer.

Wednesday, June 5.

CRIMINAL PROCEEDINGS OATH RELIEF BILL.

Mr. LOCKE moved the second reading of this Bill, which he explained had for its object to allow witnesses in criminal cases, who had religious objections to taking an oath, to make an affirmation.

Mr. C. ESTCOURT thought it highly inconvenient that the Bill should be discussed in the absence of the law officers of the Crown.

Sir G. C. LEWIS said, if the Bill became law it would have a very limited operation; and he was not aware that any danger was likely to result from the change. The Solicitor-General, who would certainly be in attendance when the Bill was committed, did not, he believed, entertain any objection to the second reading, though he had expressed doubts as to the policy of the Bill.

Mr. HENNESSY believed the measure belonged to that great category of Bills which had emanated this session from hon. gentlemen opposite, and the object of which was to ignore religion altogether. He therefore moved that the Bill be read a second time that day six months.

Sir G. C. LEWIS said the Bill merely extended to criminal cases the principle already followed in civil actions. It could not, therefore, be said to destroy the religious sanction of an oath.

Mr. ROXBURGH could not see why, if exceptions were made in favour of the conscientious scruples of persons wearing peculiar garments, such as the Quakers, others who did not belong to distinctive denominations, but equally objected to take an oath, should not be as unfettered in their action.

Mr. LONGFIELD said there was a great difference between relaxing a rule in favour of a body of persons, one of whose fixed principles it was not to take an oath, and in favour of individuals who might then for the first time feel a repugnance to swear to the truth of their own statements. This measure would hold out inducements to persons to refuse compliance

with the law of the land. Although the criminal law of the country was in general well administered, there were not as many opportunities of correcting mistakes as in civil proceedings, and it was consequently most desirable that any safeguard at present existing should not be removed.

Mr. D. S. KER also expressed objections to the second reading.

The House divided with the following result :—

For the second reading	...	...	65
Against it	...	...	31
Majority	...	...	—34

The Bill was accordingly read a second time.

Friday, June 7.

Lord PALMERSTON intimated the wish of the Government to have a morning sitting on Tuesday next, for the purpose of getting forward with the Bills for consolidating the statute law.

Recent Decisions.

EQUITY.

JURISDICTION IN COLONIAL MATTERS.

Hendrick v. Wood, V. C. W., 9 W. R. 588.

In this case the plaintiff and a deceased partner had carried on business in Jamaica. The partnership had terminated; and by a deed of arrangement the assets were made divisible between the late partners in a stipulated proportion. The partner who was now deceased shortly afterwards left Jamaica, whereupon the management of the outstanding assets of the firm devolved on the plaintiff. His late partner died in England, having by his will devised and bequeathed all his estate, real and personal, to three persons resident in England and two persons resident in Jamaica, and he appointed the same five persons his executors. The will was proved in England by the executors resident here, and it was proved in Jamaica by the executors resident in that island. The executors in Jamaica, with the concurrence of the executors in England, and the consent of the plaintiff, took temporary possession of the remaining assets of the firm, and disposed of part thereof. The plaintiff, who was now resident in England, had filed his bill against all the executors in England and Jamaica for a general account and winding-up of the partnership. The two executors resident in Jamaica put in a plea to the jurisdiction, averring that all their transactions had been in reference to property situate in Jamaica. There was some doubt whether this plea sufficiently averred the existence in Jamaica of a court of competent jurisdiction, which, upon the authorities, it is necessary to aver with the same particularity as in a plea at law. Vice-Chancellor Wood, however, did not think it necessary to discuss this question, as he did not see how the matter could properly be dealt with unless a suit were instituted in this country. "The plaintiff was in England, some of the executors were in England, and the arrangement was made in England; and none of the authorities applied to a case of this kind." It is quite true that none of the many authorities cited by the defendants' counsel appear to have any decisive bearing on such a case as this; but, on the other hand, the ordinary principles on which courts entertain jurisdiction in suits respecting property abroad, do not seem to furnish any distinct ground on which to rest the disallowance of this plea. Of course the English executors are amenable to the process of the Court, which would also reach the assets of the testator existing in this country. But the Court could have no power over the persons of the executors or the property of the testator in Jamaica. Supposing all the remaining assets of the late firm to be in Jamaica, as it appears they were, the plaintiff would have no difficulty in obtaining complete relief from the Court of Chancery of that island. On the other hand, it seems by no means clear that the English Court of Chancery will be able to conduct the proceedings it has entertained to a termination. It is easy to understand that a plea to the jurisdiction by the English executors would have been overruled, because there must be an equity affecting them which the Court on its ordinary principles would enforce. The case is just one of those in which it might be predicted with some confidence that the Court would assert its competency; but, nevertheless, it would be satisfactory to see some fuller elucidation of the principles on which that competency is to be maintained. Of course there is no doubt that the Court has power in any suit to direct service of its process to be effected anywhere; but the question always is, whether this power

ought to be exercised in a particular case, having regard to the principles of international law which are allowed to limit the jurisdiction of the courts of all civilized communities. The decision in the present case is certainly of great importance, and it may, perhaps, be thought to deserve further discussion.

The argument against the assumption of jurisdiction in such cases was urged very forcibly by Vice-Chancellor Wood himself as counsel in the case of *Whitmore v. Ryan* (4 Hare 612). The plaintiffs in that case were the assignees of a bankrupt who had had extensive dealings with the defendant, formerly carrying on business at Barcelona and then residing at Dublin. The bill was for an account of what was due to the plaintiffs as assignees in respect of such dealings. There had been an order for service of subpoena in Dublin, under the General Order of 1845, which had been promulgated since the filing of the bill, and another order for the entry of appearance on default. Mr. Wood now moved, on behalf of the defendant, to discharge these orders. He argued that the Court could not entertain a suit relating solely to mercantile transactions against a merchant residing within a foreign jurisdiction, and not having business property or domicile in this country; and that so far as this question was concerned Ireland must be considered as a foreign country. The statutes under which the General Order of 1845 was framed gave the Court of Chancery no new or enlarged jurisdiction; nor could they, consistently with the principles of international law, which the Legislature must be presumed to have respected, have extended the jurisdiction of the Court to subjects not amenable to its power, but living within a foreign and independent jurisdiction. In support of this argument the following passage was quoted by the learned counsel from "Story's Conflict of Laws," sect. 539:—"Considered in an international point of view, jurisdiction, to be rightfully exercised, must be founded either upon the person being within the territory, or the thing being within the territory; for otherwise there can be no sovereignty exerted, upon the well-known maxim *extra territorium jus dicenti impune non paretur*. . . . On the other hand, no sovereignty can extend its process beyond its own territorial limits, to subject either persons or property to its judicial decisions. Every exertion of authority of this sort beyond this limit is a mere nullity and incapable of binding such persons or property in any other tribunals." There was no difference in principle arising from the circumstance that the country and jurisdiction within which the defendant resided, was a part of her Majesty's dominions. It was true that the statute 2 Will. 4, c. 33, authorized process concerning land in England to be served in places beyond England; and the statute 4 & 5 Will. 4, c. 82, enlarged the provisions of the former Act; but these statutes recognized the above cited principles of international law, for they proceeded on the basis that the thing, although not the person, was within the territory. The case of a suit for an account of mercantile transactions which took place in a foreign country was wholly without the scope of those statutes. The General Order of 1845 must be treated, not as introducing a new jurisdiction, but as applying only to the jurisdiction already existing. The foregoing argument did not prevail with Vice-Chancellor Wigram, and, therefore, it is hardly to be expected that it should prevail with succeeding judges. His Honour declined altogether to enter into the question whether the Act or the Order made in pursuance of it were proper or not proper with reference to the principles of international law. He felt no doubt that the General Order authorized the order then in question, and indeed he assumed that that Order empowered the Court, if it should think fit, to order service of a subpoena on a foreigner who had never been within the jurisdiction. "My opinion is," said Sir James Wigram, "that the Order does in terms give the Court authority to do so; and I cannot see that such an order, exercised with discretion, does in any respect violate the rules of natural justice. The Order does not give the plaintiff a right to call upon the Court in all cases to order service of the subpoena abroad, but it gives the Court power to do so, in exercise of a sound discretion, according to the circumstances of the case." We may remark upon this passage that it comes practically to almost the same thing whether the power of the Court is considered as limited by international principles, or whether the power is taken to be unlimited, but it is said that this power must be exercised with a discretion which, if it deserves the name, will proceed upon the very same principles. There are, indeed, abundant instances in which the general words of Acts of Parliament have been treated by the Courts as capable of limitation by reference to those principles. We may mention, for example, that the famous litigation in *Brook v. Brook* would never have arisen if it had not been thought at least plausible to propose

some limit to the general words of Lord Lyndhurst's Act. However, as we have said, it makes little difference whether the question be viewed as one of the power of the Court or of the propriety of the exercise of that power; and therefore we conceive that Mr. Wood's argument in *Whitmore v. Ryan* will deserve attention whenever an application for the exercise of this discretion comes before the Court, and also whenever what is substantially the same question is raised upon a plea to the jurisdiction, as in the case which has suggested these remarks. Sir James Wigram, in the judgment from which we have before quoted, enunciated a principle which, if it were to be fully carried into effect, would completely banish from the Court of Chancery the conception of international law. He said—"The material question in judicial proceedings is, whether the defendant has due notice of the proceedings, so that he may be enabled to come in and make his defence, and not whether he receives that notice at Boulogne or Dover." In the case before him, the defendant had been in England, and had suddenly returned to Ireland. This circumstance may not improperly have had weight in guiding the discretion of the Court; but on the other hand the question may be asked, why did not the plaintiff file his bill in Dublin.

There are several recent cases in which the Court has ordered service of subpoena in Scotland, but in two of them (*Innes v. Mitchell*, 5 W. R. 748; and *Maclean v. Dawson*, 7 W. R. 438), the orders appealed from were affirmed only by one of the Lords Justices in the face of doubts expressed by the other (Sir George Turner) as to the propriety of exercising the jurisdiction. In all these cases the principal question seems to have been whether litigation in England was, in the view of the Court, convenient, and, therefore, it would not be very easy to extract from them any general principle. It may, however, be observed that a person resident in Scotland might appear and defend a suit in an English court much more conveniently than a person resident in Jamaica. In the case before us Vice-Chancellor Wood appears to have attached some importance to the plaintiff's presence in England, but he did not explain upon what principle. He is also reported to have said, "the arrangement was made in England," by which he seems to mean an arrangement between the plaintiff and the executors with reference to the disposal of the assets of the firm. But, as some of the executors were resident in Jamaica, the arrangement can only be said to have been made in England in this sense, that it was made by a proposal sent from England to Jamaica, and there agreed to. The plaintiff's suit must be regarded in one of two lights—either as a suit to have a debt due from his deceased partner ascertained and paid, or as a suit for a division of existing property. If looked at in the former light, it may be said that the executors in Jamaica could be answerable only out of the assets received by them, and could be properly called to account for those assets only by a tribunal of the country in which they exercised authority. If looked at in the latter light, it may be said that the division of property existing in Jamaica belongs to the tribunals of that colony, which may for this purpose be regarded as a foreign country. On the whole, it must be admitted that this decision makes no further advance than might be expected on the previous cases, but at the same time it is difficult to see how the successive steps in this extension of jurisdiction can be justified on any principle which is certain to command the assent of the jurists of the whole civilized world.

COMMON LAW.

CONTEMPT OF COURT—PRIVILEGES OF WITNESSES—15 & 16 VICT. c. 57.

In re Fernandez, Exch., 9 W. R. 559.

The interest which at certain periods of our history attached to the legality or illegality of a "general warrant," that is to say, of an order for the incarceration of one of her Majesty's lieges without setting forth on its face the precise cause of the commitment, is happily pretty much in abeyance in our times. Yet the point slumbers only, as is evidenced by the well known instance of the Sheriff of Middlesex imprisoned under a general warrant of the House of Commons (11 A. & E. 273), and again by the present case. The law upon this subject is now perfectly established and defined (so far at least as a commitment for contempt is concerned), and is to this effect, that if the tribunal by which the warrant issues is one of the superior courts, the commitment need not set forth the particular circumstances of the contempt; but that if it is an inferior court, they must be set forth with sufficient accuracy to enable a superior tribunal to ascertain the precise ground of commit-

ment. That this is the proper criterion seems to have been admitted in the argument for the prisoner in the present case, as well as declared to be so in the judgment of the court. The only point for decision was, in truth, whether the tribunal by which the commitment in question had been made, viz., the assize court, fell under the one or the other class of courts. To determine this, recourse was had to the division of courts given in Bacon's Abridgement (Courts D.) where courts of record are divided into "supreme, superior, or inferior," and superior courts again are subdivided into such as are *more principal*, and such as are *less principal*. And as the "more principal" are stated to comprise what are usually called the superior courts, viz., the Courts of Parliament, Chancery, King's Bench, Common Pleas and the Exchequer, and the "less principal" to be such as are held by commission of *gaol delivery, oyer and terminer, assize and nisi prius*, the Court of Exchequer in the present case felt no doubt in holding the general warrant for contempt to be perfectly legal, since it had issued from a superior court, though one of the less principal kind.

The other questions revived in the case were not disposed of by the judgment, though the Court incidentally disclosed on which side their opinion inclined. One of these was whether when a witness is asked a question which he is unwilling to answer as tending to his crimination, he, or the presiding judge, is the person to decide whether it will have the apprehended effect. It was suggested in *Fisher v. Ronalds* (12 C. B. 765) that the witness must judge for himself, and this opinion was endorsed by the Chief Baron in *Adams v. Lloyd* (3 H. & N. 357). But in the present case the Court remarked that they entirely concurred in the course taken at the trial by Mr. Justice Hill, and he certainly took this question out of the hands of the witness and decided it himself.

The remaining question in the case was as to the construction of the 15 & 16 Vict. c. 57, an Act passed in 1852 to regulate inquiries into corrupt practices in particular constituencies, with a view to their disfranchisement. By the 9th section a witness who makes a full and true disclosure to the commissioners of inquiry, may receive from them a certificate to that effect, which will protect him from the pains and penalties mentioned therein. Among these, however, no protection is expressly given against the consequences of a parliamentary impeachment, and the ground of refusal to answer on the part of the prisoner in contempt was, that owing to this omission he was not completely protected by the certificate he had received, and was consequently entitled to avail himself of the privilege the law accords to a witness not to answer a question tending to expose him to the danger of a criminal prosecution. Mr. Justice Hill, however, held that the 9th section, notwithstanding this omission, operated as a complete protection, and though (as before observed) the point was *dehors* the judgment of the Court of Exchequer, it may be collected from it that they were of the same opinion.

CRIMINAL LAW.

LAW OF EVIDENCE—COLLATERAL FACTS, WHEN ADMISSIBLE—COINING.

Reg. v. Weeks (C. C. R.), 9 W. R. 553.

This case is chiefly noticed in order to point out its precise connection with *Reg. v. Holt*, of which an account was formerly given*, and with which it seems at first sight somewhat at variance. *Reg. v. Holt* was a case in which the conviction of a prisoner for obtaining money under false pretences was quashed by the Court of Criminal Appeal, by reason of evidence against him at his trial having been admitted to prove that he had obtained from a person not the prosecutor, on a previous occasion to that then charged, a sum of money, on a pretence similar to that which he was then charged with having used—such previous obtaining not being in any way referred to in the indictment. This admission was very properly held by the Court to be a fatal miscarriage in the Court, as it offended against the general principle, excluding as evidence that which does not tend to prove the point in issue. But this principle does not prevent the admissibility of a collateral fact, if it raises any reasonable presumption as to the principal matter in dispute, for this does tend to prove the point in issue; and hence when the person has committed several felonies so connected together as to form part of one transaction, evidence of all may be properly given to show the character of the whole (see *R. v. Ellis*, 6 B. & Cr. 157); and evidence has been also received of facts which happened before

* Vide sup. p. 111.

or after the matter charged in the indictment against the prisoner. The ground for this practice is, that such facts are evidentiary of the *animus* of the prisoner with regard to the matter with which he stands charged; and it has consequently been more freely used when the conduct of the prisoner is compatible with innocence, unless his guilty knowledge or intent can be reasonably established by some positive evidence. This is peculiarly the case with regard to the charge made in the present instance, viz., that of having knowingly and with guilty intent the possession of coining instruments. It is possible to have such possession innocently, and therefore, such a collateral as the prisoner's passing bad money on a previous occasion directly bears upon his guilt or innocence on the charge on which he is tried. Evidence at the trial to this effect was accordingly admitted in the present case, and upheld by the court of criminal appeal, the Chief Baron observing, that in such indictments other substantive collateral felonies might be proved without limit in order to prove the *scienter*. See also *R. v. Lewis* (2 Russ. C. & M., 407), and *R. v. Harris* (7 C. & P., 419).

EMBEZZLEMENT BY COMMERCIAL TRAVELLER—LAW AS TO
Reg. v. Bremley (C. C. R.), 9 W. R. 555.

This case most resembles one of which we gave an account when it was decided in the early part of the present year. But in *R. v. May**, the prisoner (who was paid by several houses of business a commission on all orders he could obtain, his duty being to receive payment for the orders, and to hand over the balance to the house by whom they were executed,) was acquitted on an indictment charging him with having embezzled part of the money he had so received for one of his employers on the ground that the relationship of master and servant did not exist between him and the prosecutor, as he was not under any species of control, but went about at his own will and pleasure whenever he thought it likely he could obtain orders for any of his employers. But in the present case there was a distinct engagement of the prisoner by the prosecutor as their "commercial traveller," although he was also at liberty under the agreement to obtain orders for other persons. The Court held that, under these circumstances, the prisoner was under the control of the prosecutor, and was therefore properly convicted under the statute.

The two cases are not very intelligible when considered together, but it would appear the Court for the Consideration of Crown Cases Reserved intend that "control" or "no control" is the proper test; and if so, it would seem proper in these cases for the judge expressly to take the opinion of the jury as to the nature of the relationship between the prisoner and the prosecutor—that is, whether "agent and principal," or "servant and master." If the jury think the former, then *Reg. v. May* is an authority for the prisoner's acquittal; if the latter, then the present case shows he may be rightly convicted under the statute of Geo. 4.

Correspondence.

CONVEYANCING COUNSEL TO THE COURT OF CHANCERY.

SIR,—As a recent appointment has drawn attention to that branch of the reformed Court of Chancery which consists of the six conveyancing counsel, and has provoked some remarks, made apparently without sufficient knowledge and consideration, I think it not inopportune to submit a few observations, less with the view of expressing any opinion as to the expediency of such an appendage to the court than of correcting erroneous impressions, and, if the subject is to be re-opened, of bringing it more fairly under discussion.

1. What is the aggregate value of the obnoxious "monopoly?" Somewhere, I believe, about £6,000 a-year. Of the six counsel originally appointed, some, I am assured, have profited little beyond the honour of having been selected by a Lord Chancellor familiar with the law of property, and with the names and merits of its leading practitioners. In more than one instance, the court business (claiming, as Lord Chancellor Cranworth intimated to the late Mr. Brodie, the right of *preaudience*), has displaced other and better business, and has not swelled the fee-book of the monopolist, who, if the six were now swept away without compensation (and it is not probable that they would retire, like the six clerks, under a golden

shower, or even with a proctor's pension), would have sacrificed permanent practice to a temporary honour. That honour, too, must decline in proportion as the standard of eligibility is lowered.

2. The court business is by no means of a character so desirable as that which ordinarily falls to the portion of a well-reputed conveyancing counsel, whose practice is made up of abstracts on purchases, cases, points referred, consultations, conferences, &c., involving less dull, dry, mechanical drudgery more varied and interesting, and for the most part more liberally rewarded. Of the court business, titles to be investigated, and special conditions to be settled, with a view to sales ordered by the court, constitute the bulk. The late Mr. Coulson characterized this species of business as that which, of all conveyancing practice, he most disliked and eschewed. There is not one in twenty of these titles but has some difficulty or peculiarity; many are embangled and defective, and all require to be helped through the ordeal of an unwilling purchaser's scrutiny by some speciality of contract or other. We all know on what very treacherous ground the framer of special conditions is treading, and that ground, when trodden by a "monopolist," is doubly hazardous. As to the remnant of the Court business, it consists of titles to be investigated, and conveyances settled on purchases by the Court (but which purchases bear a very small proportion to the sales, and decrease with the decreasing uninvested railway funds) of settlements, partition deeds, leases, &c., all, however, of comparatively rare occurrence, and when occurring, generally of a complicated or special nature. Of mere routine, matter-of-course business, there is none.

3. Time enough has elapsed to afford the means of forming a just opinion as to the success of the experiment. There is reason to believe that, as regards purchases and sales by the Court, few instances have occurred of any serious miscarriage. As to sales, particularly in the very great majority of cases, the conditions, as settled by the conveyancing counsel, have done their work without creating any sensation in the sale-room, and with probably a considerable saving of time and expense. The head of "Settlements," whether pre-nuptial or post-nuptial, is less satisfactory. Proposals of the rawest description are often carried into chambers, and as neither the judge nor the chief clerk can be supposed to have had opportunities of becoming intimately conversant with the most approved schemes and provisions, these proposals, settled, but, perhaps, little improved, come as instructions from the Court to the conveyancing counsel, who cannot execute them with the same discretionary latitude as if he received them from an ordinary client, and the result is not unfrequently a jealous locking up of property by limitations most capricious, mischievous and absurd.

4. What was the system superseded by the appointment of the six? Take the case of a purchase or sale by the Court. If the solicitor had obtained the opinion of his own conveyancer upon the title, the Master might, and often did, refuse to adopt that opinion, either from not knowing, or from not having any confidence in the counsel, or from wishing to patronise another counsel of his own selection, and thus the fees already paid had been thrown away. Nearly every Master had his *protégé*, and so the old "monopoly" was not only unsanctioned, but was of a more vicious and vexatious kind. As between the two systems, it can hardly be said that the legislative provision is not the better, though it may not be positively the best. In considering the expediency of leaving the solicitor at liberty to transact this species of business in his own way, and on his own responsibility, as if acting for a client in the ordinary course,—of again (or rather of now, for the first time), throwing the Court business into the general market, it seems necessary to bear in mind the responsibility of the judge to the suitors and the public, as respects the investigation of titles, the settlement of instruments, and other conveyancing matters, either to be approved by him or to be administered under his immediate direction. A. Z.

Review.

A Handy Book on the Law of Infants. By JOHN EBSWORTH, Solicitor. London: V. & R. Stevens & Sons. 1861.

This manual contains a tolerably comprehensive summary of the laws relating to infants. The author has dwelt chiefly upon the legal rights and liabilities of infants as determined by their status or by express contract; but he does not enter upon the more complex questions relating to real estate. This, in-

* *Vide sup.* p. 161.

deed, could not well be attempted in a modest handy book of moderate size. Mr. Ebsworth, however, has left very little unsaid as to the laws connected with such classes of contracts as are chiefly entered into by infants. Thus he is copious upon the subject of infant labourers, miners, factory, dyeing, and print workers, apprentices either to trades or the sea service, and parish or union apprentices. Mr. Ebsworth's book is, therefore, likely to be very useful for reference in the first instance. It supplies a want which the voluminous and deeper works on the same subject appear to have only partially filled up.

Mr. Chambers' treatise relates only to the jurisdiction of the Court of Chancery over the persons and property of infants. It describes this branch of protective or remedial equity in a very elaborate manner, and shows how this species of disability is provided for by the Court, which, in this respect, represents the sovereign as *parens patrie*. But it is incomplete, as not touching upon the *status* of an infant—the rights and liabilities at law. Mr. Ebsworth reminds us that a female infant could, even before the 18 & 19 Vict. c. 43, make a binding settlement of her personality on marriage, because the marriage operates as a transfer of such property to the husband, and it is, therefore, his settlement as well as hers. Owing to the numerous recent enactments affecting infants, a fresh edition of some one of the standard treatises, or an original book on the law of infancy, was much called for. Mr. Ebsworth, however, does not profess to enumerate all the arcana connected with this branch of law: but his book contains for its size a considerable amount of practical information. The subject is one which, like that of wills, &c., readily admits of being treated of in a handy-book. We could have wished that Mr. Ebsworth had been somewhat more copious on the subject of the advancement of infants. His manual would lead one to suppose that the Court of Chancery never allows the capital of an infant to be infringed upon for any purpose of advancement. The Court, however, will sometimes allow a part of the capital belonging to an infant to be laid out for his advancement:—per Sir William Grant, 6 Ves. 474. It will even in an extreme case allow the principal to be broken in upon even for maintenance, if the infant have no other provision. It will do the same whenever a good education is desirable and cannot be otherwise had; and the Court will act thus, even though the gift to the infant is defeasible by a condition subsequent, and there is a direction for the interest to accumulate, *Marlow v. Pitfield*, P. Wms. 558. Though somewhat wanting in completeness as a digest, Mr. Ebsworth's book is nevertheless a compilation that has its own merits. Like Mr. M'Pherson's treatise, it comprises the criminal as well as the civil liability of infants. It gives also an abridgment of parts of numerous statutes relating to infants, and will be found useful not only to the practitioner but also to those who take an interest in the laws relating to juvenile labour. We recommend it as a book of first reference to all who desire information on the branch of law of which it treats.

A Selection of Precedents in Conveyancing, designed as a hand-book of forms in frequent use; with practical notes. By FRANCIS HOUSMAN, of Lincoln's-inn, Barrister-at-Law. London: Stevens & Sons, 1861.

This work appears to be well calculated to supply the want of a new concise book of precedents in conveyancing occasioned by the recent numerous changes in the law of real property. Mr. Housman's book is in its size and general pretensions of an order intermediate between Crabb and Greenwood or Davison's manual. It is not half as large as Crabb's treatise; but it is, perhaps, better adapted for use than either of the latter manuals, as it is very carefully compiled, and is adapted to the recent changes in the law. Lord Cranworth's recent Act, the 23 & 24 Vict. c. 145 is prefixed to the volume. As this Act is very plainly worded, the conveyancer can at a glance ascertain whether his case need special conveyancing as far as the scope of that Act is concerned. Mr. Housman gives special clauses wherever he considers the provisions of the Act to be inapplicable or inadequate. After a selection of general words and covenants for title, the book before us contains a choice collection of very concise precedents of purchase and mortgage deeds, settlements, and wills. We must notice, however, the absence of forms of agreements and of marriage articles. A book intended for urgent practical wants should not be deficient in respect to executory instruments; as it is for these mainly that concise precedents are generally sought. Where neither speed nor brevity is much required, a formal precedent may be conveniently resorted to. Mr.

Housman's book, however, gives very neat forms of instruments not executory. It is a compilation which we have little doubt will become very popular with the profession.

The notes contain a great deal of useful, and sometimes recondite matter. Thus we find a notice of the extinguishment of easements consequent upon the union in a single person of the ownership both of the lands *a qua*, and of the lands *in qua* the easement exists. The use of general words is illustrated by numerous examples. The omission of an appointment under a general power, where the appointor has also the fee, and may, therefore, convey the estate by grant is recommended by Mr. Housman, in order to avoid questions regarding covenants running with the land. This course appears to be very desirable in cases where such covenants have been entered into with the appointor, *Rotch v. Wadham*, 6 East 289. As to the priority in point of time which an appointment under a power would give an appointor over an assignee by grant, such an advantage does not, it would appear, balance the defect noticed. The value of this priority is also much diminished since the Judgment Act, 1 & 2 Vict. c. 110. By this Act the general powers of the conuzor of a judgment are bound, so that an appointor under such, although he has his use served out of the original seisin of the trustee so as to avoid the mesne encumbrancers of the appointor, does not avoid his judgments. A grantor without notice will, therefore, as a general rule, be in as good a position as an appointor; while a grant raises no question as to covenants running with the land. Where brevity is an object, a grant may be used, without an appointment, or at least in preference to an appointment alone. Mr. Housman suggests that the declaration in bar of dower should never be inserted in purchase deeds, in the absence of specified instructions. This suggestion will, we think, meet with universal concurrence. Dower may, possibly, be the wife's future sole source of maintenance. The 23rd section of Lord Cranworth's Trustees and Mortgagees Act, before-mentioned, which exempts purchasers from seeing to the application of the purchase-money, does not discharge them from the obligation of inquiring whether the events upon which the power of sale depends have happened. Mr. Housman alludes to Mr. Walford's pamphlet, which suggested that the operation of Lord Cranworth's Act should in all conveyances be expressly negated, and considers, judiciously, we think, that this sweeping rejection of the provisions of the Act is undesirable. It is an enactment, however, which does not supersede the necessity of all circumspection on the part of the conveyancer. We have noticed with much pleasure the care and erudition displayed throughout Mr. Housman's work, especially in the notes, although we could have wished they had been still more copious. There is little, if any, surplusage in the precedents, if we except an occasional limitation to a trustee to preserve contingent remainders not required by the context. Since the Act 8 & 9 Vict. c. 106, s. 8, it is only in very special cases that such a limitation is necessary. On the whole, Mr. Housman's work reflects much credit on its author, and is likely to become a much-used hand-book for familiar reference.

Law Students' Journal.

QUESTIONS FOR THE EXAMINATION.

Trinity Term, 1861.

I.—PRELIMINARY.

1. Where, and with whom, did you serve your clerkship?
2. State the particular branch or branches of the law to which you have principally applied yourself during your clerkship.
3. Mention some of the principal law books which you have read and studied.
4. Have you attended any, and what, law lectures?

II.—COMMON AND STATUTE LAW AND PRACTICE OF THE COURTS.

5. On non-payment of a bill of exchange by the acceptor, to whom, and how soon, should notice of the dishonour be given by an indorsee, in order to preserve the liability of any, and what, other person or persons?
6. Within what period after a bill of exchange becomes due, must an action on it under the recent Bills of Exchange Act be commenced? How does a defendant obtain power to defend such an action? and state some of the grounds on which leave to defend is granted.
7. Is there any, and if any, what mode in which a creditor for goods sold and delivered can make his debt carry interest?

8. What is the meaning of a set-off? and mention instances in which debts or demands may and may not be set-off against each other.

9. Can either a foreigner or British subject residing out of the jurisdiction of the English courts, be sued in a common law action in England, and if so, is it, or is it not necessary that the cause of action should have arisen within the jurisdiction of the English court?

10. To maintain an action for the price of goods sold but not delivered, is it necessary that the contract should be in writing? and if it is so necessary under some circumstances only, state under what circumstances.

11. Against whom should an action be brought for a debt contracted by a married woman before her marriage, and would the husband be under any liability for such debt in the event of the death of the married woman before any action is brought?

12. Within what respective periods must actions on specialties and simple contracts respectively be brought, to avoid being barred by Statutes of Limitation?

13. What steps must be taken to enable you to proceed with an action against a defendant residing within the jurisdiction of the court, who keeps out of the way, and avoids service of the writ?

14. State the number of days required for ordinary notice of trial and short notice of trial respectively.

15. Within what period must a defendant appear to a writ of ejectment in order to avoid a judgment by default?

16. To what tribunal, and under what authority, may an action involving mere matters of account, which cannot conveniently be tried by a jury, be referred by a judge?

17. What is the meaning of an interpleader?

18. Within what respective periods after service of the writ may a plaintiff sign final judgment for want of appearance, and issue execution on a writ specially endorsed under the Common Law Procedure Act, 1852?

19. What is the meaning and effect of demurring to an adversary's pleading?

III.—CONVEYANCING.

20. To whom, in the absence of any special custom to the contrary, do the timber and minerals upon and under the waste land of manors belong, and to whom do the timber and minerals under copyhold land belong?

21. A. dies seized of real estate and intestate, leaving a father and sister of the whole blood, and a brother of the half blood. Upon whom would the estate have descended previously to the operation of the Act 3 & 4 Will. 4, c. 106, and upon whom would it descend subsequently to that Act?

22. Where money is settled upon trust to be invested in real estate, and to which A. (a married woman) is entitled for life, and B. (a tenant in tail) is entitled in remainder,—in what way should a transfer of their interests in the money be effected?

23. What alteration in the law has been made by the Act to amend the law of property and to relieve trustees, 22 & 23 Vict. c. 35, as regards the effect of a release of part of the land subject to a rent-charge or to a judgment?

24. State the interest of a husband over property of his wife of the following descriptions, as well in possession as in reversion:—real, copyhold, and leasehold estates, choses in action, and other personal property. Also state whether any alterations have been made by a recent statute in the power of a husband over a wife's reversionary property, and if so, the statute and the nature of the alteration.

25. A., having contracted to sell an estate to B., becomes bankrupt previously to the completion of the sale. In what way does the bankruptcy affect the contract, and in what way would the contract have been affected if B. had been the party becoming bankrupt?

26. If copyhold were devised to trustees upon trust for A. for life, and after his death to B. absolutely, and B. should sell his remainder, by what assurance should the property be conveyed to a purchaser, the trustee having been admitted?

27. State the law as to barring entails previously to the Fines and Recoveries, Act and how subsequently. The like of estate of married women in real property before and after the Fines and Recoveries' Act.

28. A. by will devises an estate to B., and afterwards contracts to sell the estate to C. and dies before conveyance;—who is entitled to the purchase-money, and state the authority.

29. A. devises an estate which is in mortgage to B., and appoints C. his residuary legatee; as between B. and C. who is liable to pay the mortgage-money, and state the authority.

30. When will trust estates pass under a general devise, and when will they not?

31. In what way must a gift of land to a charity be carried out to be effectual, and what description of property can be disposed of to charitable uses by will?

32. A. by will, devises an estate to his son B. in fee. B. dies in the lifetime of his father A. leaving a son who survives A. How, on A.'s death, would the estate devolve? State the authority for the answer.

33. Can a mortgagee grant a lease without the concurrence of a mortgagor, and suppose a mortgagee and mortgagor concur in granting a lease, to whom should the rent be reserved, and with whom should the covenants be entered into? State the reasons for your answer.

34. Has any alteration been made as to the liability of purchasers to see to the application of purchase-money; if so, what alteration, and when was it made?

IV. EQUITY AND PRACTICE OF THE COURTS.

35. At what stages of the suit may the respective parties, plaintiff and defendant, obtain an order for the production of documents in the possession of their opponents?

36. In what manner must a subpoena be served in order to compel the attendance of a witness?

37. If either party to a suit desires that the evidence in chief should be taken *ried roce* at the hearing, what is now the mode of proceeding for this purpose?

38. If a bill be filed by a husband and wife relating to the personal property of the wife, what effect, if any, will the husband's death have upon the proceedings in the suit?

39. What is the effect of enrolling a decree or order of the Master of the Rolls, or one of the Vice-Chancellors; and what is the effect of enrolling a decree of the Lord Chancellor or the Lords Justices?

40. What are the several modes of commencing proceedings in equity?

41. Mention some of the principal matters to be commenced in the judges' chambers, and some of those to be commenced by proceedings in court.

42. When a plaintiff requires from the defendant an answer to his bill, what is the course of proceeding, and when must it be taken?

43. If an executor be sued by a simple contract creditor of his testator, and he has notice of a specialty debt, but has not assets sufficient to pay both debts, what is the proper course for the executor to take?

44. Can an alien enforce in a court of equity a trust in his favour relating to real estates or chattels real in England, or to personal estate?

45. In what stock, funds, or securities, may trustees, executors, or administrators lawfully invest moneys in their hands?

46. Has the Court of Chancery power to relieve a lessee against a forfeiture of his lease occasioned by the breach of any, and what, covenants; and if so, upon what terms?

47. Is the separate property of a married woman liable for the payment of her simple contract debts; and if so, under what circumstances?

48. If a trustee pays money under a power of attorney from a person who, at the time of payment, was dead or had revoked the power, will the trustee under any, and if any, what, circumstances be liable to repay the money?

49. Is there any, and what, difference between the order or priority of payment of the different classes of debts of a testator when the assets are legal, and when the assets are equitable?

V. BANKRUPTCY AND PRACTICE OF THE COURTS.

50. Name some of the traders liable to become bankrupt, and also state what persons are not to be deemed such traders.

51. Name some of the principal acts of bankruptcy, distinguishing those which are coercive from those which are voluntary.

52. Can a trader having privilege of Parliament be made bankrupt? and if so, state the course of procedure.

53. Is it necessary in order to support an adjudication in bankruptcy against partners that each partner should commit an act of bankruptcy?

54. When and how can an adjudication of bankruptcy be disputed?

55. State when and how creditors' assignees are chosen and appointed.

56. State the mode of making a joint stock commercial or trading company, such as an insurance or banking company, (7th & 8th Vict. c. 111) bankrupt.

57. In what cases may a company trading under limited liability (Joint Stock Companies' Act, 1856, 19th & 20th Vict. c. 47), be wound up by the Court of Bankruptcy?

58. State how the obligee in any bottomry or respondentia bond, or the assured in any policy of insurance, may be admitted to claim and prove.

59. Is an annuity creditor of any bankrupt entitled to prove? and if so, how is the amount of such proof to be ascertained?

60. What is the legal effect of the bankrupt's certificate of conformity?

61. State the instances in which a bankrupt shall not be entitled to a certificate of conformity, and in which such certificate, if allowed, shall be void.

62. Give some account of petitions for arrangement between debtors and their creditors under the superintendence and control of the court, and explain the mode of procedure.

63. Give some account of arrangements by deed or memorandum of arrangement, stating the proportions in number and value of the creditors who must assent, and how creditors who have not assented may be bound thereby.

64. What is the nature and extent of a landlord's remedy for rent in arrear at the time of bankruptcy?

VI.—CRIMINAL LAW AND PROCEEDINGS BEFORE MAGISTRATES.

65. What is an information *ex officio*?

66. For what does an information *ex officio* lie?

67. What is an information by the Master of the Crown Office, and to what cases does it apply?

68. What is an indictment; what crimes does it comprise, and before whom is it brought?

69. What allegations must be proved in support of an indictment?

70. State the general rule as to the nature of the evidence that must be produced on a trial for a criminal offence.

71. State some of the exceptions to the general rule that hearsay is no evidence.

72. Can a trial proceed upon any admissions made by the attorney of the defendant in a criminal case, or what further is requisite?

73. On an indictment for embezzlement of money, what facts must be proved?

74. At the trial for the forgery of a bill of exchange or other instrument, is it sufficient to prove that any part thereof has been fraudulently altered, and if so, what part?

75. Define the offence of perjury.

76. What is compounding felony, and are there any offences the compounding of which will not subject the party to an indictment?

77. Have justices of the peace any, and what, powers in petty sessions to adjudicate summarily, and on what conditions against persons charged with any, and what, felonies and misdemeanors?

78. What are the rights of the accused in such cases with regard to his defence?

79. Is the prosecutor entitled to be paid his costs in any, and what, cases?

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

SALFORD AND MANCHESTER.

WEST MIDLAND AND SEVERN VALLEY.

The following Bills have passed through committee in the House of Commons:—

CHARING CROSS RAILWAY (Extension to Cannon-street).

COALBROOKDALE AND LIGHTMOOR EXTENSION.

WEST MIDLAND.

REPORTS AND MEETINGS.

DUNDEE AND ARBROATH RAILWAY.

The report of the directors of this company recommends that, after providing for the payment of dividends on loans and a dividend of 5 per cent. on the preference stock, a dividend at the rate of 6 per cent. per annum should be declared on the ordinary stock.

LAW FIRE INSURANCE SOCIETY.

The annual general meeting of the shareholders of this society was held on the 28th May, 1861, at the society's new offices, Chancery-lane, London. The directors, by their report,

stated that the sum insured in the year 1860 was £24,236,641, in the year 1859, £22,663,913—being an increase in the year 1860 of £1,572,728; that the premiums received in the year 1860 amounted to £27,346, in the year 1859 to £25,687—being an increase in the year 1860 of £1,659; that the aggregate amount of duty paid to Government in the year 1860 was £35,938, in the year 1859, £33,919—showing an increase in the year 1860 of £2,019; that the excess of receipt over expenditure for the year 1860 was £13,728 5s. 11d. in favour of the society. Interest for the past year of 2s. 6d. upon each share, being 5 per cent. upon the paid-up capital of the society, and a bonus of 2s. 6d. upon each share, making together 5s. per share or 10 per cent. upon the paid-up capital of the society, were declared, leaving a surplus of £1,228 5s. 11d. in favour of the society. The interest and bonus will be paid on July 15 next, and on any subsequent day (except Saturday), between 11 and 3 o'clock.

PENINSULAR AND ORIENTAL STEAM NAVIGATION COMPANY.

At the half-yearly meeting of this company held on the 4th inst. a dividend at the rate of 3½ per cent. was declared for the half-year ending the 31st of March last, free from income-tax, payable on the 24th inst.

PRACTICAL QUESTIONS IN CONVEYANCING.

The following questions and answers have been forwarded to us for insertion, by an eminent conveyancer:—

1. When a purchaser has a wife to whom he was married since 2nd January, 1834, why should a declaration to bar her of dower not be inserted in the conveyance?

Answer.—Because in such a case, a purchaser, without the declaration, may dispose of or charge the premises free from dower by deed, will, or a mere agreement in writing, so that the declaration, if inserted, can only operate in case he dies intestate and without making any disposition in his lifetime, and then, if the heir be a child, it is not unjust that the widow should, as against him, have one-third during her life, and if the heir be a collateral relative, the widow has clearly a superior claim.

2. When tithes have been commuted for a rent-charge, why should a vendor furnish an abstract of the award of apportionment?

Answer.—Because a tithe-rent is in the nature of a special charge. A land-owner has the power to have the whole of the rent to be paid by him, charged upon a part only of his property, to the exoneration of the rest; so that a purchaser cannot say to what rent the premises may be subject.

PRESENTATION OF A TESTIMONIAL TO H. WELLINGTON VALLANCE, ESQ., SOLICITOR.—On Tuesday evening, the 4th inst., a banquet was given at the Bridge House Hotel, to Henry Wellington Vallance, Esq., the late Deputy-Governor of the Irish Society, when the magnificent testimonial voted by the society in February last, in recognition of the valuable services rendered by that gentleman, was presented to him by the Governor, Mr. Alderman Humphrey, who presided on the occasion. The testimonial consists of a centre ornament and dessert service designed in a rich Italian style, and surmounted by delicate engraved glass tazzas for flowers and fruits. The base of the centre ornament is decorated with rich festoons of shamrock; upon it is a very beautifully modelled female figure representing Hibernia, draped in the antique style, leaning upon an ancient Royal Irish harp, grouped with emblems of agriculture and civic insignia—the figure supports the centre tazza and three very graceful pendant flower glasses. Upon three divisions of the base of the centrepiece are the inscription, a fac-simile seal of the society, and Mr. Vallance's armorial bearings. The four dessert-stands correspond with the centre ornament in the bases, and upon each is a figure of an infant river god reposing on an amphora, surrounded by aquatic plants. The whole of the memorial is illustrative of the society and the object of presentation. The inscription is as follows:—

Presented.

(On the 5th day of February, A.D. 1861,
By the Court of the Governor and Assistants, London, of the
New Plantation in Ulster, within the Realm of Ireland, to
HENRY WELLINGTON VALLANCE, ESQ.,
THE DEPUTY-GOVERNOR,

As a public memorial of the distinguished services rendered by him in conducting to a successful issue important negotia-

tions with the Crown, the Corporation of Londonderry, the Port and Harbour, and Bridge Commissioners of that city, and the local railway companies, whereby the honour and influence of the Irish Society, and the substantial interests of Derry and the surrounding locality, have been materially advanced.

This testimonial also records the unanimous vote of thanks of the society to Mr. Vallance for the zealous, able, and uniformly courteous manner in which he discharged all the important functions of the office of Deputy-Governor during an unusually eventful year.

On the withdrawal of the cloth, the customary loyal toasts were given.

The Chairman, Mr. Alderman HUMPHREY, in proposing "The health of the guests of the evening," remarked that they had assembled to do honour to Mr. Vallance for the great zeal he had displayed, the time he had devoted, the energy he had brought to bear, in his office of Deputy-Governor, during the preceding year. He had entered heart and soul into the work, and not only had he performed the ordinary duties of the office of Deputy-Governor with ability, punctuality, and zeal, but had also brought to bear his professional talents, as a member of the legal profession, and his great zeal and acumen had been exercised to the great benefit of the society, and to the utmost credit to himself. It was in consideration of the eminent services of Mr. Vallance that the society had unanimously resolved to present to him the handsome testimonial which he (the Chairman) then begged to hand to him.

Mr. VALLANCE feelingly, and in very appropriate terms, acknowledged the gift.

Several other toasts were given and responded to, and the company broke up, after having spent a most pleasant evening.

It is rumoured that in pursuance of the statute under which Mr. James is seeking to arrange with his creditors, a meeting was held on the 5th inst., at which the proposal made by that gentleman for the ultimate discharge of his liabilities was unanimously agreed to by those present.

Marriages and Deaths.

MARRIAGES.

SOLLY—WARD—On June 5, William Solly, Esq., to Catherine, widow of J. Ward, Esq., Solicitor, of Stokesley, Yorkshire.

WRAY—BAGSHAW—On April 22, at Calcutta, Christopher G. Wray, Esq., to Francesca Maria Sforza, daughter of Henry R. Bagshaw, Esq., Q.C.

DEATHS.

ANDERSON—On June 1, at Aberdeen, aged 76, Harriet Lane, wife of Charles Anderson, Esq., late Chief Justice at the Mauritius.

BURBEY—On May 29, Richard Burbey, Esq., of Suffolk-lane, Cannon-street, Solicitor, aged 53.

JACQUES—On May 25, at Bristol, aged 2½ years, Mary Emma, daughter of F. V. Jacques, Esq., Solicitor.

London Gazettes.

Professional Partnership Dissolved.

TUESDAY, JUNE 4, 1861.

CARRIS, BENJAMIN, and JOHN WILLIAM CUDWORTH, Solicitors, Leeds (Carris & Cudworth), by mutual consent. May 31.

Windings-up of Joint Stock Companies.

TUESDAY, JUNE 4, 1861.

UNLIMITED IN CHANCERY.

PROFESSIONAL LIFE ASSURANCE COMPANY (REGISTERED).—Creditors to meet before the Master of the Rolls on June 6, at 12, for the purpose of appointing one or more person or persons to represent the creditors of the said Company.

LIMITED IN BANKRUPTCY.

PLUMSTEAD, WOOLWICH, and CHARLTON CONSUMERS PURE WATER COMPANY (LIMITED).—Commissioner Goulburn has appointed June 24, Basinghall-street, at 1, to audit accounts of official liquidators, and June 26, at 1, to make a dividend.

FRIDAY, JUNE 7, 1861.

LIMITED IN BANKRUPTCY.

GRON'S IMPROVED SOAP COMPANY (LIMITED).—Commissioner Foulblanque has appointed June 12, at 2, at Basinghall-street, to proceed in settling the list of contributories of this company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, JUNE 4, 1861.

ASPINALL, ELIZABETH, Widow, formerly of Rastrick, Halifax, afterwards of Holbeck, Leeds, but late of Halifax. Upton & Yewdall, Solicitors, Bank-street, Leeds. Sept. 1.

BLENKINSOP, EDWARD, Agent, Felling, Durham. Chater & Chater, Solicitors, Mosley-street, Newcastle-upon-Tyne. Nov. 30.

BORER, WILLIAM, Esq., Parkhurst House, Buxted, Sussex. Ellis, Bannister, & Robinson, Solicitors, 12, Clement's-lane, Lombard-street, London. June 24.

BOOKLE, WILLIAM, Draper and Grocer, Great Ouseburn, Yorkshire. Hirst & Capel, Solicitors, Knarborough. July 16.

COCKS, JOHN, Fish-sauce Manufacturer and Fishmonger, Reading, Berks. Whately & Dryland, Solicitors, Reading, Berks. July 31.

DREW, JAMES, Carpenter, Avebury, Wilts. Norris, Solicitor, Devizes, Wilts. June 24.

EELES, BENJAMIN, Yeoman, Freefolk Farm, Whitechurch, Southampton. Henry Wyatt, Executor, Aylesbury. July 29.

GEARY, WILLIAM, Manufacturer, Norwich. Winter & Son, Solicitors, 84, Giles-street, Norwich. July 13.

MCKENZIE, MURDOCH, Merchant, Monkwearmouth Shore, Durham. Wilford, Solicitor, 1, Frederick-road, High-street, Sunderland. Aug. 21.

SAVAGE, GEORGE, Surgeon, Urnston, Hixton, Lancaster. Stevenson & Lyett, Solicitors, Manchester. July 4.

WHITE, JOHN, Auctioneer, Leamington Priors, Warwickshire. Field, Solicitor. Aug. 26.

WILLIAMSON, MATTHEW, Gent., Leeds. Payne, Eddison, & Ford, Solicitors, 70, Albion-street, Leeds. July 17.

WILMOT, ESTHER, Spinster, Honslow, Middlesex. Woodbridge & Son, Solicitors, 8, Clifford's-lane. July 11.

FRIDAY, JUNE 7, 1861.

CASTELL, SUSANNAH, Widow, 33 (formerly known as 136), Old-street, St. Luke's, Middlesex. Flavell, Solicitor, 21, Bedford-row, Holborn. July 15.

CRAWLEY, PHILIP, Gentleman, formerly of Devonshire-place, Edgeware-road, Middlesex, and late of 3, Brunswick-place North, Brighton. J. & C. Rogers, Solicitors, 22, Manchester-buildings, Westminster. August 1.

HUDSON, MARIA, Spinster, Nottingham. Wadsworth, Watson, & Wadsworth, Solicitors, Nottingham. June 21.

LANDIN, ABRAHAM, Esq., Aberdeen-place, Maida-hill, Marylebone, Middlesex. Bond, Agent, 61, Seymour-street, Euston-square, Middlesex. July 10.

NEWBAM, ANN, Spinster, Wisbech St. Peters, Cambridge. C. & F. M. Metcalf, Solicitors, Wisbech. July 18.

NICKLIN, JAMES, Furnace Builder, Tipton, Staffordshire. Coldcott & Canning, Solicitors, Dudley. July 6.

PATTERSON, DANIEL, jun., Metal Merchant, Gateshead, Durham. Brewis, Solicitor, Newcastle-upon-Tyne. July 30.

POCKINGTON, THOMAS, Butcher, 21, Old Change, London. Smith & Son, Solicitors, 6, Barnard's-inn, E.C. July 12.

SEEDS, LUCY, Widow, Calne, Wilts. Hale, Solicitor, Hay-hill, Bath. July 18.

TERRY, Rev. MICHAEL, Rector of Mildenhall, Wilts, 1, Paragon-buildings, Bath. Hale, Solicitor, Hay-hill, Bath. July 15.

WHITELL, GEORGE JAMES, Boot & Shoe Maker, Devonport. Beer & Rundle, Solicitors, Devonport. June 24.

WILLIAMS, SAMUEL, Coffee Broker, 25, Jewry-street, Aldgate, London, and 15, Commercial Sale Rooms, Mincing-lane, and 15, Church-row, Newington, Surrey. Marten, Thomas, & Hollams, Solicitors, 31, Commercial Sale Rooms, Mincing-lane. July 20.

WINTANLEY, HENRY, Cornwall-crescent, Camden-town, Middlesex, and Paternoster-row, London. Rhodes, Solicitor, 63, Lincoln's-inn-fields. July 19.

WYATT, Miss MYRTILLA, Spinster, Eastgate-street, Stafford. Fairfoot, Webb, & D'Aeth, Solicitors, 13, Clement's-lane, London. August 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, JUNE 4, 1861.

BALDWIN, SAMUEL, Jun., Gent., Newent, Gloucestershire. Fenton v. Hankins, V. C. Wood. April 19.

GRANT, JAMES, Timber Merchant, Cardiff, Glamorganshire. Grant v. Grant, V. C. Stuart. July 1.

JOHNSON, ARTHUR HARRY, Assayer of Metals, Gresham-street, London. Nicklison v. Cockill, V. C. Kindersley. July 10.

PARRY, RICHARD, Esq., Llynwynn, Denbighshire. Haygarth v. Mostyn, M. R. July 1.

WEBB, WILLIAM, Gent., 98, Bishopsgate-street Within, London, and 35, Grosvenor-park South, Newington, Surrey. Fricker v. De Beauvoisin, M. R. June 26.

WHALLEY, JOHN, Builder, Stoke-upon-Trent. Holdgate v. Asbury, V. C. Stuart. July 9.

WILLSON, GEORGE SAMUEL, Engraver, 5, Twemlow-terrace, London-fields, Hackney, Middlesex. Willson v. Willson, V. C. Kindersley. July 4.

FRIDAY, JUNE 7, 1861.

BAILEY, JOSEPH, Earthenware Dealer, formerly of Diddulph, Staffordshire. but late of Chester. Tippet v. Bailey, V. C. Wood. June 29.

CARTER, JOHN, Gent., Clevedon, Somersetshire. Lasbury v. Carter, M. R. July 8.

COULTHARD, JOSEPH, Merchant, Great Tower-street, London. Bruce v. Coulthard, M. R. July 3.

DYER, ELIZABETH, widow, Blackheath-park, Kent. Stidolph v. Nix, M. R. July 6.

MATTHEWS, GEORGE, Hotel-keeper & Farmer, Great Malvern, Worcester-shire. Matthews v. West, M. R. June 29.

WILSON, RICHARD, Gent., 9, Maida-hill, and formerly of 37, Drury-lane Middlesex, and of Ranskill, Nottinghamshire. Newman v. Wilson, M. R. July 3.

Assignments for Benefit of Creditors.

TUESDAY, JUNE 4, 1861.

COCKER, ROBERT, Wire Manufacturer, Attercliffe, Sheffield. Sol. W. & B. Wake, Sheffield. May 16.

DOWNES, JOHN, Builder and Mercer, Wellington, Salop. Sol. Knowles, Wellington. May 27.

GRUB, WILLIAM, Fishmonger, Southampton. Sol. Lomer, Southampton. May 24.

HALLON, WILLIAM, Tailor, 4, Princes-street, Hanover-square, Middlesex. Sol. Richards, 16, Warwick-street, Regent-street, Middlesex. May 11.

RITCHIE, CHARLES, Wholesale Stationer, 112, Fero-street, London. Sol. Gashley & Tee, 7, Old Jewry. May 9.

TOMLINSON, WILLIAM, Butcher, Ashborne, Derbyshire. *Sol.* Holland, Ashborne. May 23.
WRIGHT, THOMAS WILLIAMS, Chemist, Buckley, Flintshire. *Sol.* Buckton, Mold. May 13.

FRIDAY, June 7, 1861.

BESTOW, HENRY, Spinner, Leicester. *Sol.* Stevenson, Leicester. May 9.
COLLINS, WILLIAM WILKINS, Manufacturer of Warming and Ventilating Apparatus, Liverpool. *Sol.* Gili, Liverpool. June 1.
HUNTER, ROBERT, Travelling Draper, Manchester. *Sol.* Boote, 52, Brown-street, Manchester. May 15.
INGHAM, JONAS, Builder, Wellingborough, Northampton. *Sol.* Cook, Wellingborough. May 16.
JAMES, WILLIAM CONWAY, Tin Plate Manufacturer, Pontnewydd Tin Works, Llanvachra Lower, Monmouthshire. *Sols.* Prothero & Fox, 2, Snow-hill, Newport. May 31.
KEVIE, SAMUEL, Wheelwright, Innkeeper, & Timber Dealer, Barkby, Leicestershire. *Sol.* Haxby, Leicester. May 25.
SCALDWELL, CHARLES, Bootmaker, Winslow, Buckinghamshire. *Sol.* Parrott, Aylesbury. May 28.
SCOTT, JOHN, Chain & Anchor Manufacturer, Monkwearmouth Shore, Durham. *Sols.* Kidson & Cooper, Birmingham. May 24.
SOUTHWELL, ROBERT BAKER, Grocer, Tea Dealer, Provision Merchant, & Baker, Bridgnorth, Salop. *Sol.* Hardwick, Bridgnorth. May 30.
SETTON, JOSEPH WALTER, Ironmonger, 35, Lamb's Conduit-street, Middlesex. *Sols.* Fraser & May, 78, Dean-street, Soho. May 31.
THORNTON, JAMES KAY, Manufacturer, Manchester. *Sol.* Grundy, Manchester. May 28.
WANTALL, JACOB, Hair Dresser & Perfumer, Faversham, Kent. *Sol.* Tansell, Faversham. May 15.
WATTS, ARTHUR, Corn Factor, Miller, & Farmer, Dunsford Mill, Milden-hall, Wilts. *Sols.* T. B. & W. Merriman & Gwillim, Marlborough. June 1.

Bankrupts.

TUESDAY, June 4, 1861.

ADAMS, WILLIAM, Grocer, Red Hill, Surrey. *Com.* Evans: June 13, and July 11, at 1; Basinghall-street. *Off. Ass.* Bell. *Sols.* J. & H. Linklaters & Hackwood, Walbrook. *Pet.* June 3.
BOBHAM, WILLIAM HUGHES, Tailor & Draper, 37, Brudenell-place, New North-road, Middlesex. *Com.* Evans: June 13, at 12; and July 4, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Sole, Turner, & Turner, Aldermanbury. *Pet.* June 4.
CARTER, JOHN JOSEPH, Manufacturing Chemist & Drysalter, 13, Victoria Park-square, Cambridge-road, Mile End, Middlesex, lately carrying on business in partnership with Joseph Pickering, 4, Suffolk-street, Cambridge-road, Mile End (Pickering & Carter) as Manufacturing Chemists & Drysalter. *Com.* Evans: June 27, at 12; Basinghall-street. *Off. Ass.* Bell. *Sol.* Watson, 18, Cannon-street, West. *Pet.* May 30.
CHANT, GEORGE, Glove Manufacturer, West End, Stoke-sub-Hamden, Somersetshire. *Com.* Andrews: June 17, and July 17, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Richards, Martock, Somerset; or Floud, Exeter. *Pet.* June 3.
CHURCHILL, JOSEPH, & JOHN MACMILLAN, Timber Brokers, 30, Cannon-street, London. *Com.* Goulburn: June 17, at 2; and July 22, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* April 25.
DANIELS, JAMES, Iron Merchant & Commission Agent, Manchester. June 14, and July 4, at 12; Manchester. *Off. Ass.* Herniman. *Sol.* Blair, Brown-street, Manchester. *Pet.* June 1.
HARRISON, JOSEPH, Scale Board Manufacturer, Birmingham. *Com.* Sanders: June 14, and July 11, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Collis & Ure, Birmingham. *Pet.* June 2.
HOLROYD, JOSEPH, Chemist, Druggist, & Seedsman, Winterton, Lincolnshire. *Com.* Ayton: June 19, and July 24, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Nicholson, Hett, & Freer. *Pet.* June 1.
LAMBERT, THOMAS, Bookseller & Stationer, York. *Com.* Ayton: June 17 and July 29, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Mason, York; or Caris & Cudworth, Leeds. *Pet.* May 27.
MANLEY, GEORGE HALL, Grocer & Provision Dealer, Birmingham. *Com.* Sanders: June 14, and July 11, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* James & Knight, Birmingham. *Pet.* May 24.
OATES, JOHN, & BROOKE OATES, Woollen Manufacturers, Dewsbury, Yorkshire. *Com.* Ayton: June 17, and July 29, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Chadwick, Dewsbury; or Bond & Barwick, Leeds. *Pet.* June 3.
PEACOCK, RICHARD, Licensed Victualler, Sportsman Tavern, Southwark-bridge-road, Surrey. *Com.* Fomblanque: June 19, at 2; and July 24, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sol.* Feverley, 19, Coleman-street, London. *Pet.* May 17.
PERKINS, GEORGE, Earthenware Dealer, Bank-street, Ashford, Kent. *Com.* Fane: June 14, at 11.30; and July 12, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Murton, 3, Verulam-buildings, Gray's-inn. *Pet.* June 1.
PYRS, THOMAS WILLIAM, Timber Merchant, 23, Laurence Pountney-lane, London. *Com.* Evans: June 15, at 11; and July 4, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Linklaters & Hackwood, Walbrook. *Pet.* May 3.
SHOTTER, GEORGE, Sheep and Cattle Dealer, Midhurst, Sussex. *Com.* Fomblanque: June 19, at 1.30; and July 24, at 1.30; Basinghall-street. *Off. Ass.* Graham. *Sol.* Brook, 1, New-inn, Strand, London. *Pet.* May 31.
TUCKER, THOMAS, Jun., Lamp Manufacturer, Gas Fitter, and Dealer in Oil and Candles, 190, Strand, and Essex Works, Water-street, Strand (Tucker & Son). *Com.* Goulburn: June 17, and July 22, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* June 1.
WOOD, JAMES, Sen., Builder, Birmingham. *Com.* Sanders: June 14, and July 11, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Harrison & Wood, Birmingham. *Pet.* May 28.

FRIDAY, June 7, 1861.

ATKIN, FRANCIS, Yarn Agent, Manchester, (F. Atkin and Company.) *Com.* Jemmet: June 27, and July 17, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester. *Pet.* June 1.
BENKINS, JOSEPH BARNETT, Dealer in Pictures, 4, Coventry-street, Haymarket, Middlesex. *Com.* Fane: June 20, and July 19, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Abrahams, 27, Bloomsbury-square. *Pet.* May 37.

CHOMEL, ISAAC ANTOINE, Jeweller, Watch and Clock Maker, 4, St. James-street, St. James, Westminster, Middlesex. *Com.* Fane: June 20, and July 19, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Lewis & Sons, 7, Wilmington-square. *Pet.* June 4.
CLAPHAM, THOMAS, Silversmith & Jeweller, 48, Piccadilly, Middlesex. *Com.* Evans: June 18, and July 18, at 12; Basinghall-street. *Off. Ass.* Bell. *Sol.* Sopher, 36, Coleman-street. *Pet.* June 5.
DUGARD, WILLIAM, Jun., Coach & Harness Plater, Lapworth, Warwickshire. *Com.* Sanders: June 20, and July 11, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* East & Parry, Birmingham. *Pet.* May 29.
FRENCH, JACOB, Gold Chain and Bracelet Manufacturer, late of 31, King-street, Clerkenwell, and now of 35, Arlington-street, New North-road, Middlesex. *Com.* Goulburn: June 17, and July 22, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Bartholomew & Randall, Gray's-inn, or Laurence, Plews, & Boyer, 14, Old Jewry-chambers, London. *Pet.* May 29.
MELLON, WILLIAM, Butcher & Cattle Dealer, Alderley, Cheshire. *Com.* Jemmet: June 19, and July 10, at 12; Manchester. *Off. Ass.* Fott. *Sol.* Boote, Brown-street, Manchester. *Pet.* June 5.
PARKIN, HENRY, Tea Dealer and Grocer, Plymouth. *Com.* Andrews: June 24, and July 22, at 12.30; Exeter. *Off. Ass.* Hirtzel. *Sol.* Fryer, St. Thomas-street, Exeter. *Pet.* June 4.
PRICE, EDWARD, Grocer & Provision Factor, Warminster, Wilts. *Com.* Fane: June 20, at 1; and July 19, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Linklater & Hackwood, 7, Walbrook; or, Smith, Melksham. *Pet.* June 5.
ROTHWELL, JAMES, Manufacturer, Ridge Mill, Ramsbottom, Lancashire. *Com.* Jemmet: June 25, and July 9, at 12; Manchester. *Off. Ass.* Fott. *Sol.* Boote, Brown-street, Manchester. *Pet.* May 30.
SAYLE, ANN, Dealer in Boots & Shoes, Liverpool. *Com.* Perry: June 20, and July 10, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Radcliffe, 4, South John-street, Liverpool. *Pet.* June 6.

BANKRUPTCIES ANNULLED.

TUESDAY, June 4, 1861.

FIELDING, JAMES, Cotton Spinner and Manufacturer, Macclesfield. May 20.
GILBERT, EDWARD RALPH, Mantle Manufacturer, Cripplegate-buildings, London. May 31.
PARSONS, WILLIAM, Draper, Brill, Bucks. June 3.

FRIDAY, June 7, 1861.

JENNER, CHARLES WAKEFIELD, Surgeon & Apothecary, Hunmanby, Yorkshire.
PALMER, JOHN, Picture Dealer, Mutley House, Mutley, Plymouth. June 6.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, June 4, 1861.

AAL, BERNARD, Tailor & Clothier, 2, Lambeth-street, Goodman's-fields, Whitechapel, Middlesex. June 14, at 12; Basinghall-street.—BATES, PETER, Draper, Croydon, Surrey. June 26, at 11; Basinghall-street.—BOORMAN, RICHARD KNIGHT, Cattle Dealer, Marden, Kent. June 26, at 12.30; Basinghall-street.—CLEWS, RALPH, & JAMES CLEWS, Manufacturers of Earthenware, Burslem, Staffordshire. June 27, at 11; Birmingham.—FRANKS, EDWARD, Butcher, Petty Cury, Cambridgehire. June 27, at 12; Basinghall-street.—FREELAND, ROBERT, Manchester, & JOHN FREELAND, Kirkintilloch, Dumbartonshire, Scotland, Merchants. July 2, at 12; Manchester.—HOLLIN, DAVID, Boot and Shoe Manufacturer, Leicester. July 4, at 11; Nottingham.—HUNT, EDWARD, Hop Merchant, 6, Three Crown-square, Southwark, Surrey. June 19, at 2.30; Basinghall-street.—MARSHALL, JOHN SLATER, Boot and Shoe Factor, Billiter-street, London. June 26, at 11.30; Basinghall-street.—MEASOR, JOHN, Upholsterer and Cabinet Maker, 37, and 38, Ship-street, Brighton. June 27, at 1; Basinghall-street.—MONTGOMERY, ARCHIBALD, Merchant, 3, Great Winchester-street, London, and High-street, Clapham, Surrey (A. Montgomery & Co.). June 23, at 11; Basinghall-street.—MORTON, JOHN LOCKHART, Merchant, 8, Finch-lane, London. June 18, at 12.30; Basinghall-street.—OWEN, JOHN, & JOHN MATHEW GUTCH, Bankers, Worcester (Farley, Lavender, Owen, & Gutch June 29, at 11; Birmingham.—RHODES, WILLIAM HUBERT, Licensed, Victualler, Milton-next-Gravesend, Kent. June 27, at 11; Basinghall-street.—HOLLE, PHILMON, Chemist & Druggist, 39, High-street, Gravesend. June 26, at 1; Basinghall-street.—SCALE, HENRY, Iron Manufacturer, Briton Ferry Iron Works, near Neath, Glamorganshire. June 21, at 11; Bristol.—WARD, WILLIAM, Farmer & Cattle Dealer, Boothby Pagnell, Lincolnshire. July 4, at 11; Nottingham.—WEBB, SAMUEL, Builder, Sudbury, Suffolk. June 26, at 12; Basinghall-street.

FRIDAY, June 7, 1861.

ACRAMAN, DANIEL WADE, WILLIAM EDWARD ACRAMAN, ALFRED JOHN ACRAMAN, WILLIAM MORGAN, THOMAS HOLROYD, and JAMES NORRWAY FRANKLIN, Ship Builders, Boiler Makers, & Engineers, Bristol. July 4, at 11; Bristol.—ASHWORTH, GEORGE, Cotton Spinner & Manufacturer, Manchester, and of Vale Mill, Newchurch, Rosendale, Lancaster. June 27, at 12; Manchester.—BALLINGER, WILLIAM, Maltster, Brewer, & Baker, Swansea, Glamorganshire. July 12, at 11; Bristol.—BECHIM, LOUIS, Merchant, 31, St. Mary-at-Hill, London. July 1, at 12.30; Basinghall-street.—COFFLAME, ELIZABETH, widow, Grocer & Druggist, March, Cambridgeshire. June 19, at 1; Basinghall-street.—CLAYTON, FRAPAS, Grocer & Provision Dealer, Openshaw, near Manchester. July 3, at 12; Manchester.—FOULKES, WILLIAM CHARLES, Draper and Tailor, Birmingham. July 1, at 11; Birmingham.—GRIFFIN, EDWARD, Woollen Warehouseman, 28, Basinghall-street, London. July 1, at 1; Basinghall-street.—HOOPER, CLEVE WOODWARD, & HENRY PARKINSON, Leather Factors & Leather Merchants, Seething-lane, London (Hooper & Parkinson). June 29, at 1.30; Basinghall-street.—JONSON, THOMAS, Ship Owner, West Hartlepool, Durham. July 2, at 12; Newcastle-upon-Tyne.—M'MASTER, JAMES, & SAMUEL HAINES, Drapers & Tea Dealers, Abergavenny, Monmouthshire (M'Master, Haines, & Co.) July 4, at 11; Bristol.—POWELL, CHARLES, Grocer & Cheesemonger, 2, Overy-street, Dartford, Kent. July 1, at 3; Basinghall-street.—SAUNDERS, JAMES, General Agent, Contractor, & Ammunition Packer, Cloughton, Birkenhead, Cheshire. June 28, at 11; Liverpool.—SAVAGE, THOMAS, Small Ware Dealer, Macclesfield, Cheshire. June 29, at 12; Manchester.—SUTTON, AMBROSE, Corn Miller, Cowley Vale, near St. Helens, Lancashire. June 29, at 11; Liverpool.—WINTER, GUSTAVE, Warehouseman, Milk-street, London. June 28, at 1; Basinghall-street.

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s; copies 1s., or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process.—Adv.

THE CHILDREN'S PHOTOGRAPHER.—Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary.—Adv.

WHY BURN GAS IN DAYTIME? Use Chappuis' reflectors; they diffuse daylight in dark places. The patentee and manufacturer is Mr. Chappuis 69, Fleet-street.—Adv.

STATE FIRE INSURANCE COMPANY.—Chief

Offices, 32, Ludgate-hill, and 3, Pall-mall east, London.
Chairman—The Right Hon. Lord KEANE, Stetchworth-park, New market.

Managing Director—PETER MORRISON, Esq.,
Capital, Half-a-Million.

13,926 new policies were issued during the year ending 31st of March, 1860, insuring £6,829,918 6 3
New premiums for the year ending 31st of March, 1860. 23,476 8 0
Total premium income for the year ending 31st of March, 1860 41,760 5 1

The increase of Government duty paid by the State Fire Insurance Company in 1859, exceeded that of 39 other companies, while the increase upon farming stock insurances effected with the State Fire Insurance Company during the year 1859 exceeded that of 26 other offices.

This Company grants insurances against Fire on every description of property, both at home and abroad.

Plate-glass insured against breakage.

Agents Wanted, to whom a liberal commission will be allowed. Application to be made to the Secretary, 32, Ludgate-hill.

WILLIAM CANWELL, Secretary.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £200,000, in 20,000 shares of £10 each. £3 per share paid.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. PATTESON & COBBOLD, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal, is 5 per cent.

LOANS.—Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained.

JOSEPH K. JACKSON, Secretary.

UNITED KINGDOM LIFE ASSURANCE COMPANY.

No. 8, WATERLOO PLACE, PALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,947 10	£6,947 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1859, amounted to £690,140 19s., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order, E. L. BOYD, Resident Director.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

In the press, and will shortly be published, in one volume, crown octavo, price 3s., neatly bound in cloth.

Dedicated, by permission, to Vice-Chancellor Sir RICHARD TORIN KINDERSLEY.

A TREATISE

ON THE

ENGLISH LAW OF DOMICIL;

Being a consideration of the view which our law takes of a subject that has, of late, become of almost national importance, not only by reason of the condition of the law itself with reference to it, but the numerous and singular cases turning upon the question that have occurred. Every one of the authorities in any degree bearing upon it, down to the date of publication, are either referred to or observed upon; including not only all the cases to be found in the decisions of the Court of Session of Scotland, but in the American Reports, with several that have taken place upon the Continent.

To which is added a brief notice of the Bill now before Parliament to amend the law with respect to wills of personal estate of British subjects.

By OLIVER STEPHEN ROUND, Esq., of Lincoln's-inn, Barrister-at-Law.

London: WILLIAM DRAPER, "Solicitors' Journal and Weekly Reporter" Office, 69, Carey-street, Lincoln's-inn, and of all Booksellers.

PRIVATE INQUIRY OFFICE, Established 1852,

20, Devereux-court, Temple, under the direction of C. F. FIELD, late Chief Inspector of the Metropolitan Detective Police. This office has had confided to it some of the most remarkable criminal and civil cases of the day—namely, the Smyth forgeries, the Worcester forgeries, the Rugeley murders, embezzlements, horse poisonings, incendiary fires, libel, and divorce cases, &c. The foreign superintendent (Mr. Pollaky) in attendance between 2 and 4 p.m.

CHARING-CROSS HOSPITAL, West Strand.—

This Charity has now entered the 45th year of its existence, and the Governors indulge the hope that its operations will always be found worthy of adequate support.

Its exertions comprehend the relief annually of from 16,000 to 17,000 sick and disabled poor, including 3,000 cases of accident (many of great severity and danger), and constant accommodation for upwards of 100 in-patients in the wards. The annual cost is about £3,000. The following contributions are thankfully acknowledged:—

G. F. Heneage, Esq. £10 10 0 | Mrs. E. C., add £50 0 0
Mrs. F. C., add 50 0 0 | H. Cunliffe, Esq. 40 0 0

CHILDREN'S WARDS.

To render the Hospital still more efficient, the Council are anxious to bring into useful operation the Wards for Children, hitherto unoccupied for want of funds; a measure which alone remains to complete the designs of the founders. It has been estimated that the addition of £330 annually to the income of the Hospital would suffice for its accomplishment, an addition which it is earnestly hoped public benevolence will supply.

A generous benefactor has commenced a subscription for the purpose by a donation of £500, to which the following liberal contributions have been added, and the Council anxiously solicit the assistance of other supporters to the good work.

W. Stuart, Esq. £500 0 0	R. Few, Esq. £100 0 0
Dr. Golding 10 10 0	Dr. Golding 2 0 0
J. Greenwood, Esq. 5 5 0	J. Wilkinson, Esq. 5 5 0
H. Walmisley, Esq. 50 0 0	Ditto 1 1 0
T. Tilson, Esq. 20 0 0	Charles Few, Esq. 50 0 0
Rev. R. H. Cooper 3 0 0	James Parker, Esq. 10 10 0
R. Cobbett, Esq. 10 10 0	Surplus of Subscription
Ditto 1 1 0	for a Testimonial to
E. Wilder, Esq. 10 10 0	Dr. Golding and Mr.
Lord Egerton of Tatton 50 0 0	Robertson 60 12 0

ENDOWMENT FUND.

To ensure the permanence of the useful objects of the Hospital, and to assist in providing against the serious losses which it sustains with painful frequency by the death of kind supporters, a Permanent Endowment Fund has been established, which, when further promoted by benefactions or bequests, will afford some steady source of income, in addition to that arising from casual and therefore uncertain subscriptions. The dividends from this source will substantially assist the regular disbursements of the Hospital, while the invested principal will be held intact and inviolate.

Very valuable assistance has been rendered by the legacies of deceased benefactors, and as upon this source the continued welfare of the Hospital must in great part depend, it may be respectfully stated to those benefactors who may be desirous to endow, by benefaction or bequest, a ward, or one or more beds, to bear in perpetuity the name of the donor, or of one whose memory he cherishes and would wish to identify with a permanent work of charity, that such desire can be fulfilled in accordance with the regulations of this Hospital.

The following additional contributions are thankfully acknowledged:—

Thomas Raymond Barker, Esq., add., £25, making up £100 0 0	The Rev. A. Clissold £50 0
	Messrs. Gale & Co. add. 5 5
	Messrs. Cox & Co. 100 0

Donations for the current objects of the Hospital, or for the Children's Wards, or the Endowment Fund, will be thankfully received by the Secretary, at the Hospital; and by Messrs. Coutts, Messrs. Drummonds, Messrs. Hoare, and Messrs. Herries; and through all the principal bankers.

April, 1861.

JOHN ROBERTSON, Hon. Sec.

AS GOOD AS GOLD.

WATCH CHAINS and every kind of Jewellery double-coated, with pure gold, and impossible to be told from solid gold Jewellery, though only one-tenth its cost. Made in the newest patterns by workmen used to solid gold work. Unequalled for wear. Illustrated circulars post free for a stamp.

HENRY ESCOTT & Co., 1, Fisher-street, Red Lion-square, London, W.C.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, JUNE 15, 1861.

CURRENT TOPICS.

In the House of Lords, on Monday evening, the Lord Chancellor announced the acceptance by the Government of the amendments introduced into the Bankruptcy Bill by the Select Committee. Lord Chelmsford moved and carried the insertion of a clause intended for the protection of non-traders against the retrospective operation of the Bill. He contended that, although it might be fair to give notice to the non-trader that if he incurred debts in future he must be prepared for certain consequences, yet it would be unjust to attach to existing debts consequences which made no part of the original contract, and were never contemplated by either party to it. He referred, in illustration of his argument, to the clause in the Bill empowering the Court of Bankruptcy, if a person should have contracted debts without any reasonable expectation of paying them, to commit him to prison for a year. There were, at the present moment, many persons who had thus contracted debts, and no doubt such persons were guilty of a serious moral offence, but they were not legally responsible for it as a crime. It might be quite right to make this a crime hereafter; but it could not be right to inflict punishment for an act which, when committed, was not a crime. Lord Chelmsford stated that, when the Bill was brought into the House of Commons, it contained a clause similar to that which he now proposed. The Lord Chancellor opposed the insertion of this clause, arguing that inasmuch as a non-trader could only become bankrupt and liable to imprisonment in respect of an act of bankruptcy committed by him after the passing of the Bill, the action of the Bill could not properly be said to be retrospective. The clause was carried against the Government by a majority of more than three to two. The Lord Chancellor lamented the rejection of the provisions relating to the chief judge, while Lord Brougham declared his opinion that such a functionary would be almost useless. He, however, recommended a tribunal of appeal to be composed of three commissioners, on the model of the Court of Review established in 1831. It is not easy to see how the abolition of that Court can furnish a proof of its utility, nor why the expectation that there will not be work enough for one judge of appeal should be made a reason for appointing three.

It will be remembered that at the last assizes the prosecution against Mr. Charlesworth, for alleged bribery at Wakefield, broke down through the refusal of a

material witness to give his evidence. Mr. Justice Hill, instead of directing an acquittal, discharged the jury, leaving the defendant liable to be again put upon his trial. The Court of Queen's Bench allowed the defendant to file a plea setting forth the facts which occurred at the trial, so as to raise the question as to the legality of the course pursued by the judge. The Court, at the same time, gave leave to the Crown to move to take this plea off the file. The Crown having moved accordingly, the Court held that the plea in question could not be pleaded along with a plea of not guilty, and that the proper course was for the defendant to have the facts entered on the record, and then to take what advantage he could of them. The plea, therefore, was taken off the file. On a subsequent day, the record having been made up, the defendant's counsel moved for a rule to show cause why he should not be discharged from further proceedings on the information on the ground that in a criminal case the judge has not in general any power to discharge the jury after evidence has been given, until they have delivered their verdict. The Court granted a rule nisi, which will be argued at the sittings after term. The question is of great importance; for the assumption of such a power by the judge, however convenient and even desirable to prevent a defeat of justice, is not, even in the nineteenth century, to be viewed without extreme jealousy.

A correspondent has favoured us with some advertisements which he has extracted from the *Morning Chronicle*. Here is one of them.

TO ALL IN DEBT OR DIFFICULTIES.—

MR. PEARSALL, Qualified Attorney-at-Law, and Solicitor of all the Courts (established 1837), procures immediate protection for person and property (in town or country), and entire relief from all debts and liabilities, under the recent Acts of Parliament, without imprisonment or publicity. Charges very moderate, payable by instalments. Advice confidential and without charge. References given. Imprisoned debtors released. All legal business transacted, including that of the County, Police, Probate, and Divorce Courts. — Offices, 9, Charing-cross, London.

Mr. Pearsall's statement "established 1837" would appear to mean, if it has any meaning, that he has carried on business uninterruptedly since that year, at the address given in the advertisement. But on turning, by way of test, to the *Law List* for 1858, we do not find Mr. Pearsall's name in it at all. We do not care to pursue the investigation further, feeling tolerably confident that Mr. Pearsall is alive to the danger of incurring penalties for unqualified practice, although insensible to the difference between a liberal profession and a chandler's shop. We certainly were not aware of the recent Acts of Parliament under which "entire relief from all debts and liabilities" might be so easily procured. It is melancholy, although not surprising, to see this class of low practitioners advertising their readiness to do business in the Divorce Court. Their interference between man and wife is a much more serious evil than the most active and unsparing use which they can make of the machinery for extortion provided for them in the County Courts. The mischief which they can do in the one case is measured by a few pounds, whereas in the other, the honour and happiness of families may be destroyed by their pestilent activity.

Here is another of these curious advertisements, all of which seem to prefer the partial obscurity of a penny newspaper:—

AW COSTS SAFELY AVOIDED.—The Under- signed, of many years practical experience, offers to RECOVER DEBTS in town and country, and to transact all legal business FREE from BILLS of COSTS ALTOGETHER, for a small Annual Fee, or a Commission of Five per Cent. Divorce cases conducted. Bankruptcies, Insolvencies, &c., &c. REFERENCES TO CLIENTS.

Apply personally or by letter to Mr. WETHERFIELD, Solicitor, 17, Devonshire-square, Bishopsgate.—Mortgages obtained. No charge unless money advanced. Life Insurances effected GRATIS.

Of course, the advertiser conducts divorce cases, but he omits to add the word "discreetly," which we find in another of his advertisements. An unlearned reader might suppose that "bankruptcies, insolvencies, &c.,

&c.," were articles of which, as other tradesmen say, "a large stock is kept constantly on hand." Another advertisement is addressed to those who have long struggled against the force of misfortune, in ignorance of the beneficent provisions of certain Acts of Parliament. Here the style is exactly imitated from another class of advertisements which inform us how many are the victims of dyspepsia, and how few of them are aware of the virtues of the Digestive Pills. We are desired to read a work called "Protection without imprisonment," just as we have been often, but in vain, invited to the consideration of some simple means of attaining health, happiness, and longevity. It is difficult to say which is the greater social pest, a quack doctor or a low practitioner in the courts.

THE KOSSUTH NOTE CASE.

Impartial observers will have anticipated the conclusion arrived at by the Full Court of Appeal to sustain the injunction in this case. It is possible that the counsel and solicitor engaged in it for the defendants may have forgotten, in their professional enthusiasm, that it does not follow that a judge's decision is unsound because the reasons which he gives for it are untenable. The surprise felt by us at the judgment delivered by Vice-Chancellor Stuart would have been equalled by the surprise which we should have felt if that judgment had been overruled. The Vice-Chancellor appears to have granted the injunction as a protection to the prerogative rights of the Emperor of Austria as King of Hungary; and he laid the principal stress upon the allegation in the bill that the notes were intended to be used in Hungary in violation of the rights and prerogatives of the plaintiff as king of that country, for the promotion of revolution and disorder there. The notes were said by the Vice-Chancellor to differ from warlike weapons only in this—that warlike weapons might be used for lawful purposes, whereas the notes could only be used in hostility to the rights of the King of Hungary. The inference from this observation appeared to be that if it could be proved that warlike weapons had been prepared in this country for the express purpose of invading the Austrian dominions, the Court of Chancery would grant an injunction against such use of them, and would order the weapons to be destroyed. Of course, as soon as this inference is stated, it is seen to be destructive of the argument from which it is deduced. It was admitted by the plaintiff's counsel, in arguing the appeal, that the Court of Chancery has nothing to do with preventing revolutions or with the protection of the prerogatives of foreign sovereigns, and that its interference could only be invoked to prevent an injury to property. The Lord Chancellor very anxiously disclaimed the assumption of any such sweeping jurisdiction as has been sometimes attributed to his court. He rested his decision in the present case upon the principle that "the Court has jurisdiction by injunction to protect property from an act threatened, which, if completed, would give a right of action." There can be no possible dispute about the soundness of this principle; and the only question is whether it could be made to apply to the present case. Certainly, we may concede that the injury to what we will, for the moment, call the property of the King of Hungary by the issue of the notes would be likely to be so great that an action for damages would afford no adequate redress. The preliminary question, however, is whether an action for an injury to property may be brought by a foreign sovereign in an English court. The Lord Chancellor is clearly of opinion that such an action would be maintainable. If the Bank of Austria were actually damaged by the importation from England into Hungary of spurious notes intended to discredit the notes of the Bank of Austria, the Lord Chancellor considered that the Bank of Austria might maintain an action in England against the wrong-doers.

"If the Bank of Austria might, why might not the King of Hungary, on proof that, by the same wrong, a pecuniary damage had been sustained by him?" We think that in this question of the Lord Chancellor is comprised all the difficulty of the case. It is, to say the least, a view of the effect of the issue of the Kossuth notes which would occur to very few minds to assert that such issue would be likely to cause pecuniary damage to the King of Hungary. The Lord Chancellor referred, in illustration of another topic, to the celebrated invasion of France by its present Emperor, which is an example of a kind of injury to a foreign sovereign, of which the preparation could not have been restrained by the injunction of the Court of Chancery. It might certainly be said, taking a limited and special view of the possible effect of that invasion, that it would have been likely, if successful, to cause pecuniary damage to King Louis Philippe; and the observation would be just, although, perhaps, irrelevant, that that sovereign was peculiarly sensitive to injury of this description. It is plain to common understandings that M. Kossuth intended first to revolutionize Hungary, and then to issue to its people the new paper-money which had been prepared for the occasion by Messrs. Day. Whenever Hungary is revolutionized, the Emperor of Austria will have lost a noble kingdom. To say that he will have incurred some pecuniary damage, is like the bewildered landlord in one of Mr. Dickens's tales saying, when his house has been sacked by rioters, that he thinks there is a trifle of broken glass. But the Lord Chancellor proceeded on the ground of possible pecuniary damage, not only to the King of Hungary, but to his subjects, whom he had a right to represent in an English court of justice. Whether when the revolution shall be—if it is to be—accomplished, and M. Kossuth becomes—if he should become—the president of an Hungarian republic, the enjoyment of liberty, and the blessings of M. Kossuth's administration, will or will not compensate the Hungarian people for any disturbance of the circulating medium, is a question which may be answered differently, according to the estimate which is formed of the comparative advantages of freedom and of tranquillity. We should think that, supposing M. Kossuth to have travelled safely into Hungary with twenty-three tons of potential paper-money among his baggage, and to have got himself installed quietly as president, it really would not be at all difficult to substitute his notes for those which are now in use without inflicting loss upon the holders. If, indeed, it should be said that M. Kossuth would perhaps repudiate the existing circulation, and so cause pecuniary damage to all Hungarians in whose hands notes might happen to be, we should answer that the damage thus occasioned would be attributable to the act of repudiation, and not to the preparation or issue of the new notes. Supposing M. Kossuth to have ousted the King of Hungary, this notion of pecuniary damage to that King, or to his late subjects, cognizable in an English court, seems to us a mere unsubstantial figment of judicial subtlety. Supposing again that M. Kossuth cannot oust the King, it appears to us a violent supposition to imagine that either that King or any of his subjects can suffer pecuniary damage through attempts at circulating pretended notes under the eyes of a police who are in general neither blind nor lenient. If an Hungarian subject should be found with a note of M. Kossuth in his pocket, it is very likely that he might be imprisoned or shot, and might also incur forfeiture of his property. In a certain sense it might be said that the note had caused that pecuniary damage which is one of the usual consequences of a political prosecution, but it is not by speaking in such a sense that difficult legal discussions are likely to be brought to any satisfactory point.

There appears to be no doubt that the defendants might have been successfully indicted for a misdemeanour. But the plaintiff's advisers judged, as it turns

out, rightly that the Court of Chancery would be disposed, if possible, to find reasons to justify it in granting an injunction, of which the effect, although not the intention, is to restrain the commission of what, we apprehend, is, in the view of the English law, a crime. We have the authority of Lord Eldon for asserting that the Court of Chancery has no jurisdiction to prevent the commission of a crime, and Lord Campbell has closed the door which Vice-Chancellor Stuart's judgment seemed to open by the declaration that the Court does not interfere to prevent revolution in foreign countries, or to protect what are somewhat vaguely called the "prerogative rights" of foreign sovereigns. Lord Eldon has laid down that a bill for an injunction must state "facts of which the Court can take notice, as a case of civil property which it is bound to protect." The Full Court of Appeal has found such a statement in the bill before it, and therefore the injunction is sustained with the slight exception that M. Kossuth is at liberty to make what use he pleases of the royal arms of Hungary, provided, of course, that he pays the tax which our law imposes upon those who indulge in such a luxury.

ON THE LAW OF TRADE MARKS.

No. IV.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Of the Rights and Remedies of Aliens.

It appears to me that there is a strong analogy between the cases upon the property of an alien friend in the copyright of his work first published in this country, and those upon his right to protection in the use of a trade-mark; and I think it will be admitted that the only true distinction arises from the fact that the former right must be now held (whatever may formerly have been the judicial opinion on the subject) to exist solely by virtue of the statute 8 Anne, c. 19, whereas the latter is, as I have before pointed out, a common-law right.

The latest, and, perhaps, most important case on the subject of copyright in a foreigner residing abroad, is that of *Jeffreys v. Boosey*, 4 H. L. 815. In that case there seems to have been a very strong opinion that, independently of the statute of 8 Anne, an author had even after publication an exclusive right in his manuscript by virtue of the Common Law. At any rate, from the opinions of the six judges, who in that case pronounced in favour of the right of a foreigner residing abroad and publishing his manuscript in this country first, to the privileges of a British subject in respect of his copyright (for the circumstances of that case are equivalent to such a statement of facts) the following propositions appear to follow; that copyright for the author of a literary work existed by common law unless taken away by the statute of Queen Anne, or some succeeding statute; that property was the foundation of that right; that the author had the copyright of his work because he was the owner; and that (the statute law in their opinion not intervening to destroy that pre-existing right, but only to limit it), the author, whether a natural-born subject or a foreigner, was entitled to protection in respect of this right, which existed on our soil, and was there exposed to wrongful damage; and the cases of *Millar v. Taylor*, 4 Burr. 2303 and *Donaldson v. Beckett*, 4 Burr. 2408, s. c. 2 Bro., P. C. 129, were referred to in support of these doctrines. However, since the judgment in the case now under consideration, it must, no doubt, be held that a foreigner resident abroad has no copyright in his work sent into our country to be first published, that the common law right in an unpublished manuscript is, after publication, exchanged for that given by the statute; and that in this statute, i.e. 8 Anne, c. 19, the words in the preamble to the effect that the object of the Act was the "encouragement of learned men to compose and write useful books," and the words in the enacting clause "that the

author of any book" should have the sole liberty of printing and reprinting it, were to be taken to comprehend such learned men and authors only as were at the time of publication, for it is, no doubt, at that moment that the statutory right begins, actually resident in this kingdom. The dictum of the Vice-Chancellor in *De-londre v. Shaw*, 2 Sim. 237 (the earliest case in which a foreigner attempted to obtain the protection of a Court of Equity in the use of a trade-mark), "that the Court does not protect the copyright of a foreigner," accords with this view, although his Honour, in a later case (*Bentley v. Foster* 10 Sim. 329), expressed a directly opposite opinion.

With regard, however, to the right of an alien friend to be protected in the use of his trade-mark the cases of the Collins Company (*Collins Co. v. Brown*, 3 K. & J. 423; *Collins Company v. Cowen*, Id. 428.) place the question beyond a doubt, wherever the infringement of that right is attempted by persons within the jurisdiction of the Courts of this country. The Collins Company were edge-tool manufacturers in the United States, and had long used certain stamps and labels to distinguish their tools, and they charged the defendants in the respective suits (for both bills were in substance the same) with having fraudulently used and imitated their trade-mark and label, and with selling articles of their own manufacture in large quantities to various persons in England and elsewhere, marked and labelled like the goods of the plaintiffs, for the purpose of passing them off as being such goods; and the bills charged the loss already, and which would be hereafter, suffered by the plaintiffs by a continuance of this practice on the part of the defendants, and prayed for an account of their profits on such fraudulent sales,—the delivery up of all stamps and labels imitating those of the plaintiffs,—and an injunction to restrain them from the use of such stamps and labels in future.

It was contended in support of a demurrer in the first of these suits (*Collins Co. v. Brown*, *sup.*) that the plaintiffs being an American company, without an establishment in this country, and having never, even according to their own allegations, manufactured or sold goods here, had no right to a trade-mark in England; that they could not be defrauded by the use of their trade-mark by another person in England; and that in their own country they might sue any person who there sold goods so as to interfere with their trade. It was urged that as in cases of foreign copyright, so in this case, the foreign right gave no similar right in this country; and that a patent taken out in America might be infringed in this country without redress, and the same rule must extend to using trade-marks; and it was urged that there would be great inconvenience to traders in this country who might, if suits of such a nature were allowed, be vexatiously charged with violations of rights of which they perhaps were utterly ignorant. In either case however the demurrer was disallowed on the ground that the right to sue in such cases was a personal right, and that being so, a party injured in respect of such right might obtain a remedy against the wrong-doer in the country where he resided, wherever the injury might have been done. In the words of the judgment in this case, "the simple question is, has the plaintiff, by the appropriation of a particular mark, fixed in the market where his goods are sold a conviction that the goods so marked were made by him; and if so, and if no one else had been in the habit of using that mark, another man has not the right to use that mark so as to commit the fraudulent act of palming off his own goods as being the goods of the person who is known to have been in the habit of using it:" that fraud "is the true foundation of jurisdiction in these cases; and if a man has been in the habit of using a particular mark for his goods for a long time, during which no one else has used a similar mark, the adoption of the same mark by another can only be with a fraudulent intent; and any fraud may be redressed in the country

in which it is committed, whatever may be the country of the person who has been defrauded."

Nearly the same arguments were advanced in the second case (*Collins Comp. v. Cowen, sup.*) in support of the defendant's demurrer; and it was further urged that the defendants had obtained by user the right to this trade-mark in England. It was also urged that there was nothing to show that by the law of America the acts complained of were such as the courts there would restrain. It was, however, said by V.C. Wood that it was no question of acquiring the trade-mark, that no person could acquire property in a trade-mark; what was to be inquired was, whether the defendants had acquired a right to put the names and addresses of the plaintiffs and the trade-mark of the plaintiffs on their goods for the purpose of selling them as being the work and manufacture of the plaintiffs. And it was said that the doing of this was a fraud in respect of which the subject of every country not being an alien enemy (and even to an alien enemy the Court has extended relief in some cases of fraud) would have a right to apply to the Court to have the injury to his property arrested. This latter expression, to my mind, contains the whole ground for the decisions of the Courts of Equity upon cases of the violation of trade-marks, and for the distinction, when the rights of an alien not here resident are concerned, between these cases and those of copyright. In the latter case, there is a specific property created by statute—a property of such a nature (according to the case of *Jeffreys v. Boosey, sup.*) that it cannot subsist in a foreigner resident abroad; in cases of the former class there is a right, existing by virtue of common law, to have an injury against property of a certain species restrained, the property being not in the mere mark or name, but in the preference in a particular market for the sale of particular goods, or in the words of Lord Cranworth in *Farina v. Silverlock*, 6 De G. M. & G. 214, "it is a right which can be said to exist only and can be tested only by its violation; it is the right which any person designating his wares or commodities by a particular trade-mark, as it is called, has to prevent others from selling wares which are not his, marked with that trade-mark, in order to mislead the public, and so incidentally to injure the person who is owner of the trade-mark." This right, it is now clear, is recognised by our Courts to exist for an alien as well as for a subject of this country; for I think that the case of *Pisani v. Lawson*, 6 Bing. N. C. 90, shows that at law as well as in equity an alien friend, not resident at any time in this country, may maintain a personal action for an injury done within the realm.

In the cases of *Delondre v. Shaw* and *Farina v. Silverlock*, to which I have before alluded, the decision was not grounded on the nationality of the plaintiff in either case; they contain particular points of interest on which I shall hereafter observe; the whole law relating to the rights of foreigners is contained in the *Collins Company* cases to which I have referred; they were followed by the case of *Collins Company v. Reeves*, 6 W. R. 117, where, the defendant's answer tending to throw some doubt on the title to the trade-mark, the plaintiffs' bill was retained for a year, with liberty to them to bring an action-at-law, and *Collins Company v. Walker*, 7 W. R. 222, decided in favour of the plaintiff. In neither of these cases, however, was the right of a foreigner to sue in respect of an injury to his property in a trade-mark denied; that injury having been committed in this country.

The Lord Chancellor has appointed D. D. Heath, Esq., the judge of the Bloomsbury County Court, and J. B. Dacent, Esq., the judge of the Shoreditch and Bow County Courts, to be members of the Committee of County Court Judges, under the statute 19 & 20 Vict. c. 108, in the places of John Herbert Koe, Esq., Q.C., deceased, and Edward Cooke, Esq., resigned.

The Courts, Appointments, Promotions, Vacancies, &c.

BAIL COURT.

(Sittings in Banco, before Mr. Justice HILL.)

Ex parte Poole.—In this case application was made on behalf of Mr. Poole, an attorney, for a rule to call upon an attorney named Alfred Haines to show why a criminal information should not be filed against him in consequence of his having written the following letter to Mr. Poole:—"Sir,—Having reasons, which I do not feel called upon to detail, but which your own conscience will dictate as a justification to me, I have to desire that all intercourse between our respective families may cease, as it is quite impossible I can allow any member of my family to associate with any one so regardless of principle and truth as yourself.—Yours, A. HAINES"

In reply Mr. Poole wrote the following letter to Mr. Haines:—"Sir,—It is my intention to apply to the Court of Queen's Bench for a criminal information against you for a libellous accusation against me contained in your letter, but before I do so I am desirous to afford you an opportunity of withdrawing the gross charge and expressing your regret for having made it. I feel I should not be worthy of the respect of my professional brethren and the public if I suffered such a stigma to rest on my character. As term expires on the 12th I shall expect to receive a withdrawal and apology in writing before Thursday.—Yours, &c., POOLE."

Mr. Poole stated in his affidavit that he had not received the withdrawal, and he denied that there was any ground for the imputation.

Mr. Justice HILL having asked if that was the whole case, and it being stated that it was, said that there was no sufficient ground for the interference of this Court.

Rule refused.

Wednesday being the last day of Trinity Term, the Court of Chancery rose, and will not sit again till Thursday, June 20, when the sittings after Trinity Term commence.

The Lord Chancellor has appointed Germain Lavis, Esq., student of Christ Church, Oxford, to the vacant clerkship in the office of the Registrars of the Court of Chancery.

J. R. Bulwer, Esq., of the Norfolk Circuit, has been appointed to the recordership of Ipswich, rendered vacant by the resignation of David Power, Esq., Q.C.

Robert Ashby Reeve, Esq., of Woodbridge, Suffolk, has been appointed a Commissioner to administer oaths in the High Court of Chancery in England.

George Appleby Jenkins, Esq., of Penryn, Cornwall, has been appointed a Commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, June 10.

BANKRUPTCY AND INSOLVENCY BILL.

The House having resolved itself into committee on this Bill, The LORD CHANCELLOR said, that he did not intend to propose the rejection of the amendments introduced into the Bill by the select committee.

The first 126 clauses were agreed to without observation.

Lord CHELMSFORD then said that he had given notice of a new clause which he wished to ask their lordships to introduce in the Bill. He had endeavoured to persuade the select committee to introduce the clause he was now about to submit to their lordships, but he was defeated by a narrow majority. He would have followed the example of his noble and learned friend the Lord Chancellor, and have bowed to the decision of the committee, if he had not felt that a most important principle was at stake. By this Bill, for the first time, non-traders were to be made liable to the bankruptcy law. Many persons whose opinions were entitled to the highest respect doubted the policy and expediency of that change in the law, and were inclined to believe that it would lead to mischievous consequences. When objections had been raised to that proposal on former occasions, his noble and learned friend the Lord Chancellor had

met them by referring to the case of Scotland, where, he said, there was no distinction made between traders and non-traders. But with submission, it appeared to him (Lord Chelmsford) that where a person had been born under a particular system of law, he had been able to accommodate himself, his habits and feelings, to that system; but the case was wholly different when, for the first time, a new law was introduced which unsettled established ideas, and placed debtors and creditors upon entirely new relations towards each other. He had no objection to the blending of the systems of bankruptcy and insolvency. He called it "blending," because he thought it was a mistake to say that they were about to abolish the distinction between the non-trader and the trader, and which he believed could never be done, the position of the two classes being so different, and their relations with their creditors so dissimilar. It would be fair to say to a non-trader, "If you incur debts in future, you must be prepared for certain consequences;" but it would be most unjust to say that existing debts and liabilities should have consequences attaching to them which made no part of the original contract, and were never contemplated by either party. It was a remarkable circumstance that when this Bill was brought into the House of Commons it contained a clause of precisely the same description as that which he was now asking their lordships to adopt. Let them ransack the statute-book and they would find there no instances in which persons had been subjected to civil liabilities, much less to punishment, by retrospective legislation. He, therefore, begged to move the insertion of the clause which he had described.

The LORD CHANCELLOR said that with regard to the amendment moved by his noble and learned friend, he must acknowledge that it would be by no means fatal to the Bill. It would only delay its operation in a few cases. He agreed with what his noble and learned friend had said against retrospective legislation; but he denied that this could fairly be considered a retrospective law. The object was not to punish debtors, but to provide that they should cede their property for division among their creditors. There was nothing in the Bill which would subject a debtor to punishment for anything hitherto done. It was only in respect of what might be done hereafter that an adjudication of bankruptcy could take place. It was the going abroad with intent to delay creditors—it was the staying abroad with intent to defraud creditors—it was the making a fraudulent conveyance or transfer of property with the same intent—it was only where these acts were done after the Bill had received the royal assent that the debtor committing them could be made a bankrupt. He maintained this was prospective, not retrospective legislation. It was necessary, and he believed it would be salutary. He trusted their lordships would agree with the House of Commons and the select committee, and negative the motion of his noble and learned friend.

The Earl of DERBY said, the statement of the noble and learned lord that there was nothing either retrospective or penal in the Bill was one in which he could not concur. Clause 82 was decidedly retrospective in its character, because it rendered non-traders liable in certain circumstances to be made bankrupts in respect of debts incurred prior to the passing of the Act; while clause 164 was as decidedly penal, because it empowered the Court, if it should be of opinion that the bankrupt, whether trader or non-trader, had not at the time when any of his debts were contracted any reasonable or probable expectation of being able to pay the same, to sentence him to be imprisoned for any period not exceeding one year. The Bill, in fact, was both retrospective and penal, and on that ground he supported the amendment.

LORD CHANWORTH supported the Bill, and hoped their lordships would not disturb the decision of the select committee.

LORD BROUGHAM was in favour of the amendment.

LORD WENSLYDALE objected to the proposed clause.

Their lordships then divided on the question "That this clause be here inserted." The numbers were,

Contents ...	...	...	...	...	98
Non-contents ...	...	...	...	...	61

Majority against the Government ... 37

The clause, with some verbal amendments, was then agreed to.

LORD CHANWORTH moved as an amendment that clause G, introduced by the select committee relating to the sale of the reversionary interests of bankrupts, be struck out, but the amendment was negatived after some conversation, and the clause agreed to.

The remaining clauses were then agreed to with one or two verbal amendments, and the House resumed.

WILLS OF PERSONALTY BY BRITISH SUBJECTS BILL.
This Bill passed through committee.

Tuesday, June 11.

BANKRUPTCY AND INSOLVENCY BILL.

The Lord Chancellor gave notice that on bringing up the report on the Bankruptcy and Insolvency Bill he should move that clause 208, with amendments, be restored to the Bill.

Thursday, June 13.

BANKRUPTCY AND INSOLVENCY BILL.

The report of amendments was brought up.

On the motion of the LORD CHANCELLOR, several verbal amendments were made, and the Bill was ordered to be re-printed and read a third time on Tuesday next.

WILLS OF PERSONALTY BY BRITISH SUBJECTS ABROAD BILL.

This Bill was read the third time and passed.

HOUSE OF COMMONS.

Tuesday, June 11.

The following Bills for the reform of the criminal law passed through committee, viz:—Offences against the Person Bill; Larceny, &c., Bill; Malicious Injuries to Property Bill; Forgery Bill; Coining Offences Bill; Accessories and Abettors Bill.

CRIMINAL STATUTES REPEAL BILL.

This Bill also passed through committee.

DISTRICT REGISTRARS OF THE COURT OF PROBATE.

EARL JERMYN asked the Secretary to the Treasury on what basis the salaries of district registrars, appointed under the Probate Act of 1857, and hitherto paid by fees, had been calculated, and whether he would have any objection to laying any Treasury document which there might be, explanatory of such calculation, on the table of the House?

MR. F. PEEL said, the basis on which the Treasury had proceeded was, the number of grants in the different districts of the registrars for each of the last three years, also the emoluments of the officers in those years, the relative importance of the places in which these registrars were situated, and the amount of probate duty paid into the Treasury. There were no documents connected with the matter except the Treasury minute, which was already before the House.

THE CASE OF MR. BARBER.

DR. BRADY moved a resolution that the claims of Mr. Barber upon the favourable consideration of the Crown, referred to in the report of the select committee of July, 1858, have not been satisfied; and that the circumstances set forth in his petition of the 2nd of May are entitled to the consideration of the Government. He stated the case of Mr. Barber, who had received what he termed the paltry sum of £5,000, and he asked in addition the moderate sum of £3,700.

SIR G. GREY opposed the motion. The late Government, he observed, had recommended to Parliament (though there was no precedent for such a course) to grant to Mr. Barber what many thought the generous and liberal compensation of £5,000, a recommendation which was not acceded to by the House without some opposition. Mr. Barber now asked for a further sum, and if this was granted he might come again.

SIR F. KELLY strongly advocated the claim of Mr. Barber.

THE CHANCELLOR OF THE EXCHEQUER said the question involved a very important principle, whether, in all cases where a person, not legally guilty of a crime, was nevertheless erroneously convicted, he would be entitled to a pecuniary compensation from the public exchequer.

The motion was, upon its merits, opposed by Mr. LONGFIELD and supported by Mr. MAGUIRE.

MR. SERJEANT PIGOTT objected to the motion on principle.

MR. MALINS insisted that Mr. Barber was entitled to be treated as a perfectly innocent man; but could not be a party to re-opening the question.

The motion was negatived.

Wednesday, June 12.

CRIMINAL PROCEEDINGS OATH RELIEF BILL.

MR. LOCKE moved that the House go into committee on this Bill.

MR. M'MAHON said there was a great difference between permitting the substitution of an oath for a declaration in civil and criminal proceedings. In civil cases it was known

what witnesses were to be called, and their character could be inquired into. But in the administration of the criminal law, where the lower classes were usually concerned, it would not be safe to dispense with the sanction of an oath. It would be better to get rid of oaths altogether.

Mr. LOCKE said that the Bill proposed to enact in this country what was already the law in Ireland. There was this difference between the present Bill and the Affirmations Bill, that the present measure required that the person making a declaration in lieu of an oath should have a religious belief, while the Affirmations Bill required no religious belief in the person making the declaration.

The SOLICITOR-GENERAL said that his objection to the Bill was not one of principle, but rather of degree. Those who had had experience in our criminal courts must be convinced that there were thousands who were prepared to tell a lie who yet shrank from committing the offence of perjury. He believed that the Bill was uncalled-for, and would be dangerous in its operation.

Sir H. CAIRNS held it to be a mistake and a fallacy to contend that rules in regard to oaths that might be adopted in civil suits were equally suitable for criminal proceedings. In civil cases the defendant might be examined on oath. Was the hon. and learned member for Southwark prepared to examine the prisoner in criminal cases on oath likewise?

Mr. CRAUFURD must remind the Solicitor-General that this was, and had been for some time, the law in Ireland. If the hon. and learned gentleman had such strong objections to the Bill, why did he not bring in a measure to repeal the Irish Act?

A quarter to 6 o'clock having arrived, the SPEAKER interposed, and stopped the debate.

ATTORNEYS AND SOLICITORS (IRELAND).

Leave was given to Sir H. CAIRNS to bring in a Bill to amend the law relating to attorneys and solicitors in Ireland, by extending to them the provisions of the English Act of last session.

The Bill was read a first time.

Thursday, June 13.

COURTS OF JUSTICE BUILDING BILL.

This Bill passed through committee.

TRANSFER OF STOCK ANNUITIES BILL.

This Bill also passed through committee.

Recent Decisions.

EQUITY.

BANKRUPT'S ORDER AND DISPOSITION.

North v. Gurney, V. C. W., 9 W. R. 678.

The question in this case was one of some nicety. A firm of coal merchants had entered into a contract with the Admiralty for supplying coal to British stations in West Africa. The coal was to be consigned to the officers of Government, and bills of lading in triplicate were to be delivered to the Admiralty. On the arrival of the coal at its destination a certificate of the due delivery was to be given to the contractors. On the production of this certificate to the Admiralty bills were to be issued for the amount. The contractors borrowed money to enable them to fulfil their contract, and by way of security they deposited a fourth part of each of the bills of lading and the policies of insurance effected on the coal; and they also gave a promissory note and a memorandum by which "in default of due payment of the note at maturity, or when called upon to do so, they engaged to make the necessary arrangements with the Admiralty to enable the lenders to receive the value of the cargoes from them." Several vessels had been laden and despatched. One had delivered her cargo, and the others were still at sea, or had just arrived, when the contractors became bankrupt. After the bankruptcy, and with knowledge of it, the lenders, for the first time, gave notice to the Admiralty of the assignment to them. The assignees in bankruptcy claimed the money payable by the Admiralty, on the ground that the benefit of this contract was a *chose in action* which had been left in the order and disposition of the bankrupts for want of notice of the assignment, and therefore passed to the assignees in bankruptcy under sect. 125 of the Bankrupt Act. It was ingeniously argued for the lenders

that the deposit of the bills of lading and the accompanying memorandum constituted an equitable assignment of the coals, which were then at sea; and authorities were cited to establish that in such a case goods could not be said to be in the order and disposition of the bankrupt with the consent of the true owner, because there could be no opportunity for such true owner to take possession of the goods. The case principally relied on to support this argument was that of *Burn v. Carvalho* (4 My. & Cr. 690). In that case A., having goods in the hands of B. as his agent at a foreign port, and being under liabilities to C., by letter to C. promised that he would direct, and by a subsequent letter to B. did direct, B. to deliver over the goods to D. as the agent of C. at that port. Before the delivery of the goods a commission of bankruptcy issued against A. under an act of bankruptcy committed while his letter was on its way to B., and the goods were delivered by B. to D. in ignorance of the bankruptcy. It was held that C. had a good title in equity to the goods. Lord Chancellor Cottenham, in his judgment, said, "It was argued that the goods in the hands of B. were in the order and disposition of A. at the time of his bankruptcy, and that they therefore passed to his assignees; but this argument is excluded by the fact that there was no possibility of informing B. of the equitable assignment before the act of bankruptcy." It was assumed in the argument of the case before us that if notice had been given to the captain of any one of the ships of the assignment, that would have made the assignment good as to the cargo of that ship; and as it was impossible to give this notice, it was contended that the assignment was equally good in equity without it. So long as the ship was at sea notice was unnecessary, because impossible; and when the ship reached her port the coal was immediately delivered to the Government; and thereupon the right of the lenders was transferred from the coal to the value of it. At that moment, therefore, and not earlier, did it become the duty of the lenders to give notice to the Admiralty that this debt had been transferred to them. The argument that notice was unnecessary so long as the goods were at sea, was further supported by the recent case of *Acraman v. Bates* (6 Jur. N. S. 294). In that case G., by deed dated November 11, 1857, assigned the cargo with which the ship *Esturias* was then laden, and which thereafter should be placed on board, to defendant for securing the balance of a banking account. On the 23rd of January, 1858, notice of the deed was sent, directed to the captain of the ship, "West Coast of Africa;" but it never reached him. At the date of the deed defendant had reason to expect that the *Esturias* would soon sail on her homeward voyage. In fact, she was then on the west coast of Africa, taking in and seeking cargo. In the early part of 1858 she still continued thus engaged, and from the 1st to the 11th of February she received part of the cargo of another ship belonging to the bankrupt. On the 12th of February she sailed on her homeward voyage. On the 1st of March G. was adjudicated a bankrupt. On the arrival of the *Esturias* on the 24th of April, the master was served with a copy of the notice. In an action by the assignees of G. to recover the proceeds of the cargo, it was held by the Court of Queen's Bench that the deed operated as an equitable assignment of the cargo, and that there was no distinction between the part of the cargo put on board before the assignment and the part put on board after. It was further held that there was no default in defendant in not giving notice of the deed, and therefore the goods were not in the order and disposition of the bankrupt with the consent of the true owner. In the present case, if the lenders' counsel had been right in the view which they took of the original transaction, it appears impossible to contend, in the face of the two authorities to which we have referred, that the lenders were bound to take any further step to assert their right until intelligence reached England of the delivery of some one or more of the cargoes, which did not occur until many weeks after the bankruptcy of the contractors. The difficulty felt by Vice-Chancellor Wood was in determining how the original transaction ought to be viewed. His conclusion, however, was that "the thing really dealt with was a chattel interest in the contract with the Admiralty." He thought it was not a right view of the contract to say that it transferred the coal. He tested the effect of this contract by considering whether the lenders could legally have diverted the coal from its destination. He considered that even if the lenders had this power by virtue of the deposit with them of the fourth part of the bills of lading, a court of equity would restrain them from exerting it. He said that the arrangement amounted to "a transfer of the benefit of the contract plus the chattels if the contract should drop through." But as the contract had been performed, the lenders' right to the chattels did not arise. Looking at the case thus, the argument which we

have stated was displaced, and the counsel for the lenders were thrown back on the attempt which they had made to distinguish this from previous cases, where the rule as to order and disposition had been held to apply to future debts. It is well known that policies of assurance are within this rule, and it would make no difference if the assurance office refused to notice assignments of its policies, just as the Admiralty in the present case would probably have refused to recognise any notice of the assignment of this contract. It may, indeed, be urged that it is certain that man must die, while it is uncertain whether a ship will reach her port and discharge her cargo; and, therefore, that it is a further extension of a doctrine which the Courts do not favour to say that notice must be given of the assignment of a debt which is to arise on a contingency more doubtful than any that is to be found in decided cases. But this argument in effect, although not exactly in this form, was pressed upon the Vice-Chancellor; and it is certain to have been fully considered by a judge, who has shown very strongly in the case of *Rawbone's Bequest* (3 K. & J. 300, 476), his disinclination to extend the doctrine of reputed ownership. He remarked that the present case came clearly within the reason of the rule, because the contractors were left at liberty to go and raise money in some other quarter for want of the precaution which the law required to be taken by the first lenders. The decision, therefore, was in favour of the assignees.

The plaintiffs in this case had obtained an admission from the defendants that they knew of the act of bankruptcy of the contractors at the time when they gave notice to the Admiralty. The importance of this admission will be seen by reference to the case of *Brewin v. Short* (5 Ell. & Bl. 227), in which a judicial construction is placed upon sect. 133 of the Bankrupt Act. By that section it is enacted that all contracts, dealings, and transactions by and with any bankrupt *bona fide* made and entered into before the fiat or petition for adjudication shall be valid, notwithstanding any prior act of bankruptcy, provided the person so dealing with such bankrupt had not, at the time of such contract, dealing, or transaction, notice of any prior act of bankruptcy by him committed. In the case of *Brewin v. Short*, A., being the true owner of goods under a bill of sale from B., permitted them to remain in the order and disposition of B., who committed an act of bankruptcy by assigning all his property for the benefit of his creditors. Possession was taken under this assignment, and a few hours later A. sent a man to take possession under his bill of sale, who was told that he was too late, as another person was in possession for all the creditors. It was held by the Court of Queen's Bench, upon the facts, that as A.'s man got notice of the act of bankruptcy as soon as he came to B.'s house, enough had not been done to take the goods out of the order and disposition of B. But Lord Campbell, in giving judgment, said—"If, before the fiat and after the act of bankruptcy, the defendant *bona fide*, and without notice of the act of bankruptcy, had done anything which, before the act of bankruptcy, would have been sufficient to determine his permission, and consent to the goods remaining in the possession, order, and disposition of the bankrupt, so as that a subsequent act of bankruptcy would not have subjected the goods to be dealt with under the clauses of the Bankrupt Act respecting reputed ownership, we should have held that his title ought to prevail, although he had not, before notice of the act of bankruptcy, succeeded in obtaining the actual possession of the goods." The Court thought that the facts before it showed only an intention to demand possession, and not an actual demand, before notice of the act of bankruptcy; and, therefore, the assignees prevailed. The language of Lord Campbell would have been strictly applicable to the case before us if the lenders had given notice to the Admiralty of the assignment before they had given notice of the act of bankruptcy, although after it was committed. They would have done something which, before the act of bankruptcy, would have been sufficient to determine their consent to the *choses in action* remaining in the order and disposition of the bankrupt. No doubt it is a stretch of language to say that a notice to the Admiralty is a transaction with the bankrupt within sect. 133 of the Act. But it is clear law that, in general, notice to the debtor of the assignment of a debt is equivalent to taking possession of a chattel, and Lord Campbell's words imply that these two acts are equivalent for the purpose of gaining the protection of this section. However, when the question arises it may, perhaps, call forth considerable discussion. In the present case the defendants were debarred from raising it by their own admission of notice of the act of bankruptcy.

COMMON LAW.

PRACTICE—VENUE IN A LOCAL ACTION—31 ELIZ. c. 5—
3 & 4 WILL. 4, c. 42, s. 22.

Greenhow v. Parker, Exch., 9 W. R. 578.

The general rule of law with regard to venue is that where the cause of action is for a breach of contract, an injury to the person and the like, and might, therefore, in the nature of things have arisen anywhere (that is to say, where it is "transitory") the plaintiff may lay his venue where he pleases, subject to the right of the defendant to bring it back if he will to the county where the cause of action actually arose, upon his obtaining a judge's order to that effect; while, on the other hand, in "local" actions—that is to say, where the injury alleged is to or in respect of real property, and the *locus in quo* is a material part of the issue—the plaintiff must lay the venue in the county where the premises are situate, and a mistake on his part here will (unless amended in time) be fatal in arrest of judgment.

An action for penalties, although not in its nature necessarily local, has yet been placed by the legislature upon the same footing in respect of venue; for it is enacted by 31 Eliz. c. 5, s. 2, that in such proceedings the venue shall be laid in the county where the contract or other matter alleged to have been in contravention of the statute was really done; and this at peril of a nonsuit, if the defendant allege in his pleadings that the offence was not committed in the county wherein the venue is laid and succeeds at the trial on the issue thereon raised. Now in local actions (including, it is apprehended, actions for penalties) the courts have no power as they have in transitory actions to change the venue unless by consent; but the unnecessary delay and expense hereby formerly arising was remedied by 3 & 4 Will. 4, c. 42, s. 22, which gave the courts power in local actions to order the trial to take place in some county other than that in which the venue is laid; making on the record a suggestion that the trial might be more conveniently there had than in the county in which the venue was laid.

The question in the present case was whether this last statute enabled a judge to make such order and suggestion in an action for penalties, and the Court held that he had such power. "All actions," said the Chief Baron, "are either local or transitory; this was a local action and under 3 & 4 Will. 4, c. 42, the judge at chambers is expressly empowered to change the venue."

It is submitted that though the conclusion thus come to may be sound, the reasoning on which it was grounded is not quite accurate. For, in the first place, an action for "penalties" is not a local action in the nature of things, but has only been placed by the Legislature on the same footing as a local action, with regard to venue, for the sake of convenience; and in the next place, the statute of William does not authorise a change of venue in a local action, but only an order for the trial to be had in a place where it would not otherwise have been held.

LIABILITY OF THE TREASURY TO A MANDAMUS TO PAY
OVER MONEY.

Ex parte Warlmsly, Q. B., 9 W. R. 599.

This singular motion for a *mandamus* to the Lords of the Treasury to pay over the balance of an account for goods supplied by the applicant for the use of a county court on the order of its registrar, was grounded and derived its chief hope of success from a case reported in the 4th volume of "*Adolphus & Ellis*," in which a somewhat similar attempt proved, in fact, successful; and which must, at the time it took place, have considerably ruffled the pride of official life in Downing-street.

The history of this case (*The King v. The Lords Commissioners of the Treasury*) affords an amusing instance of red tapeism and its discomfiture. It appears that a Mr. Smyth (sometime a paymaster of exchequer bills) being invalided, sent in medical certificates, in consequence of which he received an official announcement that a parliamentary vote would be taken for a retired annual allowance to him; and that this vote, in fact, passed the House; though the pension in question was not specifically mentioned in the Appropriation Act of the year, further than by a direction that a certain gross sum should be applied in discharge of retired allowances. Mr. Smyth, however, though continually promised it, could never actually lay hands on his allowance or any part thereof. By successive secretaries to the Treasury, and ultimately by Lord Melbourne, then first lord, himself, he was told that it would assuredly be paid to him, and even the mode of his applying and the proper paymaster pointed out. But on applying for it, he was always referred to some one else; and at

length he was called upon, as a condition precedent to its being paid at all, to enter into a bond to abstain from certain legal proceedings he had commenced in respect of the office from which he had retired. This condition, however, Mr. Smyth refused to comply with, and at length in despair went to the Queen's Bench, from which he emerged triumphant, though we fear a much poorer man than when he went in. All the judges of the Court concurred in making absolute the rule for a mandamus for paying to him the annuity and its arrears. It was urged with success that the applicant had no other remedy, and that the application was not in reality against the Crown, but simply against public officers, who having admitted that they had money in their hands voted by Parliament to be paid over to a certain individual, sought illegally to annex certain conditions to the payment.

In the present case, however, the circumstances were very different, and the result was accordingly adverse to the applicant. In the case to which reference has been made, the Treasury had on several occasions admitted that they had received from Parliament money to pay the applicant; but here all that could be shown was, that by statute certain expenses of the county courts, including the expense of stationery, is to be paid by the Treasury out of monies provided by Parliament for such purposes; and that monies had been granted by Parliament for county court expenses generally, for the year in which the applicant had supplied his goods on the order of the registrar. But the case could be carried no further, and the mandamus was refused; Mr. Justice Crompton remarking that the registrar of a county court has no power to pledge the credit of the Treasury Commissioners.

SESSIONS LAW—ADJOURNMENT OF A PART HEARD APPEAL.

Reg. v. The Guardians of the Cambridge Union, Q. B. 9 W. R. 599.

This case settles what has been a somewhat disputed point of sessions law; namely, whether the hearing of an appeal which has been partly heard, can be lawfully adjourned to the following sessions. Hitherto the usual, if not the invariable, practice under such circumstances has been to adjourn the sessions itself, so that the proceedings may go on without interruption; and it has been considered that any other mode of proceeding would be extremely inconvenient. Indeed, in a very recent case (*The Queen v. Kendal*, 1 Ell. & Ell. p. 492) Mr. Justice Crompton stated it to be his opinion that a case really entered upon could not be adjourned to a subsequent session on the ground of the absence of a material witness. In the present case, however, the same judge concurred with Justices Hill and Blackburn in modifying this opinion so far as to admit that such a course (though generally inconvenient and only to be pursued with the greatest possible caution) was not beyond the jurisdiction of the Court of Quarter Sessions; and this, upon the broad ground that every court has power to control its own proceedings. It was intimated by the Court that where it became necessary so to adjourn a part heard case, the hearing, when the case came on again, ought to commence *de novo*. It is apprehended that in cases of adjournment there must not be in the provision giving the appeal, any such limitation in point of time as would in fact prevent the appeal being entered at the sessions to which the hearing stands adjourned. In the present case the appeal was against the adjudication of the settlement of a pauper lunatic under 16 & 17 Vict. c. 97, and by sect. 108 the appeal is to be to the "next" general quarter sessions. No other limitation of time, however, is fixed; and therefore the effect of the present decision is to show the legality of an appeal entered at the sessions held immediately after the adjudication objected to, but determined at a subsequent session.

Correspondence.

STAMPS ON AFFIDAVITS.

It appears to me doubtful whether the affidavit filed with copies of bills of sale under the 17 & 18 Vict. c. 36, s. 1, (the Bills of Sale Registration Act) ought not to be on half-a-crown stamp. No form of affidavit is given by the Act, and the practice, I believe, is not to stamp the affidavit; but as the only exemption from stamping is in favour of affidavits to be filed, read, and used in courts of law, and as it does not follow that the affidavit filed with the officer acting as clerk of the docket and judgments in the Court of Queen's Bench under the above

section, is or will be read or used in any court, I doubt if the "filing" in the Queen's Bench office can be considered sufficient to bring the case within the exemption.

Will some of your readers give an opinion on the subject, quoting, if possible, any authority on the matter.

ONE, &c.

PROFESSIONAL ETIQUETTE.

As a matter of etiquette merely, does priority of admission on the rolls, or date of appointment, entitle a perpetual commissioner for taking acknowledgments of deeds by married women, to insert his name first in the certificate of acknowledgment?

As a matter of substance, the order of the names is immaterial, but the question arose in a friendly manner between myself and another commissioner a few days ago.

A PERPETUAL COMMISSIONER.

STIPENDIARY MAGISTRATES

The following extracts on this subject are taken from the *Scottish Law Journal* for the present month.

A judge in America may be a Member of Congress, and threats have been used in that country in the course of electioneering battles to the effect that, if the electors did not support the candidate who happened also to be a Judge, that the occasion might ere long arrive when the Judge would have the opportunity of squaring accounts. Now, although we know that a magistrate of the City of Glasgow can enjoy very few opportunities of acting on this principle, yet the case is not impossible. We know, for example, that the interest of the licensed victuallers in this city is a somewhat extensive one. Take, then, the case of a spirit-dealer being brought up charged with a breach of certificate, and that the magistrate who is to try the case is a man whose election to the office of town councillor the party charged has eagerly opposed, is it likely that the party charged will, under such circumstances, receive an impartial trial? It is just possible he may, but the probabilities are all on the other side. This is not as it should be. A judge should not only be independent of those subject to his jurisdiction, but they also should be independent of his prejudices and dislikes.

But while we are arguing in this way from principle, how does the case present itself in regard to results of the present system? Do the judgments of our citizen magistrates afford satisfaction or do they not? We venture very confidently to assert that they do not. Two cases out of many we will cite. While one of our magistrates was recently presiding in the police court, a man was charged with the crime of beating his wife. The panel pleaded not guilty, but proof was led, and the worthy magistrate thus addressed the prisoner—"You are proved to have thrashed your pair wife; but you have a sma' family. Noo, whether will I gi'e you a reprimand or send you to jail?" "Oh, yer honour, I'll tak' the reprimand." The prisoner was accordingly reprimanded. On another occasion we heard of a spirit dealer charged with knowingly harbouring prostitutes. It was proved beyond a doubt that the panel had not been in his premises when the offence charged was committed, and that the shop had been left under the care of a young lad, who was a stranger, and who swore that he did not know that the parties, to whom certain small quantities of drink had been sold, during the regular business hours, were prostitutes. The magistrate convicted the absent party on the ground that he had no right to leave his premises in charge of so young a lad. Now the offence charged was not that of leaving the premises in charge of a youth, but for knowingly harbouring prostitutes. But such cases are occurring every day, and so long as the present system continues, the same results will arise.

But a strong argument against citizen magistrates is to be found in the decline, in fact, the absolute discontinuance, of the civil business of the Burgh Courts. When litigants, who have personal interests involved, wish to have these settled, they appeal to a tribunal presided over by a stipendiary magistrate, and not a citizen. If the public then, in their own personal concerns, resort to the arbitrament of an educated and professional judge, is it not equally fair that those who are to be compulsorily arraigned at the bar of a police court, to have questions involving perhaps their fair name and reputation, which is of much greater consequence than any mere question of money, determined, should have the advantage of a tribunal equally fair and equally satisfactory?

Review.

Contrast between the Chancery and Superior Courts of Common Law in Ireland and the same Courts in England, &c.
By A RETIRED SOLICITOR. London: T. F. A. Day, 13, Carey-street. Dublin: Hodges, Smith & Co., 104, Grafton-street, 1861.

A perusal of this outline of the comparative anatomy of the tribunals of England and Ireland cannot fail to be interesting even to those who limit their speculation to our own legal sphere, or who may agree with the author in regarding it as an approach to optimism. "*Rectum est enim*," says Lord Bacon, "*index et sui et obliqui*."

The writer commences his sketch by stating that at no period in the history of Ireland since the celebrated Poyning's Act, 10 Hen. 7, has the administration of Irish law differed so much from that of England. Reforms have been rejected, and innovations, such as the Landed Estates Court Act, gladly accepted by Ireland. The author attributes this anomalous state of things partly to the fact that Ireland has no law-lords to represent her interests, and partly to the want of judicial statistics for that country.

The author alleges that the Irish Court of Chancery Regulation Act, 1850, 13 & 14 Vict. c. 89, differs essentially from the principle of the English Chancery Acts, 1852, 15 & 16 Vict. cc. 80, 86. We think, however, that the difference between the Irish and English Chancery systems is not as great as he conceives. The masters' offices, indeed, continue still to flourish in Ireland, and much of the class of business that is transacted in England by the judge himself at chambers, is, in Ireland, transacted by the master. It is, we admit, very desirable that a single judge, "*par negotiis nec supra*" should superintend the entire course of a suit. But this is really the case as to very many chancery suits in Ireland, the masters in 15th section cases, which correspond to our proceedings by summons, having almost the entire judicial, as well as the administrative, management of a suit. The allowance of fees for the attendance of counsel, however, so freely certified by the masters in Ireland, does appear to be an abuse. Counsel are by no means likely to be of much use in the investigation of accounts and inquiries, that is, as to most of the ministerial business of the Court. The system of certificates by the chief clerks is, likewise, eminently superior to that of masters' reports, which still prevails in Ireland,—reports prepared by the counsel of the party in whose favour the order is made, and which are also open to the general objection of a technical verbiage. There is no distinction in Ireland as to court fees and costs, whatever be the value of the property administered. This is also an evil which, considering the small amounts for which suits in Ireland are often instituted, deserves attention. Applications for time to plead are made in England before the chief clerks; in Ireland, upon motion by counsel before the Court, which cannot be as competent as the chief clerks to judge of the time requisite to prepare answers accounts, &c. No appeal can be taken to any ruling of a master in Ireland without the previous deposit of £10 as a security for costs. This certainly may often amount to a denial of justice. We see no objection to the masters being constituted independent judges, as they were virtually by the Irish Chancery Act of 1850, as to 15th section causes, and thus made to correspond rather to the present vice-chancellors of England than to the old English masters. But the gross defect of the Irish system appears to be the multiplication of intermediate appellate Courts, with progressive checks to the prosecution of appeals by deposits, &c.

The 15th section of the Irish Chancery Regulation Act, 1850, empowered the Irish Lord Chancellor to transfer to the master "such branches of the jurisdiction of the Court as by any general order he shall from time to time direct." The Chancellor, in the exercise of this power, directed that suits concerning charges on land should be thus transferred. This class of causes is, doubtless, very numerous in Ireland, there being no less than 1,000 estates in that country under receivers; while we learn from the judicial statistics of 1859 that there were only 473 cases of receivers' accounts for that year in England. Irish causes under the 15th section consist of *ex parte* petitions, of which the respondent gets no notice until there has been an order of reference made thereon to the master. They are thus heard *pro forma* before the Lord Chancellor, who merely reads the petition to see whether it comes properly under the 15th section class. But, surely, such a hearing, which in almost all cases is followed by an order of course referring the matter to the master,

is altogether a ludicrous waste of time and cost. Accordingly, Lord Chancellor Napier intended to have dispensed with this formal hearing.

An appeal from the master to the Court must be brought within a fortnight. The author considers this time too 'short. A month is the term we feel disposed to recommend, as suited to the requirements of an appeal as well as the prompt administration of justice.

It appears that the suitors cash in the English Court of Chancery on the 1st October, 1858, was £2,607,250 2s. 6d.; the corresponding return for the Irish Court of Chancery was £83,791 3s. 9½d. The cash in court in England was thus more than thirty times the amount in the Irish court.

The payment of cash and stock out of the two courts for the last three years was as follows:—

Amounts paid out of the Court of Chancery in England:—									
Years.	Cash.			Stock.			Aggregate.		
	£	s.	d.	£	s.	d.	£	s.	d.
1857...	6,992,247	7	0	5,554,304	1	10	12,546,551	8	10
1858...	7,448,803	19	6	5,796,915	4	9	13,245,719	4	3
1859...	8,222,155	2	3	5,962,155	2	3	14,185,035	12	4

Amounts of stock and cash paid out of the Court of Chancery in Ireland:—

Years.	Cash.			Stock.			Aggregate.		
	£	s.	d.	£	s.	d.	£	s.	d.
1858...	336,779	8	4	883,806	14	7	1,220,586	2	11
1859...	368,652	9	9	777,058	13	7	1,145,711	3	4

The writer of this pamphlet is disposed to infer from these returns that one of the chief clerks in England administers more business in one year, than is to be found in the annals of the four Irish masters for the same period. But Irish suits are often instituted for excessively small sums; and the general average for all is by no means likely to be equal to that of English causes. It is only from the number of suits, therefore, that any inference as to the actual amount of business transacted can be drawn. Thus the total amount of Chancery costs taxed in England in any one year is only four times as great as the amount of Irish Chancery costs for the same period. A "Solicitor" infers from this that the Irish procedure is proportionately expensive; but, as we have shown, this inference is not entirely warranted by the data, the amount for which the average of Irish suits are instituted being small.

The scale of court charges in Ireland is in some instances enormous. A search in England extending from the year 1788 to 1861 in England costs only 6d., in Ireland a similar search would cost £4 17s. 4d., being at the rate of 1s. 4d. a-year. The charge for office copies in Ireland is one-third higher than it is in England. Irish solicitors, on the other hand, are not remunerated equally well as their English brethren, and are never consulted upon matters of law reform. A Suitor's Fund has never existed in Ireland, though a Suitor's Fee Fund has.

Appeals to the House of Lords must be brought within a year. This appears to the author to be too short a period for final appeal. It is, however, by no means desirable that facilities should be given for protracted litigation; and, for our part, we do not consider this an objection of much moment to the Irish procedure.

The author of this interesting and important pamphlet concludes the first part of his essay by recommending an assimilation of the chancery procedure of both countries; the restricting the master to enquiries and accounts; and the disuse, as much as possible, of the attendance of counsel, except when questions of law require to be discussed. On the whole, we concur with the views propounded by the writer. The main scope of his recommendations, however, could be carried into effect by constituting the masters vice-chancellors, and diminishing their number to two; by giving them a completely original jurisdiction in 15th section causes; and by abridging the number of intermediate appellate judicatures. The author has not touched the question of consolidating the Landed Estates Court and the Irish Court of Chancery. A chancery suitor in Ireland may, indeed, at present have the estate on which he has a charge sold in the Landed Estates Court. But it would be obviously desirable that chancery suitors should never be obliged to resort to another jurisdiction for effectuating the decree of the Court. The arguments stated *ante*, vol. 4, p. , in favour of consolidating the Court of Probate with the Court of Chancery apply still more forcibly to the consolidation of the Irish Chancery and Landed Estates Courts. The state of the business in the Irish Courts of Equity would, probably, admit of three superior

equity judges, with as many chief clerks, transacting all the business at present administered in that country by the Chancery and the Landed Estates Court judges and the respective masters of these courts. We recommend a perusal of this pamphlet, as containing a concise summary of important data, and no small amount of valuable suggestions.

The second part of this pamphlet contrasts the common law procedure in Ireland with the like procedure in England. The author states that judges' summonses are unknown in Ireland. But the practice is, nevertheless, essentially the same in this respect as the English. The only difference is that Irish summonses are drawn by the attorney's *pro re nata*. These applications, in very many cases, as when made for time to plead, for liberty to plead double matter, or for similar objects, not affecting the merits, are made and granted without notice. "A Solicitor," therefore, appears in this respect to have attached too much importance to mere nomenclature. He gives, however, returns of a startling nature as to the costs of these motions. The total of common and special orders made on summonses in England for the year 1858 was 45,458; for 1859, the total was 44,870. The returns for Ireland for the corresponding years were respectively 1,622 and 1,782. In 1858, a single judge Erie (C.J.) made 7,948 orders. Of these orders made in England in 1859, only 3,555 were made upon summonses at which counsel attended. In Ireland, on the contrary, counsel attend on almost every transaction. The return of motions made in the Irish Court of Common Pleas, for instance, in 1858, was 537. The return adds "counsel attended in every case for both or either parties." This is, certainly, a state of things which eminently demands attention.

The increase of Irish judges from nine to twelve, took place by the mere exercise of the prerogative, and not by statute. There is, therefore, in the opinion of the writer of this pamphlet, no statutory obligation on the part of the Crown to fill up all vacancies. We also observe that the salaries of the county court judges or assistant-barristers in Ireland have been recently raised, while the business of these courts has diminished. The practitioners' scale of fees in these courts is, on the other hand, exceedingly small, and, therefore, tends to throw business into the superior courts.

The writer contrasts the improved system of English jury trials as to the addresses of counsel (as recommended by the report of the commissioners of 1831), with the method still pursued in Ireland, where the counsel who sums up is not the counsel who has opened the case. There are thus two long speeches on each side, to the great weariness of jurors, and the loss of time to them and the suitors.

A "Solicitor" states, and, we think truly, "that the average time occupied in the trial of a record at Westminster is not one-third of that consumed by a trial at Dublin." He sighs for the application of judicial statistics to the proceedings in the Irish courts. We join heartily in his wish.

The system of common law pleading in Ireland differs somewhat from the English procedure. Special issues alone can be sent for trial in Ireland, and these are generally settled upon motion of counsel by a judge, who may or may not be the judge who tries the case. The Scotch practice of "condescendence" resembles this method, except that in Scotland the judge who settles the issues is always the judge who tries the case. He may also allow the general issue to be pleaded and tried. This is never permitted in Ireland. The Scotch system, however, which is far less technical than the Irish, has been repeatedly condemned on appeals by Lords Campbell, Truro, and Brougham. The statute 21 & 22 Vict. c. 27, which has enabled the courts of equity in both countries to try questions of fact with the aid of juries, has made no provision as to the settlement of issues. It is probable, therefore, that such issues when called for will be settled in both countries according to their respective common law procedure, in obedience to the maxim, "*æquitas sequitur legem*."

Much *a priori* speculation is precluded by statistics. The judicial statistics for the years 1859 and 1860 show that only one-fourth of the actions commenced are ever fully litigated. It is obvious, therefore, that special pleading is in three-fourths of the cases unnecessary, since the demand is in all these *bona fide*, and the defendant has no ground for doubting the nature of the claim. This is the principle of the English writ of summons and its indorsement. The Irish summons, on the contrary, always embodies a declaration. The 85th section of the English Common Law Procedure Act provides that "the signature of counsel is not required in any case." The 33rd Irish General Order, on the contrary, directs that "all pleadings subsequent to summons and plaint shall be signed by counsel." The writer of this pamphlet considers that the House of Lords

were surprised into passing the Irish Act, and that they considered it to be a mere transcript of the analogous English statute. The language of Lord Cranworth (Hansard, Par. Deb. 3 ser., vol. 123, p. 8) certainly supports this view. It appears to the writer that it was owing to the like mistake that the provisions of the English Common Law Procedure Act of 1854 were in 1856 extended almost verbatim to Ireland, and thus engrafted upon a heterogeneous system.

The Irish Common Law Procedure Act requires pleadings under it to be far more special than the English Act and the rules of T. T. 1853 prescribe. Thus the former statute abolishes the general issue, "even by" statute. According to the English rules of T. T. 1853, the pleas *non assumpsit*, "never indebted," &c., are, except in actions upon bills of exchange and promissory notes, admissible, though with a limited meaning, as defences by denial of the matters of fact stated in the declaration. All matters of confession and avoidance must be specially pleaded in either country. The plea of *nil debet* is not allowed by either class of tribunals. But the plea of *nil detinet* is allowed by the 15th English rule of T. T. 1853, to operate as a denial of the fact of the detention. So also *non est factum*, is allowed by the 10th of the English rules to operate as a denial of the execution of a deed. Except in actions upon bills of exchange or promissory notes, the general issue (with the exception of *nil debet*), can thus be pleaded in England in any action either upon contract or tort; but with a limited meaning given to the denial, and consequently with a limitation of the evidence which may be given under it. But in Ireland all such defences are invalidated by the 70th and 71st section of the Irish Act in all actions whether upon bills of exchange, contract, or tort. We are by no means sure that this is a defect in the Irish system. As the general issue has been in substance abolished in England, some confusion of ideas is apt to be occasioned by the use of words that formerly meant the general issue, but mean so no longer. It appears to be a more simple course to abolish, as the Irish Act has done, the use of old names, when the old purpose for which they were used, viz., a surprise on the plaintiff, has been prohibited.

The Irish Act incorporates a good portion of the English enactment, together with the substance of many of the English rules of T. T. 1853; while it carries out fully the principle upon which these were formed, viz., the necessity of special pleading in all cases.

Both the Irish and English Acts present numerous features of resemblance. Both statutes abolish technical pleading, express colour, special traverses, &c., and admit of a joinder of different causes of action. Both Acts likewise admit of pleading and demurring together, and pleading several matters with the leave of a judge, and certain several defences without such leave.

The author concludes his pamphlet by recommending an assimilation of the procedure of both countries. He also suggests, that as the English bar participates in appeals from Ireland, so the Irish bar should be allowed to practise in all appeals before the Privy Council and House of Lords. This is a privilege which would, doubtless, be readily conceded to the Irish bar. An assimilation of the procedure of both countries does not, we think, stand in need of any discursive recommendation. It is manifest that, if the English procedure has worked well for England (and this the concurrent testimony of Royal commissioners and of the public establishes), it should necessarily be completely extended to Ireland, where no antiquated nomenclature, as in Scotland, impedes the immediate adoption of any extensive measure of reform.

Law Students' Journal.

CANDIDATES WHO PASSED THE EXAMINATION. TRINITY TERM, 1861.

Names of Candidates.	To whom articulated, assigned, &c.
Ackland, Wm. Fitzroy . . .	Joseph Thomas Collin.
Aldridge, Geo. Braxton . . .	Henry M. Aldridge.
Andrew, Frederick . . .	William Andrew; P. Wigelsworth.
Ashwin, Stephen Godfree . .	Thomas S. Ashwin; D. Harrison.
Bannister, Chas. Albert . .	Chas. Pearson; S. Davidson.
Barker, Henry Charles . . .	Wm. Berry.
Bassett, Charles . . .	Wm. Pagden.
Bedford, Charles . . .	Henry Bedford (deced.); E. Ball.
Bennett, Edward Gasking. .	John N. Bennett.

Names of Candidates.	To whom articulated, assigned, &c.	Names of Candidates.	To whom articulated, assigned, &c.
Blake, Edwd. Frederick . . .	Fredk. Blake.	Parry, Henry Edward . . .	Hugh Jones.
Blew, John Cardall . . .	Thomas M. Whitehouse.	Pearson, Robert Capes . . .	Thomas T. Pearson.
Bockett, Daniel . . .	Fredk. Halsey Janson.	Perkins, Edmund . . .	William S. Perkins; J. J. Simpson.
Botterill, Henry . . .	John Saxelbye.	Pridham, Glimm . . .	George Pridham.
Bottomley, Joseph, jun. . .	C. S. Floyd (deceased); N. Learoy.	Pritt, George Ashby . . .	Edward Bailey.
Brain, Alfred James . . .	William Matthews.	Pullen, Charles Alfred . . .	E. Towsey (deced.); Edward Lett.
Breton, Alexander Gordon . .	Preston Karlake.	Rae, John . . .	William Philp.
Brewis, Thomas . . .	John Fleming.	Rawlinson, Abram Creswicke.	A. L. Rawlinson.
Brown, George . . .	Henry Newton.	Salt, Edward Tayleur . . .	John B. Stanley.
Brown, Richard . . .	Thomas Swainson.	Scott, Joseph . . .	Robert F. Stedman.
Brown, Thomas Watson, B.A.	Robert Brown.	Shapland, Jno. Terrell, jun. .	Frederick Rd. Thomas.
Buckley, Charles . . .	John Ponsonby.	Sharood, Charles James . . .	Charles Sharood.
Buckley, Thomas . . .	William Heaton.	Shepherd, Wm. Conning . . .	Henry De Jersey.
Carnell, James . . .	George Frederick Carnell.	Smail, William . . .	S. Sanderson.
Carr, Alfred . . .	S. Davidson; B. Hardwick.	Sobey, George Ferris . . .	Henry W. Hooper.
Cartwright, J. Postlethwaite .	Francis W. Massey.	Southee, Horace Robert . . .	Robert Southee.
Churton, William Henry . . .	John Geo. Holden.	Southee, Vernon . . .	Robert Southee.
Clear, John . . .	Ebenezer Foster.	Spiller, James Robert . . .	J. R. White; E. F. Burton.
Clifton, George Henry . . .	Fras. Smedley (decd).	Steavenson, Francis Thomas .	A. T. Steavenson; R. Milnes.
Coode, William, B.A. . .	John Coode.	Stimson, Wm. the younger . .	Francis Herbert.
Cooke, Nathaniel Wedd . . .	William Ford.	Stokes, James John . . .	R. S. Hawks.
Crowder, George Augustus . .	William Vizard.	Tanner, Frank Herbert . . .	Ridson D. Sharp.
Cuddon, George John . . .	C. Blount; Wm. Blackmore.	Thomas, William Crump . . .	William Henry Duignan.
Davies, Thomas . . .	Thomas James Nelson.	Tidy, Harman Edgar . . .	Christopher Robson.
Dempster, George Bundock . .	Joseph Dempster.	Tillett, Abel . . .	Wace L. Mendham.
Denby, Thomas William . . .	Thomas Denby.	Twinberrow, Jas. Kimberley .	Pattison & Wigg.
Eglinton, William Maberly .	Jno. Hemmant; Saml. Danka.	Viant, John . . .	Robert G. Bassett.
Eley, William . . .	Rt. Walker; Rt. Gee; Henry Lake.	Walker, Isaac . . .	John Ward.
Elliott, Sutton John . . .	Charles Henry Binstead.	Watkins, Wm. Theodore Pitt .	C. Harris; R. W. Pigeon.
Farnfield, William Henry . . .	Wm. Hy. Moss; Jno. T. Moss.	Watson, Charles Henry . . .	Henry Watson.
Garvey, Rd. Edward . . .	Jno. T. Tweed; Edwd. Jones.	Watt, Francis James . . .	T. Scott; W. Gregory.
George, Thomas Joseph . . .	Stretton & Postans; H. Padmore.	Wells, Bernard . . .	Arthur Wells.
Goy, William Wilkinson . . .	William H. Goy.	White, Robert . . .	J. M. Stevenson; H. Shield.
Griffin, Robert . . .	Godfrey Tallents.	Whiteford, Ferdinand Manger .	Chas. C. Whiteford; J. N. Bennett.
Hampton, Edward Adolphus .	William Daubeney.	Weritton, William, jun. . .	Jno. Becke; J. M. Dale.
Frederick . . .	Thos. Hy. Strangways.	Wigmore, William . . .	Edmund D. Conyers.
Hand, William Hudson, B.A.	Philip A. Hanrott.	Williams, John . . .	R. T. Watkins (deced.); S. B. Evans.
Hanrott, Howard Augustus . .	Wm. S. Harding.	Williams, Thomas, jun. . .	Thomas Williams, sen.
Harding, Charles . . .	Charles C. Whiteford.	Williams, William . . .	John Boggle; Jas. Bradley.
Hare, Frederick Trelawny . . .	Henry P. Sharp.	Woodbridge, Thos. A., jun. . .	Thos. Anthony Woodbridge.
Harrison, Geo. W. W. Rogers, B.A.	Chas. W. Bond; John G. G. Radford.		
Hayman, Ellis Bartlett . . .	M. Browne; John and J. H. Buttery.		
Heath, David William . . .	Thomas Hodson.		
Hodson, John Humphries . . .	A. S. Greene; J. Hoper; J. Senior.		
Hoper, Henry . . .	William Simons.		
Hulm, William Odyerne . . .	Thomas Humphreys.		
Humphreys, George Jacks . . .	John Jeffery.		
Jeffery, Alfred John . . .	Wm. Jones (decd.); G. Matthews.		
Jones, John . . .	Thomas B. Young.		
Jones, Mainwaring . . .	Hy. Karlake (decd.); P. Karlake.		
Karslake, Charles James . . .	Hy. M. Daniel.		
Kisch, Simon Abraham . . .	Hy. Lake.		
Lake, Benjamin Greene . . .	Wm. C. Rule.		
Lane, Edward . . .	Thos. Oliverson.		
Lavie, Germain, M.A. . . .	Thos. Dix.		
Laws, Hy. Fricker, jun . . .	R. Leigh, Jno. J. Blandy.		
Leigh, Richard . . .	L. Harrison.		
Little, William . . .	Henry Newbald.		
Lowe, Charles Frederick . . .	G. Goldeney, C. P. Wood.		
Marshall, James Cutcliffe . .	E. Tennant.		
Matthews, Charles Miles . . .	Thomas William Gray.		
Michelmores, Henry . . .	Frederick Baker.		
Moody, John the younger . . .	John Loxley.		
Morley, Charles Edward . . .	William Burridge.		
Nott, John . . .	A. Dixon, G. M. Arnold, R. H. Burne.		
Nunn, John Bridges . . .	W. E. Chapman, junior, M. Staniland.		
Nunneley, Frederick Heygate .	Edward Weatherall, junior.		
Oswald, James Francis . . .	Charles R. Williams.		
Ovana, John Lambert . . .	S. J. Pain, John C. Pain.		
Pain, George Cave . . .	Charles John Palmer.		
Palmer, Frederick Danby . . .	William Day.		
Pamphilon, Frederick Wm. . .			

EXAMINATIONS AT THE INCORPORATED LAW SOCIETY.

TRINITY TERM, 1861.

At the examination of candidates for admission on the roll of attorneys and solicitors of the superior courts, the examiners recommended the following gentlemen, under the age of 26, as being entitled to honorary distinction:—

Germain Lavie, M.A., aged 25, who served his clerkship to Messrs. Oliverson and Peachy, of Frederick's-place, London; and Messrs. Crowder, Maynard, Son, and Lawford, of Coleman-street, London.

Charles Albert Bannister, aged 21, who served his clerkship to Mr. Charles Pearson, of Guildhall, London; and Messrs. Davidson, Bradbury, and Hardwick, of Basinghall-street, London.

William Henry Churton, aged 21, who served his clerkship to Messrs. John and George Holden, of Liverpool; and Messrs. Cunliffe & Beaumont, of Chancery-lane, London.

William Crump Thomas, aged 21, who served his clerkship to Messrs. Duignan and Ebsworth, of Walsall; and Messrs. Mackeson and Goldring, of Lincoln's-inn-fields, London.

Charles Buckley, aged 22, who served his clerkship to Mr. John Ponsonby, of Oldham; and Mr. William Hunt, of Gray's-inn, London.

Abel Tillett, aged 22, who served his clerkship to Mr. Wace Lockett Mendham, of Norwich.

The council of the Incorporated Law Society have accordingly awarded the following prizes of books:—

To Mr. Lavie, the Prize of the Honourable Society of Clifford's-inn.

To Mr. Bannister, the Prize of the Honourable Society of Clement's-inn.

To Mr. Churton, one of the Prizes of the Incorporated Law Society.

To Mr. Thomas, one of the Prizes of the Incorporated Law Society.

To Mr. Buckley, one of the Prizes of the Incorporated Law Society.

To Mr. Tillett, one of the Prizes of the Incorporated Law Society.

The examiners have also certified that the following candidates, whose names are placed in alphabetical order, passed examinations which entitle them to commendation:—

Henry Botterill, aged 21, who served his clerkship to Messrs. England, Saxelbye, and Roberts, of Hull.

George John Cuddon, aged 24, who served his clerkship to Messrs. Blount and Davis, of Usk; Messrs. Duncan, Squarey, Duncan, and Blackmore, of Liverpool; and Messrs. Field and Roscoe, of Lincoln's Inn Fields, London.

Benjamin Green Lake, aged 22, who served his clerkship to Messrs. H. and G. Lake and Kendall, of Lincoln's Inn, London.

Henry Fricker Lawes the younger, aged 22, who served his clerkship to Mr. Thomas Dix, of Bristol; and Messrs. Meredith and Lucas, of Lincoln's Inn, London.

Charles Frederick Lowe, aged 22, who served his clerkship to Messrs. Falkner and Newbold, of Newark.

Frederick Heygate Nunneley, aged 24, who served his clerkship to Messrs. Staniland and Chapman, of Boston; Messrs. Staniland and Wigglesworth, of Boston; and Messrs. Tooke and Co., of Bedford Row, London.

Frederick Danby Palmer, aged 21, who served his clerkship to Messrs. Reynolds and Palmer, of Great Yarmouth; and Messrs. Gray and Woodcock, of Lincoln's Inn Fields, London.

Frederick William Pamphilon, aged 21, who served his clerkship to Mr. William Day, of Queen-street, May Fair, London.

The Council have accordingly awarded them Certificates of Merit.

The Examiners have further announced to the following candidates that their answers to the questions at the examination were highly satisfactory, and would have entitled them to Prizes or Certificates of Merit if they had been under the age of 26:—

George Brown, aged 32, who served his clerkship to Mr. Henry Newton, of York.

Sutton John Elliott, aged 26, who served his clerkship to Mr. Charles Henry Binsteed, of Portsmouth.

John Bridges Nunn, aged 26, who served his clerkship to Mr. Albert Dixon, of Bedford-row; Mr. George Matthews Arnold, of Gravesend; and Mr. Richard Higgins Burne, of Carey-street, London.

William Conning Shepherd, aged 28, who served his clerkship to Messrs. De Jersey and Micklem, of Gresham-street West, London.

William Theodore Pitt Watkins, aged 28, who served his clerkship to Mr. Charles Harris, of Bristol; and Mr. Richard Walter Pigeon, of Bristol.

The number of candidates examined in this Term was 125; of these, 120 were passed, and 5 postponed.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have received the Royal Assent:—

MID WALES.

STOCKTON AND DARLINGTON (Marake and Skelton).

The following Bills have been read a third time and passed the House of Lords:—

FOSTERLEY AND STANHOPE.

UXBRIDGE AND RICKMANSWORTH.

The following Bills have passed through committee in the House of Lords:—

CHESHIRE MIDLAND.

HENLEY IN ARDEN.

LONDON AND NORTH WESTERN (Cheshire lines).

STOCKPORT, TIMPERLEY, AND ALTRINCHAM.

WEST CHESHIRE.

The following Bills have passed through committee in the House of Commons:—

FOREST OF DEAN.

HOLME AND RAMSEY.

LONDON, CHATHAM, AND DOVER (Margate and Ramsgate branch).

SOUTH STAFFORDSHIRE.

WORCESTER, BROMYARD, AND LEOMINSTER.

The following Bills have been referred to committee in the House of Lords:—

ALTON, ALBESFORD, AND WINCHESTER.

UXBRIDGE AND RICKMANSWORTH.

The following Bills have been referred to committee in the House of Commons:—

DEVON VALLEY.

EASTERN COUNTIES AND SAFFRON WALDEN.

EDGWARE, HIGHGATE, AND LONDON.

HAMMERSMITH, PADDINGTON, AND CITY JUNCTION.

METROPOLITAN (Extension to Finsbury Circus).

NORTH LONDON (City branch).

ROMNEY.

WEST LONDON EXTENSION.

Court Papers.

Court of Chancery.

SITTINGS.—AFTER TRINITY TERM, 1861.

LORD CHANCELLOR.

Lincoln's-inn.

Thursday, June 20	{ The First Seal.—Appeal Motions and Appeals.
Friday	21...Appeals.
Saturday	22...Petitions and Appeals.
Monday.....	24 {
Tuesday	25 { Appeals.
Wednesday ...	26 {
Thursday	27 { The Second Seal.—Appeal Motions and Appeals.
Friday	28 {
Saturday	29 { Appeals.
Monday... July	1 {
Tuesday	2 {
Wednesday ...	3 {
Thursday	4 { The Third Seal.—Appeal Motions and Appeals.
Friday	5 {
Saturday	6 { Appeals.
Monday.....	8 {
Tuesday	9 {
Wednesday ...	10...No Sittings.—The Queen's Birthday kept.
Thursday	11 { The Fourth Seal.—Appeal Motions and Appeals.
Friday	12 {
Saturday	13 { Appeals.
Monday	15 {
Tuesday	16 {
Wednesday ...	17 {
Thursday	18 { The Fifth Seal.—Appeal Motions and Appeals.
Friday	19...Appeals.
Saturday	20...Petitions and Appeals.
Monday.....	22 {
Tuesday	23 { Appeals.
Wednesday ...	24 {
Thursday	25 { The Sixth Seal.—Appeal Motions and Appeals.

Such days as his Lordship shall be engaged in the House of Lords are excepted.

MASTER OF THE ROLLS.

Chancery-lane.

Thursday, June 20...	The First Seal.—Motions.
Friday	21...General Paper.
Saturday	22 { Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday.....	24 {
Tuesday	25 { General Paper.
Wednesday ...	26 {
Thursday	27...The Second Seal.—Motions.
Friday	28...General Paper.
Saturday	29 { Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday... July	1 {
Tuesday	2 { General Paper.
Wednesday ...	3 {

Thursday July	4...	The Third Seal.—Motions.
Friday	5...	General Paper.
Saturday	6	Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday	8	General Paper.
Tuesday	9	General Paper.
Wednesday ...	10...	No Sittings.—The Queen's Birthday kept.
Thursday	11...	The Fourth Seal.—Motions.
Friday	12...	General Paper.
Saturday	13	Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday	15	General Paper.
Tuesday	16	General Paper.
Wednesday ...	17	General Paper.
Thursday	18...	The Fifth Seal.—Motions.
Friday	19...	General Paper.
Saturday	20	Petitions, Short Causes, Adjourned Summons, and General Paper.
Monday	22	General Paper.
Tuesday	23	Remaining Petitions and General Paper.
Wednesday ...	24	General Paper.
Thursday	25...	The Sixth Seal.—Motions.

N.B.—At the Sittings after Trinity Term, the Master of the Rolls will hear Further Considerations in priority to Original Causes, until those set down before the 20th June have been disposed of, after which the Master of the Rolls will hear Further Considerations on every Monday during the Sitting of the Court.

The unopposed Petitions must be presented and Copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard: and any Causes intended to be heard as Short Causes, must be so marked at least one clear day before the same can be put in the Paper to be so heard.

LORDS JUSTICES.

Lincoln's-inn.

Thursday June	20	The First Seal.—Appeal Motions and Appeals.
Friday	21	Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday	22	Appeals.
Monday	24	Appeals.
Tuesday	25	Appeals.
Wednesday ...	26	Appeals.
Thursday	27	The Second Seal.—Appeal Motions and Appeals.
Friday	28	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	29	Appeals.
Monday... July	1	Appeals.
Tuesday	2	Appeals.
Wednesday ...	3	Appeals.
Thursday	4	The Third Seal.—Appeal Motions and Appeals.
Friday	5	Petitions in Lunacy and Bankruptcy, Appeal Petitions and Appeals.
Saturday	6	Appeals.
Monday	8	Appeals.
Tuesday	9	Appeals.
Wednesday ...	10...	No Sittings.—The Queen's Birthday kept.
Thursday	11	The Fourth Seal.—Appeal Motions and Appeals.
Friday	12	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	13	Appeals.
Monday	15	Appeals.
Tuesday	16	Appeals.
Wednesday ...	17	Appeals.
Thursday	18	The Fifth Seal.—Appeal Motions and Appeals.
Friday	19	Petitions in Lunacy and Bankruptcy, Appeal Petitions, and Appeals.
Saturday	20	Appeals.
Monday	22	Appeals.
Tuesday	23	Appeals.
Wednesday ...	24	Appeals.
Thursday	25	The Sixth Seal.—Appeal Motions and Appeals.
Friday	26	Appeals.
Saturday	27	Appeals.
Monday	29	Appeal Motions and Appeals.
Tuesday	30	Appeal Motions and Appeals.
Wednesday ...	31	Appeal Motions and Appeals.

Vice-Chancellor Sir RICHARD T. KINDERSLEY.

Lincoln's-inn.

Thursday June	20	The First Seal.—Motions and General Paper.
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Friday, June	21...	Petitions.
Saturday	22	Short Causes, Adjourned Summons, and General Paper.
Monday	24	General Paper.
Tuesday	25	General Paper.
Wednesday ...	26	General Paper.
Thursday	27	The Second Seal.—Motions and General Paper.
Friday	28...	Petitions.
Saturday	29	Short Causes, Adjourned Summons, and General Paper.
Monday, July	1	General Paper.
Tuesday	2	General Paper.
Wednesday ...	3	General Paper.
Thursday	4	The Third Seal.—Motions and General Paper.
Friday	5...	Petitions.
Saturday	6	Short Causes, Adjourned Summons, and General Paper.
Monday	8	General Paper.
Tuesday	9	General Paper.
Wednesday ...	10...	No Sitting.—The Queen's Birthday kept.
Thursday	11	The Fourth Seal.—Motions and General Paper.
Friday	12...	Petitions.
Saturday	13	Short Causes, Adjourned Summons, and General Paper.
Monday	15	General Paper.
Tuesday	16	General Paper.
Wednesday ...	17	General Paper.
Thursday	18	The Fifth Seal.—Motions and General Paper.
Friday	19...	Petitions.
Saturday	20	Short Causes, Adjourned Summons, and Remaining Petitions.
Monday	22	General Paper.
Tuesday	23	Remaining Petitions and General Paper.
Wednesday ...	24	Remaining Petitions and General Paper.
Thursday	25...	The Sixth Seal.—Motions.

N.B.—At the Sittings after Trinity Term, the Vice-Chancellor will hear Further Considerations in priority to Original Causes. Any causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put in the Paper to be so heard.

Vice-Chancellor SIR JOHN STUART.

Lincoln's-inn.

Thursday June	20...	The First Seal.—Motions.
Friday	21...	Petitions and General Paper.
Saturday	22...	Short Causes and General Paper.
Monday	24	General Paper.
Tuesday	25	General Paper.
Wednesday ...	26	General Paper.
Thursday	27	The Second Seal.—Motions and General Paper.
Friday	28...	Petitions and General Paper.
Saturday	29...	Short Causes and General Paper.
Monday July	1	General Paper.
Tuesday	2	General Paper.
Wednesday ...	3	General Paper.
Thursday	4	The Third Seal.—Motions and General Paper.
Friday	5...	Petitions and General Paper.
Saturday	6...	Short Causes and General Paper.
Monday	8	General Paper.
Tuesday	9	General Paper.
Wednesday ...	10	No Sittings.—The Queen's Birthday kept.
Thursday	11	The Fourth Seal.—Motions and General Paper.
Friday	12...	Petitions and General Paper.
Saturday	13...	Short Causes and General Paper.
Monday	15	General Paper.
Tuesday	16	General Paper.
Wednesday ...	17	General Paper.
Thursday	18	The Fifth Seal.—Motions and General Paper.
Friday	19...	Petitions.
Saturday	20...	Short Causes and Remaining Petitions.
Monday	22	General Paper.
Tuesday	23	Remaining Petitions and General Paper.
Wednesday ...	24	Remaining Petitions and General Paper.
Thursday	25...	Motions.

N.B.—At the Sittings after Trinity Term, the VICE-CHANCELLOR will hear Further Considerations in priority to Original Causes. Any causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put in the Paper to be so heard.

Vice-Chancellor Sir W. P. WOOD.

Lincoln's-inn.

Thursday June 20...	The First Seal.—Motions.
Friday	21...General Paper.
Saturday	22 { Petitions, Short Causes, and General Paper.
Monday.....	24 {
Tuesday	25 { General Paper.
Wednesday ...	26 {
Thursday	27 { The Second Seal.—Motions and General Paper.
Friday	28...General Paper.
Saturday	29 { Petitions, Short Causes, and General Paper.
Monday, July 1	{
Tuesday	2 { General Paper.
Wednesday ...	3 {
Thursday	4 { The Third Seal.—Motions and General Paper.
Friday	5...General Paper.
Saturday	6 { Petitions, Short Causes, and General Paper.
Monday	8 {
Tuesday	9 { General Paper.
Wednesday ...	10...No Sittings.—The Queen's Birthday kept.
Thursday	11 { The Fourth Seal.—Motions and General Paper.
Friday	12...General Paper.
Saturday	13 { Petitions, Short Causes, and General Paper.
Monday.....	15 {
Tuesday	16 { General Paper.
Wednesday ...	17 {
Thursday	18 { The Fifth Seal.—Motions and General Paper.
Friday	19...General Paper.
Saturday	20...Petitions and Short Causes.
Monday.....	22 {
Tuesday	23 { Remaining Petitions and General Paper.
Wednesday ...	24 {
Thursday	25...The Sixth Seal.—Motions.

N.B.—At these Sittings the Vice-Chancellor will hear such Further Considerations as are in the printed list in priority to Original Causes, and after the Sixth Seal, Motions and Remaining Petitions only will be heard. Any Causes intended to be heard as Short Causes, must be so marked, at least one clear day before the same can be put in the Paper to be so heard.

The Court will not sit after Wednesday, the 7th August.

Births, Marriages, and Deaths.**BIRTHS.**

- COPEMAN—On June 8, at Wavertree, near Liverpool, the wife of Chas R. Copeman, Esq., Solicitor, of a son.
 HOYLE—On May 31, at Eastwood Lodge, Rotherham, the wife of Fretwell W. Hoyle, Esq., Solicitor, of a son.
 LOWNDES—On June 12, at Wavertree, near Liverpool, the wife of Francis D. Lowndes, Esq., of a son.
 PRAKE—On June 11, at No. 22, Bloomfield-road, Maida-hill, Mrs. Frederick Penke, of a son.
 RAE—On June 8, the wife of W. F. Rae, Esq., Barrister-at-Law, 16, Cambridge-terrace, Kensington, of a daughter.

MARRIAGES.

- BLAIR—STEVENSON—On June 11, at Edinburgh, Patrick Blair, Esq., Advocate, to Catherine White, daughter of Alexander Stevenson, Esq., W.S.
 BOUCHER—BIRD—On June 12, at Bishop's Hull, Benjamin Boucher, of Wiveliscombe, Solicitor, to Sophia Hamilton, daughter of the late John Bird, Esq., of Taunton, Solicitor.
 HIGGINS—BERNARD—On June 13, at Winchendon, Bucks, by the Rev. E. F. Glanville, uncle of the bride, J. Napier Higgins, Esq., of Lincoln's-inn, Barrister-at-Law, to Sophia Elizabeth, second daughter of T. T. Bernard, Esq., M.P., of Winchendon Priory, and granddaughter of the late Sir Scrope Bernard, Bart., M.P.
 HUMPHREYS—BACON—On June 6, Arthur Humphreys, Esq., of Manchester, Solicitor, to Jane Isabella, daughter of William Bacon, Esq., of Cheltenham.
 RENNOLLS—HANCHETT—On June 12, William Henry Rennolls, Esq., of Lincoln's-inn-fields, and Deal, Solicitor, to Victoria, daughter of William Hanchett, Esq., of Ickleton.

DEATHS.

- HUGHES—On June 4, William Barnard, son of William H. Hughes, Esq., of 10, Chapel-street, Bedford-row, Solicitor, aged seven months.
 KNIGHT—On June 9, Anne Elizabeth, wife of George Knight, Esq., of the Public Record Office, London, aged 27.
 PHILLIPS—On June 7, Aldcroft Phillips, Esq., of Manchester, Solicitor, aged 72.
 TAUNTON—On June 8th, at Bournemouth, in the 51st year of his age, John Taunton, Esq., solicitor.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimant appear within Three Months:—

- FRIEND, JOHN, Brook's-end, near Margate, GEORGE FRIEND, Minorities, JAMES TOMLIN, Crescent, Minorities, £3,289 2s, £3 5s. per Cents.—Claimed by JOHN BANKES FRIEND and FRIEND WILLIAMSON, executors of John Friend.
 USBORNE, JOHN, Esq., Woodlands, Bagshot, Surrey, £204 6s. Reduced Three per Cents.—Claimed by Rev. HENRY USBORNE, executor of John Usborne.
 WARING, THOMAS, Esq., Chelshfield, Kent, £1,857 2s. Reduced Three per Cents.—Claimed by WILLIAM WARING, the sole executor.

London Gazette.**Professional Partnership Dissolved.**

TUESDAY, June 11, 1861.

FORD, WILLIAM, WILLIAM THOMAS LONGBOURNE, and CHARLES RANKEN VICKERMAN, 4, South-square, Gray's-inn, Middlesex (Ranken, Ford, Longbourne, and Vickerman), by mutual consent. June 7.

Windings-up of Joint Stock Companies.

TUESDAY, June 11, 1861.

LIMITED IN BANKRUPTCY.

PLUMSTEAD AND WOOLWICH CO-OPERATIVE PROVISION COMPANY (LIMITED).—Petition for winding up, presented June 1, will be heard before Commissioner Holroyd, on June 31. Hughes, Solicitor, 143, High-street, Woolwich, Kent.

FRIDAY, June 14, 1861.

UNLIMITED IN CHANCERY.

CAMERONS COALBROOK STEAM COAL AND SWANSEA AND LOUGHOR RAILWAY COMPANY.—The Master of the Rolls purposes, on June 22, at 12, to proceed to make a call, in order to provide a fund for payment of the debts proved and admitted to be due from the company, upon all the contributories of the company settled upon the list.

LIMITED IN BANKRUPTCY.

EUROPEAN WINE GROWERS ASSOCIATION (LIMITED).—Petition for winding-up, presented June 10, will be heard on June 28, at 12, at Basinghall-street.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, June 11, 1861.

- FAULKNER, JOHN, Lead and Glass Merchant, College-street, Portsea. Edgecombe & Cole, Solicitors, 6, North-street, Portsea; Pearce, Solicitor, 13, Union-street, Portsea. July 15.
 GIBSON, MAJOR-GENERAL DAVID ANDERSON, Princed-lodge, Westbourne, Sussex. Edgecombe & Cole, Solicitors, Portsea, Hants. July 31.
 GASLITING, JAMES DAVID, Gent., late of 14, Wellington place, Stoke Newington-road, Middlesex, formerly of Cross-street, Hoxton New-town, St. Leonard, Shoreditch, Middlesex, Grocer and Cheesemonger, afterwards of 128, Windmill-street, Gravesend, Kent. Watson, Solicitor, 27, Worship-street, Finsbury. July 11.
 HANCOCK, MATILDA, Widow, Chevening, Kent. Curtis & Bedford, Solicitors, Haberdasher's Hall, London. July 20.
 HERVEY, MARY JELFE, Spinster, formerly of Chiddingfold, Surrey, and late of Surbiton, Surrey. J. & J. Galsworthy, Solicitors, 12, Old Jewry-chambers, London. Aug. 1.
 HILTON, Rev. JOHN, Clerk, Ville of Sarre, Isle of Thanet, Kent. Wightwick, Kingsford, & Fraser, Solicitors, 16, Watling-street, Canterbury. Aug. 6.
 POW, ROBERT, Ship Owner, Merchant, and Chain and Anchor Manufacturer, Tynemouth, North Shields, and of Lower Shadwell, Middlesex. Letch & Kewney, Solicitors, Howard-street, North Shields. Sept. 1.
 REED, FRANCIS, Esq., Captain, 1st Dragoon Guards, Tainmouth. Mackenzie, Solicitor, 3, Johnson's-buildings, Temple, London. Sept. 1.
 RICHARDS, Rev. WILLIAM PAGE, Clerk, Doctor of Laws, West Tainmouth, Devonshire. Mackenzie, Solicitor, 3, Johnson's-buildings, Temple, London. Sept. 1.
 SMITH, DAVID, Grocer, New Malton, Yorkshire. Anderson, Solicitor, 30, Stonegate, Yorkshire. July 8.
 SMITHSON, THOMAS FRALEY, Paper Manufacturer, Stepney-lane, Sculcoates, Kingston-upon-Hull. England, Sarsby, & Roberts, Solicitors, Quay-street Chambers, Hull. July 31.
 TATE, JOHN, Saddler, Bishop Auckland, Durham. Hipple & Proud, Solicitors, 16, Market-place, Bishop Auckland. July 22.
 TENNANT, ALEXANDER WILLIAM, formerly of Port Elizabeth, and Uitenhage, Cape of Good Hope. Talbot, Talbot, & Tasker, Solicitors, 47, Bedford-row, London. Oct. 30.

TENNANT, CORNELIA AGATHA, Widow, formerly of Cape Town, Cape of Good Hope. Talbot, Talbot, & Tasker, Solicitors, 47, Bedford-row, London. Oct. 30.
 TENNANT, WILLIAM, Gent., formerly of Cape Town, Cape of Good Hope. Talbot, Talbot, & Tasker, Solicitors, 47, Bedford-row, London. Oct. 30.
 WINSTANLEY, FREDERICK, Civil Engineer, Isleworth, Surrey. Rhodes, Solicitor, 63, Lincoln's-inn-fields. July 17.

FRIDAY, June 14, 1861.

ADDISON, THOMAS, Doctor of Medicine, 51, Berkeley-square, Middlesex. - and 15, Wellington Villas, Brighton. Bell, Brodrick, & Bell, Solicitors, Bow Church-yard, London. August 1.
 BOARDMAN, JOHN, formerly Innkeeper, Manchester, but late of Fulby, near Ramsey, Isle of Man, Gent. Thorley & Robinson, Solicitors, 7, St. James-square, Manchester. August 16.
 BROWN, ELISA, Spinster, 40, Bedford-place, Russell-square, Middlesex. De Jersey & Mickletham, Solicitors, 13a, Gresham-street West, London. July 31.
 CHAPMAN, DANIEL, Plumber & Glazier, Great Grimsby, Lincolnshire. Ayre, Solicitor, County-buildings, Land of Green Ginger, Kingston-upon-Hull. July 10.
 COWCHER, THOMAS, Box Farm, Ayr, Gloucestershire. Carter & Gould, Solicitors. August 1.
 CRAWLEY, PHILIP, Gent., formerly of Devonshire-place, Edgeware-road, Middlesex, and late of 3, Brunswick-place North, Brighton. J. & C. Rogers, Solicitors, 24, Manchester-buildings, Westminster. August 1.
 DONALDSON, CHARLES, Gent., 13, Glengall-grove, Old Kent-road, Surrey. W. & H. P. Sharp, 92, Gresham-house, Old Broad-street, London. July 25.
 HANCOCK, HENRY VERNON, Commission Agent & Merchant, formerly of Manchester, and late of Lagos, Africa. Thorley & Robinson, Solicitors, 7, St. James-square, Manchester. Oct. 10.
 HODGES, JAMES, Farmer, Leybourne, Kent. Norton & Son, Solicitors, Town Malling, Kent. July 3.
 JAMES, FRANCIS HENRY, Farmer, formerly of Thundersley Hamlet, near Rayleigh, Essex, but late of 20, Warren-street, Pentonville, Middlesex, Gent. Mote, Solicitor, 14, Warwick-court, Gray's-inn. July 12.
 KAY, ROBERT, Barnfield-cottage, Kirkmanshulme, Lancashire. Jackson, Solicitor, Chancery-place, Manchester. Aug. 1.
 KIRKHAM, JOHN, Farmer, Ladderedge, near Leek, Staffordshire. Challinor, Badnall, & Challinor, Solicitors, Leek. Aug. 31.
 LARKING, JAMES, Farmer, Bush Farm, East Peckham, Kent. Norton & Son, Solicitors, Town Malling, Kent. July 3.
 LATHY, EDWARD, Tobaccoist, 144, Western-road, Brighton. Lamb, Solicitor, Pavillion-chambers, Brighton. July 17.
 MARSHALL, REBECCA, Spinster, formerly of the Lord Nelson Tavern, Copenhagen-street, Caledonian-road, but late of 11, Upper Grove-cottages, Caledonian-road, Middlesex. Mote, Solicitor, 14, Warwick-court, Gray's-inn. July 15.
 NUNN, ROBERT, Brazier, formerly of 121, Whitecross-street, but late of 4, Whitecross-place, Wilson-street, Finsbury, Middlesex. Mote, Solicitor 14, Warwick-court, Gray's-inn. July 16.
 PARAY, WILLIAM, Gent., 3, Wellington-street, Shacklewell, Hackney, Middlesex. Solicitors, Hancock, 47, Lincoln's-inn-fields, Middlesex, and Elliott, 2, Great Knight-riding-street, Doctor's-commons, London. July 15.
 PASLEY, General Sir CHARLES WILLIAM, 12, Norfolk-crescent, Hyde-park, Middlesex. Budd & Son, Solicitors, 23, Bedford-row, London. July 30.
 PISTON, WILLIAM JAMES, Esq., Tanfield-court, Temple, London, and Norfolk-street, Strand, Middlesex. Booty & Butt, 1, Raymond's-buildings, Gray's-inn, London. Aug. 1.
 ZACHARIAH, LEAH, Widow, 53, Great Prescott-street, Goodman's-fields Middlesex. Jeasel, Solicitor, 8, Upper Bedford-place. July 24.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, June 11, 1861.

HARMAN, JAMES, Alcester, Warwickshire. Harman v. Harman, M. R. July 5.
 HOLMAN, JOHN, Esq., Folkestone, Kent. Holman v. Holman, M. R. July 8.
 JARVIS, REBECCA, Spinster, Macclesfield, Chester. Beard v. Frost, M. R. July 4.
 JOHNSON, RANDALL, Gent., Tunstead, Norfolk. Johnson v. Johnson, M. R. July 6.
 LLEWELLIN, HENRY, Saddler, 12, Broad-street, Hereford. Llewellyn v. Llewellyn, V. C. Wood. July 1.
 ROBINSON, JOHN, Builder, Tranmere, Chester. Molyneux v. Robinson, V. C. Wood. July 5.
 WILLIAMS, GEORGE ISAAC, Plumber, 9, Cannon-street-road, St. George, Middlesex, and of the British Oak Public-house, Oxford-street, Whitechapel, Licensed Victualler. Walker v. Williams, M. R. July 7.
 WILSON, MARTHA, Widow, Newcastle-upon-Tyne. Maxwell v. Wilson, M. R. July 8.

FRIDAY, June 14, 1861.

ASPINALL, JAMES, Rev., Althorpe, Lincolnshire. Marshall v. Aspinall, V. C. Stuart. July 12.
 CAPPUR, JOSEPH, Blacksmith, Tunstall, Staffordshire. Cappur v. Cappur, M. R. July 12.
 HAM, CHARLES HOLMAN, Chemist & Druggist, Exeter. Ham v. Ham, V. C. Stuart. July 2.
 JUDD, WILLIAM, Farmer, Broughton, Southampton. Judd v. Mill, M. R. July 3.
 SAUNDERS, EBENEZER, Esq., Finsbury-square, Middlesex. Saunders v. Warton, V. C. Stuart. July 12.
 YOUNG, JOHN WILLIAM, Captain in the Army, Lee-park, Lee, Kent. Nunn v. Young, V. C. Wood. June 29.

Assignments for Benefit of Creditors

TUESDAY, June 11, 1861.

ARNOLD, PRINEAS, Coal Dealer, Stourbridge, Worcestershire. Sols. Day & Washington, 13, Lower High-street, Stourbridge. May 17.
 BARTON, JOSEPH, Farmer, Lamberough, Buckinghamshire. Sols. Hearn, Nelson, & Hearn, Buckingham. June 1.
 CALVERT, JOHN, Confectioner, Scarborough. Sols. Hesp & Moody, Scarborough. May 16.

GAT, JOHN, Cordwainer, Penryn, Cornwall. Sol. Treadder, Falmouth. June 7.
 LEDGARD, GEORGE, Banker, Poole, and of Ringwood, Southampton. Sol. Wilson, Salisbury. May 17.
 LINES, HARRIST, Ironmonger, Diss, Norfolk. Sol. Salmon, Diss. June 5.
 MARLAND, WILLIAM, Master and Innkeeper, Black Swan Inn, Wakefield. Sols. Harrison & Smith, Chancery-lane, Wakefield. May 14.
 MORGAN, DAVID PUGH, Liverpool. Sols. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester. May 29.
 RAGLAND, THOMAS, Bookseller & Stationer, Wigan. Sol. Livett, Manchester. May 13.
 ROBSON, MATTHEW, Block & Mast Maker, South Shields, Durham. Sols. Maxwell & Moore, South Shields. May 13.
 THACKER, WILLIAM DYER, Rainhill, Lancashire. Sol. Ambler, Manchester. May 31.

FRIDAY, June 14, 1861.

BYE, FREDERICK, Common Brewer, 7, Commercial-street, Whitechapel Middlesex. Sols. Keighley & Gething, 7, Ironmonger-lane. May 16.
 HART, SAMUEL NEWSON, Farmer, Saint Cross, Southelham, Suffolk. Sol. Hazard, Harleston, Norfolk. May 31.
 HULBERT, HENRY, Innkeeper, Stroud, Gloucester. Sol. Mitchell, Stroud. May 22.
 JACKSON, JOSEPH, Jun., Draper & General Dealer, Bingham, Nottingham. Sol. Smith, Nottingham, May 6.
 JENNIS, JARVIS, Cabinet Maker, Sheffield. June 4.
 LAIDLIE, WILLIAM, Boot and Shoe Manufacturer, Sunderland. Sol. Cooper, 14, Lambton-street, Sunderland. May 31.
 LILLEY, JOSEPH SEAGER, Builder, Strood, Kent. Sol. Wickham, Strood. June 12.
 MARTIN, JAMES, Jun., Silversmith, Faversham, Kent. Sols. Bathurst & Phillips, Faversham. June 12.
 OLIVER, WILLIAM GEORGE, Coal Merchant, Tanbridge Wells, Kent. Sols. Branscomb, 32, Bouverie-street, Fleet-street, and Haddock, 18, St. Paul's Church-yard, London. May 20.
 ROBERTS, JOHN, Farmer & Cattle Dealer, Penbedw, Penmachno, Carnarvonshire. Sol. Griffith, Llanrwst, Denbighshire. May 28.
 ROBERTS, JOSHUA, Jun., Shopkeeper, Rhosymedre, Ruabon, Denbighshire. Sols. Chester & Co., Staples-inn, Agents for J. Bridgeman, Chester. June 6.
 STARLING, ADOLPHUS FREDERICK, Boot & Shoe Maker, Great Yarmouth. Sol. Costerton, Queen-street, Great Yarmouth. June 6.
 STRAKER, WILLIAM, Farmer, New York, Burstwick, Yorkshire. Sols. Levett & Champney, 6, Parliament-street, Kingston-upon-Hull. May 31.
 WALKER, SAMUEL, Draper, Newton Abbot, Devonshire. Sols. Davidson, Bradbury, & Hardwick, Weavers'-hall, 23, Basinghall-street, London. May 23.

Bankrupts.

TUESDAY, June 11, 1861.

COLLIER, CHARLES, Cabinet Maker, Upholsterer, Dealer in Furniture, China, & Glass, & Auctioneer, Swindon, Wilts. Com. Hill: June 28, and July 23, at 11; Bristol. Off. Ass. Acraman. Sols. Kinnair, Swindon; or Pridaues, Albion-chambers, Bristol. Pet. June 7.
 CROOT, EDWIN, Licensed Victualler, Waterbeer-street, Exeter. Com. Andrews: June 21, and July 17, at 12; Exeter. Off. Ass. Hirtzel. Sols. Turner & Hirtzel, Exeter. Pet. June 6.
 GOMERSALL, JOSEPH, & JOSEPH BERRY, Carpet Manufacturers, Heckmondwike, Yorkshire. Com. Ayrton: July 1 & 29, at 11; Leeds. Off. Ass. Hope. Sols. Dean, Batley; or Bond & Barwick, Leeds. Pet. June 8.
 HEARN, WILLIAM JAMES, Draper, Snargate-street, Dover. Com. Goulburn: June 21, at 11; and July 23, at 11.30; Basinghall-street. Off. Ass. Pennell. Sols. Sole, Turner, & Turner, 68, Aldermanbury, London. Pet. June 4.
 HEATH, GEORGE, Builder & Contractor, Chesterfield. Com. Ayrton: June 23, and Aug. 2, at 10; Sheffield. Off. Ass. Brewin. Sols. Gratton, Chesterfield; or Unwin, Sheffield. Pet. June 8.
 JONES, JOHN, Draper, Wrexham, Denbighshire. Com. Perry: June 24, and July 10, at 11; Liverpool. Off. Ass. Morgan. Sols. Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool. Pet. June 1.
 PLATWANE, JOSEPH, Dealer in Prints, & Picture Frame Maker, 1, Carpenter's-buildings, London-wall. Com. Fonblanque: June 26, at 3; and July 24, at 1.30; Basinghall-street. Off. Ass. Graham. Sol. Smith, Circus-place, Finsbury, London. Pet. June 10.
 POWELL, PETER, Gun Manufacturer, & Ironmonger, Tonbridge. Com. Evans: June 20, at 11; and July 19, at 1; Basinghall-street. Off. Ass. Johnson. Sols. Sole & Turner, Aldermanbury. Pet. June 10.
 LEGG, MARTIN ST., Victualler, Bagnigge Wells Tavern, Bagnigge Wells-road, St. Pancras, Middlesex. Com. Goulburn: June 21, at 12; and July 23, at 1.30; Basinghall-street. Off. Ass. Pennell. Sols. Boulton & Sons, 21a, Northampton-square, London. Pet. May 9.
 WOOD, ALLEN, Woollen Cloth Manufacturer, Lindley, Huddersfield. Com. Ayrton: June 27, and July 24, at 11; Leeds. Off. Ass. Young. Sols. Gough, Huddersfield; or Simpson, Leeds. Pet. May 31.
 WOOD, JAMES, sen., Builder, Birmingham. Com. Sanders: June 14, and July 11, at 11; Birmingham. Off. Ass. Whitmore. Sols. Harrison & Wood, Birmingham. Pet. May 28.

FRIDAY, May 24, 1861.

AMES, GEORGE, Cattle & Sheep Salesman, Sibie Heddingham Essex. Com. Goulburn: June 24, at 12.30, and July 29, at 12; Basinghall-street. Off. Ass. Pennell. Sol. Mote, 23, Bucklersbury, London. Pet. June 11.
 ANDREWS, EDWARD RICHARD, Cattle Dealer, Littleton-upon-Severn, Gloucestershire. Com. West: June 24, and July 23, at 11; Bristol. Off. Ass. Acraman. Sols. Thurston, Thornbury, or Brooke, Smith, & Vassall, Bristol. Pet. June 1.
 BROWN, JOHN (BARKNESS), Draper, 125, Field-street, Liverpool. Com. Perry: June 26, and July 24, at 11; Liverpool. Off. Ass. Bird. Sol. Husband, Liverpool. Pet. June 11.
 COLLIER, JAMES, Top Maker, Menston, Otley, York. Com. Ayrton: June 27, and July 26, at 11; Leeds. Off. Ass. Young. Sol. Wood, Bradford, or Cariss, Leeds. Pet. June 8.
 COX, EDWARD, Tailor, 83, Warwick-street, Fimico, Middlesex. Com. Holroyd: June 25, at 3, & July 23, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Pook, 27, Basinghall-street, London. Pet. June 12.
 CUMER, JOHN, Cotton Waste Dealer, Hanover-street, Manchester. Com. Jemmett: June 27 & July 25, at 12; Manchester. Off. Ass. Pott. Sols. Slater & Myers, Manchester. Pet. June 11.

GEDDES, THOMAS, Draper, 48, Stafford-street, Liverpool. Com. Perry: June 26 & July 24, at 11; Liverpool. Off. Ass. Turner. Sol. Husband, James-street, Liverpool. Pet. June 11.

HARTLEY, GEORGE, Common Brewer, Sheffield. Com. Ayrton: June 29 & July 27, at 13; Sheffield. Off. Ass. Brewin. Sol. Fernell, Sheffield. Pet. June 12.

HEATHORN, THOMAS MARTIN, Brewer, Stafford. Com. Sanders: June 26 & July 19, at 11; Birmingham. Off. Ass. Kinnear. Sols. Girdwood, 14, Old Jewry-chambers, London, or Hodgson & Allen, Birmingham. Pet. June 13.

HIGGS, SOLOMON, Grocer & Provision Dealer & Corn Dealer, Darby End, Dudley. Com. Sanders: June 24 & July 15, at 11; Birmingham. Off. Ass. Kinnear. Sols. Homer, Brierley-hill, or E. & H. Wright, Birmingham. Pet. June 12.

HOBSON, GEORGE HENRY, Pump Manufacturer & Wholesale Ironmonger, 90, Upper Ground-street, Blackfriars-road, Surrey. Com. Evans: June 25, at 11, & July 25, at 12; Basinghall-street. Off. Ass. Johnson. Sols. Kidder & Willett, 22, Calthorpe-street, Gray's-inn-road. Pet. June 12.

HOLT, THOMAS, Retailer of Beer, Leeds. Com. Ayrton: June 27 & July 26, at 11; Leeds. Off. Ass. Young. Sols. Ferns & Rooks, Leeds. Pet. June 11.

JERRAM, ROBERT, Innkeeper and Cattle Dealer, Nottingham. Com. Sanders: June 27, and July 18, at 11; Nottingham. Off. Ass. Harris. Sols. Hawbridge & Heathcote, Nottingham. Pet. June 13.

LANGDALE, SAMUEL, Trimmer & Dresser of Hosiery, & Calenderer, Nottingham. Com. Sanders: June 27, and July 18, at 11; Nottingham. Off. Ass. Harris. Sol. Brown, Nottingham. Pet. June 10.

LEPTON, WADSON, HENRY, Licensed Victualler, Liverpool. Com. Perry: June 24, and July 15, at 12; Liverpool. Off. Ass. Turner. Sol. Dodd, Liverpool. Pet. June 10.

MELLOR, WILLIAM, Butcher and Cattle Dealer, Alderly, Chester. Com. Jemmett: June 19, and July 10, at 12; Manchester. Off. Ass. Pott. Sol. Bootle, Brown-street, Manchester. Pet. June 5.

PLATNAUER, JOSEPH, Dealer in Prints and Picture-frame Maker, 1, Carpenter's-buildings, London-wall. Com. Fonblanque: June 26, at 3; Basinghall-street. Off. Ass. Graham. Sol. Sydney, Circus-place, Finsbury, London. Pet. June 10.

TAYLOR, THOMAS & RICHARD BANKS, Cotton Manufacturers, Arlington-street-mills, Salford (Richard Jackson & Co.) Com. Jemmett: June 26, & July 17, at 12; Manchester. Off. Ass. Fraser. Sol. Storer, 89, Fountain-street, Manchester. Pet. June 12.

TURNER, JOHN, JUN., Licensed Victualler, 4, Little Ormond-street, Middlesex. Com. Fonblanque: June 27 and July 24, at 11; Basinghall-street. Off. Ass. Graham. Sol. Hand, 29, Coleman-street, London. Pet. June 12.

WICKENS, ALEXANDER & SAMUEL PALMER, Manufacturers of Ivory Black & Sacchara, and General Commission Merchants, Mark-lane, London, & at Seymour-street, Deptford, Kent. Com. Evans: June 27, & July 25, at 11; Basinghall-street. Off. Ass. Johnson. Sol. Elanell, 10, Lombard-street. Pet. April 5.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, JUNE 11, 1861.

BOTCHART, DANIEL WILLIAM, Leather Seller, & Shoe Mercer, 7, Wardour-street, Soho, Middlesex. June 28, at 11; Basinghall-street.—**COWARD, MARIA**, Grocer & Shopkeeper, Church Coniston, Lancashire. July 4, at 12; Manchester.—**GABRIEL, BENJAMIN WILLMOTT**, Cotton Spinner, Portwood and Hemphaw-lane, Stockport, Cheshire. July 10, at 12; Manchester.—**INGRAM, THOMAS LEWIS**, Merchant, Bathurst, River Gambria, Western Africa, 6, Moreton-place, Finsbury, and 54, Lupus-street, Finsbury, Middlesex. June 28, at 12; Basinghall-street.—**MCCLELLAN, JAMES**, General Merchant, Manchester. July 3, at 12; Manchester.—**MOULD, THOMAS FARMER**, Sudbury, Derbyshire. July 4, at 11; Nottingham.—**NICHOLSON, CHARLES**, EDWARD PASCALL, & WILLIAM STONE, Warehousemen, Cannon-street West. July 3, at 11; Basinghall-street.—**OLIVER, WILLIAM LEMON**, Stock, Share, and Mining Broker, 4, Austin-friars, London. July 3, at 11.30; Basinghall-street.—**ROBERTSON, JAMES BOLTON**, Draper, South Shields, Durham. July 4, at 12.30; Newcastle-upon-Tyne.

FRIDAY, JUNE 14, 1861.

BISHOP, DAVID WILLIAMS & JOHN FOX FARBRIDGE, East India Merchants, 69, Cornhill, London. July 9, at 1; Basinghall-street.—**EDGAR, THOMAS**, Gas Meter Manufacturer, 59, Great Peter-street & 39, Vincent-square, Westminster, Middlesex. June 26, at 12; Basinghall-street.—**HARRIETTE, GEORGE**, Skein Silk Dyer, 11, Weaver-street, Bethnal-green, Middlesex. July 9, at 1.30; Basinghall-street.—**HULLAN, JOHN**, Bookseller, St. Martin's-hall, Long Acre, Middlesex, & 5, Langham-street, Portland-place, in the same county. July 8, at 11; Basinghall-street.—**JENKINS, EDWARD THOMAS NASH**, Cigar & Snuff Manufacturer, 17, Victoria-park-square, Bethnal-green, Middlesex. July 5, at 11.30; Basinghall-street.—**MACHIN, THOMAS**, Contractor & Builder, Peterborough. July 5, at 11; Basinghall-street.—**NICROLL, JAMES**, & ROBERT FRAZER NORTH, Tallow Brokers, 27, Bishopsgate-street Within, London (Nickoll & North). June 26, at 1; Basinghall-street.—**NIEMANN, EDMUND JOHN**, Picture Dealer, 76, Newman-street, Oxford-street, Middlesex. July 9, at 11; Basinghall-street.—**NORTH, JOSEPH**, Carrier & Contractor, Montague-street, Brighton, Sussex. June 27, at 1; Basinghall-street.—**PRATT, ROBERT**, Bricklayer & Lime Burner, Great Yarmouth, Norfolk. June 26, at 3; Basinghall-street.—**WEBB, WILLIAM JAMES**, Hat & Rug Manufacturer, King Henry's-walk, Balls Pond-road, Middlesex. June 26, at 3; Basinghall-street.—**WEST, GEORGE**, Mast & Block Maker & Ship Owner, 265, Wapping, Middlesex. July 9, at 11; Basinghall-street.—**WESTBURY, JAMES**, Innkeeper & Publican, Gloucester. July 4, at 11; Bristol.

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s.; copies 1s. or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process.—ADV.

THE CHILDREN'S PHOTOGRAPHY.—Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary.—ADV.

SPECIAL NOTICE.

PELICAN LIFE INSURANCE OFFICE,
ESTABLISHED IN 1797,

No. 70, Lombard-street, E.C., and 57, Charing Cross, S.W.

DIRECTORS.

Octavius E. Coope, Esq.	Henry Lancelot Holland, Esq.
William Cotton, Esq. D.C.L., F.R.S.	William James Lancaster, Esq.
John Davis, Esq.	John Lubbock, Esq., F.R.S.
Jas. A. Gordon, Esq., M.D., F.R.S.	Benjamin Shaw, Esq.
Edward Hawkins, Jun., Esq.	Matthew Whiting, Esq.
Kirkman D. Hodgson, Esq., M.P.	M. Wyvill, Jun., Esq., M.P.

Robert Tucker, Secretary and Actuary.

BONUS.

All Policies effected on the Return System, and existing on the 1st July, 1861, will participate in the next Division of Profits, subject to such of them as have not then been in force for five years, being continued until the completion of that period.

LOANS

On Life Interests in possession or reversion: also upon other approved Security in connection with Life Assurance.

For Prospectuses, Forms of Proposal, &c., apply at the Offices as above, or to any of the Company's Agents.

STATE FIRE INSURANCE COMPANY.—Chief
Offices, 32, Ludgate-hill, and 3, Pall-mall east, London.

Chairman—The Right Hon. Lord KEANE, Stetchworth-park, New market.

Managing Director—PETER MORRISON, Esq.,

Capital, Half-a-Million.

18,926 new policies were issued during the year ending

31st of March, 1860, insuring	£6,829,918 6 3
New premiums for the year ending 31st of March, 1860.	23,476 8 0
Total premium income for the year ending 31st of March, 1860	41,760 5 1

The increase of Government duty paid by the State Fire Insurance Company in 1859, exceeded that of 29 other companies, while the increase upon farming stock insurances effected with the State Fire Insurance Company during the year 1859 exceeded that of 26 other offices.

This Company grants insurances against Fire on every description of property, both at home and abroad.

Plate-glass insured against breakage.

Agents Wanted, to whom a liberal commission will be allowed. Application to be made to the Secretary, 32, Ludgate-hill.

WILLIAM CANWELL, Secretary.

EQUITABLE REVERSIONARY INTEREST
SOCIETY, 10, Lancaster-place, Strand.—Persons desirous of disposing of Reversionary Property, Life Interests, and Life Policies of Assurance, may do so at this Office to any extent, and for the full value, without the delay, expense, and uncertainty of an Auction.

Forms of Proposal may be obtained at the Office, and of Mr. Hardy, the Actuary of the Society, London Assurance Corporation, 7, Royal Exchange.

JOHN CLAYTON, } Joint Secretaries.
F. S. CLAYTON, }

LAW LIFE ASSURANCE OFFICE, FLEET

STREET, LONDON.—23rd May, 1861.—NOTICE IS HEREBY GIVEN, that in conformity with the provisions of the deed of settlement, a General Meeting of the Proprietors of the Law Life Assurance Society, will be held at the Society's Office, Fleet-street, London, on Monday, the 24th day of June next, at Twelve o'clock at noon precisely, to elect an Auditor, in the room of William Henry Walton, Esq., who has resigned, to elect Six Directors, and one other Auditor, and for general purposes.

By Order of the Directors,

WILLIAM SAMUEL DOWNES, Actuary.

To Landowners, the Clergy, Solicitors, Estate Agents, Surveyors, &c.

THE LANDS IMPROVEMENT COMPANY is

Incorporated by special Act of Parliament for England, Wales, and Scotland. Under the Company's Acts, tenants for life, trustee, mortgagees in possession, incumbents of livings, bodies corporate, certain leasees, and other landowners, are empowered to charge the inheritance with the cost of improvements, whether the money be borrowed from the Company or advanced by the landowner out of his own funds.

The Company advance money, unlimited in amount, for works of improvement, the loans and incidental expenses being liquidated by a rent-charge for a specified term of years.

No investigation of title is required, and the Company, being of a strictly commercial character, do not interfere with the plans and execution of the works, which are controlled only by the Enclosure Commissioners.

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Owners in fee may effect improvements on their estates without incurring the expense and personal responsibilities incident to mortgages, and with out regard to the amount of existing incumbrances. Proprietors may apply jointly for the execution of improvements mutually beneficial, such as a common outfall, roads through the district, water-power, &c.

For further information, and for forms of application, apply to the Hon. WILLIAM NAPIER, Managing Director, 2, Old Palace-yard, Westminster.

REPLIES TO ADVERTISEMENTS.

In connection with the advertisement department of this journal an agency for the above purpose is now established. Charge for receiving and forwarding replies in town or country, 6d. in addition to the necessary postages. Replies to advertisements inserted in the Journal will be received and forwarded at the cost of the postage. A registry is also kept at the office, of situations vacant and wanted, money to lend or wanted, properties to let, and sales by auction advertised in the Journal, and other matters useful to the profession, information of which will be given without charge. Advertisements sent to the office through the regular agents will receive the same care and attention.

ALMANACKS.

The Publisher has a few of the Almanacks of this year remaining on hand, which may be had gratis by principals or their managing clerks, on sending their cards to the office.

We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

THE SOLICITORS' JOURNAL.

LONDON, JUNE 22, 1861.

CURRENT TOPICS.

The Attorney-General's eagerness to complain of the treatment which the Bankruptcy Bill had suffered in the House of Lords was injudicious, although not unnatural. The alterations made by the Select Committee were necessarily accepted by the Lord Chancellor in the Upper House, because defeat was inevitable if he had resisted them. But it remains to be seen what course the Government will pursue in the Lower House when the Bill comes again before it. As regards the appointment of a chief judge, it cannot be denied that the opinions expressed against it are of great weight. Lord Wensleydale thought that never before had there been a proposal to create so unnecessary an office. It should not be forgotten that the list of appeals in Chancery is very light, and that the courts both of the Lord Chancellor and of the Lords Justices remained closed on Thursday and Friday of this week, being the first two days of the present sittings. In the face of this fact it seems difficult to contend that the Lords Justices will not have time to dispose of all appeals in bankruptcy. It would be very undesirable to see the fulfilment of the prediction of Lord Overstone, that when the novelty of this appointment should have worn away, it would assume the character of a job. The adoption of the proposal for this appointment by the House of Commons is an instance of what has been remarked before, that that House has now a tendency to extravagance quite as strong as was its disposition in former times to parsimony. Those who desire to preserve the efficiency of the judicial bench against indiscreet economists will do well to be equally on their guard against any plan which involves unnecessary expenditure. By moderating the hot fit they may gain influence which will be useful when in turn the cold fit comes. In this view we think that the almost unanimous decision of the Committee and the strong opinions uttered in the House deserve the serious attention of all who wish to see the Bill passed in a useful shape. We think, also, that Lord Overstone is right in saying that this Committee would not have lost credit if its proceedings had taken place in public. It seems to have bestowed a great deal of labour upon the Bill, and to have acted in general with impartiality; but, of course, the Committee as well as the House is open to the imputation of a tenderness for nontraders in embarrassed circumstances, which is not felt in the great circles of society.

The *Times* City article of yesterday contains the following statement in reference to the alterations made in

the Bankruptcy Bill by the House of Lords:—"The committee of the Mercantile Law Amendment Society have issued their report upon the alterations made in the Bankruptcy Bill by the House of Lords. It deplores the loss of the chief judge, and of those clauses which enabled the creditors to take the realization of a bankrupt's estate out of the hands of the official assignee, and give it to agents selected by themselves. The committee express their opinion that unless the creditors' assignee clauses are restored, the Bill had better be rejected. A petition is now in course of signature and has already been most influentially signed, asking the House of Commons to restore most of the provisions in the Bill which were struck out by the House of Lords."

An occurrence at Baltimore affords a practical demonstration that, in America, law has given place to arms. A respectable inhabitant of Maryland was arrested by military force, and imprisoned in a fort. The charge against him was that he had assisted to burn the railroad bridges at the time of the outbreak in Baltimore. It appears that he had done this at the command of the constituted authorities. "In order to test the question whether any law existed in the country," the Chief Justice of the Supreme Court of the United States came to Baltimore, and issued a writ of *habeas corpus* directed to the general in command of the army of occupation. We regret to have to state that the result of this experiment was unsatisfactory. The general sent to say that he could not obey the writ; and thereupon the Chief Justice issued an attachment against the general, which necessarily remained unexecuted. The only resource of the Chief Justice was to proclaim to an excited audience the glorious principles of Anglo-Saxon liberty—with great effect, as it seems, upon the writer who describes the scene, but with no effect at all upon the general. The Chief Justice declared that his marshal could legally summon a *posse comitatus* to arrest the general; but he was wise enough to see that the army of occupation—whatever may be its military deficiencies—would be a grievous overmatch both for the majesty and the myrmidons of the law. The Chief Justice further declared his intention to call upon the President to enforce the law according to his inauguration oath. The unfortunate President will be a man of singular forbearance if he does not answer the Chief Justice to the effect that he may protest and go about his business. Perhaps this "able assertion of principles" by an eminent American lawyer of fourscore, may console us when next we have to listen to the unseasonable loquacity of some of our own great but waning legal luminaries. The most dignified course for the Chief Justice of the United States would be to pack up his writs and his books and betake himself to some quiet place until the violence of war be mitigated. If he be so old and so wise as he is reputed, he ought not to be ignorant that *inter arma silent leges*. It will be well if, where arms have been placed in the hands of Irishmen and Germans, the voice of the law shall regain its influence even when those arms are or ought to be laid down.

The courts of equity recommenced their sittings on Thursday, the 20th inst. Of the causes and other matters down for hearing before each Court, comprising the arrears remaining at the rising of the Court on the last day of Trinity Term and the causes since entered, there are—

Before the Courts of Appeal	9
" Master of the Rolls	77
" Vice-Chancellor Kindersley	51
" Vice-Chancellor Stuart	74
" Vice-Chancellor Wood	101

Making a total of 312 causes and other matters.

As a proof that in some branches of the Court, at least, there is likely to be ample occupation until the

long vacation, we may mention that Vice-Chancellor Wood devoted the whole of Thursday and Friday to hearing motions, sitting each day until after four o'clock; and on Friday evening several pressing motions remained undisposed of, standing over to the next seal. It is obvious that the difficulty of getting motions heard in this branch of the Court, operates to create a sort of monopoly of business in the hands of counsel whose standing at the bar entitles them to move early in the day. This serious evil, no doubt, arises from the reputation which Sir W. P. Wood enjoys, and from the consequent desire to bring before him a great number of motions for injunctions in railway and patent and other important cases. Such cases are, of course, entrusted to leading counsel, and they necessarily occupy a good deal of time; and as his Honour usually declines to abridge his cause days by extending the seal beyond one, or, on rare occasions, two days, it follows that smaller motions by smaller men find great difficulty in getting made at all. We think that this long delay of motions, and the repeated attendances in court which it occasions, is no small drawback to the efficiency of the court in which it occurs. It is, however, far easier to point out the evil than to suggest a remedy.

A correspondent of the *Daily News* writes under a natural feeling of indignation at getting a letter from a sheriff's officer announcing that he had authority to distrain upon the writer's goods for the amount of a fine imposed on him for non-attendance as a juror at the quarter sessions. It appears that the writer had been summoned to attend at Maidstone on the 11th of April. On the 9th, being laid up with violent influenza, he obtained a certificate from his medical attendant and sent it by post to the clerk of the peace. It does not seem to have occurred to him that the law which prescribes the attendance of jurymen at sessions and assizes is much older than the institution of the post. The clerk of the peace might very reasonably object that the duty of receiving and deciding upon the genuineness and sufficiency of such certificates is not a duty which he undertakes, and for the discharge of which he is remunerated. The writer of the letter thinks that nothing can be easier than to attend to it. The recipient doubtless murmurs at an unauthorised invasion of his precious time. The law which must decide between them is not so absurd as to say that a jurymen shall appear in person to state that he cannot come; and, on the other hand, it does not allow personal attendance to be as a matter of course avoided by merely sending a certificate of indisposition. The writer complains not only of the threat of distress in his own case, but also in that of an officer of volunteers, who was on duty at Hythe at the time of the quarter sessions. It does not appear that in this case either the clerk of the peace, or any other functionary received a letter, but it seems to be expected that the Court should take a sort of official notice of the fact, as one known to all the world, that Mr. So-and-So was serving his country at Hythe. The writer's own case may be a very proper one for remission of the fine, but we can scarcely join in his complaint of the want of notice that it had been inflicted. Probably this may have been his first discovery of the truth that authority commits many violent acts, even in a free country.

MARITIME PUBLIC LAW—CONTRABAND OF WAR— LAWS OF BLOCKADE.

No. II.

The general freedom of neutral commerce does not admit of dealings with the enemy as to contraband of war. These articles are warlike instruments, or *matériel*. It is hard to enumerate the articles which may be so termed. The quality of the port—whether it be a mili-

tary or a commercial one—to which the doubtful goods are bound, affords an element for determining their nature, as contraband or not. Even provisions have been sometimes considered as contraband during a siege, or a straitness of provisions. Thus in 1793 England issued a declaration that she would consider the sending of provisions to France as a dealing in contraband. Great Britain rested this ordinance upon two grounds—the probability of reducing the French by famine, and her own scarcity of these articles. The ordinance, however, directed that the invoice price, with a reasonable allowance for freight and demurrage, should be given to the owners. This adjunct shows that provisions cannot properly be deemed contraband, unless in very special cases; since, whenever articles may be confiscated as contraband, no equivalent need be given for them. Provisions, indeed, may be confiscated, when an attempt is made to introduce them into a besieged city. But the reason for this rule is, that such an attempt is a violation of the laws of blockade. It appears thus that provisions ought not to be included in the general category of contraband. An article must be contraband *in se* to afford ground for prohibition or confiscation; any other principle applied to determine what is contraband and what is not, might exclude all belligerent trade with neutrals. A full indemnification, both for the loss of a market and every other inconvenience was granted by Great Britain to those American citizens who had suffered loss by the Order in Council of April, 1795, which, as we have stated, included provisions in the list of contraband. The British Order in Council of the 24th of April 1854, restricts contraband articles to the three following classes: 1st, gunpowder, saltpetre, and brimstone; 2nd, arms and ammunition; and 3rd, marine engines and boilers and the component parts thereof.

A neutral ship carrying the despatches or soldiers of the enemy is liable to confiscation by the other belligerent, even though the master had been compelled to do so by force, or had been ignorant of the character of such passengers or despatches. Any other rule would afford unlimited facilities for fraud upon belligerents. Force or ignorance will, however, entitle the master to compensation from the enemy's government. See Robinson's *Adm. Reps.*, vol. 6, p. 430, *The Orozembo*; and p. 440, *The Atalanta*. The carrying of despatches is thus more severely punished than a trade in contraband, the prohibited articles alone, and not the ship, being in the latter case confiscated. The despatches of an ambassador or other public minister of a belligerent, as also letters posted in the ordinary course, are not comprised in the category of enemy's despatches. As, notwithstanding the adoption of the maxim "Free ships, free goods," the right to search for contraband still continues, it is advisable that the list be diminished as much as possible. Hitherto, the subjects of neutral states have not been prohibited by their governments from carrying contraband—they do this at their own peril. It would be eminently desirable that all occasion for search should as far as possible be removed, either by a thorough alteration of the law of contraband, or by a prohibition on the part of each neutral government against such trading. The right of search may, in the present liberal tendencies, be the more easily limited in its range, inasmuch as the right to search for the purpose of impressment has never been claimed to be exercised for its own merits, but only as incidental to the right of search for enemy's goods or for contraband. A search may, indeed, under any code be necessary to inquire as to breaches of blockade; but such causes for search can only rarely occur, as, if the offending vessel be not at once captured, the subsequent ascertainment of her identity would be well nigh impossible.

As to breaches of blockade we need not offer many observations. To constitute such an offence, three things must be proved—first, the existence of an actual block-

ade; secondly, the knowledge of the alleged offender; and thirdly, the act of violation. The recent declaration of the United States, that all the ports of the Confederate States are to be deemed blockaded, appears to be wholly unwarranted either by the general law of nations, or even by the purport of any treaty; for the former states have stationed no marine force along the coasts of the Confederate States, that bears any proportion to the requirements of such a blockade. A neutral ship departing from the place blockaded, can only take away a cargo *bonâ fide* purchased and delivered before the commencement of the blockade. It cannot in any way assist the exportation of the property of the enemy, except by the interior canal navigation of the country. The legal blockade is thus only co-extensive with the actual investment of the place. The offence of violating a blockade continues to be punishable until the end of the return voyage of the vessel, provided that the blockade continues down to that time. The laws of blockade were, a few months ago, the subject of diplomatic communication between the British and United States Governments. The latter government was then opposed to the proposition that private property on board belligerent vessels should be free, but, somewhat inconsistently, disapproved of blockades in the case of commercial ports, unless these should be at the same time besieged by land. The same government likewise declared that it considered all attempts to interrupt trade by a blockade, or to blockade commercial ports, to be abuses of belligerent rules. This is part of the general question as to the pressure which war should be allowed to exercise upon maritime trade. The influence of war in this respect should, doubtless, be restricted as much as possible. But an alteration of the present laws of blockade would be almost futile, unless merchant ships upon the ocean could be free from capture.

As long as the right to seize merchant vessels, private property, or contraband of any kind, is permitted, the right of search follows as a natural consequence. It may be necessary to ascertain whether a neutral flag be not assumed for the purpose of escape by a vessel really belligerent. Resistance to search by a neutral convoy, or a neutral master, subjects all the fleet and merchandise to capture; but such resistance by a hostile master does not affect the neutral property on board. The American courts have decided that a neutral has a right to carry his goods in an armed enemy's vessel, and would probably allow a right to do so even under a hostile convoy. *The Neride*, Cranch's Rep. vol. ix. p. 380. The English courts have held that in both cases alike the neutral property may be confiscated. *The Fanny*, Dodson's Adm. Rep. vol. i. p. 443. The right of visitation for the purpose merely of ascertaining the nationality or non-piratical character of a vessel, can never be wholly abrogated. Neither can this right of visitation be confined to the cruisers of the nation whose flag is hoisted by the suspected craft. All states, whether great or small, and whether with or without a navy, are equally independent of each other. If the right of visitation, therefore, were confined to the cruisers of the alleged nation of the suspected vessel—a proposition earnestly advocated by Americans—the consequence would be, that a pirate had only to hoist the flag of Lubeck or Monaco, or of some other equally insignificant place, and so escape capture. The right of visitation, however, is easily distinguished from the right of inquisitorial search; and no argument for the continuance of the former can be used in favour of the illiberal policy of maritime search and captures.

The resolutions of the Paris Congress of 1856 were as follows:—

"1. Privateering remains abolished.

"2. The neutral flag covers enemy's goods, with the exception of contraband of war.

"3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag

"4. Blockades, in order to be binding, must be effectual; that is to say, maintained by a force sufficient wholly to prevent access to the coasts of the enemy."

America was not a party to these resolutions. Complications of a most intricate nature are, therefore, likely to arise in the present American civil war from this conflict of laws, as also from the fact that the northern states regard the confederated states as rebels and pirates, and may treat them, or persons in their service, as such, and not give them, as we do, the rights of belligerents. The Confederate States have, in the present war, proclaimed that "free ships will make free goods." The United States have not done so, and, not having signed the Paris declaration, they are only bound by the rule stated as regards those nations with whom they have expressly entered into such a stipulation by treaty. The ships of these nations will not, therefore, be searched by the enemies of the United States for enemies' property, while, according to the law of nations, ours may, as we have no treaty rights with the United States in contravention of the international rule.

England and France have resolved to treat the Confederate States of America as belligerents, and not as pirates, in their present contest with the United States. This course is founded upon the general rule of international law, stated *ante*, p. 554, which cannot allow foreign nations to entertain any question relating to the justice of the cause of either of the belligerent parties. Their position as such *de facto* towards each other gives them a status *de jure* as regards foreigners. The Greeks and the Spanish colonists of America have been treated by us as belligerents; and, certainly, the Confederate States have quite as good a claim to such a status as the countries mentioned. Both England and France have prohibited their subjects from accepting letters of marque from either of the American belligerents, or in any way taking part in the warfare. Both the belligerents are prohibited from bringing prizes into British ports. They may bring them into French ports for twenty-four hours, but cannot sell them there, except clandestinely. We fear, however, that this prohibition against sale is in many cases likely to be rendered nugatory.

The American Government, notwithstanding their previous very liberal tendencies, were unwilling, in 1854, to consent to the abolition of privateering, unless maritime captures of private property were likewise prohibited. We altogether concur with the views of the United States in this respect. America herself illustrates the soundness of the conjoint proposition. That country has a small navy in proportion to her merchant marine. In the event of a war arising between her and Great Britain, whose navy is many times greater than that of America, the latter country would, if privateering were abolished, be precluded from resorting to her merchant marine. Such a policy would entail upon that country, and upon all others similarly circumstanced, the necessity of having large naval establishments even in time of peace. As the foreign commerce of the States is nearly equal to that of Great Britain, the former country would also, in the contingency proposed, find her merchant ships placed in great danger during a war, not only with a first-rate, but even with a second-rate naval power, owing to the fact that American ships are to be found everywhere, and consequently, present many facilities for attack that a less commercial nation does not. The system of privateering, however, prevents such anomalous and undesirable results. Moreover, in point of principle, the capture of private property at sea by an armed cruiser does not appear to be one whit less objectionable than the same act done by a privateer. The objection to privateering is professedly founded upon the principle that the private property of unoffending enemies ought to be exempted from capture. This prin-

ciple, however, would be but ill, if at all, aided by the abolition of privateering, unless private property was also protected from attack by national ships of war. If the system of levying a contribution upon merchant ships of the enemy intercepted at sea were substituted for privateering, it would, doubtless, be in itself a great improvement, as well as a step towards the assimilation of belligerent rights by land and by sea. Such a compromise of international disputes is, perhaps, the most that is likely to be realized for some time to come.

The present state of the law of belligerent rights at sea, as settled by the Paris treaty of 1856, suggests considerations of a very serious nature. The Paris Congress has declared that in future "Free bottoms make free goods," or, in other words, that "the flag shall cover the cargo." Let us now consider the results of this international law with respect to England in time of peace—and in time of war. When England is at peace, and other nations are at war, the obvious tendency of this law is to cast the carrying trades of the belligerents into the hands of those maritime nations who offer the best terms and advantages. It may be expected, therefore, that in such circumstances England will obtain a fair, if not the lion's share, of this commercial spoil. Before we consider the effects of the Paris declaration of 1856 upon the trade of England in time of war, let us examine the operation of the law prior to that period. Such a review may help us in forming an estimate of the changes effected in 1856, as also in arriving at some further development of international ethics, which may be more consistent with general, as well as with British interests. Before the year 1856 the cargoes of belligerents were carried in national or neutral ships almost indifferently, since such goods could be seized under any flag. The belligerent which had a command of convoys suffered comparatively little injury. But the risk or cost of insurance sustained by the weaker maritime nation, disabled it from entering into competition in foreign markets with its former rivals; its ships were laid up in port, and its commerce was extinguished. The international code prior to 1856 was thus eminently favourable to Great Britain when engaged in war. It left her almost unaffected by its existence, while it operated to depress the enemy. But the effects of the present law are just the very reverse of the former state of things upon the commercial interests of England, when once she becomes involved in war. She cannot now, as heretofore, destroy the export trade of the enemy, as the latter can avoid all risk by embarking his goods on board the ships of neutrals, while British ships will be avoided even by our own merchants. Thus, though a sufficient convoy may be had for the most urgent necessities of British trade, the foreign carrying trade of Great Britain is at once damaged more or less seriously, and all shipping interests thrown out of order, more or less in proportion to the maritime strength of the enemy. Moreover, as England possesses the largest mercantile marine of any nation, the present state of the law must, *ex necessitate rei*, inflict greater injury upon her than upon any rival. There is, however, a moral executive in nature, and a nation seldom foregoes a national advantage from a laudable and sufficient motive, without receiving, after some days, the bread which it has thus cast upon the waters. In the first place, this depression of shipping interests causes an excess of hands beyond the demand, and, consequently, facilitates the manning of the navy. In the next place, while the enemy's ships are almost all shut up in port, British ships can still continue to trade, though at a disadvantage as compared with neutrals, and thus afford a constant source of supply for the requirements of the navy. These, however, are only partial compensations for the general loss, which the present state of the law tends to inflict. The shipping committee of last year recommended that all private property at sea should be respected during war. Lord Clarendon's opinion, however, was adverse to such

a proposition; and the result has been a postponement of the question.

The question of belligerent rights at sea is of especial importance to a maritime nation, whose resources in war depend chiefly on its navy. Such a power, if it have great maritime strength, possesses much greater facilities than a military power of equal rank for crippling the trade of its opponent, especially if this latter country is to any great extent dependant upon imports which are conveyed to it from distant countries by sea. In such a case a hostile navy is an effectual executive for the enforcement of decrees of a Berlin nature. These can be evaded with comparative ease so far as traffic by land is concerned, as experience sufficiently shows. Public opinion in this country seems inclined to adopt the principles recommended by the Shipping Committee of last year, and to suffer all ships, as well as all goods, on the high seas in time of war to pass free. It is quite possible that so complete a carrying out of the principles involved in the Paris declaration of 1856 might actually restore the old advantages of England, just as equilibrium is maintained by subtracting a weight from *both* scales. Our fiscal resources would continue almost unaffected by war. The question, however, is one fraught with difficulties. If merchant ships are to pass free in all cases, then a number of war vessels may assume a peaceful character, and so surprise the antagonist state, or they may contain arms and ammunition. Notwithstanding these obvious impediments to the practice of so liberal a commercial policy in time of war, nevertheless, we think that the weight of argument favours the adoption of the recommendations of the committee. An assumption of a mercantile character by a vessel of war might be prohibited by the laws of all nations, and punished by them; and thus an abuse of the new maritime code prevented. A search for stores of a military nature may also continue to be authorized without much inconvenience to trade. With these qualifications, we think that the propositions of the Shipping Committee may be viewed favourably. The legal complications arising from the present state of the international code, which we have endeavoured succinctly to describe in these papers, can, it is obvious, be precluded only by the declarations of a general congress of the representatives of European and of American states. The necessity that exists for such an Amphictyonic gathering cannot be exaggerated or denied. We may, therefore, look forward to the immediate assembling of such an international federation.

CHANCERY PRACTICE.—ENFORCING DECREES AND ORDERS.

Among the many changes effected in the practice and course of procedure in the Court of Chancery during the last twenty years, real improvement is, perhaps, nowhere more discernible than in the practice which now regulates the enforcement of decrees and orders. The following quotation from Lord Bacon's Ordinances presents an illustration of the practice which obtained from 1618 to 1841. "In case of a decree made for the possession of land, a writ of execution goeth forth, and if that be disobeyed, then process of contempt according to the course of the Court against the person to commission of rebellion, and then a serjeant-at-arms by special warrant, and in case the serjeant-at-arms cannot find him or be resisted, upon the coming in of the party and his commitment, if he persist in disobedience, an injunction is to be granted for the possession, and in case that also be disobeyed, then a commission to put him in possession." (See Beames' Orders, p. 6.) Moreover it appears from the old books of practice that formerly no decree of the Court could be enforced until it had been enrolled. When this requirement ceased we are not aware. But in August, 1841, the writ of execution, the writ of attachment with proclamation, and the commission

of rebellion, were abolished, and a most important principle was introduced. It was then ruled by general order that a person required by any decree or order to do any act, should, upon being duly served with the decree or order, be bound to do such act in obedience thereto. However, until March, 1859, in all cases where payment of money or delivery of property by a party to a party was directed, the party enforcing the decree was required to prove, not only service of it, but also demand and refusal to obey it. Since March 1859, the demand has also been dispensed with. Again, previously to 1857 a distinction was made between orders in "causes" and orders in "matters" involving, in practice, a far more complicated, dilatory, and expensive course of procedure in "matters" than was necessary in "causes." In July, 1857, that unnecessary and useless distinction was likewise removed. Thus, in enforcing the decrees and orders of the Court, less complicated and expensive and more speedy remedies have been provided.

We think, however, that there are still some cases in which these results have not yet been fully attained, and that the principle to which we have referred may be usefully extended to such cases. At some future time we shall notice to some of such cases. On the present occasion we can only refer to and urge the more extended application of an improvement recently introduced. We allude to the practice under which payment of an amount ascertained upon taxation of a solicitor's bill may now be enforced. Formerly in such cases a remedy by attachment was not available, the order being intitled in a "matter." The only remedies available were by order for committal or by *fi. fa.* or *elegit*. And it appears from Appendix C., to the third report of the Chancery Commissioners (1856) that the remedy by committal involved the previous personal service of the taxing master's certificate, and demand of the amount found due, and the obtainment of three orders, two upon motion, and one *as of course*. And that the remedy by *fi. fa.* or *elegit* required that an order be obtained directing payment of the amount found due, and that one month must have elapsed from the date of the entry of such order before execution could be issued to enforce payment. It is obvious that delay and increased expense were the consequence of these requirements. And we remember cases in which compliance with such requirements imposed upon the parties additional payments of large amount. In one case nearly £20 was the amount of the taxed costs of the proceedings taken for the purpose of enforcing payment of the amount which had been previously found due by the taxing master. But during the last two years such inconveniences have been altogether avoided, simply by introducing into the order of reference, after the direction that the amount found due "shall be paid accordingly," the following words:—"within—(a specified time) after service of this order and of the taxing master's certificate to be made in pursuance hereof." Thus enabling parties to enforce payment upon proof of service of the documents specified in the order of reference, and thereby giving a remedy immediate upon the ascertainment of the amount and binding the parties to obedience upon service of the first order,—a course of procedure in perfect harmony with the principle introduced in August, 1841, and applicable, we think, to all cases where costs are ordered to be taxed and paid personally. And we suggested such an assimilation of the practice, chiefly, that, in the analogous cases referred to, the practice may be made to harmonize with the principle upon which the decrees and orders of the Court are now enforceable.

We think, too, that where the Court, under the authority of Rule 37 of Order 40 of the Consolidated General Orders, p. 136, in awarding costs, directs payment of a sum in gross in lieu of taxed costs, and directs by and to whom such sum is to be paid, and payment of which may be enforced by process, there payment should be enforced not by subpoena, but in like manner as payment of money is enforceable. We are aware that orders specifying the amount of costs payable

are sometimes enforced in the manner suggested; but we believe that in some instances, especially where a time for payment is not limited by the order, a subpoena is issued, and simply for the reason that the amount specified in the order is for "costs." But it appears to us that a subpoena for costs ought not to issue in any case where the amount of costs payable is specified in the order, the requisite authority for sealing the writ not being producible. For "on a subpoena for costs, being sealed, the taxing master's certificate shall be produced to the officer sealing the writ, as his authority for sealing it" (see Rule 1 of Order 38 of the Consolidated General Orders, p. 88.)

If it be objected that demand is necessary, we reply that we do not see why it should continue to be so. The rule of Court now dispenses with the demand in cases of money. And why may not costs be regarded as money? Moreover, the subpoena for costs is a writ in the nature of a writ of execution. It gives notice, under seal, of the requirement of the Court, and binds the party to obedience. And it is founded on the same principle as the writ of execution was founded, viz., that disobedience to the mandate of the Sovereign under seal alone constitutes a contempt. Hence we find it stated in one of the old standard books of practice, that "the party is not in contempt till he disobeys the order which commands him to pay costs, and by consequence he must have notice of that by a subpoena (see "Gilbert's Forum Romanum," p. 68). By the 10th of the General Orders issued in August, 1841, (now comprised in Rule 4 of Order 30 of the Consolidated General Orders, p. 24,) the writ of execution was abolished, and it was laid down as a general principle that default upon service of the order should bind the party to obedience and afford a sufficient foundation for process of contempt. We have shown that the principle has already been applied to some cases of "costs," and we think that its extension to other cases of "costs" would be equally in harmony with Rule 4 of Order 30.

But we do not propose the abolition of the subpoena for costs. The writ may be required in the cases mentioned in Rule 38 of Order 40 of the Consolidated General Orders, p. 136, under which the taxing master may tax without any order of reference, and there may be other cases not now present to our recollection, in which the subpoena may still be useful or necessary. We merely suggest that the salutary improvement already introduced into the practice, should be extended to all cases where costs are ordered to be taxed and paid personally.

Parliament and Legislation.

HOUSE OF LORDS.

Tuesday, June 18.

BANKRUPTCY AND INSOLVENCY BILL.

On the motion for the third reading of this Bill, Lord BROUGHAM expressed his earnest hope, that whatever difference of opinion might exist on the subject, the amendments which had been made in the Bill would be accepted by the other House.

The Earl of DERRY: I also hope that a Bill upon this important subject, so long desired by the great body of the commercial community, may pass into law in the present year. The Bill came back from the select committee with considerable alterations, but without any interference with its main principle. The amalgamation of bankruptcy and insolvency; the doing away generally with the distinction between traders and non-traders; and the extension of bankruptcy jurisdiction to county courts; being the three material points, the Bill had come back from the committee without alteration. Now, as this is a Government Bill, and as the Government have accepted in this House every amendment made by the select committee, I think I am entitled to ask whether it is their intention to use the influence which undoubtedly they possess with their col-

leagues in the other House, and to secure their support and acceptance of the amendments which have been introduced in this House. If, however, the noble earl is not able to give me this assurance, I hope he will state that the objections of the House of Commons to any of these amendments shall be sent up to this House in time to give us an opportunity for the full consideration of any such changes. I do not wish to anticipate that that is the intention of the Government; but I hope the noble earl will be able to say that the Government will accept the Bill as it stands, and will recommend the acceptance of it by the House of Commons, so as thereby to terminate this discussion by the passing of a measure which in the main will, I believe, be very acceptable to all classes of the mercantile community, though there may be a difference of opinion with regard to some of its contents.

EARL GRANVILLE said the noble earl had asked him to assure the House that the Government would adopt the Bill as it now stood, and would press its acceptance upon the House of Commons, and if any alterations were made in the other House that the Bill should be sent back to this House at an early period. Now, it was impossible for him to give such an assurance. The noble earl said that the Government had accepted the alterations made in this House. They had certainly accepted them to this extent—that they had not abandoned the Bill owing to their having been made. No one could be more anxious than the Government were that a Bill should be passed in the course of the present session on this important question. With regard, however, to the assurance which he had been asked for, he could not say more than that the Government would carefully consider the altered state of the Bill; that they would accept it if they deemed it for the public advantage to do so, but that if alterations in it were made by the House of Commons they would endeavour to send it back to this House as quickly as was consistent with the due course of public business.

LORD OVERSTONE said, I will simply say that, in my opinion, by the changes made by the select committee the measure has been materially improved; and, from what I have been able to ascertain of the feeling of the country on the subject, I may venture to say that a large majority of the community are prepared to accept the Bill in its present form as a satisfactory measure, from which they may expect to derive many, if not all, of the beneficial results they are anxious to obtain; and if the Bill should miscarry in the other House of Parliament, through want of faithful support from the Government, I think it will be a great calamity.

LORD LYVEDEN thought the Bill had been altered in the committee very beneficially. On the question of the chief judgeship he had had every wish to support the Government; but, having attended to the matter fairly, he must say he had not heard the shadow of an argument in favour of the appointment of a new judge. Nothing was said in favour of it, and the decision against the proposal was not only that of the majority of the committee, there was nearly unanimity; and it appeared to him to be one of those things in which the House of Commons would hardly venture to say they would be more extravagant than the House of Lords. They had lately been dealing rather extravagantly with the public money, but, as no law lord and none of the lay lords had supported the creation of the new judge, he thought it would be an ungracious act on the part of the House of Commons to attempt to restore it. He hoped her Majesty's Government would give way on the point.

THE LORD CHANCELLOR said, on the subject of the chief judgeship, I must declare that in that respect I think the Bill has been mutilated and deteriorated. But in my opinion the functions assigned to the chief judge cannot be executed without the addition of a judicial power. I believe the appointment of a chief judge would have passed the select committee but for the opposition from a quarter for which I have great respect. Many functions are allotted to the chief judge which cannot be performed without additional judicial strength, and I believe it will be a very great improvement if the chief judgeship is restored.

LORD CRANWORTH and **LORD WENSLEYDALE** were of opinion that a chief judge was unnecessary.

This Bill was then read a third time and passed.

Friday, June 21.

THE CONSOLIDATION OF THE STATUTES.

LORD BROUGHAM, taking advantage of allusion to the subject by the Lord Chancellor, strongly expressed his sense of the

un advisability of discussing a legal Bill in the House of Commons, clause by clause, after it had been carefully prepared by professional men.

HOUSE OF COMMONS.

Monday, June 17.

ACCESSORS AND ABETTERS BILL.

This Bill was read a third time and passed.

CRIMINAL STATUTES REPEAL BILL.

This Bill was read a third time and passed.

WILLS OF BRITISH SUBJECTS ABROAD. CONCENTRATION OF COURTS.

The ATTORNEY-GENERAL obtained leave to introduce the following Bills:—

1. Bill to amend the Law with respect to the Wills and Domicile of British Subjects dying in Foreign Countries, and of Aliens dying whilst resident within the United Kingdom.

2. Bill or Bills to provide for the concentration in one place of all the superior courts of law and equity, including the Courts of Admiralty, Probate, Divorce, and Bankruptcy, and the offices connected with such courts, and for the application of certain funds in the Court of Chancery in the purchase of a site for such courts and offices, and the erection thereof.

Thursday, June 20.

THE BANKRUPTCY BILL.

In reply to Mr. VANCE,

The ATTORNEY-GENERAL said that he had neither had an opportunity of fully considering the Lords' amendments on the Bankruptcy Bill nor of submitting the question to the Government. He thought that a certain time should be allowed to form an opinion on the nature of the amendments, which, as the House was aware, were discussed in a secret committee of the other House. Under these circumstances he could not fix a day for the consideration of the subject, but it would be as early as possible, and he assured the House that he would be guided on this question solely by views of public expediency.

Recent Decisions.

EQUITY.

DISPLACEMENT OF SOLICITOR-TRUSTEE AGAINST HIS WILL.

Re Blanchard, L. J., 9 W. R. 647.

This was an attempt to displace a trustee desirous of continuing in the trust, on the ground of alleged misconduct. The decision shows that such an attempt cannot be made successfully under the Trustee Act. The only section of that Act under which there might appear to be any prospect of success is the 32nd, which enacts that "whenever it shall be expedient to appoint a new trustee or new trustees, and it shall be found inexpedient, difficult, or impracticable so to do without the assistance of the Court of Chancery, it shall be lawful for the said Court, &c." Lord Justice Turner thought that the language of this section, although very general and extensive, was not adapted to the case before him. At the time when the Act was passed, every trustee had the right to have his accounts taken in court in the presence of all the parties interested, and to have any balance which might be found due to him on the result of the accounts paid, before he was denuded of the trust estate; and except so far as recent legislation may have altered the case as to parties, every trustee has still this right. The Act does not profess to alter the rights of trustees in this respect. Upon this ground the Lord Justice considered that the Act gave no power to remove the trustee, and, therefore, the Court did not enter into the question of his alleged misconduct.

The trustee in this case being a solicitor, a further attempt was made to accomplish his dismissal by calling upon the Court to act in exercise of its general jurisdiction over its officers. But Lord Justice Turner said that the Court would exercise that jurisdiction "only in respect of acts done by a solicitor in that character, or in some relation immediately arising out of it." In the case of *Re Aitkin*, 4 B. & Al. 47, it had, indeed, been held that, where the employment of an attorney is so connected with his professional character as to afford a presumption that his employment was a consequence of that character, the Court would interfere in a summary way to com-

pel him faithfully to execute the trust reposed in him. In that case, an attorney having been employed by A. to collect and get in the effects belonging to him as administrator of another person, the Court of King's Bench compelled the attorney to render an account to the executors of A. of the monies, &c., received by him, although he had never been employed by A. or his executors to conduct any suit in law or equity on his or their behalf. In the present case the Lord Justice thought that the acts complained of were incidental to the position of a trustee, and not to that of a solicitor, and that the fact of the solicitor having become trustee in consequence of his having been the solicitor could not alter the character of the acts. The result was that a bill must be filed to obtain the removal of this trustee.

AUTHORITY OF CHIEF CLERK IN CHAMBERS.

Re The Agriculturist Cattle Insurance Co., L. J., 9 W. R. 682.

This case is valuable for the distinct assertion made in it of the principle that the suitor is entitled to be heard by the judge himself in chambers, and cannot be compelled to accept a decision of the chief clerk with the opportunity of appeal to the judge in court. This principle, however it may have been departed from in practice in some branches of the Court, was the foundation of the hope that the present system of proceedings in chambers would work better than the superseded system of the Masters' offices; and if the present system has to any extent failed to answer to that hope, the cause has been that the business in chambers has been too much devolved by the judges upon their clerks. In the present case, two parties of shareholders in the above-named company proposed different persons for the post of official manager. The chief clerk of the Master of the Rolls made an order appointing one of them, whereupon a supporter of the other required an adjournment to take the opinion of the judge. This the chief clerk refused, saying that the appointment was made, and that the dissatisfied shareholder must move in court to discharge the order. The solicitor for this shareholder hereupon went before the judge in chambers, and was told by him that his clerk had acted in pursuance of instructions given by himself. A summons was accordingly taken out, and brought on in court, to discharge the order; and in the absence of evidence of unfitness of the person appointed, the judge decided that he would not interfere with his clerk's choice between two persons of assumed equal fitness. It would seem from the history of this case, that in matters pending at the Rolls, there is no appeal at all from the clerk to the judge in chambers, and also that in a large class of questions there is practically no appeal even to the judge in court. It appeared in the course of the discussion, that the Master of the Rolls considered this delegation of a portion of his duty to his chief clerks necessary for the prompt despatch of the business of his court. The Master of the Rolls may be pardoned for believing, if he does believe, that the rapid despatch of business is the best proof of the efficiency of a court of justice. After the long and strong denunciation of the Court of Chancery for its delay, which has been heard during so many years, it is but natural that some, at least, of the authorities of that Court should forget that there is also possible evil in extreme celerity. Certainly, after we have lately seen the Rolls Court closed for want of causes ripe for hearing, it may be permitted to us to doubt whether it is desirable that a judge should refuse to occupy at chambers time which there seems no urgent necessity for him to spend in court. We believe that if the practice in chambers were conducted according to the idea which prevailed when it was originated, the public would not have the slightest reason to begin to think that there are too many judges in the Court of Chancery. The case which has suggested these remarks was brought before the Lords Justices on motion to discharge the order appointing an official manager. Lord Justice Turner said that the result of the proceedings at the Rolls above detailed was "that the comparative merits of the two gentlemen proposed had never been under his Honour's personal consideration, nor had he heard the parties upon the question of appointment." After paying a deserved tribute to the efficient despatch of business at the Rolls, his Lordship used these emphatic words:—"I certainly never can agree that any suitor of the Court has not the right, and the unqualified right, to have his case heard before the judge in person, if he so determines." We may, perhaps, venture to add to this quotation the remark that the right which it affirms is created in the clearest terms by the statute 15 & 16 Vict. c. 80, ss. 29, 33, and that the tact and discretion of solicitors may be safely trusted not to abuse this right by wearying the judges with matters which their clerks are fully competent to decide upon.

COMMON LAW.

PRACTICE—ERROR IN FACT, AND ERROR IN LAW.

Carr v. Cooper, Q. B., 9 W. R. 611.

Instances of error in fact seldom occur in practice, as the usual species of error is a mistake in law apparent on the face of the record; and such as might have formed a sufficient ground at the proper time for a motion in arrest of judgment, or a motion for a judgment *non obstante veredicto*. Error in fact, on the other hand, is some miscarriage in the proceedings: as that the defendant being an infant appeared by attorney and not by guardian; or that the plaintiff or defendant was a married woman when the suit was commenced, her husband not being joined therein.

In the present case, an infant defendant had appeared by attorney, and he now sought to take advantage of this by bringing error after losing the verdict. Upon this, the question arose whether the record could be amended by stating (though contrary to the fact), that the defendant had appeared by guardian. This, the Court said, could not be done, as it would be falsifying the record; but they set aside all the proceedings in the action from the time of appearance without any costs on either side, and directed the defendant to appear by guardian within a specified time.

The moral of this case seems to be, that when there is the least room for doubt, great care should be taken at the outset of the proceedings to ascertain the majority of the defendant; otherwise (as in the present instance), a successful action may be rendered absolutely useless, and the whole battle have to be fought again. There is no question but that in such a case as the present (which by the way was an action for seduction), the protection afforded to infants by the law is productive of considerable injustice.

While upon the subject of error in fact, it may be remarked that the proceedings therein differ in many particulars from those in error in law; for in the first place the memorandum of error delivered to the Master must be accompanied by an affidavit of the fact referred to (15 & 16 Vict., c. 76, s. 158); and in the next place, there must always in the case of error in fact, be an assignment or declaration of error, whereas in law such assignment is only necessary where the other party has given notice to assign; for in other cases (that is where the defendant in error does not rely on some matter of fact), a suggestion of error may be made by the plaintiff immediately after delivering the memorandum, which will make the cause ripe for argument without any further pleadings.

MISREPRESENTATION BY AGENT AS TO EXTENT OF HIS AUTHORITY—WHAT MAY BE RECOVERED AS DAMAGES.

Pow v. Davies, Q. B., 9 W. R. 611.

The foundation for this application was the case of *Collin v. Wright* (7 Ell. & B. 301), of which an account was given in a preceding volume.* The principle primarily established by that case was that an action might be maintained by A. against B. for representing contrary to the fact (though *bonâ fide*), that he had authority from C. to conclude an agreement for him; in consequence of which misrepresentation B. suffered damage: and this proposition was afterwards confirmed in the court of error, *dissentiente*, however, Cockburn, C. J., who considered that to make suit or action lie, the misrepresentation must have been fraudulent. But besides the main question, the case of *Collin v. Wright* turned also upon what damages could be recovered, supposing the action maintainable by A. against B.: and it was held that A. might recover the expense of certain Chancery proceedings he had instituted against C. in the belief that he was bound by what B. had engaged for as his agent, though it was thought by some of the Court that before commencing such proceedings, notice should have been given to the defendant to ascertain if he persisted that he had authority to contract.

The present case so far resembled *Collin v. Wright* that it was an action brought by A. against B. for damages arising from B.'s false but *bonâ fide* representation that he had authority from C. to enter for him into a certain contract with A. But it appeared that A. had, on the faith of B.'s having such authority to grant him a lease for seven years, entered into the occupation of the demised premises (which belonged to C.) and had refused to give them up on request; though there had been no deed given to him by B. as required by 8 & 9 Vict. c. 106, s. 3, for a demise beyond three years. And that under these circumstances, A. had unsuccessfully defended an action of ejectment brought against him by C., the costs of

* 1 Sol. J. 420. See also vol. 2, p. 149.

which he now sought to recover from B. But the Court observed that even if B. had had the authority he professed to have had A. could not have successfully defended the ejectment without a deed—and that these costs therefore did not flow naturally out of the defendant's breach of contract, as was the case with regard to the chancery proceedings instituted by A. in the case of *Collin v. Wright*.

COSTS CANNOT BE RECOVERED IF ALLOWED FOR AS PART OF THE DAMAGES AT THE TRIAL.

Barker v. Clough, B.C., 9 W. R. 618.

The only point really decided in this case (which in its special facts is somewhat complicated), is to be found alluded to in the concluding clause of the marginal note prefixed to the report—namely, that a plaintiff will not be allowed to recover from the defendant in an action for damages, an item of costs in respect of money out of pocket which the jury took into their consideration in assigning the damages. For otherwise, the defendant would have to pay twice for the same matters. Thus, in the present case, the action was brought for wrongfully discharging the plaintiff from the service of the defendant before the expiration of the time for which he was engaged, and the jury gave a certain sum as damages; which sum they intended to include the plaintiff's subsistence money till the end of the period of his engagement, being induced so to calculate the damages by the account given by his counsel as to the terms of the contract. But subsistence money for the same period was also claimed as part of the costs of the action—the plaintiff having been detained in London for the purpose of giving his evidence—and this was allowed by the master.

A rule was now applied for, that this taxation should be reviewed; and it appears to have been admitted on the argument that the justice of the case was with the defendant, but it was urged that the motion had been wrongly conceived, and should have been for a rule to reduce the damages given by the jury, and not to review the taxation. The distinction between the two forms of motion probably affected the aggregate amount of costs, for otherwise there seems no substantial difference. The Court appear to have taken a middle course—they did not make absolute simply the rule which had been obtained for a review of taxation, but they granted an absolute rule that the Master should strike off from his taxation the amount he had allowed for subsistence money.

Foreign Tribunals and Jurisprudence.

FRENCH JURISPRUDENCE.

(By ALGERNON JONES, Esq., Advocate in the Imperial Court of Paris.)

EXECUTION OF ENGLISH JUDGMENTS IN FRANCE AGAINST FRENCH PLAINTIFFS.

The French courts have recently decided a case likely to interest foreigners, a suit between an English company called the English Screw Steam Ship Company, and the liquidators of a French company under the name of Company of the French Clippers and firm of Darnud Ducloux & Co., with reference to the costs of a nonsuit given against the French company in an English court. It appears that the latter company had purchased from the former a certain number of steam vessels for a price which had never been paid, except an earnest of £25,000. The purchasers having, by reason of the winding-up of their company, failed to carry out the contract, the vendors insisted on keeping the £25,000 as indemnity. An action was brought, however, against them in England by the French company to recover the same, in which various questions were raised which caused the issuing of a commission to France to take evidence upon certain questions of French law not material for our purpose, and the case having been brought to trial at the Croydon assizes, the plaintiffs allowed themselves to be nonsuited, and were of course sentenced to pay the costs, which sentence the English company applied to the French courts to obtain execution upon in France. But in the meanwhile the French company had availed themselves of the right which the article of the Code Napoleon gives French claimants against foreign debtors, of suing them before the French courts wherever the cause of action may have accrued, and have cited the English company before the Tribunal of Commerce of Paris, where the latter had allowed judgment to be given against them by default. With this judgment the French Clipper Company attempted to bar the application of the adverse party. They contended that the English judg-

ment which was sought to be executed by the English company, had decided on the merits of the case, that such judgments could not be rendered executory in France without a revision of the merits by a French court, and that the judgment by default of the Tribunal of Commerce was substantially a disapproval of the same. But this theory was rejected by the Tribunal of First Instance of Paris upon grounds with which I cannot but agree, but which were not the only ones which might have been taken to the same effect. The judgments I translate as literally as possible.

"The Tribunal.

"Whereas the English Screw Steam Ship Company produces a judgment given on the 4th of August last by the Court of Queen's Bench at London, and of which they demand the execution.

"Whereas the French Clipper Company reply that subsequently the suit was removed to the French courts, and that they have obtained a judgment favourable to their cause, and that the French courts having to enter into the merits of the foreign judgment before they order the execution thereof, such execution should not be ordered under the circumstances.

"But whereas the English judgment of the 4th of August has not in manner decided on the case itself, but has simply given costs against the then plaintiffs for not having carried out the suit which they had begun; that the costs are only the consequences of their giving up the suit; that such being the case there is no reason why they should not be made executors in France, saving the right of the present defendants to set off such amount as may have been awarded to them by the tribunal of commerce against the said costs.

"For the above reasons, setting aside the various pleas of the defendants, which are so far as necessary rejected, declares executory in France the judgment rendered the 4th of August, 1859, by the Court of Queen's Bench, in London.

"Condemns the Company of French Clippers to the costs, in which shall be included those of translating, stamping, and registering the said judgment."

Upon this an appeal was entered by the French company, and in process of time the cause came on before the First Chamber of the Imperial Courts of Paris, where the appellant's counsel persisted in falling into the mistake which had been committed before the Court below, of treating the matter as if the adverse party had had a defended judgment, and of entirely misunderstanding the nature and effects of a nonsuit, though such a predicament being in the nature of things is to be met with likewise, though under another name in the French practice.

The report as well as the speech of the appellant's counsel exhibits that curious misapprehension and disdain for foreign customs, for which the French, otherwise so apt and intelligent, are very remarkable. Sir Richard Crowder, Knight, is transmuted to Sir Richard Crowder Knight. How facetious the counsel is about our rude and barbaric procedure, somewhat in the strain in which one can imagine one of his celestial majesty's counsel commenting on some institutions of the outside barbarian. Alas! a remembrance of the extended attributions of the circumlocution office in France, and the mazes of red tape and steppes of waste paper in which the French administration bewilders and loses unfortunate suitors, the slight interval which separates some parts of the French procedure, from perfection, and the somewhat qualified admiration with which their criminal law is regarded by such as understand it at all, might have rendered it more indulgent to the shortcomings of others.

"It is well known," said he, "that the law of England is the most obscure and unintelligible thing in the world. One might say as much of the English procedure and English judgments. In the judgment of the 4th of August, there is a statement that a jury is to be called some days hence in the town of Croydon, county of Surrey, to decide the question between the parties. Whatever may be the authority of that judgment, certified by a notary on the declaration of an attorney's clerk, it must be acknowledged that it is inexplicable. There never has been but one case between the parties, and that was decided the 17th of August at Croydon. The *Times* of the 19th of August gives an account of the long hearing of the case at the Croydon assizes. The contest was so much the reverse of deserted that each party had three counsel. A member of the French bar brought forward to testify to points of French law, was examined by the six counsel during two hours, after having taken an oath and kissed the bible. The contest was animated, and the six counsel spoke most valiantly, so that the suit was anything but undefended or by default."

Fortunately the counsel for the English company, Mr. Lacan had understood and could explain the proceedings in England, and in consequence a judgment on *arrêt* was given confirmatory of the judgment of the tribunal in the following terms:—

"The Court.—Whereas if it may be held that a Frenchman who has himself brought an action before a foreign court, may even after judgment has been given by the same, bring the cause anew before the French courts, yet it must be acknowledged that in such a case the said French party should support the costs of his original action, which having been unnecessarily brought by him cannot in justice be charged to the other party.

"Whereas in consequence the French Company, whether they have abandoned the suit before the English courts or whether they refuse to carry out its decision, should in either case pay the costs.

"Whereas, on the other hand the decision of the tribunal of commerce given by default against the English company on the new suit brought by the French company, is not by any means in opposition to that of the tribunal of first instance, the first having decided on the original difference between the parties, and the last only on the execution of the English judgment as to the costs; that therefore there is neither *lis pendens* nor *res judicata* in the matter.

"Adopting moreover the motives of the first confirms, etc."

The propriety of this decision can hardly be questioned, but as much cannot be said in favour of the dictum with which it starts, that a Frenchman who has himself brought an action against a foreigner before a foreign court, may even after a judgment has been given by that court, bring the suit *de novo* before the French courts, that proposition, if laid down broadly and without qualification, if not repugnant to natural justice, is highly questionable on the ground of positive law. It is directly in opposition to the great principle of the respect due to contracts, and that which makes the consequence of a contested suit and even the rule *res judicata* itself a consequence of the implied contract supposed to arise from the fact of joining issue in the judicial conflict. It is fortunately no less contrary to the general current of authority, supported it is no doubt by a judgment of the Royal Court of Paris, of the 22nd of June, 1843, *Re the Prince of Capua*, in "Devilleneuve and Carotte's Reports," vol. 43, part 2, page 346. But the scope of the doctrine laid down in this case was considerably diminished in the Court of Cassation, which confirmed the decision of the Court of Paris, but by the motive that the suit brought by the Frenchman in a foreign country, had in reality not been ended by the Tribunal to which it had been originally submitted, but had been removed from there and taken to be decided before foreign arbitrators without authority, and the rule that the Frenchman who has been ousted in a suit which he has brought against a foreigner in a foreign court, cannot begin the suit before the French Court, has been laid down by the Court of Cassation in *Delamme's Case*, "Devilleneuve and Carotte," vol. 28, part 1, page 124, and in *Bonneau's Case*, likewise in "Devilleneuve and Carotte," vol. 46, part 1, page 474. Many authorities, however, make a distinction which seems highly reasonable, and contend that it is otherwise where at the time the Frenchman began the suit in the foreign country he could not very well do otherwise, as for example when at the time of the commencement of the suit the alien defendant had no property in France. See judgment of the Court of Rouen of 19th July, 1842, "Devilleneuve and Carotte," vol. 42, part 2, page 389; that of Paris of 22nd of November, 1851, "Devilleneuve and Carotte," vol. 51, part 2, page 783. See likewise Anbry and Ran "Cours de Droit Civil," vol. 6, page 815, and "Demolombe," 1—251.

Societies and Institutions.

JURIDICAL SOCIETY.

At the meeting of this society, held on Monday the 10th June, 1861, J. F. Macqueen, Esq., Q.C., in the Chair, a paper was read by Mr. WALKER MARSHALL on the subject of Codification.

The learned reader, after referring to the nature of the question, and its interest and importance, thus continued.

Codification, as I understand the word, does not represent the result of the labour of a dictionary maker, or an encyclopædist. The codifier is to be armed not with scissors and paste, but with the pen of a ripe lawyer. He is not to dovetail kindred sections,

and tabulate germane statutes; but he is to cast into the crucible of matured experience, and sound sense, and good English, and the best of grammar, the confused, the inconsistent, the redundant, the awkward verbose materials of our statute law; and out of these chaotic ingredients to extract the pure ore of sense and truth.

Year by year, session by session, the legislative chaos has grown, increasing in confusion. It is curious to mark its growth. All the statutes passed in the long reign of Queen Elizabeth occupy but 244 pages of the statutes at large. The labour of any ten years of the Georges is included in a volume of no greater bulk than is produced by each busy session of our present sovereign. When Lord Bacon recommended some sort of digestion of the statutes, they formed in mass not a twentieth part of that huge bulk which they have now attained. If it were a work of expediency then, it is now one of absolute necessity. How much of matter, of real living substance, is there in all these weary wastes of words? Nine parts mere verbiage, mere tautology and surplusage,—repealed, obsolete, superseded, conflicting, repugnant, paragraphs, which remain in the Statute Book as so many false guides, destructive shoals and quicksands, declaring that to be which is no longer.

A cause may be damaged by an exaggerated estimate of the advantages to accrue from an adoption of a particular measure. The cause of codification has received no little detriment from the high-coloured eulogiums in which its great advocate Jeremy Bentham indulged; penetrated with the truth of his deductions, like all original thinkers he was an enthusiast when advancing his discoveries, and glowed with the fervour of his argumentation. Now I at once avow that I do not agree with him in thinking that by any process of codification the science of law can ever be so simplified that he who runs may read, or be rendered intelligible to the uninstructed mind. It must, after codification as before, be an art, it must have its professors,—it will ever require much study and experience to become versed in its principles, to master its language, and be familiar with its rules. But if the reduction of that heterogeneous mass of scattered legislation into a systematic, coherent, and intelligible shape were to render the mastery of the statute law a matter of possibility to him who should honestly apply himself to its study; if lawyers, instead of wasting their lives in ignoble struggles with verbal difficulties, were enfranchised from this debasing servitude, and set at large to apply their faculties in the investigation of the principles and the application of the rules of that science which in the loftiness of its aim and the liberality of its sentiments ought to yield to no other; an immeasurable benefit would be conferred on the profession, and one in which the community at large would participate in a not much inferior degree.

It is difficult to over-rate the extent to which future legislation would be aided by this systematizing of our body of written law. In fact, before any act of legislation can be now accomplished, this process must be gone through as regards that branch to which the legislation is applicable. But this is too often neglected by the framers of Bills, and as a result, there is scarcely any important measure which is not followed by one or more Amendment Acts to cure the perplexities the neglect of this duty has occasioned.

Each matter being relegated to its proper book, chapter, and section of the code, future additions or amendments would without difficulty be assigned to its own proper, natural position. Take, for example, the head of Criminal Procedure. Each enactment at present attaching criminal consequences to an act not previously the object of prosecution has to define the nature and limits of the jurisdiction of the tribunals, original and appellate, the mode of procedure, and the punishment attached. But if all the descriptions of punishment attached to offences were set forth in the code according as they are against the State, against the person, against property, such an Act of the Legislature as I have described would be accomplished by a simple declaration that such an act, accompanied by the criminal intent, should be an offence within such a section of the Criminal Code, and punishable under such other. An amendment would be accomplished by an expurgation of the section, and a substitution of a new one. This process, I believe, applied to our statutes relating to offences, and to those which have reference to matters in which justices of the peace have jurisdiction, would reduce the entire body of our law on this subject to one-tenth of its present dimensions, would obviate a thousand difficulties, and render that perfectly perspicuous which at present is involved in many difficulties, and is attended with endless confusion. The same advantage to future legislation would obtain in every department of the law.

It is scarcely necessary to point out the obvious simplification

of the Statute Book which would accrue when subsequent Acts of the Legislature were referred to their appropriate places in the code; and the practitioner, by a simple process of collation, could ascertain at a glance the exact state of the law.

Consolidation, according to the general understanding of that term, meets some of the evils attending the present condition of our statute law, but these by no means the most grave. Our statute law will never be reformed by isolated efforts here and there to huddle under one chapter the scattered provisions which bear reference to a particular subject, leaving the rest in its shapeless condition. To render consolidation of any practical advantage, the entire statute book must be taken in hand from the statute of Merton to the last Bill touched by the sceptre, and everything repealed being expunged, the entire matter must be arranged in a consistent methodical manner. Suppose this accomplished, what advantage would be obtained? Consolidation, I understand, is confined to a simple arrangement of living statutes without interfering with the language in which they are expressed. Well, the advantage would be that which to a great extent would be obtained by a good index. At present the only approach to the statutes is through the medium of text books. Under such a state of affairs they would, to a great extent, be accessible without the aid of text books. But what a strange jumble of styles, of modes of expression, of systems of legislative phraseology, would this present! You might have on the same page a section written in the exhaustive style of Queen Elizabeth, another in the loose and inartistic manner of later times. The leading notion of consolidation is to produce this sort of mosaic—to expunge repealed and obsolete statutes and tabulate what remain, preserving all their vices of expression. Have we any reason to be enamoured with the language in which our laws are expressed? Worse English is not extant; worse English was never penned! Language less adapted to express the object in view it would, in many instances, be difficult to select.

After combating the argument that an alteration of the language might accidentally have the effect of altering the law, the learned reader continued.

I should wish here briefly to refer to an objection which, in this room, has been urged in most forcible language and with much elegance and ability to the adoption of a code—namely, that such a course would involve the enunciation of the unwritten or common law. And it has been urged that much of that breadth of spirit appertaining to unwritten law, much of its adaptability to the varying questions of jurisprudence which advancing civilization and the new combinations of social circumstances consequent thereon introduce, would be lost if the maxims of the common law were reduced into language and thus laid open to the criticism, verbal or grammatical, to which written laws are subject. It appears to me that this objection admits of an answer, perhaps of two or more answers. In the first place, I think a code of English law would be quite sufficiently perfect which omitted these common law maxims.

They might in a code to a great extent be assumed, and as little reduced to writing as they are now. Many of them I think might, without detriment, be incorporated in it. The greater part of these common law principles are nothing more than the natural deductions of sound reasoning applied to the consideration of social questions. I do not see that there would be the slightest advantage in propounding that the language of a document ought to be expounded according to its ordinary signification, unless a contrary intention is shown, or that what a man does through the instrumentality of an agent ought to be regarded as his own act, or that the ratification of an act done for a party's benefit and in his name is an adoption of it from the time it was done, and axioms of that character comprehending a vast amount of the common law principles. Unenlightened reason would arrive at these conclusions. There is nothing conventional in them. There is another branch of the common law to which I will briefly refer, lest it should be supposed I had overlooked it; namely, that which recognizes local customs or the customs of a particular trade. These may be dismissed with this observation, that they would be entirely out of place in a code, inasmuch as they do not constitute universal rules of conduct, but are to be regarded only as giving a particular and peculiar meaning to certain expressions to which general usage attaches a different signification, in which latter sense they constitute rather a grammatical than a legal question; or, where they are local customs, they may be assimilated to a particular tacit contract binding the inhabitants of a special locality with reference to a particular matter of common interest to them, and in either view it would be no more the business of a code to define or meddle with these matters than it would be to

express the particular stipulations of contracts of charter party, or the covenants which landlords may exact from their tenants.

Another objection urged against codification of the law is that it would unsettle the law. The argument is this, the language used by the Legislature has received a particular construction in the courts, if you alter that language, even ever so little, you cannot foresee all the results, you cannot tell what interpretation the courts will place upon it. A new field for criticism would be opened, nothing would be known, nothing would be certain, no conduct safe, no rights secure, until the courts in the course of several generations had revised and expounded each article of the code. Such are the fears and such the arguments of the opponents of a code. Are they well founded? Laws expressed in words and written in a style infected with every grammatical vice; laws which in their expression are tautological, frequently inconsistent, sometimes repugnant, almost always without coherence, will always, no matter the number of decisions upon their construction, be open to cavil, to doubt, and criticism. The ingenuity of advocates will ever find exercise in plausible interpretations. A well-expressed law needs no judicial interpretation. It is not improved by receiving such an interpretation, it is not affected by it. If the words aptly express what is intended, no interpreter is required. Whereas a law which from a vice of expression does not express its intent, is never rendered certain by any amount of judicial interpretation, it will always mislead those who are not acquainted with the case or cases upon it, and those who are can never be sure that upon other facts the courts will interpret the statute in a similar spirit, or indeed that another court will so read the law. Examples are not wanting of statutes so admirably expressed that they are a perfectly safe and easy rule of conduct, and admit neither of doubt or cavil. These are statutes which have been prepared by experienced and able lawyers. They have been subjected to precisely the same process to which every branch of our written law would be submitted, in case it were reduced to a code.

The learned reader next referred to the practical bearing of the question, and denying on the one hand the assertion of those who regard it as impracticable, and admitting on the other that it was attended with great difficulties; stated his own opinion to be that it was not merely an undertaking of almost imperative necessity, but also one perfectly possible to be accomplished. In conclusion he said,

I have abstained from any investigation of the circumstances under which the laws of other countries have been reduced to a code, the mode in which it has been accomplished, or the success by which it has been attended. Interesting as such an investigation would be, I have considered that it would rather embarrass than aid this enquiry. With the exception of those states of America which have reduced their laws to a code, the spirit of our law, and the materials out of which the code would be formed, differ widely from these, whether of ancient or modern times, which have been subjected to this process. Our object is not to promulgate a system as in the ancient code of Rome, nor to harmonize the discordant laws of different provinces, as in the modern code of France. We are besides too justly proud of our own system to pursue any other, because other nations have done so; indeed, so much is this the case that with many this kind of reasoning produces disgust, not conviction; and the proposal would be entertained with readier attention if no other nation had done the like.

To conclude, the codification which it seems to me would be necessary to obviate existing evils in the state of our law, consists not merely in reducing to a systematic form the vital statute law, but also in reforming its language, using in the course of this process all the lights to be gathered from the decisions of the Courts, the comments of the learned judges and the recitals of the statutes themselves, so as to embody and express, in exact language, the true intent of the Legislature; adopting, where necessary to the consistency and completeness of the code, the declared rules of the common law, but so as not to exclude those rules where not expressed.

I do not think that we should aim at that exhaustive method which the French Code attempts or has achieved. There should still be left to the courts all those rules of construction, all those applications of common law principles, all that action according to precedent, by which they are now guided, and to their decisions all the authority they now possess. There are, it appears to me, matters beside this question; principles which would enure with as much vitality after our statutes had been subjected to this process as before.

UNITED LAW CLERKS' SOCIETY.

The 29th anniversary dinner of this valuable institution which was established in the year 1832, for the purpose of enabling Law Clerks to make provision for themselves and families in time of sickness, old age, or other infirmity, and for their families on their decease, took place yesterday evening at the Freemasons' Tavern.

Sir Hugh McCalmont Cairns, Q.C., M.P., was in the chair, and was supported by Sir Fitzroy Kelly, Q.C., M.P., R. P. Collier, Esq., Q.C., The Hon. George Denman, Q.C., M.P., W. Forsyth, Esq., Q.C., Mr. Commissioner Nichols, Mr. Southgate, and other members of the equity and common law bars; also by Mr. Keith Barnes, one of the Trustees of the Society, Mr. John Pearson, Mr. R. Fox, Mr. F. George, Mr. Pemberton, Mr. Bell, Mr. Walters, Mr. Young, and other members of the profession.

The cloth having been removed, and the usual loyal and patriotic toasts given,

The Secretary, Mr. H. G. Rogers, read the report of the proceedings of the Society for the past year, which stated that relief had been afforded to members whom illness had disabled from following their employ, to the amount of £362 12s. 6d. In previous years the Society had expended £4,883 16s. 6d. in similar relief, making the total amount paid on account of illness alone £5,246 9s. 0d.

The next branch of expenditure consisted of the allowance made to members when old age or permanent affliction from any cause, and at any period of life, disabled them from earning the means of livelihood. At the last anniversary there were nine members in receipt of this allowance; they still continued so, and two additional claims had been since received and allowed. One of the two new claims arose from affection of the mind in the prime of life. Of those previously existing, six were attributable to the same cause. Two of these eleven members received yearly £31 4s., and the remaining nine, £36 8s. each. They would continue to receive that allowance for life, except in the case of recovery, of which no instance had occurred; and on their decease the family of each would be entitled to a sum of £50. The expenditure on this account during the year had been £362 12s. 6d., and to meet these eleven claims alone, the interest of £13,000 and upwards was required.

The last branch of the Society's expenditure out of the general fund consisted of the allowance made to the families of members on their decease. Eleven members had died since the last anniversary, and to the widows and relations of each the sum of £50 had been paid. Two members, whose wives had died during the same period, had each received the sum of £25. The payments of the year on that account had amounted to £600, and the total expenditure, since 1832, amounted to £7,502 10s.

The receipts during the past year, on account of the general fund, had been £2,161 11s. 3d. (of which the members contributed more than £1,500). The expenditure had amounted to £1,554 3s. 10d., and the surplus receipts had been added to the Society's investments with the commissioners for the reduction of the national debt. These investments amounted, on the 2nd day of April, 1860, to the sum of £24,735 9s. 1d., which with interest and some subsequent additions, was increased, at the audit in April last, to £26,267 15s. 6d. The increase, year by year, of the number of claimants for the superannuation allowance, rendered it necessary to keep increasing the amount of those investments. The existing claims required to meet them, the interest of more than half of the present capital of the Society.

The last branch of the Society's expenditure consisted of relief afforded by way of gift of small sums of money out of a fund called the "casual" or benevolent fund, to members, non-members, their widows and children. During the year, thirty-seven applications for pecuniary assistance had been received. After careful investigation and personal inquiry, twenty-six of the applicants were found to be deserving persons in need of the relief sought, and it was granted to them. The relief afforded out of this fund, during the year, had been £432 5s. which, with that of previous years, made the total amount of assistance granted out of that fund alone, £8,582 1s. 0d.

The Society has only been in existence twenty-nine years, but during that period it had paid to members and their families, and expended on casual relief, more than £21,600. In the past year the relief afforded was £1,668 8s. 6d. The claims increased year by year with the age of the Society, rendering necessary constant additions to the invested fund to meet those which, in a few years, were sure to come, and would then have to be met and satisfied.

The Society was under great obligation to the profession for the favourable condition of its funds, and without the aid thus afforded them, the Society could not have expended in relief the large amount which it had done. The satisfactory position which the Society had attained was in a great measure attributable to the kind assistance and liberal support it had received from the profession.

The learned Chairman, in proposing the principal toast of the evening, "Prosperity to the United Law Clerks' Society," said that it appeared to him to be deserving of the utmost support and encouragement from the profession. It created habits of prudence and forethought amongst a class of men in whose welfare and happiness all branches of the profession took a deep interest. The Society made provision for events which must happen to very many of its members, but to whom, amongst so large a body, it was impossible to foresee. It had worked admirably, and the vast amount of good it had done might be well appreciated from the fact that since its establishment it had expended the large sum of £21,000, and upwards, in affording relief of a very important character, not only to its members and their families; but also to those who were not members and their families; it had soothed the pillow of the sick and weary, and alleviated the anguish of the widow's grief. This society had made greater provision for future claims upon it than most societies of a similar character, which, when they had attained a similar longevity to this, had not, through want of proper foresight, been able to meet those contingencies against which it was absolutely necessary provision should be made in order that permanency should be attained. He considered it a great feature in this society that it afforded relief to those who had no other claim upon it than that they belonged to the same body, and were in need of assistance. Such generosity was sure to meet its reward, and it had done so; and it appeared to him that as the society had enlarged its benevolence, its prosperity had increased. The society, from the importance of its objects, and the excellence of its management of the funds placed at its disposal, had earned for itself a right to the approval and support of all branches of the profession. The learned gentleman concluded by making an eloquent and earnest appeal to those present to contribute largely to the funds of the society, and thus to show their approval and appreciation of its objects.

Mr. John Pearson proposed "The Lord Chancellor and the other patrons of the Society," which was responded to by Mr. Forsyth, Q.C.

The toast of "The Chairman" was proposed by Sir Fitzroy Kelly, who passed a high eulogium upon the great ability and learning of the hon. gentleman. The toast met with a very cordial reception.

The learned Chairman returned thanks.

"The Bench, the Bar, and the Profession," was proposed by Mr. Collier, Q.C., in a very able and eloquent speech, and was responded to by the Hon. George Denman.

Some other toasts having been given, the meeting separated.

The appeal made by the chairman was warmly responded to, the subscriptions announced by the secretary amounting to £450.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

COCKERMOUTH, KESWICK, AND PENRITH.
NORTH EASTERN (Extension to Otley).
WIGAN, TYLDENLEY, AND ECCLES.

The following Bills have passed through committee in the House of Commons:—

ALVA.
LLANELLY (Extension to Swansea).
NORTH LONDON (City branch).
SWANSEA VALE.
VALE OF NEATH.
WIVENHOK AND BRIGHTLINGSEA.

REPORT OF MEETING.

COMMERCIAL DOCK COMPANY.

At a general meeting of this company, held on the 14th instant, a dividend of £2 10s. per cent., free of income-tax, for the past half-year was declared.

Births, Marriages, and Deaths.

BIRTHS.

- PARR**—On June 8, at Lathom, the wife of William Parr, Esq., Solicitor, of a daughter.
- SAUNDERS**—On June 15, at Wath-upon-Dearne, the wife of George Morley Saunders, Esq., Solicitor, of a daughter.
- SWABEY**—On June 14, at 56, Upper Berkeley-street, W., the wife of M. C. Merttins Swabey, Esq., D.C.L., of a son.

MARRIAGES.

- CHRISTIE—FLETCHER**—On June 13, Richard Copley Christie, Esq., Barrister at Law, to Mary Helen, daughter of Samuel Fletcher, Esq., of Broomfield, near Manchester.
- ELGOOD—ALSAGER**—On June 18, William Elgood, Esq., of 48, Lincoln's-inn-fields, to Sara, daughter of the late Thomas Massa Alsager, Esq.
- MCCLELLAND—BELL**—On June 13, at Glasgow, James McClelland, Jun., Esq., to Janet Hamilton, daughter of Henry Glassford Bell, Esq., Advocate.

DEATHS.

- CRAMPTON**—On June 16, George Crampton, Esq., Solicitor, of 10, Doughty-street, in his 31st year.
- DEANE**—On June 15, James Wyborn, son of James Parker Deane, Esq., Q.C., D.C.L., aged 10 years.
- DEAN**—On June 10, Edward Henry, son of William Dean, Esq., Solicitor, Bloomsbury-square.
- ELCUM**—On June 5, aged 6½ years, Mary, the daughter of H. W. Elcum, Esq., of No. 13, Bedford-row, Solicitor.
- HONE**—On June 9, in her 56th year, Augusta Maria, widow of Joseph T. Hone, Esq., Barrister-at-Law, and a Bench of the Middle Temple.
- POWELL**—On June 10, Elizabeth, the wife of John Powell, Esq., Solicitor, Birmingham.
- WILLIAMS**—On June 17, at No. 19, Margaret-street, Cavendish-square, Edward Applebee Williams, aged 11 years, eldest child of George Henry Williams, Esq., Solicitor.

London Gazettes.

Windings-up of Joint Stock Companies.

TUESDAY, June 18, 1861.
UNLIMITED IN CHANCERY.

CAMERON'S COALBROOK STEAM COAL AND SWANSEA AND LOUGHOR RAILWAY COMPANY.—The Master of the Rolls purposes on June 29, at 12, to make a call in order to provide a sum for payment of the debts proved and admitted to be due from the company, upon all the contributories settled upon the list for £12 per share.

LIMITED IN BANKRUPTCY.

BOROUGH OF MARY-LE-BONE GAS CONSUMERS COMPANY (LIMITED).—Commissioner Holroyd will proceed on June 28, at 12, Basinghall-street, to make a call on the several persons whose names are settled on the list of contributories of the said company, for twenty shillings per share.

FRIDAY, June 21, 1861.

NATIONAL INDUSTRIAL AND PROVIDENT SOCIETY.—A petition for winding-up, presented on 20th June, will be heard before the Master of the Rolls, on June 29. Truefitt, Solicitor for petitioners, 4, Essex-court, Middle Temple, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, June 18, 1861.

- BARNES, WILLIAM**, Butcher, Kingston-upon-Hull. Lightfoot, Earnshaw & Frankish, Solicitors, 12, Boroi-alley-lane, Hull. Aug. 13.
- BARROW, THOMAS JAMES**, Esq., 9, Carlton-cottages, New Kentish-town, Highgate, Middlesex. Ford & Lloyd, Solicitors, 4, Bloomsbury-square. July 10.
- BIRNS, ANDREW**, Corn and Flour Dealer, York-street, Manchester. Farrar, Solicitor, 22, Cooper-street, Manchester. July 24.
- CAUGHT, JOHN**, Master in the Royal Navy, Portland-place, Ben Jonson's-fields, Stepney, Middlesex. Minor, Solicitor, 19, Great Cornam-street, Russell-square. July 17.
- JEASOPP, FRANCIS**, Solicitor, Gower-street, Derby. Jeasopp, Solicitor, Wardwick, Derby. Aug. 1.
- MITCHELL, WILLIAM**, Woollen Draper, Manchester. Slater & Myers, Solicitors, 66, Fountain-street, Manchester. June 28.
- SMITHSON, THOMAS PALEY**, Paper Manufacturer, Stepney-lane, Sculcoates, Kingston-upon-Hull. England, Saxelbye, & Roberts, Solicitors, Quay-street-chambers, Hull. July 31.

FRIDAY, June 21, 1861.

- CHARLESWORTH, SAMUEL**, Clerk in the London Provident Institution Savings Bank, Bloomfield-street, London, formerly of 83, Ebury-street, Fimlico, and late of Amherst-road, Dalston-lane, Hackney, Middlesex. Van Sandau & Cumming, Solicitors, 13, King-street, Cheapside, London. July 31.
- COLMAN, JOSEPH**, Gent., Bohemia House, Hammersmith, Middlesex. Taylor, Solicitor, 3, Field-court, Gray's-inn. Aug. 1.
- COMPTON, HENRIETTA**, Spinster, formerly of 10, Black heath-hill, Lewisham, Kent, and late of 2, Paragon-place, Brixton, Surrey. Van Sandau & Cumming, Solicitors, 13, King-street, Cheapside, London. July 31.
- EATON, GEORGE**, Victualler, Tamworth, Stafford. Willington & Argyle, Solicitors, Tamworth. Aug. 1.
- MAPLETOFT, ANN**, Spinster, 20, North Bank, Regent's Park, Middlesex. Baker, Baker, & Forder, Solicitors, 52, Lincoln's-inn-fields, London. Aug. 17.
- MILNE, ALEXANDER**, Esq., Civil Companion of the Most Honourable Order of the Bath, 29, St. James's-place, Middlesex. Pemberton, Meynell, & Pemberton, Solicitors, 20, Whitehall-place, London. Sep. 29.

- PARKER, MARIA**, Spinster, Quinton, Gloucestershire. Haynes & Moore, Solicitors, Warwick. July 30.
- POW, ROBERT**, Ship owner, Merchant, & Chain & Anchor Manufacturer, Tynemouth and North Shields, Northumberland, and Lower Shadwell, Middlesex. Hetch & Kewney, solicitors, Howard-street, North Shields. Sept. 1.
- PIRES, JOSEPH**, Mariner, Praed-street, Paddington, Middlesex. Symson & Warner, solicitors, 7, Golden-square. July 20.
- STAINES, GEORGE THOMAS**, Draper, Romford, Essex, and Great Ilford, in the same county. Sorridge & Francis, solicitors, Romford, Essex. August 1.
- WILLSON, SARAH**, Leeds, York. Taylor & Jeffery, solicitors, 5, Piccadilly, Bradford. Sept. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, June 18, 1861.

- BARLOW, JOHN**, Hop Factor, Southwark, Surrey. Heard v. Barlow, V.C. Kindersley. July 11.
- BARNETT, GEORGE SHUTTLEWORTH**, Esq., Grove Hall, Bow, Middlesex. Barnett and Others v. Fox, V.C. Wood. July 12.
- BOULTON, RICHARD**, Victualler, Waiworth-common, Surrey. Boulton v. Pilcher, M. R. July 15.
- BREALEY, RICHARD**, Surgeon, formerly of Kingsland-road, and late Stoke Newington, Middlesex. Garstin v. Garstin, V.C. Kindersley. July 13.
- BURY, MARY SOPHIA**, Spinster, Brighton, Sussex. Bury v. Bury, V.C. Stuart. July 13.
- DICKINSON, WILLIAM**, Shipowner, King's Lynn, Norfolk. Thompson v. Dickinson, M. R. July 16.
- FORRESTER, EMANUEL**, Yeoman, Bucknall, Staffordshire. Forrester v. Perry, V.C. Stuart. July 4.
- LUCAS, JAMES**, Gent. 3, Winchester-road, St. John's Wood, Middlesex. Lucas v. King, M. R. July 15.
- ROCK, JOSEPH**, Gent., 11, Calthorpe-street, Edgbaston, Warwickshire. M. R. July 13.
- WADE, GEORGE**, Grocer, High-street, Deptford, Kent. In the matter of the estate of George Wade, M. R. July 15.

(County Palatine of Lancaster.)

MALLEY, JOHN, Merchant, Wavertree Vale, Liverpool. Wright and Others v. Irvine. Registrar of Court, 1, North John-street, Liverpool. July 11.

FRIDAY, June 21, 1861.

- BEAUMONT, ROBERT**, Attorney-at-Law & Solicitor, Pudsey, Yorkshire. Cardale v. Little, V. C. Stuart. July 17.
- BISHOP, HARRY GEORGE**, Captain in her Majesty's Madras Artillery, 32, Gloucester-terrace, Hyde-park, Middlesex. Bishop v. Bishop, V. C. Stuart. Dec. 6.
- COPPIN, HENRY**, Yeoman, Mawnan, Cornwall. Hendy v. Phillips, V. C. Kindersley. July 13.
- EXLEY, GEORGE**, Sizer Boiler, Bridge Fold, Wooddale, Kirkburton, Yorkshire. Exley v. Exley, M. R. July 16.
- FOGWILL, THOMAS**, Merchant, Dartmouth, Devon. Fogwill v. Sutcliffe, M. R. July 16.
- HUTTON, HENRY**, Piano-forte Maker, St. Hellens, Jersey. Snook v. Moore, V. C. Stuart. July 30.
- KILVINGTON, HENRY**, Gent., formerly of 7, St. Ann's-terrace, Brixton-road, Surrey, but late of 5, Grove-road, Surrey. Kilvington v. Potter, V.C. Wood. July 19.
- LAMBERT, CAROLINE**, Widow, Royal Crescent, Notting-hill, Middlesex. Lambert v. Adams, V.C. Wood. July 5.
- LAMBERT, FRANCIS**, Goldsmith, Coventry-street, Westminster. Lambert v. Rendle, V.C. Wood. July 5.
- LEWIS, JOHN**, Solicitor, Arundel-street, Strand, and Hayes, Middlesex. Lewis v. Lewis, M.R. July 3.
- REDFORD, BURDUS**, Merchant, Newcastle-upon-Tyne. Lambton v. Redford, M. R. July 13.
- WILSON, JOHN**, Innkeeper, Kirkoswald, Cumberland. Lasonby v. Reynolds, V.C. Wood. July 8.
- WYNDHAM, MARIA FRANCIS**, Widow, Hamilton House, Southampton. Wyndham v. Rickford, V.C. Kindersley. July 22.

(County Palatine of Lancaster.)

SAMUEL, RALPH, Watch Case Manufacturer, Wood-street, Liverpool. Nodder v. Samuel, Registrar of Court, 1, North John-street, Liverpool. July 19.

Assignments for Benefit of Creditors.

TUESDAY, June 18, 1861.

- ELLIS, ISAAC**, Grocer and Draper, Worth, Sussex. Sol. Pearless, East Grinstead, Sussex. June 10.
- FALMER, WILLIAM**, Watchmaker, Milford Haven, Pembrokeshire. Sol. Smith, 15, Wilmington-square, Middlesex. June 12.
- PROSSER, GEORGE BAKER**, Grocer and Provision Merchant, 28, Queen-street, and 3, Arundel-street, Portsea, Southampton. Sol. Low, 63, Chancery-lane, agent for H. & R. W. Ford, Solicitors, Portsea. June 8.
- SOTHERN, SAMUEL COOK**, Bookseller and Stationer, Great Yarmouth, Norfolk. Sol. Clowes, Great Yarmouth. June 8.

FRIDAY, June 21, 1861.

- BALDWIN, ISAAC**, Grocer, Spalding, Lincolnshire. Sol. Harvey & Cartwright, Spalding. May 28.
- BIRD, WILLIAM**, Metal Warehouseman, 37, Basinghall-street, London. Sol. J. & C. Robinson, 7, Queen-street-place. May 24.
- COGSWELL, EDWARD HENRY**, & GEORGE DAY, Builders, Peterborough. Sol. Rutland, Peterborough. May 28.
- FOSTER, ROBERT**, & ALFRED BARRAN, Wholesale Clothiers & Outfitters, Leighton-lane, Leeds. Sol. G. A. & W. Emsley, Leeds. June 11.
- FRANCIS, WILLIAM**, & JAMES HOOPER, Hide & Leather Factors, New Leather Market, Bernondsey (W. Francis & Co.) Sol. Abrahams, London. May 24.
- GARDNER, RICHARD**, Baker, Chalford, Gloucestershire. Sol. Winterbottom, Stroud. June 6.
- GREENAIRE, JAMES**, Licensed Victualler, Hoop & Grapes Public-house, Wiggate-street, Bishopsgate-street, London. Sol. Robinson, Charterhouse-square. May 24.
- IVENS, JOHN**, Farmer, Water Eaton, Buckinghamshire. Sol. Turnley & Sharnan, Bedford. June 13.
- KRAY, JOHN**, Grocer, Madeley, Salop. Sol. Marcy & Hiest, Walker-street, Wellington, Salop. June 13.
- PREST, JOHN MAIR**, Draper, Bedford. Sol. Sole, Turner, & Turner, 68, Aldermanbury. May 24.

PAYOR, JOHN, Draper & Mine Agent, Tavistock, Devonshire. *Sol.* Jones, 15, Sine-lane, London. May 24.
RAEVE, GEORGE, Carpenter & Builder, Mary Cray, Kent. *Sol.* May, 2, Adelaide-place, London-bridge. May 25.
SAUNDERS, SAMUEL DEAHATE, Professor of Music & Musical Instrument Seller, 5, Wellesley-place, Redland, Bristol. *Sol.* Sherrard, Bristol. June 13.
SIMONS, GEORGE, Fishmonger & Poulterer, Horncastle, Lincolnshire. *Sol.* Tweed, Horncastle. June 11.
TALL, JOHN, Tar & Turpentine Distiller & Merchant, Kingston-upon-Hull. *Sols.* Wells & Smith, and Bell & Leak, Kingston-upon-Hull. June 6.
TOMLINSON, THOMAS, Currier, Kingston-upon-Hull. *Sols.* Eaton & Bellby, Kingston-upon-Hull. June 12.
WILSON, CHRISTOPHER NAYLOR, Mungo & Shoddy Merchant, Flatts, Dewsbury, Yorkshire. *Sols.* Scholes & Son, Dewsbury. June 5.

Bankrupts.

TUESDAY, June 19, 1861.

ALDER, PETER, Builder, West Malvern, Worcestershire. *Com.* Sanders: June 29 and July 23, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Jacobb, West Malvern, or E. & H. Wright, Birmingham. *Pet.* June 17.
BACON, THOMAS, Hotel Keeper, Newmarket, Cambridgeshire. *Com.* Evans: June 28, at 1, and July 25, at 1.30; Basinghall-street. *Off. Ass.* Bell. *Sols.* Kimberley & Co., 26, Old Broad-street. *Pet.* May 18.
BROWN, JOHN BROMFIELD, Ribbon and Trimming Manufacturer, Coventry. *Com.* Sanders: July 1 and 22, at 11; Birmingham. *Off. Ass.* Kluener. *Sol.* Dewes, Coventry, or James & Knight, Birmingham. *Pet.* June 17.
DOUGLAS, JOHN, Dealer, Wolverhampton, Staffordshire. *Com.* Sanders: July 1 and 22, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Terry & Watson, Birmingham, or Smith, Birmingham. *Pet.* June 3.
HOWLS, WILLIAM, Licensed Victualler, Cattle Dealer, and Farmer, Little Stretton, Salop. *Com.* Sanders: June 28 and July 18, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Davis, Shrewsbury, or James & Knight, Birmingham. *Pet.* June 11.
KIDD, HENRY, Cotton Manufacturer, Stockport, Cheshire. *Com.* Jemmett: July 9 and 30, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Crowther, Cooper-street, Manchester. *Pet.* June 14.
PARKIN, EDWARD, sen., File Manufacturer, Sheffield. *Com.* Ayrton: June 29 and July 27, at 10; Sheffield. *Off. Ass.* Brewin. *Sol.* Fernell, Sheffield. *Pet.* June 10.
PERKES, THOMAS, Corn Miller, Ecclesfield, Yorkshire. *Com.* Ayrton: June 29 and July 27, at 10; Sheffield. *Off. Ass.* Brewin. *Sols.* Smith & Berdekin, Sheffield. *Pet.* June 10.
KERMAN, CHARLES, Engineer and Iron Ship Builder, Millbrook, Southampton. *Com.* Holroyd: July 2, at 11.30, and Aug. 6, at 11; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Lepard & Gammon, 9, Cloak-lane, London. *Pet.* June 4.
SMITH, WILLIAM THOMPSON, & SAMUEL CANNON, Merchants, Melbourne, Australia, and England. *Com.* Perry: June 28, at 11, and July 24, at 2; Liverpool. *Off. Ass.* Bird. *Sols.* Watson & Son, Liverpool. *Pet.* June 5.
STMONS, THOMAS, Leather Seller and Bootmaker, 9, Princes-terrace, Caledonian-road, Islington, and 36, St. John-street, Clerkenwell, Middlesex. *Com.* Fonblanque: July 27, at 12.30, and Aug. 2, at 12; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Ford & Lloyd, 4, Bloomsbury-square, London. *Pet.* June 15.
TREE, JAMES, Scrivener, Worcester, and Lodging-house Keeper, West Malvern, Worcestershire. *Com.* Sanders: July 1 and 29, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* E. & J. Wright, Birmingham, or Hughes & Son, Worcester, or James & Knight, Birmingham. *Pet.* June 13.
TURNER, JAMES, Cotton Manufacturer, Bury, Lancashire. *Com.* Jemmett: July 3 and 26, at 12; Manchester. *Off. Ass.* Hernaman. *Sol.* Sutton, Manchester. *Pet.* June 13.

FRIDAY, June 21, 1861.

BILLEFELD, CHARLES FREDERICK, Paper Maché Manufacturer, Wellington-street North, Strand, 31, Gower-street, Bedford-square, and of Staines, Middlesex. *Com.* Goulburn: July 4, and August 5, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Lee, Gray's-inn, London. *Pet.* June 18.
BOYDS, ROBERT, and HENRY FRANCIS WHITTLE, Contractors & Builders, Freemantle, Millbrook, Southamptonshire, and Barnsley, Yorkshire, and of Higher Belington, near Birkenhead, Chester (Royds & Whittle). *Com.* Fonblanque: July 6, at 11; and August 1, at 1; Basinghall-street. *Off. Ass.* Graham. *Sols.* Peacock, 3, South-square, Gray's-inn, London, and Sharp, Harrison, & Sharp, Southampton. *Pet.* June 19.
BROWNE, DANIEL, and WILLIAM BROWNE, Silk Manufacturers, Macclesfield, Cheshire (Daniel & William Browne). *Com.* Jemmett: July 5, and August 1, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Parrott, Colville, May, & Rudyard, Macclesfield. *Pet.* June 19.
COOPER, HENRY, Tailor, 38, Bernard-street, Southampton. *Com.* Holroyd: July 6, and August 6, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Wells, 47, Moorgate-street, London. *Pet.* June 4.
COOPER, THOMAS, & HENRY STEPHEN WALLIS, Millers & Malsters, Percy Bar, Handsworth, Staffordshire. *Com.* Sanders: July 5, and July 25, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Smallwood, Harrison, & Wood, Birmingham. *Pet.* June 20.
DALTON, THOMAS SAMUEL, HENRY DALTON, & WILLIAM HEAP, Calico Printers, Manchester, (Dalton, Brothers). *Com.* Jemmett: July 17, and August 2, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Hignson & Robinson, Cross-street, Manchester. *Pet.* June 23.
FRENCH, JOHN, Butter & Corn Factor, Martock, Somerset. *Com.* Andrews: July 2 & 31, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Slade, Yeovil; or Turner & Hirtzel, Exeter. *Pet.* June 19.
GLUCKSTRIE, MAJOR, Tobacconist, Leeds, Yorkshire. *Com.* Ayrton: July 5 & 26, at 11; Leeds. *Off. Ass.* Young. *Sols.* Bond & Barwick, Leeds. *Pet.* June 12.
HARRIS, RICHARD, Builder, late of 23, Grafton-road, and now of 23, Church-terrace, Kentish-town, Middlesex. *Com.* Goulburn: July 1, at 11, & August 5, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* June 20.
HOLROYD, JOSEPH, Chemist, Druggist, & Seedsman, Winterton, Lincolnshire. *Com.* Ayrton: July 3 & July 24, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sols.* Nicholson, Hett, & Freer, Brigg, or Stamp & Jackson, Hull. *Pet.* June 13.
KIDD, ARTHUR DOFFIE, Straw Hat Manufacturer, 10, Fore-street, and 11, Cripplegate-buildings, London (Archibald Duff). *Com.* Fonblanque:

July 8, at 1.30, & August 2, at 12.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Ashurst, Son, & Morris, 6, Old Jewry, London, and Mason, Sturt, & Mason, 7, Gresham-street, London. *Pet.* Oct. 1.
LAIDLIE, WILLIAM, Boot & Shoe Manufacturer, Sunderland. *Com.* Ellison: July 3 & August 2, at 12.30; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Potts & Scarisbrick, 31, Bridge-street, Sunderland. *Pet.* June 13.
McLOUGHLIN, CHARLES, Gun Maker, 89, High-street, Cheltenham. *Com.* Hill: July 1 & August 5, at 11, Bristol. *Off. Ass.* Miller. *Sols.* Wheeler, Cheltenham, or Abbot, Lucas, & Leonard, Bristol. *Pet.* June 18.
MOORE, SAMUEL WESTON, Lace Manufacturer, Nottingham. *Com.* Sanders: July 2 & August 6, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Ashwell, Middle Pavement, Nottingham. *Pet.* June 8.
MOORHOUSE, GEORGE, THOMAS MOORHOUSE, WILLIAM MOORHOUSE, & ROBERT MOORHOUSE, Cotton Manufacturers, Barley and Byedren Mills, near Barnley, Lancashire. (George Moorhouse & Co.) *Com.* Jemmett: July 18 & August 8, at 12; Manchester. *Off. Ass.* Hernaman. *Sols.* Hignson & Robinson, Cross-street, Manchester. *Pet.* June 20.
PEACOCK, JOHN, Licensed Victualler, Builder, & Brickmaker, Upper Gownal, Sedgley, Staffordshire. *Com.* Sanders: July 5, and 25, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Bolton & Sanders, Dudley, or James & Knight, Birmingham. *Pet.* June 18.
RUNDALL, FREDERICK, Wine Merchant, 3, Muscovy-court, Tower-hill, London (Frederick Rundall & Co.). *Com.* Fane: July 5, at 1.30, and August 9, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Harrison & Lewis, 6, Old Jewry. *Pet.* April 19.
THOMAS, WILLIAM, Draper, Llanerchymedd, Anglesey. *Com.* Perry: July 4, at 12, and 30, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* J. B. & E. Whitworth, Manchester, and to Evans, Son, & Sandys, Commerce-court, Liverpool. *Pet.* June 8.
WAKEFIELD, CHARLES, Dealer in Timber, 52, Torriono-terrace, Kentish Town, Middlesex. *Com.* Evans: July 1, at 2, and 25, at 11; Basinghall-street. *Off. Ass.* Bell. *Sols.* Wright & Bonner, London-street, Fenchurch-street. *Pet.* June 19.
ZANNI, GEMINIANO, Optician, 38, King-street, Holborn, Middlesex. *Com.* Holroyd: July 2, & August 6, at 12, Basinghall-street. *Off. Ass.* Edwards. *Sol.* Barry, 8, Gray's-inn-place, Gray's-inn, London. *Pet.* June 14.

BANKRUPTCIES ANNULLED.

FRIDAY, June 21, 1861.

HOLROYD, JOSEPH, Chemist, Druggist, & Seedsman, Winterton, Lincolnshire. June 13.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, June 18, 1861.

BROWN, ROBERT JAMES, Timber Merchant and Ship Owner, Sunderland. July 5, at 11.30; Newcastle-upon-Tyne.—**BUTLER, JAMES HENRY**, Merchant, Liverpool. July 10, at 11; Liverpool.—**COLEMAN, SIMON**, Tailor and Draper, Kingston-upon-Hull. July 10, at 12; Kingston-upon-Hull.—**COX, CHARLES HUMPHREY**, Jeweller, Leamington Priors, and Coventry. July 8, at 11; Birmingham.—**DODD, STEPHEN, & JOHN CHARLES PEARLING**, Booksellers, Stationers, Printers, and Music Sellers, Woburn, Bedfordshire. July 12, at 11; Basinghall-street.—**GOOSEMAN, SAMUEL**, Innkeeper, Victualler, and Livery-stable Keeper, White Hart Hotel, High-street, Great Grimsby, Lincolnshire. July 10, at 12; Kingston-upon-Hull.—**IBLEN, NILS, & FREDERICK ENGEBRETSEN**, Ship Chandlers, and Sail Makers, 52, and 53, Great Tower-street, London, and 3, Russell-street, Rotherhithe, Surrey (Nils Iblen & Co.) July 9, at 2; Basinghall-street.—**KEAL, WILLIAM HENRY JOHN, & DANIEL JACKSON ROBERTS**, Merchants, 3, Rood-lane, London, Prince Edward's Island, British North America (Keal & Roberts.) July 10, at 2; Basinghall-street.—**M'CALLA, JOHN, & ALEXANDER FOTHERINGHAM**, Warehousemen and Commission Agents, Friday-street, Cheapside, London. July 10, at 12; Basinghall-street.—**M'LEOD, WILLIAM**, Joiner, Builder, Undertaker, and Ironmonger, Kingston-upon-Hull. July 10, at 12; Kingston-upon-Hull.—**NUTTALL, JAMES HARGREAVES**, Merchant and Commission Agent, Liverpool. July 10, at 11; Liverpool.—**ROBINSON, THOMAS**, Broker and General Commission Agent, Kingston-upon-Hull. July 10, at 12; Kingston-upon-Hull.—**SEATON, GEORGE**, Currier, Kingston-upon-Hull (John Martin Seaton & Son). July 10, at 12; Kingston-upon-Hull.—**VIVOND, URBAIN**, Flour Miller, Alston, Cumberland. July 10, at 12; Newcastle-upon-Tyne.—**WHITE, ROBERT DENNIS, & JOHN GREGORY**, East India Army Agents and Bankers, 11, Haymarket, Middlesex. July 12, at 11; Basinghall-street.

FRIDAY, June 21, 1861.

CLARK, WILLIAM, jun., Timber Merchant, 1, Southwark bridge-road, Southwark, and 12, Rockingham-row, New Kent-road, Surrey. July 3, at 1; Basinghall-street.—**COBB, JOHN**, Currier, Great Yarmouth. July 13, at 11; Basinghall-street.—**COOKE, LANE, & MATTHEW COOKE**, Paper Manufacturers, Moorsley Banks, Durham (L. & M. Cooke). July 4, at 11; Newcastle-upon-Tyne.—**FOWLER, WILLIAM, & THOMAS SANDERSON**, Ship Brokers, Insurance Brokers for the Sale of Ships, & Forwarding Agents, Liverpool (Fowler & Sanderson). July 15, at 11; Liverpool.—**LANE, RICHARD KIRKMAN, BIL**, Broker, Gas Manufacturer, & Sorivener, 29, Argyll-street, Regent-street, Middlesex, and 4, Union-crescent, Wandsworth-road, Surrey. July 1, at 12.30; Basinghall-st.—**SANDERSON, FREDERICK**, Coach Maker, 34, Dominick-st., Dublin, and 12, Tottenham-st., Fitzroy-sq., Middlesex. July 3, at 1.30; Basinghall-st.—**SCOTT, JOHN, jun., & RICHARD WOODWARD POWELL**, Tea Merchants, Liverpool, Lancaster (Scott, Powell, & Co.) July 17, at 11; Liverpool.—**SCOTSON, WILLIAM**, Car Proprietor, Liverpool, Lancaster. July 15, at 11; Liverpool.—**SHIRTON, THOMAS, & EDWARD KEY**, Scriveners, Holbeach, Lincolnshire. July 18, at 10.30; Nottingham.—**TEACHE, THOMAS THEOPHILUS**, Flour Dealer & Baker, Liverpool, Lancaster, & Bootle-cum-Linacre, Lancaster. July 15, at 11; Liverpool.

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SELECTIONS FROM THE WORK.

ELECTRICITY.

From the Greek *elektron*, electron, amber. The electrical properties of rubbed amber are said to have been known to Thales, 600 B.C. See *Magnetism*.

FRICTIONAL OR STATIC ELECTRICITY.

The Leyden jar (vial or bottle), discovered by Kleist, 1745; and by Cuneus and Musschenbroek, of Leyden, Winkler constructed Leyden battery 1746

Desaguliers classifies bodies as electrics and non-electrics 1742

Important researches of Watson, Canton, Beccaria, and Nollet 1740-7

Franklin announces his theory of a single fluid, terming the vitreous electricity *positive*, and the resinous *negative*, 1747; and demonstrates the identity of the electric spark and lightning, drawing down electricity from a cloud by means of a kite June 1752

Professor Richmann killed at St. Petersburg while repeating Franklin's experiments August 1753

Beccaria publishes his researches on atmospheric electricity, 1758; and Lapinus his mathematical theory 1759

Electricity developed by fishes investigated by Ingenhousz, Cavendish, and others about 1773

Lichtenberg produces his electrical figures 1777

Electro-statics: Coulomb applies the torsion balance to the measurement of electric force 1793

Electro-Chemistry—water decomposed by Cavendish, Fourcroy, and others 1787-90

Discoveries of Galvani and Volta (see *Voltaic Electricity*) 1791-3

Ersted, of Copenhagen, discovers electro-magnetic action (see *Electro-Magnetism*) 1819

Thermo-electricity discovered by Seebeck; it was produced by heating pieces of copper and bismuth, soldered together, 1823; the thermo-electrometer invented by Snow Harris, 1827; the thermo-multiplier constructed by Melloni and Nobili 1831

MISCELLANEOUS.

LUCIA, ST. (West Indies). First settled by the French in 1690. Taken by the British several times in the subsequent wars. Memorable insurrection of the French negroes, April, 1793. In this year Guadaloupe, St. Vincent's, Grenada, Dominica, St. Eustatius, and St. Lucia, were taken by the British. St. Lucia was restored to France at the peace of 1802; but was again seized by England the next year, and confirmed to her by the treaty of Paris in 1814. See *Colonies*.

LUCIFER MATCHES came into use about 1834. In March, 1842, Mr. Reuben Partridge patented machinery for manufacturing the spindles. In 1848 Schrötter of Vienna made known his amorphous phosphorus, by the use of which lucifers are rendered less dangerous and the manufacture less unhealthy.

LUCKNOW, the capital of Oude. See *India*, 1857.

LUDDITES. Large parties of men, under this designation, commenced their depredations at Nottingham, breaking frames and machinery, Nov. 1811. Skirmish with the military there, Jan. 29, 1812. Several serious riots occurred again in 1814; and numerous bodies of these people, chiefly unemployed artisans, committed great excesses in 1816, *et seq.*

COTTON.

A vegetable wool, is the produce of the *Gossypium*, a shrub indigenous in the tropical regions of India and America. Indian cotton cloth is mentioned by Herodotus, was known in Arabia in the time of Mahomet, A.D. 627, and was brought into Europe by his followers. It does not appear to have been in use among the Chinese till the 13th century; to them we are indebted for the cotton fabric termed *sankeen*. Cotton was the material of the principal articles of clothing among the Americans when visited by Columbus. It was grown and manufactured in Spain in the 10th century; and in the 14th century was introduced into Italy. India muslins, clintzes, and cottons were so largely imported into England in the 17th century, that in

1700 an act of parliament was passed, prohibiting their introduction: their cheapness and excellence interfering with the linen and silk manufactures. Cotton has now become the staple commodity of England, as wool was in the time of Edward III. About 1841, the "cotton" or "Manchester" interest began to obtain political influence, which led to the repeal of the corn laws in 1846. See *Calico*, *Muslin*, &c.

PROGRESS OF THE COTTON MANUFACTURE IN ENGLAND.

Fustian and *Velvet* made of cotton about 1641.

Calico, *Sheeting*, &c. The fly-shuttle was invented by John Kay, of Bury, 1738; the drop-box, by Robert Kay, 1760; spinning by rollers (also attributed to John Wyatt), patented by Lewis Paul, 1738; the spinning jenny, by Hargreaves, 1767; the water-frame, by Arkwright, 1769; the power-loom, by Rev. D. E. Cartwright, 1785; the dressing machine, by Johnson and Radcliffe, 1802-4; another power-loom, by Horrocks, 1803-13.

British Muslin (totally superseding that of India) is due mainly to the invention of the *Mule* (which see) by Samuel Crompton, 1774-9; and to the self-acting mule of Mr. Roberts, 1825.

Calico Printing commenced 1764.

The *Steam-Engine* first applied to the cotton manufacture (by Boulton and Watt), 1785.

Bleaching by means of chloride of lime introduced by Mr. Tennant, of Glasgow, 1799.

Stockings. The stocking-frame was invented by William Lee, in 1589. Cotton stockings were first made by hand about 1730; Jedediah Strutt obtained a patent for Derby ribbed stockings in 1759; and Horton patented his knitter frame in 1776; Crompton's mule was employed in making thread for the stocking manufacture about 1770.

Cotton Lace—*Bobbin-net*. The stocking-frame of Lee was applied to lace-making, by Hammond, about 1768; the process perfected by John Heathcoat, 1809.

ITALY.

The pope appeals to Europe against the king of Sar-

dania July 12, 1859

Garibaldi exhorts the Italians to arm July 19, 1859

Grand-duke of Tuscany abdicates July 21, 1859

Constitutional assemblies meet at Florence, Aug. 11, and at Modena Aug. 16, 1859

Tuscany, Modena, Parma, and the Romagna enter into a defensive alliance, Aug. 20; declare for annexation to Piedmont, Aug. 20—Sept. 10; fiscal restrictions between them and Piedmont abolished

Oct. 10, 1859

Assassination of Col. Anviti at Parma Oct. 5, 1859

Garibaldi appeals to the Neapolitans; subscription in Italy and elsewhere to supply arms for the Italians

Oct. 1859

Tuscany, &c., choose the prince Eugene of Carignan-Savoy, as regent of Central Italy, Nov. 5; the King of Sardinia refusing his consent, the prince declines the office, but recommends the chevalier Buoncompagni Nov. 14, 1859

Garibaldi retires from the Sardinian service Nov. 18, 1859

New Sardinian Constitution proclaimed Dec. 7, 1859

The Pope condemns the pamphlet "Le Pape et le Congrès" Dec. 31, 1859

The Emperor Napoleon recommends the Pope to give up the legations Dec. 31, 1859

The Pope refuses, and denounces the Emperor Jan. 8, 1860

Count Cavour charged with the formation of a ministry Jan. 16, 1860

Annexation to Sardinia voted for (by universal suffrage) in Parma, Modena, and the Romagna, March 13; Tuscany, March 16; accepted by the king

March 18-22, 1860

Treaty ceding Savoy and Nice to France signed, March 24; approved by the Sardinian parliament

May 29, 1860

The French troops retire from Italy May, 1860

Vain insurrections in Sicily April 4; May 2, 1860

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LONDON, JUNE 29, 1861.

CURRENT TOPICS.

The unexpected death of Lord Chancellor Campbell created considerable excitement on Monday last at Lincoln's Inn, where, for some hours, a large number of barristers and solicitors, and others connected with the profession, were to be seen in groups about the courts discussing the numerous rumours to which the melancholy event gave rise. There appeared to be but little doubt from the first that Sir Richard Bethell must succeed without further delay to the distinguished office for which his pre-eminent abilities and professional position had long marked him out. There was a slight rumour, however, that either the Master of the Rolls or Vice-Chancellor Wood was not unlikely, for some reason or other, to be promoted to the honours of the woolsack, in preference to Sir Richard Bethell; and even Chief Justice Cockburn was mentioned as a probable competitor. But notwithstanding these flying reports, Lord Palmerston seems to have had no hesitation in making his choice; for it was well known on Tuesday that the appointment of Sir Richard Bethell was then definitively settled. Few men have ascended the woolsack with such universal approval on the part of the entire profession; and no Lord Chancellor ever commenced his chancellorship with a greater reputation. Either as a lawyer, an advocate, a statesman, or a scholar, Lord Westbury need fear comparison with none of his predecessors. He is, and long has been, *facile princeps* of the equity and, indeed, of the entire English bar. It would, therefore, have been a matter of the utmost surprise, both to the profession and the general public, if any other appointment had been made; and the equity bar in particular would have had the gravest cause of complaint if another common lawyer had been promoted to the highest judicial seat in the Court of Chancery. Lord Westbury was sworn in before the Master of the Rolls and the other equity judges on Thursday morning at Lincoln's Inn, and an unusually great crowd of members of the profession, amongst whom but one feeling prevailed, which was that Ministers would have acted wrongly if they had appointed any other successor of Lord Campbell. There was no one present that I do not feel that Lord Westbury was only stepping into the position which had long been assigned to him by the unanimous voice of the profession and the country at large.

A curious and unprecedented question of jurisdiction has been raised by the death of Lord Campbell. The only other instance on record of a Lord Chancellor dying while charged with the actual custody of the Great Seal was that of Sir Charles Yorke (the son of Lord Hardwicke), who committed suicide the day after he received the Great Seal, but before he had applied it to his own patent of peerage, or assumed the duties of the office. The question to which we refer, however, could only arise since the institution of the second appellate court in chancery—being whether the Lords Justices, while the Great Seal was in abeyance, had any jurisdiction in Chancery or in Lunacy? On Monday morning, before the time for their lordships to take their seats, this point was a good deal discussed amongst the groups of lawyers whom the news of the Chancellor's death had brought together. The general opinion was that the Lords Justices had, under the statutes relating to

lunacy, a substantial and independent jurisdiction, which was not affected by a vacancy in the chancellorship; but there was considerable doubt as to whether their jurisdiction in equity was not in abeyance until the appointment of a new Lord Chancellor. The Lords Justices sat in their private room on Monday, and disposed of their paper of lunacy petitions, and on the two following days which preceded the appointment of Lord Westbury, their lordships heard appeal causes as usual. But upon taking their seats in their private room, Lord Justice Knight Bruce stated that the Lords Justices, having considered the question of their jurisdiction, entertained no doubt that it remained unaffected not only in Lunacy, but in Chancery. His Lordship, nevertheless, at the same time intimated that if the new Lord Chancellor should entertain a doubt upon the subject, any difficulty might be removed by *pro forma* orders after the Lord Chancellor was appointed.

We understand that the Metropolitan and Provincial Law Association, and several important country law societies, including those of Liverpool and Manchester, have presented to Sir Cresswell Cresswell memorials against the new general order and table of fees affecting the common form business of the district registries of the Court of Probate. Our readers will probably remember the account which we gave on a former occasion of this general order, and of the oppressive and unjust effect upon the business of the country solicitors which it is calculated to produce. When her Majesty's Court of Probate was originally established, district registrars were allowed to act as the solicitors of parties requiring business to be done in their districts; but the registrars were in the habit of charging, in addition to the fees paid to Government, the ordinary costs which they would be entitled to receive as private solicitors. The recent order of Court, however, has converted all these officers into Government lawyers. They are, henceforth, to receive certain increased but fixed salaries, and in consideration of the increase are to prepare, as *quasi* solicitors, and *quasi* professional advisers, affidavits and other necessary documents, for parties applying in person for grants of probate or letters of administration—the Government finding for such clients not merely lawyers and offices, but clerks and all other necessary appliances for conducting correspondence and the business of solicitors; and all this is to be done at the profit or loss (as the case may be), of the public; but for what useful purpose no one has yet attempted to show. As a matter of fact, the fees to be taken in the district registries, when applications are made by parties in person (in addition to the ordinary fees), are about one-half the fees that, under another order of the Court, are payable to regular practitioners. Thus, the Government, while imposing special and burdensome taxes upon solicitors, enters into a grossly oppressive and unjust competition with them for a class of business in which, above all others, it is important for the public interest to have their intervention. We pointed out in our former article the embarrassment which is likely to beset the Government, and the risk to public as well as disappointment and vexation to the suitor which are certain to arise from the responsibility of district registrars for laches or mistakes made in discharge of the semi-official class of business to which we refer. But apart from any considerations of this kind, we cannot conceive upon what ground it has been thought prudent or just for the Government to establish in this manner with the public money, and at the public risk, so large a number of speculative law agencies throughout the country, a proceeding not only opposed to common justice and good sense, but which is in direct opposition to the established principles of political economy, and to the most marked tendency of modern legislation. It is, moreover, characterised by a special injustice, and a wanton breach of an implied con-

tract with the legal profession. When the Probate Bill of 1857 was passing through Parliament, it was distinctly understood that the amount of compensation to be granted to the proctors was to be reduced in the proportion which it was considered they would be gainers by being allowed to practise in the general business of solicitors, and such reduction was accordingly made; but no compensation whatever was given for the necessary loss sustained by solicitors through the admission of the proctors; because it was said that the solicitors would be large gainers by being allowed to transact the great mass of the common form business of the country; and upon this pretence their mouths were stopped. The effect of the recent order will be to deprive them of perhaps nine-tenths of the non-litigious business of the probate registries in the provinces, and with no other apparent result whatever than to enable the Government either to make a profit, or to entail upon it a loss; as well as a great responsibility in transacting the entire probate business of the whole country, excepting the metropolis.

The concentration of courts scheme, as embodied in the Bill which will be found elsewhere in our columns, has already received, as it deserves, the support of a large number of solicitors in the metropolis and throughout the country. Numerous petitions to Parliament are now in course of signature in favour of the measure. The general grounds alleged are that the petitioners, on behalf of such of their clients as are suitors in the superior courts of law and equity, are deeply interested in promoting the Government scheme—the present courts and offices for the administration of justice in London being scattered in different directions, some of them being very inconvenient in their situation, and being, moreover, ill-constructed and without sufficient accommodation. The following reasons in support of these Bills have been printed and circulated amongst members of Parliament:—"The object of the two Bills now before Parliament is to carry into effect the Report of Commissioners appointed by her Majesty to inquire into the expediency of bringing together the courts of law and equity, and for providing a site, and for erecting suitable buildings, as recommended by the Commissioners. The first of such Bills is for the purpose of procuring a site approved of by the Commissioners, which it is proposed shall be vested in her Majesty's Commissioners of Works, and become national property. The second Bill is for the purpose of defraying the costs of purchasing the site, and of erecting new buildings for the courts of justice, and to appropriate for that purpose funds which have arisen partly from surplus fees and partly from profits made by courts of justice with suitors' uninvested cash, upon a Parliamentary guarantee against loss of existing income. A petition has been presented by the Treasurer of Lincoln's-inn on behalf of himself and the masters of the bench of the said society against the Bills, and for the purpose of having the equity courts erected upon ground in Lincoln's-inn, the private property of the benchers and members of the inn, who offer to erect buildings for the equity courts upon being secured a rental of £4,000 per annum. The Commissioners of the Crown have not recommended this plan, which is open to serious objections. In a great country like England, the nation should possess buildings of its own for courts of justice, and not be tenants to a private body. The building proposed to be erected by the Board of Works will provide distinct courts with proper accommodation, and, as ample funds exist for carrying into effect the views of the Commissioners, there is no necessity whatever for departing from the plan recommended by them. The funds to be taken are surplus monies, arising from fees levied upon the suitors, and profits arising from suitors' uninvested cash, which have not been applied in payment of salaries, and other ex-

penses; Parliament by annual grants for courts of justice having rendered it unnecessary to apply such funds. The purchase of the site, and erection of the buildings can, under the proposed Bills, be speedily carried into effect. The proposal of the benchers of Lincoln's-inn is also objectionable as tending further to increase the rentals of chambers within the inn, the price of which at present is so high as to prevent many of the junior members of the bar from occupying them; and the proposed site of the benchers can with advantage to themselves and to the profession be taken for the erection of chambers, which will acquire additional value from their proximity to the proposed new courts."

Mr. George Coode, a gentleman who was employed some years ago by the Statute Law Commission, and whose acquaintance with the subject of Statute Law Consolidation entitles to respect whatever he may have to say on the subject, has published a letter to Lord Palmerston on the Criminal Law Consolidation Bills. He complains bitterly that after twenty-eight years of preparation and an expenditure of £60,000, no legislative result in actual consolidation should yet be visible. He characterizes the Bills now before Parliament as "a mere delusion in themselves," and, what is worse, "the most effectual obstacle if they should pass to any future consolidation of the law." The plan of these Bills he describes to be "that of picking out the similar or identical parts from all different subjects, and stringing all those similar parts together in one Bill," without any regard to the natural connection between those parts and the "organic wholes" from which they are separated. Mr. Coode lays down and forcibly illustrates the proposition that there is no consolidation possible by the aggregation of similar parts; but that "the collection of similar parts is necessarily destruction and disintegration of the subjects from which those parts are taken." He says that all these Bills "consist exclusively of clauses wholly unconnected the one with the other and only brought together by the single fact that they are, every one of them, connected with a penalty." Every one of them, he adds, "is a penal fragment torn from its organic connection with the rights and duties with which it is legally, systematically, and logically connected." Mr. Coode's brochure is very ably written and makes out a strong case in support of his position. It is, moreover, a complete vindication of the evidence which he gave before the Select Committee, 1857, on the Statute Law Commission. Every attempt hitherto made at the reformation of our statute book has been of a merely empirical character. Mr. Coode has for years laboured hard, but ineffectually, to import science or at least forethought into the work; and after all the time lost and vast sums of money expended in the preparation of the Criminal Law Consolidation Bills, we fear that he has only too well shewn the fallacy of the method on which the attempt to consolidate the entire Criminal Law has proceeded. It is not unlikely, however, that these Bills will become law during the present session, as after all that the Government has said about law reform, something must be done to rescue the session from complete barrenness in this respect, and these Bills appear to be the main hope of the Government for this purpose.

THE LATE LORD CHANCELLOR.

The news of Lord Campbell's death was heard by all lawyers with profound regret. With unimpaired power, untiring industry, and unflagging zeal, he seemed, at the age of nearly fourscore years, to defy the hand of time, and to know neither disease, weakness, nor the desire for repose. For seventy years he had led, as boy and man, a life so active and laborious, that probably he had neither the wish nor the capacity for the retirement which might have prolonged his days. The

habit of work was too deeply rooted in his nature for any change except that awful one which has now removed him from the busy haunts of men to the dark silence of the grave. If a political vicissitude had interrupted his judicial labours, he would have returned to those literary pursuits in which he had formerly found a fresh source of pleasure, as well as a new road to fame. It may be that he overtasked his strength by what he did; but he escaped, by doing it, the burden, which probably he could not have borne, of leisure. It was his nature to toil as long as he lived. He has worked for wealth, for honour, and for amusement; and he has attained successively to all the objects which he had proposed. His career has been that of a strenuous, self-reliant man. He fought his way through poverty and obscurity to the highest honour of the State. He made the most, in every way, of a long life, a vigorous constitution, and a powerful mind. He died—to use an expressive phrase—in harness. In spite of his apparent youthfulness both of mind and body, he must have felt the silent warning which old age gives to prepare for death. The suddenness of the blow caused deep emotion in the profession of which he was the head; but now that it has fallen, reflection shows that it can scarcely be called untimely.

The character of Lord Campbell's mind and the range of his talents and acquirements have become fully known to the public during his long career. The latest, and therefore the strongest, impression on the minds of lawyers who practised in his court was probably that of admiration at the unsparing diligence with which he performed his duties as a judge in equity. In the *Times* of Monday last we read in the usual law report that on this day week he had heard an appeal from one of the Vice-Chancellors. "At the conclusion of the argument the Lord Chancellor reserved his judgment." If that industrious life had been prolonged, there would have been ready in the course of a few days a carefully composed judgment of which every word, not only of reasoning, but of quotation of evidence or of cases, would have been fairly written out in the late Chancellor's own hand. That judgment, after having been read in court, would have been placed at the disposal of the reporters, and would have been printed for the information amongst others of our own subscribers. With long experience, with extensive knowledge, and with a shrewd intelligence, it was impossible that this industrious judge should do otherwise than well any sort of judicial business which he might take in hand. Yet it is only natural that Lord Campbell should have made, as we think he did, a more distinguished figure in the Court of Queen's Bench than in the Court of Chancery. We believe it may be truly said that his judgments in equity were satisfactory and his judgments at law were admirable. It must not, however, be supposed that there was any appearance in Lord Campbell of a deficiency in knowledge of the peculiar jurisprudence of the court in which he lately sat. The writer of the lives of the English Chancellors was not likely to have omitted to peruse their judgments. For several years he held no judicial office while he had good reason to expect that the Great Seal would some day be his. It would be contrary to all that we know of Lord Campbell's character to suppose that he did not do all that could be done in this interval of leisure to qualify himself to hold with credit the highest place to which his ambition could aspire. Yet the best years of his life and the most earnest exercise of his powers were devoted to the exclusive study and practice of the common law. He naturally attained to the highest proficiency in the pursuit to which he gave himself most thoroughly. He did many things well, but that which he did very well he did in the seat where during a long course of previous years the doings of Lord Ellenborough and Lord Tenterden had been watched by his observant eye. We intend no disparagement to his later labours when we say that the fairest monu-

ment of his fame exists in the volumes of the Queen's Bench Reports. Neither as an author nor as an advocate nor as a speaker in either House of Parliament nor as a judge in equity, did he do more than show that a determined purpose and intense application will go far to compensate for the want of genius, of general education and of peculiar training. When we attribute to Lord Campbell a want of general education, we do not, of course, forget that he had the opportunity of learning, and that he would be sure to learn thoroughly, whatever a Scottish university could teach him up to the completion of his nineteenth year. But we think that the general education of every lawyer might be advantageously prolonged beyond that period, and we also think that a lawyer who becomes Lord Chancellor is likely to illustrate in a remarkable manner the utility of such a rule. There was no want in the speeches and writings of Lord Campbell of what are often taken as proofs of the completeness of education. There were quotations from the classics, and from modern writers in prose and verse, and when he dealt with legal questions he could quote from the jurists of other times and countries. But in general when he made a display of learning he rather damaged his reputation than improved it, through the impression he was apt to produce that the learning had been got up for the occasion. Probably he could have mastered any subject at short notice as well as any man that ever lived, but his versatility and energy produced results more astonishing than agreeable to a critic's eye. It was in the work for which he was best fitted, and in which he had laboured longest and most strenuously, that he achieved indisputable eminence. The success of Lord Campbell as head of the Common Law was as complete as that of Lord Cottenham when first he presided in the Court of Chancery.

Readers whose experience goes back far enough, may remember the droll contrast between the strained ambitious eloquence of Sir John Campbell for the plaintiff in a *nisi prius* trial, and the quiet, easy, conversational address of his father-in-law (Sir James Scarlett) for the defendant. Readers who count fewer years of life will call to mind how often Lord Campbell got the worst of it in wordy controversy from Lord Abinger, and afterwards from Lord Brougham and Lord Lyndhurst, in the House of Peers. We have none of us forgotten that odd propensity to speak from the judicial bench as if for the applause of the crowd in court which, both in the Queen's Bench and in Chancery, Lord Campbell seemed unable to control whenever an opportunity presented itself for a little burst of popular declamation. In those early days when the now deceased Chancellor sat in judgment upon the merits of new plays, he might have called the sort of talk to which he afterwards became inclined, fustian. If he had had either a fine natural taste, or the opportunity for extensive study of the best models of eloquence, such a tendency would have been impossible. Perhaps Lord Campbell was as great a lawyer as Lord Lyndhurst; but as an orator he was immeasurably his inferior. Yet his eloquence, though neither graceful nor sublime, sufficed at the Bar to persuade juries, and on the bench to express his meaning. If we recall the memory of his trivial failings, it is in no unkindly spirit, but in order to place before our readers the full picture of a distinguished and lamented judge. Even if the blemishes were more considerable than they are, they would be more than compensated by the simple fact that the son of a poor Scotch minister rose, by sheer force of will, to be Lord Chancellor. In an age which honours above all things success, Lord Campbell was a most successful man. If, on comparison with some of the greatest among his rivals, he appears deficient either in innate genius or in large mental culture, he deserves the higher admiration for having, by industry and sagacity, made the conditions of the race for fame so nearly equal. At the present moment, when it is barely a week since he sat

in court and cabinet, and when the whole profession still feels the shock of his sudden death, it is impossible to speak of his career and its termination except in language of respect and sorrow. With all his faults, he was an eminent example of the qualities, moral and intellectual, by which his countrymen attain wealth and honour, and by which, in peace and war, at home and abroad, they enhance the greatness and secure the power of the United Kingdom.

CHANCERY PRACTICE—ENFORCING DECREES AND ORDERS.

Reference was made in a previous article to certain provisions of the practice introduced in August, 1841, (now comprised in Rule 4 of Order 30 of the Consolidated General Orders, p. 94), and under which the person required by any decree or order to do any act shall upon being duly served with such decree or order be held bound to do such act in obedience thereto. It will be remembered that the principle introduced in August, 1841, was introduced substitutionally for the writ of execution of a decree or order,—and we think that its application might be usefully extended to all cases where the writ issuing in execution of a decree or order is merely a repetition of the mandate of the Court under seal, and is directed to the party. In the present article we shall urge its application to one of such cases, premising a few words only with reference to the principle itself. We do not presume to say that the principle upon which the writ of execution was founded was overlooked when such writ was abolished and other provision made in lieu thereof,—but we think that such provision would have been more completely substitutional, or, at least, that the principle upon which the writ of execution was founded would have been more distinctly preserved, if the seal of the Court had been required to the endorsement by which notice is given to the party served with the decree or order of the liabilities consequent upon disobedience. In the old standard books of practice it is repeatedly asserted that to constitute a contempt there must be disobedience to the mandate under seal of the Sovereign. This agrees with the language of the writ of attachment still in use which speaks of a contempt "committed against us." In Brydall's "*Jus Sigilli, or the law of England touching the king's four principal seals*," (1673, p. 3.) it is said "the king is, in intendment of law, a corporation, and therefore passeth nothing firmly but under the Great Seal," and (p. 120,) "the Great Seal is a signification of the king's commandment." Harrison, in his *Chancery Practice*, vol. 2, p. 177, says, "it is a very old but a true saying that no offence can be committed but where the Great Seal is showed the party." In Wyatt's *Chancery Practice*, p. 135, it is stated that "under the old practice the party was to be served with the order under seal before he could be brought into contempt." In Hudson's treatise of the Court of Star Chamber, comprised among the tracts in the "*Collectanea Juridica*," vol. 2, p. 146, we read the following:—"It is the seal which requireth the obedience;" and Gilbert, in his "*Forum Romanum*," p. 65, says, "No subsequent process can be formed but upon a contempt to the Great Seal, which is the royal authority." All these writers, therefore, agree in maintaining the supremacy of the Sovereign as the head of the Court of Chancery, and in asserting that it is disobedience to the mandate of the Sovereign under seal which constitutes a contempt. It will, perhaps, be said that general orders made in pursuance of an Act of Parliament which has received the royal assent are equivalent in authority to a "signification of the King's commandment" under seal. Even if it be so, we still think that the principle upon which contempts were founded would have been more distinctly preserved if the seal of the court had been affixed to the requirement made upon the party.

We have said that the principle introduced in August, 1841,

was intended substitutionally for the old writ of execution of a decree or order. We now proceed to urge the application of such principle to orders for injunctions—and in doing so, it may be useful to glance at a few points concerning the writ of injunction. The origin of the writ is evidently very remote. It seems to have been in very frequent use in former times for the purpose of effectuating the decisions of the Court, and, in many cases, to have preceded process of contempt. We learn from the works of writers on the history and practice of the Court, that in ancient times the King himself personally administered justice in his Court of Chancery, and that the plaintiff and defendant appeared personally before the King, and presented their complaint and defence, and that the mandate of the King thereupon was expressed not in any formal order, but by writ under the Great Seal;—and that in some cases the writ, when enrolled, became at once the record of the complaint and the judgment of the Court thereupon. In course of time, however, when the Lord Chancellor officiated as the King's deputy in the Court of Chancery, the judicial decision of the Court was expressed in a formal order; but the King's mandate under seal was necessary to give effect to the order made, and to bind the party to obedience. Hence the writ in execution of the order was retained—and probably the writ of injunction was one of such writs. The writ of injunction is certainly a repetition of the mandate of the Court under seal, and is issued in execution of the order of the Court. It is, indeed, spoken of as a writ of execution by a learned writer on the subject (see Eden on Injunctions, pp. 2 and 36). And as the writ of execution of a decree or order is now abolished, we think that the writ of injunction in execution of a restraining order might be dispensed with. And there is much connected with injunctions both of established principle and practice which favours the suggestion. For instance, an injunction is not necessarily preventive only, it may be judicial, requiring a party to do a particular thing. (See Eden on Injunctions, pp. 2 and 36, and, Daniell's *Chancery Practice*, 3rd ed. vol. 2, p. 1209.) And, moreover, it is well understood in practice that an injunction is binding from the moment it is pronounced, especially if the party restrained is then present in court;—and that any person guilty of a breach of the injunction may be committed as readily and as effectually before service of the writ, as after service. Eden says (p. 75) "An injunction is an order of Court, and must be obeyed." He admits that the order of the Court is more usually enforced by means of the process of the writ of injunction (p. 290) but he at the same time intimates that that is only one of the *forms* or modes by which an injunction under order is enforced, and adds the following:—"Interlocutory orders enjoining parties are frequently made, and the Court treats the neglect or disobedience of all orders as a contempt, and enforces obedience by imprisonment," and, further, "the object sought is equally attained by a restraining order as by a writ."

It may be objected that rule 4 of order 30 (p. 94 of the Consolidated General Orders) applies to cases where the order requires a party to do an act, and that under rule 10 of order 23 (p. 78) the order must state the time or the time after service within which the act is to be done, and that, therefore, the provisions of such rules are not applicable to orders which require a party not to do an act—and in which, in the nature of the case, a time cannot be limited as required by rule 10 of order 23. We have said that an injunction is not necessarily preventive only. But there might be force in the objection if the remedy by attachment were the remedy available in cases where there is a breach of the order, or if the liability of the party to committal were dependant upon the service of the order. Such, however, is not the case. The rules in question are not, of course, literally applicable to restraining orders, but we think that the principle involved in rule 4 of order 30 is applicable to such orders. Such rule simply lays down the principle by which disobedience to an order of the Court is to

be determined;—and provides that, in lieu of the writ of execution, service of the order itself shall be the test of obedience. And it appears to us that, so far as the requirement of obedience is concerned, the test is, upon the principle involved in rule 4, as applicable to restraining orders as to other orders. And the writ of injunction being a writ in execution of the order of the Court affords an additional reason in favour of the application of such test, to such orders.

But the penalty inserted in writs of injunction deserves notice. It seems now to be regarded as purely formal,—and the amount inserted in the writ is only arbitrarily determined. Double the supposed value of the property in question between the parties is usually inserted. In former times fines were pronounced by the Lord Chancellor in open court, and estreated into the Hanaper by special order, and in some cases the penalties mentioned in writs were, upon disobedience, estreated into the King's Exchequer, or levied by the sheriff under process from the petty bag, and paid into the Hanaper. Whether or not the penalties in writs of injunction were at any time thus regarded and dealt with, or awarded as damages to the injured party, we do not know. Certainly for many years past the imposition of the liability to the penalty seems to have had no other object than that of holding the party to obedience, and we know of no instances in which the penalty has been levied or in any way enforced. Breach of an injunction has almost from time immemorial been regarded as a contempt and punishable, and punished as such—at one time by attachment, but for very many years past by immediate committal. However, if necessary, a penalty might still be imposed upon the party restrained.

There may be other points deserving consideration, in connection with the writ of injunction, which we have not noticed, but our remarks will probably suffice to draw attention to the subject. And to put our remarks into practical form, we propose, first, that in drawing up injunction orders, and in lieu of the words at present used, viz., "It is ordered that an injunction be awarded to restrain," &c., the following words be used, viz., "It is ordered that the defendant A. B. be enjoined and restrained, and he the said A. B. is hereby enjoined and restrained from," &c.;—and, secondly, that, to bind the party to obedience, a true copy of such order be served personally upon the party restrained (and also, if necessary, upon such other persons, "servants, agents, or workmen," as the circumstances of the case may require), and that the copy served be endorsed with a notice or memorandum to the following effect:—"Victoria, &c., To the within named A. B. (or, to A. B., if the copy is to be served upon any person not named in the order, for instance upon a "servant, agent, or workman,") greeting. We command you that you yield obedience to the within order of our High Court of Chancery, and that you observe what our said Court shall direct. Witness ourself at Westminster, the — day of — in the — year of our reign"

"Note. If you fail to comply with the above directions, a penalty of £ — may be levied upon your lands, goods, and chattels, to our use. And an order may be made for your immediate committal to prison, without further notice to you."

Or the following form of indorsement (assimilated to the practice in other cases) might be adopted:—"To the within named A. B. If you, the within named A. B., do not comply with the within order, you will be liable to a penalty of £ — to be levied upon your lands, goods, and chattels, as the Court of Chancery may direct, and an order may be made for your immediate committal to prison, without further notice to you." We think that service of the order, thus endorsed, should bind the party in obedience in injunction cases, as effectually as the like course of procedure does in other cases. But distinctly to preserve the principle upon which contempts are founded, we suggest that the endorsement on the copy of the order served should be sealed with the seal of the Record and Writ Clerks Office, the application of which seal to writs has,

under Rule 37 of Order 1 of the Consolidated General Orders, p. 18, the same authority as the Great Seal.

There is yet another point in connection with the subject to which we must refer. We allude to the "docquet" now required to be left with the officer at the time the writ of injunction is presented to be sealed. Formerly the order itself was also required to be left; but within the last few years it has become the more general practice to return the order to the solicitor. The "docquet" is simply an abbreviated copy of the writ, and is still required, though the reason for its requirement has long since ceased to exist. In former times not only was the decree of the Court required to be enrolled, but the requirement was also extended to some of the writs issued in execution of the decree;—and the writ of injunction seems to have been one of such writs. In "*Bohun's Cursus Cancellarie*," p. 459, it is stated, "Injunctions ought to be enrolled, or the transcripts thereof filed." See also "*Beames' Orders*," p. 41. But the practice of enrolling injunctions having long since fallen into disuse, compliance with the requirement to prepare and leave with the officer a docquet of the writ has for many years answered no other purpose than to accumulate waste paper. We think, therefore, that even if the writ is continued, the docquet may be dispensed with, and that in lieu thereof a præcipe should be left with the officer on sealing the writ, as in other cases.

The Courts, Appointments, Promotions, Vacancies, &c.

VICE-CHANCELLORS' COURTS.

(Before Vice-Chancellor Sir JOHN STUART.)

June 24.—*Adjournment of the Court upon the death of Lord Chancellor Campbell.*—The Vice-Chancellor, on coming into court this morning, was affected with deep emotion, and with difficulty gave utterance to the following words:—"Mr. Bacon, —The stroke of death, with an awful suddenness, has removed the very eminent personage who was at the head of this court. His long and distinguished career and the high position which he occupied require a mark of respect, and therefore I think it not proper that we should proceed to any business this day."

(Before Vice-Chancellor Sir W. P. WOOD.)

June 22.—*The Saturday Half-Holiday.*—In the course of the morning, his Honour, in answer to an application on the subject by Mr. Rolt, expressed his willingness not to begin any new cause after 2.30 on a Saturday afternoon.

June 24.—Shortly after the time appointed for the sitting of the Court, his Honour requested the attendance in his private room of some of the leading counsel, and intimated that in consequence of the awfully sudden death of the Lord Chancellor, his Honour would not take his seat upon the bench, but that he would dispose of any matter of a really urgent nature in his private room.

COURT OF QUEEN'S BENCH.

(Before Mr. Justice HILL.)

June 26.—An application was made by Mr. Kingdon in the course of the day to postpone a cause on account of the absence of a material witness. It was stated that it was an action for a breach of contract at Manchester.

The JUDGE asked why a Manchester cause was brought to London.

Mr. Kingdon said one of the parties lived at Manchester and the other in Cornwall; so he supposed London was considered to be midway.

The learned JUDGE said the plaintiff could not withdraw the record. He had a strong feeling about country causes being brought to London and the time of the Court being thus taken up, and preventing London causes from being tried.

COURT OF COMMON PLEAS.

(Before Mr. Justice KEATING.)

June 22.—*Smith v. Haller.*—This was an issue directed by Mr. Justice Willes to try the right to certain property seized

by the Sheriff of Middlesex under an execution issued in a cause of *Haller v. Worman*.

On the case being called on,

Mr. *Hawkins* applied to postpone it, on the ground that a material witness was too ill to attend, and he proposed to change the venue to London.

This not being acceded to by the defendant, who was quite ready to go on,

Mr. *Hawkins* said he had no alternative but to withdraw the record.

Mr. *Serjeant Parry* objected that this was an issue directed by the judge, and that the plaintiff had no power over the record.

Mr. Justice *KEATING* decided that as the record had been entered by the plaintiff in the ordinary way, he had power to withdraw it if he thought fit, and the record was withdrawn accordingly.

Mr. John Bamford, Ashborne, Derby, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, June 24.

THE DEATH OF THE LORD CHANCELLOR.

In consequence of the death of the Lord Chancellor, the House, on the motion of Earl Granville, at its sitting, adjourned.

Thursday, June 27.

At half-past four o'clock the Lord Chancellor entered the House and took his seat on the woolsack.

The patent of his lordship's creation, under the name and style of Baron Westbury, of Westbury, in the county of Wilts, was read at the table. His lordship thereupon took the oaths and entered his name in the roll of peers.

HOUSE OF COMMONS.

Friday, June 21.

WILLS AND DOMICILE OF BRITISH SUBJECTS ABROAD BILL.

Sir G. *BOWYER* wished to know what course the Government intended to adopt—one Bill on this subject having come down from the House of Lords, and another having been brought in by the Attorney-General.

Sir G. C. *LEWIS* said that the Attorney-General on an early day would answer the question.

Sir H. *CAIRNS* hoped that the two Bills would be placed on the paper, so that they might be considered together.

COPYRIGHT OF DESIGNS.

On the motion of Mr. M. *GIBSON*, the House resolved itself into committee, when leave was given to bring in a Bill to amend the law relating to the Copyright of Designs. The right hon. gentleman explained that the object of the Bill was simply to give effect to the 12th article of the French treaty.

The Bill was read a first time.

Monday, June 24.

THE NEW COURTS.

Lord J. *MANNERS* inquired of the Attorney-General whether, in the event of the Courts of Justice Building Act (Money) Bill being read a second time, he would refer the question of site for the proposed buildings to a select committee.

The ATTORNEY-GENERAL said that in all the discussions and inquiries upon this subject there had never been any difference of opinion as to the site for the New Courts, except on the part of some proprietors of houses in Lincoln's-inn fields, who naturally desired that their property should become more valuable. The commission for which we were indebted to the noble lord, and which had conferred great public benefit, were unanimous in the opinion that the site recommended by them should be adopted. Under those circumstances he did not think that he should be right in risking the postponement of the measure by referring this question to a select committee.

Thursday, June 27.

COURTS OF JUSTICE BUILDING BILL.

Upon the motion for the third reading of this Bill.

Mr. *LYGON* said he thought that the question of site had not been sufficiently considered. The Commissioners had only evidence respecting one scheme, that of the Incorporated Law Society, while there were two other plans suggested. One was to provide for all the Equity Courts in Lincoln's-inn, and the other to concentrate all the law courts in Lincoln's-inn fields, the trustees of which were willing to expend the whole amount received for the site in carrying out metropolitan improvements. He therefore moved that the order for the third reading be discharged, and that the Bill be recommitted.

Mr. *COWPER* observed that the subject had undergone more consideration than the hon. gentleman supposed. There had been a committee in 1842, and another in 1845. Sir C. *Barry* was at first in favour of the Lincoln's-inn-fields scheme, but subsequently preferred that now proposed by this Bill. The object was to concentrate all the law courts upon one spot, or in immediate contiguity, and in that respect the Lincoln's-inn-fields plan would be insufficient. The freeholders of Lincoln's-inn-fields proposed to give 3 acres or 3½ acres for that purpose, while the area required was 7 acres. He must press the Bill now, because, having to pass through the House of Lords as a private Bill, postponement would be equivalent to rejection. The House could not be committed to the scheme by assenting to this Bill, because another Bill, the Courts of Justice Money Bill, contained the operative clauses and he would take care that there should be ample time for discussion before that Bill passed.

Mr. *Alderman CORKLAND* thought that the site in Lincoln's-inn was preferable to the one proposed in the Bill. He was afraid that the scheme favoured by the Government would involve an expenditure of at least £2,000,000.

Mr. *SELWYN* said the Government were pressing the Bill forward in a manner calculated to stifle all discussion. If the House were hastily to pass the Bill they would prevent the adoption, even the consideration, of a speedy, easy, and inexpensive plan for the accommodation of the Courts of Equity. In 1859 the Society of Lincoln's-inn offered to provide from their own funds, upon their own land, sufficient accommodation for the Courts of Equity, in return for which all they asked was 4 per cent. upon the money actually expended by them, the sum so paid to them not to exceed, under any circumstances, £4,000 a-year. The plans had been prepared and approved by all the equity judges, and they would have been carried out long ago but for this gigantic and visionary scheme of the Government, which would cost at least £2,000,000. He maintained, moreover, that the Suitsors' Fund should be applied to other purposes than those of building courts of common law. The present Lord Chancellor was of the same opinion, and there could be no doubt, in fact, that the scheme of the Government virtually amounted to a confiscation of the Suitsors' Fund. If the Bill were recommitted he should propose the adoption of the plan submitted by the Society of Lincoln's-inn in 1859, and, therefore, he hoped the House would agree to the amendment of the hon. member for Tewkesbury.

Sir W. *JOLLIFFE* said that if the Government were to give the House an assurance that the question of site would be reconsidered, he should advise his hon. friend to withdraw his amendment.

Lord *PALMERSTON* believed it was the general opinion of the legal profession that it would be an enormous advantage to it if the plan now proposed were carried out. There were insurmountable objections to building the courts in Lincoln's-inn-fields. If the courts were erected there, they would occupy a vacant space in a part of the town where a vacant space was much needed. He doubted, moreover, whether Lincoln's-inn-fields would be large enough for the purpose. The loss of time and of money arising from the present scattered state of the courts was well known, and he really hoped the House would not object to the passing of this Bill. If the Money Bill, which was the Bill that would determine the matter, should not pass, the whole scheme must fall to the ground; but the present Bill was necessary in order to enable the Government to carry out the arrangements provided by the other measure. The money was to come out of the Suitsors' Fund, and it was only a contingent liability to the public—a liability, moreover, which he hoped would never be practically felt.

Mr. *LYGON* said that if the Money Bill were referred to a Select Committee, with an instruction to consider the question

of site, he should have no objection to withdraw his amendment.

Mr. COWPER stated that a Select Committee had already agreed upon a site. He did not know whether the Money Bill was so drawn that the question of site would properly come within the order of reference: but, for his own part, he should have no objection to the reconsideration of that matter.

Mr. LYON said there might be a special reference, and upon that understanding he begged to withdraw his amendment.

The amendment was accordingly withdrawn, and the Bill was read a third time and passed.

PENDING MEASURES OF LEGISLATION.

A BILL FOR SUPPLYING MEANS TOWARDS DEFRAYING THE EXPENSE OF CARRYING INTO EFFECT THE COURTS OF JUSTICE BUILDING ACT.

Whereas large sums of money have been and continue to be from time to time paid into the Bank of England to the credit of the Accountant General of the Court of Chancery in England by the suitors in that court, and others, either for safe custody during the pendency of litigation, or for the purpose of the same being distributed or otherwise; and whereas such sums are invested, or not, in Government Securities, for the benefit of persons interested therein, according as such persons do or do not apply to the Court for such investment to be made; but in consequence of the disinclination or neglect of such persons to have such monies invested, there is always arising from such deposits a large balance of cash in the Bank of England, hereinafter referred to as the General Cash Balance, remaining uninvested and unemployed: and whereas portions of such general cash balance have from time to time, under the authority of Acts of Parliament, been invested in Government Securities in the name of the Accountant General of the Court of Chancery, on account of the public, and not for the benefit of any particular persons: and whereas the investments so made are realized from time to time as the exigencies of the suitors require, and the produce paid back to the account of the general cash balance: and whereas portions of the income arising from such investments of the general cash balance have been applied to various purposes from time to time directed by Parliament, and the surplus of such income was, from the year one thousand seven hundred and sixty-eight up to the year one thousand eight hundred and fifty-two, invested and accumulated to the credit of an account intitled, "Account of securities purchased with surplus interest arising from securities carried to account of moneys placed out for the benefit and better security of the suitors of the High Court of Chancery," but subsequently thereto such surplus, in pursuance of Acts of Parliament, has been carried over and added to the Suits Fee Fund Account: and whereas there is now standing to the credit of the said account a sum of stock hereinafter referred to as the "Surplus Interest Fund," consisting of the following sums, that is to say, five hundred and seventy thousand, seven hundred pounds, sixteen shillings and one penny, Bank Three pounds per cent. annuities, seven hundred and twenty thousand, nine hundred and four pounds, three shillings and fivepence Reduced Annuities, and twenty-four pounds six shillings, New Three Pounds per centum Annuities, making in the whole, one million, two hundred and ninety-one thousand, six hundred and twenty-nine pounds, five shillings and sixpence, of such annuities: And whereas there is also standing in the books of the Governor and Company of the Bank of England, in the name of the Accountant-General of the Court of Chancery, to an account intitled "Account of Moneys placed out to provide for the officers of the High Court of Chancery," a sum of two hundred and one thousand and twenty-eight pounds, two shillings and threepence, Bank Three pounds per centum Annuities: And whereas such last-mentioned sum of stock, herein-after referred to as the "Chancery Surplus Fee Fund," has arisen from the accumulation of surplus fees received since the year one thousand eight hundred and thirty-three, from suitors in the Court of Chancery, and carried to the said account in pursuance of an Act of the session of the third and fourth years of his late Majesty King William the Fourth, chapter ninety-four: And whereas there is now standing to the credit of an account in the Paymaster-General's books, called "The Account of the Common Law Surplus Fee Fund," the sum of one hundred and five thousand, seven hundred and seventy-three pounds cash, or thereabouts: And whereas such cash, herein-after referred to as the "Common Law Surplus Fee Fund," has arisen from the surplus of the

fees received from suitors in the courts of common law, and paid to the credit of the above-mentioned account, in pursuance of divers Acts of Parliament: And whereas a Bill has been introduced into Parliament in the present session, by the short title of "Courts of Justice Building Act, 1861," and the object of such Bill is to purchase a site capable of affording accommodation to all the superior courts of law and equity, the probate and divorce courts, and the High Court of Admiralty, and the various offices belonging to the same, and to erect suitable buildings for such courts and offices; and it is by the said Bill provided that the expenses to be incurred in carrying into effect the said Courts of Justice Building Act are to be defrayed out of moneys to be provided by Parliament, and it is expedient that the several funds herein-before described as "The Surplus Interest Fund," "The Chancery Surplus Fee Fund," and "The Common Law Surplus Fee Fund," should be appropriated towards replacing the sums so provided: And whereas the capital of "The Surplus Interest Fund," is at present liable to supply any deficiency occurring in the realization of such investments of portions of the general cash balance to answer the demands of the suitors: and the capital of "The Chancery Surplus Fee Fund" is at present liable to supply any deficiency in "The Suits Fee Fund" for payment of the charges thereon: And whereas the income arising from "The Surplus Interest Fund" and "Chancery Surplus Fee Fund" is charged, together with other funds which are not appropriated by this Act, with various annual payments for salaries, pensions, compensation allowances, and other miscellaneous purposes; and in the event of the "Surplus Interest Fund" and "Chancery Surplus Fee Fund" being appropriated to the purposes above mentioned there may be a temporary loss of income to "The Suits Fee Fund" which it may be necessary to make good to a limited extent: And whereas it is expedient that provisions should be made for making good any contingent deficiency or loss of income: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Appropriation of Funds.

1. Whenever, under the direction of Parliament, any money shall be paid out of the Consolidated Fund towards defraying the expenses to be incurred in carrying into effect "The Courts of Justice Building Act, 1861," there shall be paid, in manner hereinafter-mentioned, firstly out of "The Common Law Surplus Fee Fund," and secondly out of the produce of "The Surplus Interest Fund" and "The Chancery Surplus Fee Fund," so far as such funds will extend, into the receipt of her Majesty's exchequer, to be carried to and form part of the consolidated fund of the United Kingdom, such sums as may be equivalent to the amount of monies so provided by Parliament.

2. The Paymaster General shall from time to time, until all monies provided by Parliament for the purposes of "The Courts of Justice Building Act, 1861," have been replaced, pay into the receipt of the exchequer all monies for the time being standing in his books to the account of the Common Law Surplus Fee Fund, at such times and in such manner as the Commissioners of her Majesty's Treasury may direct, and there shall from time to time be sold, under the order of the Lord Chancellor, such portions of the "Surplus Interest Fund" and "Chancery Surplus Fee Fund," or either of them, as will produce the amount of cash specified in any warrants from time to time issued by the said commissioners, and the monies arising from every such sale shall be received by one of the cashiers of the Bank of England, and be paid by him to the account of her Majesty's exchequer at the Bank of England.

3. There shall be paid out of the Consolidated Fund, or the growing produce thereof, into the Bank of England, to the credit of the Accountant General of the Court of Chancery, to the account of the "Suits Fee Fund," on the first day of February, on the first day of May, on the first day of August, and on the first day of November in every year, such sum, not exceeding in any one year forty thousand pounds, as may be sufficient to make good to the "Suits Fee Fund" any loss of income caused by the sales of the funds hereby directed to be sold, after deducting or taking credit for the amount of any salaries payable to the abolished masters of the Court of Chancery, and their clerks, and to the master of reports, and of any compensation allowances charged on the Suits Fund in chancery, or the said Suits Fee Fund, and existing at the time of the passing of this Act, which from time to time may cease to be payable, the first of such payments to be made on

such one of the said days as may first happen after any sale of the said fund has taken place.

4. If the stock purchased out of the general cash balance of the suitors is at any time insufficient to satisfy the claims of the suitors thereon, such deficiency shall to the extent to which the "Surplus Interest Fund" would have been available, be made good out of the Consolidated Fund.

5. As often as there shall be a deficiency in the "Suitors Fee Fund," at any of the times appointed for the payment thereof of any of the charges thereon, such deficiency shall be supplied out of the Consolidated Fund, to the extent to which the "Chancery Surplus Fee Fund" would have been available, but this provision is not to extend to supplying any deficiency caused by any alteration which may be made in any of the fees payable by the suitors in chancery, unless such alteration shall be approved by the Commissioners of her Majesty's Treasury.

Saving of Jurisdiction on Removal of Courts.

6. Notwithstanding their removal to the site provided by the Concentration of the Courts of Justice Act, 1861, the superior courts of law and equity may exercise the same jurisdiction and enjoy the same rights and privileges as they have hitherto exercised and enjoyed, and all statutes, charters, and other instruments wherein Westminster is described or referred to as being the locality of the said courts shall be construed as if the site provided by the said Act had been described or referred to in the said statutes, charters, and other instruments as the locality of the said courts, instead of Westminster.

7. Her Majesty may by order in council make any alterations that may be thought expedient for the purpose of adapting the forms of testing writs and other instruments, and the forms themselves of writs or other instruments, in use in the said courts, to the change of locality made by the said Concentration of Courts of Justice Act.

8. This Act shall not come into operation until the Courts of Justice Building Act, 1861, has passed into a law.

9. This Act may be cited for all purposes as "The Courts of Justice Building Act (Money), 1861."

Recent Decisions.

EQUITY.

THE MORTMAIN ACT.

Marsh v. The Attorney-General, V.C.W., 9 W. R. 179; *Alexander v. Brame*, M.R., 9 W. R. 719.

We notice these two cases together because they relate to the same subject, and also because the second, in an earlier stage, furnished an authority which was cited on the argument of the first. In the former case a testator was entitled to a reversionary share in the proceeds of a freehold house, which had been devised, after the failure of a life estate, to trustees upon trust to sell and hold the proceeds in trust for several persons, of whom the testator was one. By his will, he gave the bulk of his property to charity. The question was, whether this reversionary share in the proceeds of the sale of land was within the statute. Vice-Chancellor Wood said that, with regard to any real property of the testator, though directed by his will to be sold, there would be an interest in land which could not be given to charity. But as to property given by a prior testator, on trusts for sale which must be executed, that property could never reach the second testator as land, nor could he make any disposition of his interest in it as land. The second testator had no power of election in himself; but the concurrence of several persons was necessary to stop the sale. On these grounds it was held that this reversionary interest was not within the statute.

In the latter case the principal point was this—A deed of covenant was executed by the covenantor, but not communicated to the covenantees in his lifetime, whereby he covenanted that he would in his lifetime, or that his executors should within twelve months after his decease, but subject and without prejudice to the payment and discharge, out of his assets, of all his debts, funeral and testamentary expenses, and of any bequests he might make by his will, invest £60,000 in Consols in the names of trustees, to be held by them upon certain charitable trusts. The property left by the covenantor at his death consisted to a great extent of personalty savouring of the realty. The case came originally before the Master of the Rolls (2 W. R. 633), from whom there was an appeal

to the Lords Justices, assisted by two common law judges (3 W. R. 642), from whom the case went to the House of Lords (7 Jur. N. S. 221), where it was heard with the assistance of six common law judges, who were equally divided in opinion, and judgment was given in last July, reversing the decision of the Lords Justices. The ultimate determination was that the deed of covenant, so far as the chattels real were concerned, was within the meaning of the Mortmain Act, and therefore void. The principle by which the case was to be governed being thus settled, it went back to the Master of the Rolls, and now came before him upon several questions as to the application of this principle. It was established that this covenant was void, so far as it attempted to charge land or any interest in land. But still the question remained whether certain assets of the covenantor came within this description. There were, firstly, arrears of interest on money lent on mortgage which accrued due to, but had not been received by, the covenantor in his life time, and which had, since his death, been paid to his executors. The Master of the Rolls decided that these arrears were within the Act, on the ground that interest on a mortgage is secured in the same way as the principal. There was, secondly, money due to the covenantor at his death secured by bond or promissory note and by memorandum of deposit of title deeds of real estate containing an agreement to execute a legal mortgage. It was decided that the money thus secured was within the Act, as, indeed, seems clear enough. There was, thirdly, money secured by a debenture which assigned the rates and duties leviable by certain dock commissioners. It appeared that there were two classes of vessels from which rates and duties could be taken—viz. vessels using the dock and vessels coming into the river between certain limits. The Master of the Rolls felt no doubt, upon authority, that so far as the money was secured upon rates payable for using the dock, the case came within the Act. As regarded rates payable for using the river, he said that the right of levying tolls upon vessels using it was just the same as that of levying tolls upon passengers along a highway. He, therefore, held that this debenture was within the Act.

As the tendency of the courts has lately been rather to restrict the operation of this Act, it might, perhaps, have been expected that the Master of the Rolls would have decided these two points, or, at least, the former of them, the other way. It will be seen from the judgment of Vice-Chancellor Wood in the first case that he is inclined towards restriction. It is a curious example of the limits within which law reform is conceived as possible in England that no one appears to dream of attempting to remove the ambiguities of the Mortmain Act by legislation. Perhaps the reason of this is to be found in a well-grounded conviction that with the existing machinery of law making the result of such an attempt would be disastrous.

DECLARATION OF TRUST OF LAND.

Smith v. Matthews, L. J., 9 W. R. 644.

This is an important case on the Statute of Frauds. By the 7th section of that Act it is enacted that all declarations or creations of trust of land shall be manifested and proved by some writing, signed by the party who is by law enabled to declare such trust. In the case of *Forster v. Hale* (3 Ves. 696), Lord Alvanley remarked upon this section that it does not require that trusts should be created by writing, but that they should be evidenced by writing; and "it must be proved *in toto* not only that there was a trust, but what it was." In the present case a trader when in difficulties conveyed land and assigned stock in trade, book debts, and the goodwill of his business to his wife's brother, who undertook to pay his debts, and who afterwards carried on the business for the benefit of the wife and children. A separation deed was subsequently executed between the trader and his wife. The wife's brother died intestate, whereupon the wife, as his heiress-at-law, took the legal estate in fee in the land conveyed to him, and her husband became entitled in her right to the rents, unless the brother had constituted himself a trustee for her, in which case she would be entitled to the benefit of the trust, subject, however, to the question what would be the effect of the legal estate having descended upon her. This question, which is, we believe, a new one, did not call for decision, inasmuch as the Court held that no trust had been effectually manifested. Lord Justice Turner said that the circumstances of the case certainly led to the inference that a trust for the separate use of the wife might have been intended, but he did not find any sufficient manifestation of it. The deed merely conveyed the land in fee. There was a letter of the brother in which he said

that he had taken to the business for the benefit of the wife and family. In another letter he pressed a mortgagee of the land to give up a life policy which he held as collateral security, adding, "it is no personal advantage to myself for you to resign it into my hands." These letters, however, did not contain a word of reference to the land. There was, besides, a memorandum, signed by the brother, acknowledging that—he having paid off the mortgage-money charged upon "certain freehold property belonging to" the husband, and also upon the life policy above-mentioned, certain deeds had been delivered to him, "as the trustee of the real and personal estate" of the husband. This memorandum created the serious difficulty of the case. Lord Justice Turner, however, thought that it might mean only this, that the brother considered himself a trustee with reference to the obligation he had undertaken of paying the husband's debts. At all events, the memorandum did not shew what was the trust to which it referred, and, therefore, no trust in favour of the wife could be founded on it. An attempt was made to meet this difficulty by coupling the letters with the memorandum and treating the memorandum as declaring the same trusts of the land as had been declared by the letters of the business. "But," said the Lord Justice, "the memorandum does not refer to the letters; there is no evidence to connect them; and even if they were connected, I very much doubt whether we should, consistently with the statute, be justified in applying the trusts of the business to the land."

COMMON LAW.

BASTARDY PROCEEDINGS—LIMITATION OF TIME.

Re Pickford, Q. B., 9 W. R. 634.

It forms one of the provisions of the Acts regulating the practice upon application summonses (7 & 8 Vict. c. 101, amended by 8 & 9 Vict. c. 10), that the application for a summons against any one as the father of a bastard child must be made within the space of twelve months from the birth of the child. The only exception made with regard to this limitation in respect of time (the justice and utility of which, as the general rule, is self-evident) is when the alleged father has within that twelve months paid money for its maintenance, in which case the application for a summons may be made at any time subsequently. The present case, however, shows that if the framers of the Acts had been fortunate enough to have foreseen every possible contingency which might happen, another exception to the general rule would have been introduced. For here a summons was duly taken out within the proper time, but could not be served by reason of the party charged having absconded and kept out of the way till the twelve months had elapsed. In the meantime, very unfortunately for applicant, the magistrate by whom the summons had been granted had died; and therefore a fresh summons had to be taken out after application to another justice, on which summons the bastardy proceedings were taken, and in due course an affiliation order obtained. This order, however, on being brought up by *certiorari*, was quashed by the Court of Queen's Bench; for they considered that the statute imperatively required the application to be made within the twelve months; and that the second summons, though obtained under the peculiar circumstances above mentioned, could not be considered as a continuation only of the first.

A difficulty somewhat similar to the above has sometimes happened with regard to a bill of exceptions in an action—the mode of appealing to the Court of error against the opinion of the presiding judge on some matter of evidence or the like arising at the trial. This proceeding, which is given by statute (13 Ed. 1, s. 1, c. 31), is required by the Act to be sealed by the judge, to whose ruling exception is taken; and in more than one instance mentioned in the books the judge has happened to die before his seal could be procured. In these cases it has been said that all that could be done was to order a new trial, and that the bill of exceptions must drop. (See *Bennett v. Peninsular and Oriental Steamboat Company*, 1 C. & B., 29).

MASTERS AND WORKMEN.—6 Geo. 3, c. 25; 4 Geo. 4, c. 34, s. 3.

Reg. v. Youle, Exch., 9 W. R. 637.

Four years ago a case occurred under the Masters' and Servants' Act, which excited a good deal of attention.* An artisan, named Baker, was convicted before magistrates of having unlawfully absented himself from his master's service, and he was in consequence sent to prison for a month. Upon

his discharge, the original term of service being still unexpired, he refused to return to his master, but hired himself to another person in the same trade: and for this offence he was again convicted, and remitted to gaol for a second month. But upon this a motion was made for his discharge, as from an illegal imprisonment, first to the Court of Queen's Bench, and that Court refusing to interfere, afterwards to the Exchequer, which latter application proved successful. In the Court of Queen's Bench the main question which was discussed was whether the first offence and conviction had exhausted the statute, so that a failure to return to the master's service constituted no fresh offence; and the Court being of opinion that a second offence might be thus committed, the writ of habeas corpus, which was applied for, was refused. But in the Exchequer the Court held that irrespective of this question there were circumstances in the case which justified them in discharging the prisoner, and he was discharged accordingly, the only dissentient being the late Mr. Baron Watson. Some members of the Court, however (and among others the Chief Baron), took the opportunity of expressing themselves to be strongly of opinion that under these Acts a workman could only be once punished in respect of a single contract; and in delivering his judgment the Chief Baron made a remark, which is the main reason why the case of the present prisoner (which substantially is the same as that of Baker) is here noticed. He stated that a bill was then in preparation for the amendment of the law upon this subject, which (as he remarks) was, as it still is, in a state far from satisfactory. One of the defects is that it appears to be by no means certain what enactments are really in force. Baker seems to have been charged under 4 Geo. 4, c. 34, s. 3, but it was suggested that the conviction might also be sustained under an earlier provision contained in 6 Geo. 3, c. 25, which (said Mr. Baron Watson) remained unrepealed. In the present case the conviction was expressly stated in the special case sent up by the magistrates to have been under 6 Geo. 3, c. 25; and upon this question of repeal or no repeal the judgment of the Court ultimately turned. It is impossible not to regret that though so long a time has elapsed since the case of Baker, the obscurity and defects in this branch of the law remain the same, not having been cleared up by any such Act as promised by the Chief Baron. That judge, however, took the opportunity of again repeating his opinion that in these cases there should be in equity (whatever the construction of the Acts may require) but a single punishment in respect of a single engagement to serve, which has been broken and abandoned; and he remarked that whereas if an action were brought for the breach of contract the verdict would put a final end to the contract, so the same consequence should follow if the master chose the alternative of proceeding criminally against the workman. In the present case the prisoner was discharged, because the whole court (Brannwell, B., however, holding such opinion with some qualification) considered that the charge having been made under 6 Geo. 3, c. 75, the prisoner had been convicted under a provision which in fact was no longer in force, but had been superseded by 4 Geo. 4, c. 34, s. 3.

Foreign Tribunals and Jurisprudence.

FRANCE.—A very important case, affecting the wills of all British subjects dying in France, was lately decided by the Imperial Court. An unmarried English lady, named Kelly, died in 1845 at Versailles, in which place she had resided for some years; and by her will, dated 1824, she left among other legacies a certain sum to a Catholic college in England, another to a convent in the same country, £1,000 and her jewels to her mother, Mrs. Innis, and £1000 to the Rev. T. Wassal. She also appointed that gentleman and two other persons her executors. For some reason not explained, her property, which was entirely personal, was not claimed, and in 1848 the *Domaine de l'Etat*, that is the Government, took formal possession of it. In 1854 the Prerogative Court of Canterbury in England decreed that the property of the lady should be taken by Mr. Wassal, who was the sole surviving executor, and should be distributed by him according to the will. In 1856 that gentleman called on the French *Domaine* to give it up to him, but that department refused. An action was then brought before the Civil Tribunal of Versailles, both by Mrs. Innis and himself; the former claiming the property as the next of kin and heir-at-law of her daughter; the latter as testamentary executor. But it turned out that Miss Kelly was an illegiti-

* *Re Baker*, 3 W. R., Q. B. 623; Exch., 661.

mate child, and the Tribunal decided that neither by English nor French law can the mother of a natural child inherit from the latter. It therefore rejected her claim. As to Mr. Wassal, it postponed a decision with respect to his demand, until he should produce proof—1st. That at the time of the death of the testatrix the persons to whom she had bequeathed legacies were living; 2. That under the English law educational establishments and religious communities can receive legacies. Against this decision an appeal was presented to the Imperial Court, and the matter was argued yesterday. The Court gave a judgment of some length to this effect:—Although Miss Kelly was proved to have resided in France 25 years, she had never been naturalised nor even domiciled, and consequently as regards her property, she was under the English law, which holds that a natural mother has no right to inherit from her child, even though she may have formally acknowledged the latter; that it was not denied that Miss Kelly was illegitimate, and that consequently Mrs. Innis's claim could not be admitted. With respect to Mr. Wassal, the Court, said that, according to Arts. 713 and 768 of the Code Napoleon, all property to which a legal claim cannot be established goes to the State; that the demand of Mr. Wassal for the property of Miss Kelly was made in the capacity of executor, that is to say, for persons and communities which he legally represents; and that it follows that he is bound to prove that at the death of the testatrix those persons were living and those communities capable of inheriting. The Court consequently decided that the Tribunal of Versailles had correctly laid down the law, and it confirmed the former judgment. Subsidiary questions were raised as to the period for which the Government should pay interest on the property, in the event of its being made to restore it; and as to whether Mr. Wassal, as a foreigner, should not be required to increase the sum he had deposited as caution money for payment of costs. On the first point the decision was that though the Government had taken possession of the property in 1848, yet as no claim had been made for it until 1856, interest should run only from the latter date. On the second point the Court ruled that as the Government was bound to pay to Mr. Wassal without delay the legacies left to persons or communities whose existence and right he should prove, he not only need not give any more caution money, but should have that which he had already deposited restored to him, subject to the condition of deducting from it the costs he had incurred.

LAW AMENDMENT SOCIETY.

The annual meeting of the Law Amendment Society was held on Tuesday, the 18th inst., at 3, Waterloo Place, Pall Mall.—Lord Brougham presided.—The report, which was read by the Secretary, stated that there had been a considerable accession of members during the session, and that the prospects of the Society were highly encouraging. It appeared that several valuable papers on subjects connected with law reform had been read at the general meetings, and that special committees were then preparing important reports. A careful statement was given of the views of the Society, as expressed in the various discussions which had taken place during the session, upon the Bankruptcy Bill, Patent Law, Opening of Biddings in Chancery, Procedure in Criminal Trials, Private Bill Legislation, Charitable Trusts, &c. Regret was expressed that the general expectation for a satisfactory settlement of the law of bankruptcy was likely to be again disappointed.

Mr. EDWARD WEBSTER, pursuant to notice, asked the President "whether it was within the objects of the Law Amendment Society to take under its consideration the effects of the statutes 13 Elizabeth, c. 12, and 13 & 14 Charles II., c. 4. Special reference was made to the proceedings about to be taken under the Act of Uniformity against one of the clerical authors of the "Essays and Reviews."

His Lordship replied that the consideration of the Act of Uniformity was certainly within the scope of this Society, but as a matter of prudence he deprecated the discussion of a subject which might bring the Society into collision with the theological controversy then going on. Lord Brougham then stated he was sorry he was obliged to leave the meeting to attend the House of Lords, but he could not do so without expressing his anxiety for the prosperity of the Society. He had often said that success depended on their continued labours. The present government was undoubtedly favourable to legal reform, and the Society should make good use of its opportunity. The French proverb said, "When it rains, take your cloak with you; when it is fine, do as you please." If the Government were ad-

verse to the objects of the society, he would say, "Do as you please," but having a Government, which he believed was anxious for the amendment of the law, he earnestly advised them to prepare for all difficulties, and strenuously carry out the great objects for which the society had been instituted.

The noble lord then left, and the chair was taken by the Right Hon. JOSEPH NAPIER.

Mr. SLANEY, M.P., in moving the adoption of the report, expressed his regret that owing to the pressure of private business and financial measures, so little was done by Parliament within the proper sphere of legislation.

Mr. SYMONDS seconded the motion, which was carried unanimously. He was sorry that no reference had been made in the reports to the minister of justice.

Mr. NAPIER agreed that it was important that there should be a department of justice. The late Sir R. Peel proposed to have a secretary for the affairs of justice, to relieve the home department of all the work connected with the administration of justice in England and Ireland. That would give uniformity to our law, and without it legislation would always be dilatory and uncertain.

Lord Brougham was unanimously re-elected president. The vice-presidents were also re-elected. The new managers elected for the ensuing year were—G. J. Shaw Lefevre, Esq., Seymour Teulon, Esq., Thomas Webster, Esq. F.R.S., Alexander Billing, Esq.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

COCKERMOUTH.
KESWICK.
MIDLAND (Ottley extension).
OSWESTRY, ELLESMERE, & WHITCHURCH.
PENRITH.

The following Bills have passed through committee in the House of Commons:—

METROPOLITAN EXTENSION (Finsbury Circus).
NEWCASTLE, DERWENT, AND WEARDALE.
NORTH SOMERSET.

Court Papers.

ORDER IN CHANCERY.

6th JUNE, 1861.

Whereas it is proper that the accounts kept by the Accountant-General of this Court should be examined and compared in order to settle the same; and whereas it will require considerable time to perfect such examination, and it is necessary that a time should be appointed for closing the books of accounts of the said Accountant-General for the purposes aforesaid, I do order that the books of the said Accountant-General be closed from and after Monday the 19th day of August next, to Monday the 28th day of October next, inclusive, excepting upon the days and for the purposes hereinafter-mentioned, in order to adjust the accounts of the suitors with the books kept at the bank; and that during that time, no draft for any money, except as hereinafter provided, or certificate for any effects under the care and direction of this Court, be signed or delivered out by the Accountant-General, or any stocks or annuities accepted or transferred by him relating to the suitors of this Court. And that no purchase, sale, or transfer be made by the said Accountant-General unless the order and request, or registrar's certificate, be left at his office, on or before Thursday the 8th day of August next, and that no order for payment of any money out of court, which may be then in Court, be received in the Accountant-General's office after Saturday the 10th day of August next. Provided nevertheless that the office of the said Accountant-General shall be open on Monday the 14th Tuesday the 15th, and Wednesday the 16th days of October next, for the delivery out of any regular interest drafts which

have become payable in respect of the October dividends, and of any other regular interest drafts which shall have become payable during the closing of the office as aforesaid. And to the end that the suitors may have notice hereof, and apply to the Court as there shall be occasion, to have money paid to them out of the bank, or stocks or annuities transferred to them before the 19th day of August next, I do order that this order be entered and set up in the several offices of this Court.

CAMPBELL, C.

Summer Circuits of the Judges. 1861.

COCKBURN, C.J., will remain in town.

Norfolk.

ERLE, C.J., and WIGHTMAN, J.

Aylsbury, Thursday, July 11; Bedford, Monday, 15; Huntingdon, Wednesday, 17; Cambridge, Friday, 19; Norwich and city, Wednesday, 24; Ipswich, Tuesday, 30.

Midland.

POLLOCK, C.B., and WILLES, J.

Oakham, Tuesday, July 9; Northampton, Wednesday, 10; Leicester and borough, Saturday, 13; Nottingham and town, Wednesday, 17; Lincoln and city, Saturday, 20; Derby, Thursday, 25; Warwick, Tuesday, 30.

Home.

WILLIAMS, J., and BLACKBURN, J.

Hertford, Thursday, July 11; Chelmsford, Monday, 15; Lewes, Friday, 19; Maidstone, Wednesday, 24; Croydon, Thursday, August 1.

Northern.

MARTIN, B., and WILDE, B.

York and city, Tuesday, July 9; Durham, Tuesday, 23; Newcastle and town, Monday, 29; Carlisle, Friday, August 2; Appleby, Tuesday, 6; Lancaster, Wednesday, 7; Liverpool, Saturday, 10.

S. Wales.

CROMPTON, J.

Cardigan, Monday, July 8; Haverfordwest and town, Thursday, 11; Carmarthen, Tuesday, 16; Cardiff, Friday, 19; Brecon, Monday, 29; Presteign, Thursday, August 1; Chester and city, Saturday, 3.

N. Wales.

BRAMWELL, B.

Newtown, Monday, July 15; Dolgelly, Thursday, 18; Carnarvon, Monday, 22; Beaumaris, Thursday, 25; Ruthin, Monday, 29; Mold, Thursday, August 1; Chester and city, Saturday, 3.

Western.

CHANNELL, B., and BYLES, J.

Winchester, Thursday, July 11; Salisbury, Wednesday, 17; Dorchester, Monday, 22; Exeter and city, Thursday, 25; Bodmin, Thursday, August 1; Wells, Tuesday, 6; Bristol, Saturday, 10.

Oxford.

HILL, J., and KEATING, J.

Abingdon, Monday, July 8; Oxford, Wednesday, 10; Worcester and city, Saturday, 13; Stafford, Thursday, 18; Shrewsbury, Saturday, 27; Hereford, Wednesday, 31; Monmouth Saturday, August 3; Gloucester and city, Thursday, 8.

BANKRUPTCY AND INSOLVENCY BILL.—The following resolutions regarding the mutilation of the Bankruptcy Bill by the House of Lords have been adopted by the Associated Chambers of Commerce:—Bankruptcy and Insolvency Bill. "At a special meeting of the Standing Committee of the Associated Chambers of Commerce of the United Kingdom, consisting of the following Chambers, viz:—Belfast, Birmingham, Bradford, Bristol, Coventry, Dundee, Dowsbury, Glasgow, Gloucester, Hull, Kendal, Leeds, Liverpool, Norwich, Sheffield, Southampton, Staffordshire Potteries, Wolverhampton, charged by special resolution of a general meeting of the Association to consider the subject of the Bankruptcy and Insolvency Laws, with directions to take action thereon. After very careful consideration of the various alterations made by the House of Lords in the Bankruptcy and Insolvency Bill, introduced by her Majesty's Government, it was resolved unanimously, That this Committee strongly disapproves the

rejection of clauses 123, 124, 125, 128, 130, 133, 134, 135, 136, 145, relating to the appointment and powers of creditors' assignees. Also of the rejection of clauses 181, 182, 185, 186, 187, 188, 189, 190, relating to the mode of rendering accounts, and to the payment of dividends. Also of the rejection of clause 119, giving power to creditors to accept proposals made by bankrupts. Also of the rejection of clauses 223, 224, 225, 226, 227, 228, 229, empowering the Court of Chancery to delegate certain matters to the commissioners, &c., of local courts. That this Committee also disapproves the following alterations and additions made to the Bill by the House of Lords:—The alteration in clause 118 depriving the creditors of the option of removing the case from the Court; the alteration in clause 148 with reference to accounts; the alterations in clauses 193 and 195 rendering the assent of three-fourths in number as well as value necessary to give validity to deeds of arrangement; and the alterations in clause 200 to the same effect, together with that requiring all the property of the debtor to be comprised in the trust deed. Also to the last paragraph of clause 100; to clause B, at page 25, substituted for clause 103, favouring non-traders; and to paragraphs F, G, and K, pages 33 and 34, so far as relates to the word 'non-trader.' That this committee approves the paragraph printed in red ink at the close of clause 208, provided, '30 days' be substituted therein for '14 days.' That the alterations above mentioned would deprive the Bill of its principal value in the estimation of the mercantile community; and this committee earnestly trusts that the House of Commons and her Majesty's Government will offer to those alterations their determined opposition. That a memorial based on the above resolutions, and signed by the chairman, be presented to her Majesty's Government. That a copy of these resolutions be forwarded to each Associated Chamber, with a strong recommendation that they immediately petition Parliament in accordance therewith; to the National Association for the promotion of Social Science, to the Mercantile Law Amendment Society, and to each member of the House of Commons.—CHARLES M. NORWOOD, President."

BANKRUPTCIES THIS YEAR.—It appears that the bankruptcy rate this year is rather seriously above the average of the preceding decade. The number of bankruptcies gazetted during the three months ending the 31st of March was, in the Liverpool district, 31; in the Manchester, 28; in the Birmingham, 70; in the Leeds, 35; in the Bristol, 25; in the Exeter, 10; and in the Newcastle, 6—making a total of 205, besides 154 failures gazetted in the metropolitan jurisdiction, or 359 in all. This would give a yearly total of 1,436, while in the 10 years ending the 31st of December the total gazetted was only 1,123. The present bankruptcy rate is, therefore, nearly 28 per cent above the average. This increase has arisen mainly in the jurisdictions not comprised within the metropolitan district, as the advance in the latter is only at the rate of 12 per cent. Of the purely provincial districts Exeter and Newcastle are the only localities in which the current bankruptcy rate shows a reduction; but in the Newcastle jurisdiction an excellent state of things seems to prevail, the rate being 50 per cent. below the usual total. In the Liverpool district it is 56 per cent. in excess; in the Manchester district 26 per cent. in excess; in the Birmingham district 79 per cent. in excess; in the Leeds district 33 per cent. in excess; and in the Bristol district 47 per cent. in excess.

PROBATE DUTY.—The sum of £1,188,649 was paid for probate and administration duty in England in the year 1860—an increase upon the previous year, and upon all previous years. Of this sum £708,333 was paid in London, and the remainder, £480,316, at the district registries created under the Probate Act of 1857. At Wakefield there was £46,792 received, at Manchester, £35,240, at Liverpool, £25,939, at Bristol, £24,446, at Exeter, £23,057, at Chester, £22,459, at Birmingham, £20,738.

EXTRADITION OF CRIMINALS.—Some papers which have been laid before Parliament relating to the arrest of Count Teleki give the laws of the German States with regard to mutual extradition. By a resolution passed Aug. 18, 1836, the confederated States of Germany mutually engaged to deliver up any one convicted of any attempt hostile to the Sovereign, or to the existence, integrity, constitution, or safety of another confederated State, or of a conspiracy with a view to such attempt, or of favouring such; provided that the individual is not a subject of the State applied to for extradition. By a later resolution, passed January 26, 1854, the engagement is extended to persons condemned or accused by a tribunal of the offended State (or against whom a sentence of arrest has been there pronounced) of "any

crimes or transgressions" not being frauds in taxation, or transgressions against police or financial regulations, it being understood that the offence be likewise recognised as a crime or transgression by the laws of the State on which the demand is made, but not in this case punishable in the judiciary court of that State. With the individual all articles are to be given up which may be in his possession, as well as any others which may aid in proving the crime. Later in the same year 1854 the Governments of Austria and Saxony entered into an agreement to extend the foregoing engagements to the non-German dominions of Austria.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	229	Stock Ditto A. Stock	98½
3 per Cent. Red. Ann..	88½	Stock Ditto B. Stock	131
3 per Cent. Cons. Ann..	89½	Stock Great Western	72
New 3 per Cent. Ann..	88½	Stock Lancash. & Yorkshire ..	111½
New 2½ per Cent. Ann..	88	Stock London and Blackwall..	62
Consols for account ..	89½	Stock Lon. Brighton & S. Coast	120
India Debentures, 1859.	95½	25 Lon. Chatham & Dover ..	44½
Ditto 1859.	95½	Stock London and N.-Westrn..	93½
India Stock .....	..	Stock London & S.-Westrn..	95½
India 5 per Cent. 1859..	98½	Stock Man. Sheff. & Lincoln..	46½
India Bonds (£1000) ..	dis. 18	Stock Midland	120½
Do. (under £1000).....	dis. 18	Stock Ditto Birm. & Derby ..	96
Exch. Bills (£1000)....	dis. 10	Stock Norfolk	57
Ditto (£500).....	dis.	Stock North British	63½
Ditto (Small) ..	dis.	Stock North-Eastn. (Brwck.)	105½
		Stock Ditto Leeds	62½
		Stock Ditto York	93½
		Stock North London.....	98
		Stock Oxford, Worcester, & Wolverhampton ..	..
RAILWAY STOCK.		Stock Shropshire Union	44
Stock Birk. Lan. & Ch. Junc.	83	Stock South Devon	40
Stock Bristol and Exeter....	96½	Stock South-Eastern	81
Stock Cornwall	6	Stock South Wales	62
Stock East Anglian	17½	Stock S. Yorkshire & R. Dan ..	96
Stock Eastern Counties	50½	25 Stockton & Darlington ..	39½
Stock Eastern Union A. Stock	41	Stock Vale of Neath	90
Stock Ditto B. Stock	30		
Stock Great Northern	107		

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Name will be transferred to the Party claiming the same, unless other Claimant appear within Three Months:—

WHARTON, ANN ELIZABETH, Spinster, Bath, £998 7s. 6d. New Three per Cents.—Claimed by WILLIAM LLOYD WHARTON, the acting surviving executor.

Births, Marriages, and Deaths.

BIRTHS.

HARRISON—On June 19, at 5, Colville-road, Bayswater, the wife of Arthur A. L. Harrison, Esq., Solicitor, of a son.

SCOTT—On June 25, the wife of Richard Scott, Esq., Solicitor, Dublin, of a son.

MARRIAGES.

ABRAM—ARDING—On June 19, George Abram, Esq., of Middle Temple, to Ann, daughter of James Arding, Esq., of King's-road, Bedford-row.

PRALL—COMBS—On June 20, Samuel Prall, Esq., M.D., of West Malling, son of Richard Prall, Esq., of Rochester, Kent, to Emma, daughter of the late Henry James Combs, Esq., of Laurence Pountney-hill.

TODD—GRIFFITH—On June 20, H. Fraser Todd, Esq., of Bermuda, to Sophia Grant, daughter of the late William Griffith, Esq., Barrister-at-Law, of Windsor House, Elizabeth-terrace, Hyde-park, formerly Solicitor-General of Barbadoes.

VERDON—ARMSTRONG—On March 28, at Williamstown, Victoria, Australia, the Hon. George Frederic Verdon, M.L.A., Colonial Treasurer, to Annie, daughter of John Armstrong, Esq., of Melbourne, Solicitor.

DEATHS.

CAMPBELL—On June 23, at his residence, the Right Hon. John Lord Campbell, Lord High Chancellor, in the 80th year of his age.

PLUNKETT—On June 19, in his 48th year, H. Plunkett, Esq., Solicitor, of West Bromwich and Oldbury.

RUTTLE—On June 25, at Dublin, Daniel Ruttle, Esq., Solicitor, late of Rathkeale.

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, JUNE 28, 1861.

GILLARD, HENRY, & WILLIAM LAND FLOOK, Attorneys-at-law, Solicitors & Conveyancers, Bristol. June 24.

Windings-up of Joint Stock Companies.

FRIDAY, JUNE 28, 1861.

GENERAL STEAM PRINTING AND PUBLISHING COMPANY (LIMITED).—Com. Holroyd will, on July 13, at 1, in Basinghall-street, make a call on contributors for £3 per share.

ISLAND OF ANGLESEA COAL AND COKE COMPANY (LIMITED).—Petition for winding-up presented on June 27, will be heard before the Court of Bankruptcy, in Basinghall-street, on July 13, at 11. Rogerson & Ford, Solicitors, 31, Lincoln's-inn-fields.

UNION DISCOUNT COMPANY (LIMITED).—Com. Evans will proceed on July 15, at 1, at Basinghall-street, to make a call upon all the contributors of the Company settled on the list for £1 per share.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, JUNE 25, 1861.

ATCHISON, ROBERT, Rear-Admiral of the Royal Navy, Shrubb's-hill, Lyndhurst, Hants. Clarke & Morice, Solicitors, 29, Coleman-street, London, agents for Patterson & Bradby, Southampton. Aug. 31.

BLEZARD, JOHN, Licensed Victualler, Scotland-place, Liverpool. Atkinson & Bartlett, Solicitors, 23, John-street, Liverpool. Aug. 1.

EDWARDS, JOHN, Farmer, Ipsley, Warwickshire. Sanders, Solicitor, Bromsgrove, Worcestershire. Aug. 24.

GILBERT, RICHARD, Maltster, Bromsgrove, Worcestershire. Sanders, Solicitor, Bromsgrove, Worcestershire. Aug. 24.

HARRISON, GEORGE, Ironmonger, 169, High-street, Southwark, Surrey. Edwards, Solicitor, 15, St. Swithin's-lane, London. July 30.

HOPKINS, JOSEPH, Farmer, Ratcliffe Culey, Leicestershire. Power & Pilegrim, Atherstone, Warwickshire. Aug. 1.

HOWARD, DANIEL, Grocer & Butcher, Rickmansworth, Hertfordshire. Fellows, Solicitor, Rickmansworth, Herts. Aug. 20.

ISLEY, GEORGE, Licensed Victualler, 27, Church-street, Woolwich, Kent. Makinson & Carpenter, 3, Elm-court, Temple, London. Sept. 1.

WILLIAMS, WILLIAM, Esq., formerly of Dublin, afterwards of Florence, Italy, and late Nice, France. Freshfields & Newman, Solicitors, 5, Bank-buildings, London. Sept. 30.

FRIDAY, JUNE 28, 1861.

BIRD, JOHN, Solicitor, Taunton, Somersetshire. White v. Pearce, V.C. Kindersley. Aug. 1.

FRENCH, JANE, Spinster, Dockwray-square, Tynemouth, Northumberland. Fenwick v. Clark, V.C. Stuart. July 18.

MOULD, LESTOCK JOSEPH, Builder & Carpenter, Ponder's-end, Middlesex. Farrer v. Mould, V.C. Wood. July 18.

PINNOCK, WILLIAM, Farmer, Chimney, Oxford. Giles v. Pinnock, V.C. Wood. July 19.

SHILTON, THOMAS, Gent., Barford, Warwickshire. Marchant v. Cragg, M.R. July 20.

WESTELL, JAMES, Witney, Oxford. Westell v. Westell, M.R. July 13.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, JUNE 25, 1861.

BEATSON, JOHN, Merchant, Fenchurch-street, London, and Bath-place, Peckham, Surrey. Armstrong v. Nash, M. R. July 18.

DAWSON, ROBERT, Licensed Victualler, Birkenhead, Cheshire. Dawson v. Clarke, V.C. Kindersley. July 20.

HARPHAM, WILLIAM, Game Dealer and Fishmonger, Worksop, Nottinghamshire. Hooson, v. Harpham, M. R. July 14.

MILNE, MARY, Widow, Stockport, Cheshire. Partington v. Cheetham, M. R. July 19.

JENSON, JOHN, Shoe Maker, Rugby, Warwickshire. Tew v. Jenson, M. R. July 20.

STONE, JOHN, Esq., Sydney House, Bathwick, Bath. Warry v. Stone, V.C. Wood. July 20.

(County Palatine of Lancaster.)

HARDING, JAMES AUGUSTUS, sen., Messenger in Bankruptcy, 135, Herman-terrace, Bury New-road, Manchester. Cox v. Harding, Registrar of Court, 4, Norfolk-street, Manchester. July 19.

FRIDAY, JUNE 28, 1861.

DOWLING, EDMUND, Grocer, 21, Delamere-crescent, Westbourne-grove North, and formerly of 10, King's-road, East Chelsea. Dowling, Solicitor, 30, Prince's-square, St. George's East, Middlesex. July 30.

DUNNABIN, JAMES, Watchmaker, 43, Springfield, Liverpool. Duke, Solicitor, 5, Church-alley, Church-street, Liverpool. August 1.

GORDON, ELIZA JANE, Spinster, Bethnal-green, Middlesex. Simpson, Solicitor, 17, Gracechurch-street. August 24.

GUNTER, ANNE, Castle View-villa, Carisbrooke, Isle of Wight. Orton, Solicitor, 29, Upper Hamilton-terrace, St. John's-wood. August 15.

LEMON, ROBERT, Builder, formerly of Pill-street, Whitechapel, Middlesex, but late of Saville-place, Pritchard, Solicitor, 18, Great Knight Rider-street, Doctor's-commons. Sept. 1.

MOUNSEY, DANIEL, sen., Esq., Goldrill-cottage, near Patterdale, Westmorland. Harrison, Solicitor, Penrith. Oct. 11.

JERROCK, WILLIAM, Gent., Kexby, Lincolnshire. Heaton & Oldman, Solicitors, Gainsborough. Sept. 3.

PEACOCK, SAMUEL COLBORNE, Fringe & Trimming Manufacturer, Tudor House, Lee, Kent, and 121, Wood-street, Cheapside, London. Wilkin, Solicitor, 10, Tokenhouse-yard, London. Aug. 1.

PRIEST, RICHARD, Gentleman's Servant, late of Stone, Worcestershire, and formerly of Hartlebury, Worcestershire. Cook, Solicitor, Stourport. Aug. 1.

SUER, THOMAS, Yeoman, Dufton, Westmorland. Thompson, Solicitor, Appleby, Westmorland. Sept. 7.

TILEY, JANE, Widow, formerly of 25, St. James's-place, St. James, Middlesex, and late of Calcutt, Cricklade, Wilts. Lewis, Wood, & Street, Agents for Rowland, Solicitor, Rainsbury. Aug. 1.

Assignments for Benefit of Creditors

TUESDAY, June 25, 1861.

BEARD, JOHN, Draper, Broadway, Westminster. June 14. Sol. Sole, 68, Aldermanbury.

BOSWELL, JOHN, Maltster, Publican, and Tailor, Sutton Cheney, Leicestershire. June 13. Sols. Cowdell, Son, & Bramah, Market Bosworth, Leicestershire.

CODD, FRANCIS, & WILLIAM JAMES, Cabinet Makers, Quay-street, Haverfordwest. June 6. Sol. Scowcroft, Quay-street, Haverfordwest.

DARNIEL, JAMES WILLIAM, Bookseller and Stationer, Adelaide-villas, Richmond, Surrey, and late of Hill-street, Richmond. June 14. Sols. Lawrence, Plews, & Boyer, 14, Old Jewry-chambers.

FARWELL, WILLIAM HEAP, Hosier, Manchester. June 7. Sol. Sole, 68, Aldermanbury.

HARTOTT, RICHARD, Grocer and Baker, Woking, Surrey. June 4. Sol. Turner, Aldermanbury, London.

HICKS, GEORGE, Stationer and Dressing Case Maker, 53, Regent-street, St. James's, Westminster, Middlesex. June 19. Sols. Fraser & May, 78, Dean-street, Soho.

HUDSON, ROBERT, Cabinet Maker, Devonshire-street, Sheffield. June 20. Sols. Fretson, Sheffield.

LAW, JAMES, Cotton Spinner, Oldham, Lancashire. June 4. Sol. Boote, 52, Brown-street, Manchester.

LEEMING, JOHN FISHWICK, & MILES LEEMING, Oil Merchants, Manchester (Leeming Brothers). June 17. Sol. Storer, 89, Fountain-street, Manchester.

PREEDY, JOHN, Innkeeper, Carrier, and Farmer, Newent, Gloucestershire. June 5. Sol. Wilkes, Gloucester.

FRIDAY, June 28, 1861.

ABBOTT, FREDERICK ABLITT, Butcher & Farmer, Bury Saint Edmunds, Suffolk. Sol. Salmon, Bury Saint Edmunds. June 17.

BRITTAIN, WILLIAM WALKER, Tailor, Chester. Sol. Richards, 16, Warwick-street, Regent-street, London. June 7.

CROSS, HENRY, Builder, Heswell, Chester. Sol. Duke, 5, Church-alley, Liverpool. June 1.

GOVEY, JOSEPH, and FREDERICK CROSS, Bootmakers, 56, Brewer-street, Somers-town, Middlesex (Govey & Cross). Sol. Summerlin, 13, Clifford's-lane, London. June 25.

HODGE, EDWARD, Grocer, Gravesend, Kent. Sol. Arnold, Milton-next-Gravesend. June 22.

HOPKINS, JOSHUA, and HENRY HACKETT, Carpenters & Builders, Banbury, Oxfordshire. Sol. Fellatt, Banbury. June 11.

HUGHES, EDWARD, Chemist & Druggist, Thomas-street, Llanelly, Carmarthenshire. Sol. Brown, Ewerby-cottage, Llanelly. June 21.

SHEARER, ROBERT, Draper, 11, Upper George-street, Newport, Monmouthshire. Sol. Bevan, Bristol. May 29.

TEMPERLEY, THOMAS CRAW, Porter Merchant, Newcastle-upon-Tyne. Sol. Stenart, Newcastle-upon-Tyne. June 4.

WELLS, GEORGE, Victualler, Barford, Warwickshire. Sol. Snape, Warwick. June 14.

Bankrupts.

TUESDAY, June 25, 1861.

ANDREW, WILLIAM PARKER, Wine Merchant, 37, Crutched-friars, London (Andrew & Co.). Com. Holroyd: July 6, at 12.30, and Aug. 6, at 2; Basinghall-street. Off. Ass. Edwards. Sols. Nichols & Clark, 9, Cook's-court, Lincoln's-inn, Middlesex. Pet. June 24.

ASHFIELD, CHARLES, Boot and Shoe Manufacturer, 2, Home-terrace, Hammersmith, Middlesex. Com. Fane: July 5, and Aug. 9, at 12; Basinghall-street. Off. Ass. Cannan. Sols. Sidney Smith & Son, 6, Barnard's-inn, Holborn. Pet. June 25.

BROOKING, FRANCIS LANG, jun., Grocer, Totnes, Devonshire. Com. Andrews: July 10, and 31, at 12; Exeter. Off. Ass. Hirtzel. Sol. Willesford, Exeter. Pet. June 24.

HAYDAY, JAMES, Bookbinder, 31, Little Queen-street, Lincoln's-inn-fields, Middlesex. Com. Goulburn: July 8, at 1, and Aug. 5, at 11.30; Basinghall-street. Off. Ass. Pennell. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London. Pet. June 10.

KINSMAN, SAMUEL, Printer, Publisher, Stationer, and Music Seller, 103, High-street, Poole, trading also in copartnership with Thomas James Hankinson, Newspaper Proprietors and Publishers, Poole (Kinsman & Hankinson). Com. Holroyd: July 6, at 1, and Aug. 6, at 2.30; Basinghall-street. Off. Ass. Edwards. Sols. Meredith & Lucas, 8, Lincoln's-inn, London, or Harris, Bristol. Pet. June 24.

LAIDLIE, WILLIAM (and not LAIDLIE, as in last Friday's Gazette) Boot and Shoe Manufacturer, Sunderland. Com. Ellison: July 3 and Aug. 2, at 12.30; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Potts & Scarisbrick, 31, Bridge-street, Sunderland. Pet. June 13.

PETTFORD, JOSEPH, Smith, 5, Ferdinand-place, Hampstead-road, Middlesex. Com. Fane: July 5 and Aug. 9, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Lloyd, 1, Wood-street, Cheapside. Pet. June 22.

PYLE, THOMAS, & ROBERT PYLE, Grocers and Provision Merchants, Durham (Thomas & Robert Pyle). Com. Ellison: July 4, and Aug. 15, at 12; Newcastle-upon-Tyne. Off. Ass. Baker. Sol. Smith, Durham, or J. & R. Watson, Newcastle-upon-Tyne. Pet. June 21.

SEAGER, GEORGE WILLIAM, Licensed Victualler, Peacock Tavern, High-street, Newington Butts, Surrey. Com. Holroyd: July 9, at 2.30, and Aug. 13, at 1; Basinghall-street. Off. Ass. Edwards. Sols. Shaen & Grant, Kennington-cross, Surrey. Pet. June 22.

SPARR, HENRY EDWIN, Carver and Gilder, 314, Oxford-street, Middlesex. Com. Evans: July 8, at 12, and Aug. 8, at 11; Basinghall-street. Off. Ass. Johnson. Sol. Lay, 44, Poultry. Pet. June 24.

FRIDAY, June 28, 1861.

GERMAIN, THOMAS, Italian Warehouseman, 75, Gracechurch-street, London. Com. Fane: July 11, at 12.30; and Aug. 9, at 1; Basinghall-street. Off. Ass. Whitmore. Sol. May, 67, Russell-square. Pet. June 27.

HARRIS, JOSEPH CROSHAM, Licensed Victualler, Old Swan, near Liverpool, and late of Islington, Liverpool. Com. Perry: July 10 and 30, at 12; Liverpool. Off. Ass. Bird. Sols. Atkinson & Bartlett, Liverpool. Pet. June 24.

HOOKE, RICHARD, Baker, 75, Shoe-lane, London. Com. Evans: July 11, and Aug. 15, at 1; Basinghall-street. Off. Ass. Johnson. Sol. Vining, 2, Moorgate-street, City. Pet. June 26.

JONES, GEORGE, Jeweller, Camden House, Holloway-road, Islington, Middlesex. Com. Evans: July 11, at 11; and Aug. 8, at 12; Basinghall-street. Off. Ass. Johnson. Sols. Grover & Coare, 4, King's Bench-walk, Temple. Pet. June 24.

MAWER, DAVID KIRBY, Wine and Spirit Merchant & Licensed Victualler, White Swan, 108, Fetter-lane, London. Com. Fane: July 11, and Aug. 9, at 11.30; Basinghall-street. Off. Ass. Whitmore. Sols. Nichols & Clark, 9, Cook's-court, Lincoln's-inn. Pet. June 26.

PARKIN, JOHN, & EDWIN PARKIN Iron Forgers, Oughtybridge, Sheffield, Yorkshire (John Parkin & Brothers). Com. Ayrton: July 6, and August 3, at 10; Sheffield. Off. Ass. Brewin. Sols. Evans, Ashton-under-Lyne, or Bramley & Gainsford, Sheffield. Pet. June 21.

RATNER, WILLIAM, Bill Broker & Commission Agent, 40, Wellington-street, Southwark, Surrey, formerly of 7, Wellington-street, Southwark. Com. Evans: July 11, at 1.30; and August 15, at 12; Basinghall-street. Off. Ass. Bell. Sol. Lindus, 35, Bedford-row. Pet. June 26.

ROSS, JOHN JOSEPH, Ecclesiastical Repository & Carver in Wood, 41, Duke-street, Manchester-square. Com. Fane: July 11, at 11; and Aug. 9, at 2; Basinghall-street. Off. Ass. Whitmore. Sols. Harrison & Lewis, 6, Old Jewry. Pet. June 26.

TRAISH, WILLIAM HENRY, Ale & Porter Merchant, 1, Parade, Harleyford-road, Kennington, and Prince of Wales Stores, Upper Kennington-lane, Surrey. Com. Fane: July 11, at 12; and Aug. 9, at 11.30; Basinghall-street. Off. Ass. Cannan. Sol. Bickley, 32, King William-street, City. Pet. June 26.

BANKRUPTCY ANNULLED.

TUESDAY, June 25, 1861.

LOCK, JOHN, Builder, 20, Barnsbury-grove, Islington, Middlesex. June 21.

FRIDAY, June 28, 1861.

COPELAND, JAMES LUND, Merchant, Liverpool. April 29.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, June 25, 1861.

BAKER, FREDERICK, Draper, Wednesbury, Staffordshire. July 19, at 11; Birmingham.—**BELL, WILLIAM**, Miller, Urpeth Mill, Chester-le-street, Durham. July 23, at 12; Newcastle-upon-Tyne.—**BOTTEN, CHARLES**, Brass Founder, Crawford-passage, Clerkenwell, Middlesex (Charles Botten & Son.) July 17, at 12.30; Basinghall-street.—**FOWLER, JOHN**, Stock & Share Broker and Commission Agent, Whitehaven, Cumberland. July 23, at 12.30; Newcastle-upon-Tyne.—**HAYWOOD, HENRY**, (alias JOSEPH HAYWOOD) Ribbon Manufacturer, Whitefriars-lane, Coventry. July 15, at 11; Birmingham.—**INNOCENT, THOMAS**, Wholesale and Retail Grocer and Tea Dealer, 40, Bedford-street, Covent-garden, Middlesex. July 17, at 1; Basinghall-street.—**JONES, CHARLES, jun.**, Coach Builder and Harness Maker, 38, Margaret-street, Cavendish-square, and 21A, Great Castle-street, Regent-street, Middlesex. July 17, at 12; Basinghall-street.—**KENRICK, BERTON**, Ship Owner, Frampton, Lincolnshire. July 18, at 11; Nottingham.—**ROBSON, GEORGE**, Saddler, Handsworth, Staffordshire. July 15, at 11; Birmingham.—**TIDMARSH, HENRY THOMAS**, Draper and Clothier, Stratford-upon-Avon, Warwickshire. July 19, at 11; Birmingham.

FRIDAY, June 28, 1861.

ACTON, EDMUND ASHWORTH, Yarn & Commission Agent, 15, Russell-street, Ardwick, Manchester. Aug. 1, at 12; Manchester.—**ANDREWS, JOHN** RICHARD, Ironmonger & Brazier, late of 71, Tottenham-court-road, Middlesex, and now of 6, Hanover-place, Park-road, Regent's-park. July 20, at 11.30; Basinghall-street.—**BOTTING, EDWIN**, Grocer, Brighton. July 10, at 12; Basinghall-street.—**BALSHAW, WILLIAM**, Cotton Manufacturer, Bolton, Lancashire, and also Banker's Clerk, Wigan. July 31, at 12; Manchester.—**BATEMAN, HENRY**, Timber Merchant, 60, Old Broad-street, London, and Underwriter, Lloyd's. July 19, at 12;

Basinghall-street.—**BOUND, WILLIAM, sen.**, Farmer, Corn, Seed, & Coal Merchant, Thames-street, Poole, and Corfe Mullen, Dorsetshire. July 19, at 1.30: Basinghall-street.—**BRYANT, WILLIAM**, Tailor & Outfitter, 494, Oxford-street, Middlesex. July 20, at 11: Basinghall-street.—**COLLEY, THOMAS**, Grocer & Tea Dealer, 1, Brinches-street, Westminster, Middlesex. July 19, at 1: Basinghall-street.—**ELEY, ANDREW ROBERT**, Upholsterer & Cabinet Maker, 1, Chiswell-street, Middlesex. July 20, at 12: Basinghall-street.—**FOX, SIR CHARLES, & JOHN HENDERSON**, Engineers & Contractors, London Works, Smethwick, Staffordshire, and 8, New-street, Spring-gardens, Westminster, and Fore-street, Limehouse, Middlesex. July 9, at 11: Birmingham.—**FRANCIS, ISAAC**, Cheese Factor & Provision Merchant, Smithfield-market, Shudehill, Manchester. July 31, at 12: Manchester.—**HOOPER, JOSEPH**, Leather Merchant, New Weston-street, Bermondsey. July 19, at 2: Basinghall-street.—**JONES, DANIEL**, Ironmonger, Wrexham, Denbighshire. July 24, at 11: Liverpool.—**LODGE, JOHN**, Merchant and Commission Agent, Birmingham (John Lord & Co.). July 22, at 11: Birmingham.—**NOLTEY, HENRY**, Hotel Keeper, 7, Sparrow-corner, Minories, London, now of 30, Fieldgate-street, Whitechapel, Middlesex. July 20, at 12.30: Basinghall-street.—**OXLEY, ROBERT**, Maltster and Corn Dealer, Chippenham, Wiltshire. July 26, at 11: Bristol.—**PERRY, FREDERICK CHARLES**, Ironmaster, Roughwood Colliery and of Ryecroft Colliery, both near Walsall, and of Hallfields Furnaces, near Bilston, Staffordshire, and of Stockport, Chester. July 22, at 11: Birmingham.—**ROSENTHAL, SIMON JONAS**, and **HENRY SIMON ROSENTHAL**, Billiard Table Proprietor, 11, Dale-st., Liverpool, and 3, Newington, Liverpool. July 10, at 12: Liverpool. **SCOTT, ROBERT**, and **WILLIAM THOMAS SCOTT**, Tailors, Southampton. July 20, at 11.30: Basinghall-street.—**TAYLOR, JOHN**, Rope Manufacturer, and Slate Merchant, Holmwood, near Oldham, Lancashire. August 2, at 12: Manchester.—**TWEEDIE, WILLIAM**, Oil & Colourman, Liverpool. July 10, at 12: Liverpool.

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THE SOLICITORS' JOURNAL.

LONDON, JULY 6, 1861.

CURRENT TOPICS.

We refrained last week from giving currency to the numerous rumours which were then afloat relative to the changes amongst the law officers of the Crown likely to be made in consequence of the promotion of Sir Richard Bethell to the Chancery. It was generally reported that Mr. Roundell Palmer was to be made Attorney-General over the head of Sir William Atherton, who was supposed to be not strong enough for the place, and therefore, it was said, must remain Solicitor-General until some vacancy, occurred on the Common Law Bench. It appears, however, that there was no precedent for this strong measure exactly in point; and, contrary to expectation, Sir William Atherton has been appointed Attorney-General, and Mr. Palmer has accepted the lower dignity. There can be no doubt that his appointment will give general satisfaction. For some time he has probably made a larger income—apart from official sources—than any member of the bar on either side of Westminster Hall. He has been not only the unquestionable leader of a most important and lucrative branch of the Court of Chancery, but has had the largest amount of business, both in the Chancery Appellate Court, and also in the House of Lords, and the Privy Council. Being, moreover, a good speaker and a tried member of Parliament, of high reputation, he is calculated to be a very serviceable law officer of the Crown, and his appointment is entirely creditable to the Government, who seem to have been anxious only to secure the best man for the vacant office.

We mentioned last week that a number of memorials had been presented to Sir Cresswell Cresswell by various law societies in London and throughout the country, for the purpose of obtaining the abrogation of the new Order of the Court of Probate for converting the district registries into so many speculative government law agencies. We give two of these memorials at length; they may be taken as containing a fair account of the question at issue. Similar memorials have come from the law societies of Liverpool, Birmingham, Hull, Leicester, and also of Kent, Lincolnshire, and Yorkshire, as well as one from Bristol, signed by eighty-five solicitors practising in that city. The following is the memorial of the Metropolitan and Provincial Law Association:—

That the Metropolitan and Provincial Law Association is composed of nearly 800 practising attorneys and solicitors in England and Wales, of whom nearly 600 are provincial practitioners.

That in consequence of the grievances of which the provincial members of your memorialists' body had, for some time previous to the issuing of the orders of the 16th of April, 1861, hereinafter mentioned, complained, respecting the practice pursued to their prejudice by the district registrars of the Court of Probate, and the fees taken by such registrars, your memorialists' committee of management entered into extensive correspondence and communication on the subject with solicitors in towns having district probate registries, the result of which showed that some district registrars acted as solicitors in their own courts, others not, but that nearly all charged in some shape or other for the extra trouble entailed upon them in cases of application for probate or letters of administration by parties in person, without the intervention of a proctor, solicitor, or attorney, all to the prejudice of the country solicitors.

That, injurious to them as the system was, the practice which

has now succeeded it appears to be still more prejudicial, as, by the said Orders of the Court of Probate dated the 16th day of April, 1861, it is expressly directed that, on and after the 1st day of May last, it shall be part of the duty of the district registrars to prepare affidavits and all other necessary documents for parties applying to them in person, for which a scale of fees in addition to the ordinary office fees is to be charged, but which additional fees are to be considerably less than those authorised to be taken for their own use by proctors, solicitors, or attorneys, when such applications are made through them instead of by the parties in person.

That by the combined operation of these orders, and of the minute of the Lords Commissioners of her Majesty's Treasury, appointing salaries instead of fees as the remuneration of the district registrars, Government offices are established at the expense of the general public to compete (and at lower charges) with the provincial solicitors in the acquisition of business, which, besides being a harsh and unfair course towards them, appears really an impolitic one as regards the public.

That the impolicy, in a public point of view, consists partly in the unduly uniting in the persons of the district registrars the two incompatible and conflicting duties of suitor and judge; for the registrar, having to act in a quasi-judicial character, as the officer who is to decide on the sufficiency or insufficiency of evidence, should not also be charged with the preparation of the documents constituting such evidence. Such a system must be productive of mischief, and is opposed to the first principles of political economy and English jurisprudence.

That such a practice is fraught with further danger to the public from the persons applying in person for probate or administration being necessarily, in most cases, totally unknown to the registrars, while solicitors seldom if ever act for clients who are personally unknown to them, except on the introduction of some third person, of whose position and integrity they have knowledge, by which means a great protection against forgery and other malpractices is obtained, and a considerable guarantee of good faith afforded.

That district registrars are in such cases permitted to administer oaths on affidavits prepared by themselves, though by No. 65 of the rules, orders, and instructions for district registrars, no affidavit is to be deemed sufficient which has been sworn before the party in whose behalf the same is offered, or before his proctor, solicitor or attorney, or before a clerk of his proctor, solicitor, or attorney. Besides being open to the objection against which this rule was framed to guard, the practice affords another unfair facility to the Government offices in their competition with the provincial solicitors, who can scarcely fail gradually to lose the whole of their common form probate business, if the newly instituted régime is continued.

That thus to deprive the provincial solicitors of a portion of their business is a breach to their prejudice of the understanding upon which the proctors were enabled by Parliament to be admitted to practice in all branches of the business of attorneys and solicitors.

Your memorialists humbly pray that your lordship will be pleased to take the matters of this memorial into consideration. Signed on behalf of the Association.—J. S. TOWN, Chairman.

PHILIP RICKMAN, Secretary.

The Memorial of the Manchester Law Association is as follows:—

The attention of your memorialists has been directed to the orders of the Court of Probate, dated the 16th April, 1861, and to the table of fees directed to be taken in the District Registries of the Court of Probate when applications are made by parties in person, and not through a proctor, solicitor, or attorney.

Your memorialists consider the practice which these orders are manifestly intended to promote—of applying to the district registrars direct, for grants of probate or administration in their own registries—to be contrary to the spirit of the Legislature, prejudicial to the public interests, and invidious and unfair to the provincial solicitor.

1st, Your memorialists submit that the practice is contrary to the spirit of the Legislature, inasmuch as the proper duties of the registrar, with reference to applications for the grant of probate or letters of administration, partake of a judicial character; whereas, when such applications are made to him without the intervention of a solicitor, the registrar is placed in the position of first having to prepare the requisite affidavits and other papers, and then of being the sole judge of the documents so prepared by himself; and in cases requiring special affidavits, or upon questions respecting sureties to administration bonds, the registrar will first have to get up the

necessary evidence, and then be the sole judge of the sufficiency thereof, a course which your memorialists would observe, is directly at variance with that pursued in the principal registry, and is not adopted in connection with any of the courts of law or equity. The district registrars also swear affidavits prepared by themselves, which the solicitors are precluded from doing.

2ndly, Your memorialists submit that the practice is prejudicial to the public, because it takes away one great protection which the intervention of a solicitor provides against fraud. The parties presenting a will to a district registrar, or applying to him to take out an administration, are almost invariably strangers to him, and he has no means of judging of or enquiring into their good faith; whereas a solicitor concerned for them would be acquainted with them, or would learn particulars respecting them before making the application.

As an instance of the necessity of such protection, your memorialists refer to the case of one Ann Dean, deceased, in the district registry at Manchester, in which, upon an application in person probate was granted of a forged will.

The practice is further injurious by fostering a class of agents who act as *quasi* lawyers, and take applicants in person to the registry, where the fees for preparation of the papers by the district registrar are charged, and the parties have in addition to compensate the agent for his trouble, and thus in fact pay an amount nearly, if not quite, equal to the usual scale of professional remuneration, without having the advantage of professional responsibility.

3rdly, Your memorialists submit that the practice is invidious and unfair to the provincial solicitor, by placing him on a different footing from a solicitor or proctor practising in the metropolis, where all business is, by the rules of the principal registry, required to be done through the solicitor or proctor, and by creating competition between the district registry and the provincial solicitor. And they further submit that the practice is a violation prejudicial to the solicitors, of the understanding upon which the proctors were admitted to share in the general business of solicitors, from which admission the public received a benefit in the shape of diminished compensation to the proctors.

Your memorialists therefore pray that the recent orders may be rescinded, and that the practice of the district registries may be assimilated to that of the principal registry, and no applications for probate or administration be allowed to be made in person or through the district registrars of the court to which application is made; but that all such applications be made through the solicitor or proctor of the party applying.

In the *London Gazette* of the 26th ult. there appeared an order in council which brings the West Indian Incumbered Estates Acts into operation in Jamaica. The local act arrived in England about three months ago, and great credit is, no doubt, due to the Legislature of that colony for having adopted a measure similar to that which experience has proved to have been most beneficial in Ireland. Some delay has taken place since the arrival of the Jamaica Act in this country, owing, we believe, to a slight informality in one of its clauses, but so far as that important colony is concerned the measure is now in full operation. This is a matter of interest alike to the legal and the commercial world. The source of our cotton supplies is the question of the day, and it is one that must increase instead of diminishing in importance. Not one-tenth part of Jamaica is cultivated, and it is well-known that both the soil and the climate of that fine island are admirably adapted for the cultivation of the cotton plant. If we can judge from the example of Ireland, we may expect, as a result of the newly-passed Incumbered Estates Acts, soon to witness an influx of fresh energy and capital into the most extensive and valuable of our West India colonies. The islands of St. Vincent and Tobago, with some others, have already adopted these Acts, and the remainder, with the exception of Trinidad and one or two others where Dutch law prevails, will now, doubtless, follow the good example set them. As many of our readers are interested, either directly or indirectly, in West India property, some information as to the practical operation of

these Acts may not be unacceptable. The original West India Incumbered Estates Act was passed so far back as the year 1854, the Duke of Newcastle being then, as he is now, Secretary for the Colonies. The measure was borrowed from the Act which had worked so beneficially in Ireland. Like most law amendments, however, the West India Act required itself to be amended. It remained absolutely a dead letter until the year 1857, when the island of St. Vincent first adopted it. Commissioners and a secretary were then appointed. The late Mr. Phipps, Q.C., was the first Chief Commissioner, and Sir Frederick Rogers, now her Majesty's Under Secretary for the Colonies, was Assistant-Commissioner; Mr. R. J. Cust, who has published an excellent handbook of the practice of the Court,* has from the first been Secretary. In 1858, Mr. Phipps died, and Mr. H. J. Stonor, a well known conveyancer, was appointed Chief Commissioner. Shortly afterwards the Amendment Act of 1858 was passed, which has substantially assimilated the West Indian to the Irish Acts. Since then cases of great nicety and difficulty have arisen in the Court and have been carried to the Privy Council, where Mr. Stonor's judgments have been characterized by Lord Kingsdown as "distinguished by remarkable learning and ability."† The West Indian and British interests involved may, therefore, rely with confidence on the able and efficient administration of these important Acts. We believe that Sir F. Rogers still holds the appointment of Assistant-Commissioner, but that he does not assist Mr. Stonor in his judicial duties. Should the business of the court increase as we anticipate, we may expect that an acting Assistant-Commissioner will be required, as well as additional officers. The Court, which is now held at 8, Park-street, Westminster, will, we hope, like every other court, before long be removed to Lincoln's-inn. For the present we shall only add that a great opportunity is now afforded, as well to our colonists abroad as to our capitalists at home, of redeeming from waste and neglect our valuable West Indian possessions, and to the legal profession, in both its branches, of co-operating in this good work.

The Legislature of Upper Canada in its last session passed an Act to repeal the laws relative to the registration of judgments in that province. It also enacts amongst other things that "no judgment rule, order, or decree for the payment of money of any court of Upper Canada shall create or operate as a lien or charge upon lands, or any interest therein." And further, that in addition to the statutes repealed by name, "all other statutes and parts and clauses of statutes authorising the registration of judgments, decrees and orders for the payment of money in Upper Canada" are thereby repealed. The Act is to come into operation on the 1st of September next. It has been passed as the best solution of the difficulties and complications connected with the English law of judgments, and the statutory provisions relating to their registration, which to some extent were applicable in the province, and which are found in the old country to be so burdensome as to make many persons desire for England some such sweeping enactment as has been passed by the province of Upper Canada.

We learn from the *Upper Canada Law Journal* that the Law Society of that province has instituted four scholarships for its law students. Each scholarship is to be held for one year only, but any scholar is to be eligible to compete for a senior scholarship in the succeeding year. In Upper Canada persons who are not graduates are obliged to qualify by five years' service under articles, for admission as attorneys, except in the case of

* Cust's "West India Incumbered Estates Acts." London: Amer. 1859.

† *Ex parte Fraser*, 8 Weekly Reporter, p. 376, 29th March, 1860.

university graduates, who must serve at least three years. The scholarships are to be open only to students whose names are standing on the books of the Society, and are as follows:—

£30 scholarship to students under one year.

£40 scholarship to students over one year and under two years.

£50 scholarship to students over two years and under three years.

£60 scholarship to students over three years and under four years.

The subjects for these several examinations have been published, and are so limited as to make us infer that the attainments of the competitors are less than might reasonably have been expected. Compared with the examination which all articulated clerks are expected to pass at our Law Institution, the books prescribed for the candidates of the last year are not only very few, but rather more elementary than we should expect, where the prize is really worth having. It has long, however, been a moot point, whether an exhaustive and searching examination in a small number of elementary books, is not a better test of sound and useful intellectual acquisitions than a superficial and necessarily cursory, and somewhat random examination, in a greater variety of books, of a more advanced and formidable character.

A case relating to Irish marriage law and the English law of settlement was decided this week at Warwick before the justices at quarter sessions. It arose upon an appeal, in which the inhabitants of the parish of Leek Woolton were appellants and the inhabitants of the parish of Kenilworth were respondents, in respect to the settlement of one Mary Young. The main question for adjudication was the same as formed one branch of the matrimonial dilemma in which the defendant in the recent case of *Thelwall v. Yelverton* in the Irish Court of Common Pleas was involved. The invalidity of a marriage between a Protestant and Roman Catholic, celebrated in Ireland by a Roman Catholic priest, which was so amply discussed in the *cause célèbre* mentioned, formed in the present case the basis of an adjudication on the English law of settlement. The appeal was brought to quash an order of justices respecting the settlement of Mary Young, who was the widow of a soldier. He had acquired a settlement in the parish of Leek Woolton; but it was contended on behalf of the appellants, that this right did not devolve on the present pauper, his reputed wife, inasmuch as her marriage was illegal and void under the Irish Act 19th Geo. 2, c. 13, s. 1. This enactment invalidates all marriages, celebrated by a Roman Catholic priest, where both or either of the parties are Protestants. The soldier was a Protestant, and, in 1846, when quartered in Cashel, was married in the priest's house to the present pauper. The respondent's counsel endeavoured to show that the deceased soldier had made no profession of the Protestant faith within twelve months previous to his death, so as to come within the provisions of the Irish Act, as also that sufficient evidence was not given to prove that the celebrant was a Roman Catholic. As English courts do not take judicial cognizance of Irish statutes passed before the Union, which must, therefore, be proved to those courts as facts, an Irish barrister deposed as to the effect of the Irish law in invalidating mixed marriages; and that the Act of Geo. 2 was still, as regards the parties to such marriages, unrepealed. The statute 22 & 23 Vic., c. 63, referred to *ante*, p. 522, has empowered courts of justice, in an action depending in any part of her Majesty's dominions, to remit a case for the opinion of one of the superior courts in any other part of the British empire. The word "action" is declared by the interpretation clause to "include every judicial proceeding instituted in any court, civil, criminal, or ecclesiastical." There is little room, therefore, to doubt that on such cases as the

present, English courts of quarter sessions may obtain the opinion of one of the Irish superior courts. The justices at the quarter sessions considered that the evidence clearly disclosed that the deceased soldier had been a Protestant, that the marriage was celebrated by a Roman Catholic priest, and that, consequently, there was no room for the application of the maxim, "*Omnia presumuntur rite esse acta*," and for assuming that the celebrant was a Protestant minister.

We consider that Mr. Villiers' Bill to amend the law of settlement now before Parliament will, if it become law, greatly abridge litigation, by shortening the period necessary to acquire a settlement from five years, as fixed by Sir Robert Peel's Act, to three years. The Bill may contradict Malthusian doctrines, but it tends to remove much misery from "the short and simple annals of the poor." We shall not repine at the extinguishment of the glories of Bott and Caldecott, nor at the obsolescence of the rhyme regarding the settlement of a *feme sole*, who married a man who had none.

"Quoth Sir John Pratt, her settlement
Suspended doth remain,
Living the husband—but him dead,
It doth revive again."

We may add that the late Lord Chancellor's Bill to repeal the Irish Act, 19 Geo. 2, c. 13, s. 1, has not yet become law.

The annual dinner of the Law Amendment Society is to take place on next Saturday, the 13th instant, at the Ship Tavern, Greenwich. Lord Brougham has promised to preside on the occasion.

WILL FRAUDS—DISTRICT REGISTRIES.

The memorial of the Manchester Law Society to Sir Cresswell Cresswell, which will be found in another part of these columns, refers to a case which recently occurred in the Manchester district, for the purpose of showing how important to the public interest it is to have the intervention of a solicitor in every application for probate of a will. In the case alluded to, probate of a forged will had been obtained in the Manchester District Registry, upon the application of the person propounding the will, without the intervention of any professional agent. The recent General Order not only enables any party to apply in person for probate or administration, but compels the district registrar to act as the solicitor and agent of the person so applying. No guarantee of any kind as to his character or *bonâ fides* is necessary, nor has a district registrar a right to require a party applying in person to obtain any introduction, or produce any evidence of respectability. It requires little acquaintance with the business of the Probate Court to understand that such an arrangement will necessarily open a wide door to the grossest fraud and imposition. It is, in truth, an invitation to a class of schemers and plotters, who will not be slow to avail themselves of it; and if the obnoxious General Order remains in force, we shall soon see many cases like the one referred to in the Manchester memorial. Indeed, there have been before the Judge Ordinary himself, numerous cases in which he must have seen, as the public has, the necessity of securing for the Court and the public, the responsible agency, in every will case, of a solicitor. To go no further back than the morning journals of yesterday, we find in them a useful illustration of this point; and as some of our readers may not have read the report, we shall shortly state the facts which were disclosed upon the evidence of the plaintiff, who was the only witness examined.

The plaintiff was a Doctor Davis Griffiths Jones, who stated that he lived in Woburn-place, and that he was an M.D. of Marischal College, Aberdeen. According to his own account, some years ago he made

the acquaintance of the alleged testatrix, and she then resided with him for a few days at a house near Windsor, which he occupied at the time. At the expiration of his visit a misunderstanding arose as to the terms upon which Mrs. Bellis, the alleged testatrix, resided with the doctor, he insisting that she had come as a patient, and she, that she was merely a guest. After this quarrel, no further communication seems to have taken place between her and her would-be medical adviser, until the 11th of last February, two days before the date of the alleged will, and three before the day of her death. The Doctor, however, asked a jury to believe that, at the earnest solicitation of Mrs. Bellis, he had rescued her from a boarding-house in Fitzroy-square, and given her the tranquil and pleasant asylum of his own professional mansion, the comfortable ministrations of the wife of his bosom, and the anxious services of himself, because he was a "Christian and a friend, and took compassion on her." At all events, according to his own account, whatever his motive was, the poor lady felt herself bound, a few hours before her death, to make her will in favour of her generous benefactor, and this was the instrument which he propounded, but which, as the deceased was illegitimate, and a childless widow at the time of her death, was disputed by the Queen's Proctor as representative of the Crown. The cross-examination of the plaintiff affords materials for a curious little historiette, which, with the aid of a few suitable etchings from the pencil of Leech, might be made a useful, and certainly an amusing guide for schemers intending to apply in person for probate in district registries. Doctor Jones had practised homœopathy and also hydropathy for nine or ten years, and was the owner of a medicine with the unpronounceable name of "Axtamankaz," a farinaceous substance, or substitute for cod-liver oil, but made of "cereals, rice, and other compounds." So far, however, and even still further, namely, as to all that related to the purchase of this inestimable compound from some mythical Dutchman, and the "establishment" for its sale in New Oxford-street, there was hardly enough in the evidence in chief or cross-examination of the plaintiff to justify a jury in giving a verdict against him; but yet before the Queen's Advocate had done with him, it became so plain that his oath was no guarantee for the truth of anything that he said, that even his own counsel stated that he would not "insult the jury" by asking them to believe such a man. We have said that he claimed to be a doctor of Marischal College, Aberdeen, and so in fact he was. But after a particular account of how he went to Aberdeen, and where he slept there, and of his visit to the college about his degree, and a deliberate averment of the fact of his examination, he, finally, upon being pressed, admitted that he had never been to Aberdeen at all, but that another person had represented him at the so-called examination. Upon this the jury of course at once intimated that it would be useless to proceed with this examination, as they believed the witness was "quite unworthy of credit." The verdict was thereupon entered for the defendant, and Doctor Jones was condemned in costs, as all honest men will be glad to learn; and we only hope that the procedure in the Probate Court in litigated cases is not so very inexpensive as to prove no terror, but rather an inducement, to such testamentary practitioners as this homœopathist. Our present purpose in adverting to this case, however, is to adduce it as an illustration of the great public danger which must arise from the fact that all such schemers as this Doctor Jones, throughout the provinces, can insist upon being the clients, and upon employing the active services, of the very persons whom the public has appointed to protect its interests in the district registries. There is very little doubt that if Doctor Jones was able to have selected Manchester or Birmingham as the scene of his doings, the British public would never have been enlightened as it now is about the manner in which he

acquired his Scotch degree, and that he would have been rewarded according to his own estimate of the kind and Christian services which he so unselfishly rendered to this deceased lady. At all events he would have the satisfaction of knowing that instead of being obliged to prove his case before an uninterested judge, and an independent tribunal, the only official whom he would have to satisfy as to the character of his evidence would be the registrar, who was engaged as his private solicitor in preparing it, and whose salary partly consisted of a payment which compelled the registrar so to act. We commend this case to the notice of our country readers, although we have no doubt there are few of them who could not from their own experience add to our stock of information on this interesting question.

THE SATURDAY HALF-HOLIDAY.

A recent announcement in the *Times* that the Chancery judges had at length made some concession to the general feeling in favour of the Saturday half-holiday was read with very general approval by the profession and the British public. It was announced that in one of the courts the eminent judge presiding there had stated that he "would not commence any fresh cause after 2.30 on a Saturday afternoon." The concession was not much, to be sure. To make it of any practical avail there must have been on each successive Saturday something like a conspiracy between the leaders of the court. Rising at a particular time and not beginning any fresh matter after that period are, as those who are doomed to sit in court day by day know, widely different things. Unless, therefore, the Bar and the solicitors combined together and, so to speak, "struck work" at 2.30, refusing any judicial invitations to bring on a short matter, or commence a reply, &c., at 2.25 or thereabouts, the half-hour would seldom have been enjoyed by the profession. However, we were thankful for the instalment, small as it was, and in the hope that another half-hour if not hour might be conceded during this hot summer weather, we would not quarrel with the scant measure of the concession. Lord Westbury, on the day of taking his seat as Lord Chancellor, is reported to have stated that to suit what he considered to be the wish of the profession the court would not sit after 2.30 on Saturdays. This looked like an official confirmation of what had been intimated in another branch of the court on the preceding Saturday. The Lord Chancellor announced his act of grace without any qualification or reservation. There it was on record by the supreme head of the law that after 2.30 the court (and here, by the way, we claim the benefit of the usual interpretation clause, that "every word importing the singular number only" shall be extended to mean the plural also) would not sit; and it was only natural to expect that the qualification as to not commencing any fresh cause would be removed, and that the half-hour, *sans phrase*, would be conceded in every branch of the court. But mark the result! On Monday last, we learn from the *Times* reporter that in announcing even that qualified concession in the particular court to which he is attached, he was "led into a misapprehension," and that the observations were not intended for Saturdays in general, but must be confined to Saturday, the 22nd June, in particular. That court accordingly did not rise on Saturday, June 29, till after three o'clock, without even the short interval for lunch usually conceded to suffering legal stomachs. Whether the Lord Chancellor will allow his announcement to remain a dead letter in all the courts except his own remains to be seen. We sincerely trust that he will not leave thus incomplete the concession with which he has inaugurated his accession to the high office so deservedly earned by him. If the great business houses in the city, the banks, the leading solicitors, the shopkeepers in our principal thoroughfares, have nearly all given their adhesion to

the Saturday half-holiday movement, and with few exceptions closed their counting-houses and offices at two, dismissing their clerks, &c., to an afternoon of honest, healthy recreation, why should the Court of Chancery stubbornly refuse the same boon to its over-worked, and in many cases underpaid attendants? Is there such a pressure of business that the public would suffer by being mulcted of an hour of judicial time during the week? The cause-lists in most branches of the court distinctly show the contrary. We note, too, that the Master of the Rolls has been sitting for several days at the Privy Council, which certainly indicates "something rotten in the state" of his paper. Besides this, the courts, at a time when the pressure of business is very slight, sit habitually to a much later hour than formerly, when suitors had ample reason to complain of delay. The late Vice-Chancellor of England was accustomed to rise punctually at 3. With Vice-Chancellor Wood to rise before 4 is exceptional. Even in the Divorce Court, where, from the want of sufficient judicial power the arrears of business have increased and are still increasing to an extent altogether unexpected by the Legislature, Sir Cresswell Cresswell has acceded to the suggestion that the Court shall rise as nearly as possible at half-past two on Saturdays. More than this, that grim Rhadamanthine tribunal, the Court of Insolvent Debtors, pauses, we understand, from its joyless labours at 2. In those dreariest realms, where the Commissioner *castigatque auditque dolor*, he then adjourns till Monday morning, and takes his half-holiday like a gentleman of the upper air. The Chancery Code (*see* Order xxxvii., Rule 2), recognises this half-holiday and enacts that service of all writs, &c., and other proceedings shall be made on Saturday "before two o'clock in the afternoon." Why, then, should the Chancery Courts alone refuse to concede to their practitioners that privilege which is now enjoyed by almost every other class of working-men?

If we must speak out, we do not consider even a close of work at half-past two on a Saturday any such very ample boon. Surely there is something of mockery in heralding forth a concession of a little more than one out of six hours as a half-holiday. What would the schoolboys say to such an interpretation of the good old term? During the present sittings, at all events, the Courts might well reserve Saturdays for unopposed and short matters, &c., which can be disposed of without much argument, and rise punctually at 1. In the winter months, the same considerations do not apply with equal force. "Marches out" are few and far between, instead of being, as now, the rule on a Saturday. Country excursions then present no special attractions; besides this, the business of the Courts, after the long vacation, is generally of a more important character, and the hour or two at the end of the week which we now claim, might well be restored to the judicial mind from November to March. It may be that the other equity judges do not feel themselves at liberty to concede an hour of the public time upon the mere intimation in a newspaper of the Chancellor's view, unsupported by the authority of a general order. But whatever official intimation, either public or private, may be requisite, we trust that Lord Westbury will not allow his concession to be confined to the court in which he presides.

ON THE LAW OF TRADE MARKS.

No. V.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Of the Doctrines of Foreign Tribunals.

The general principles on which in our own country the rights of the trader, whether a British subject or an alien friend, in the use of a trade mark have been protected, are recognised in the courts of justice both of America and of France. In America, as might be

expected, frequent reference has been made, in the arguments and the decisions in cases of this class, to the doctrines of our courts on the subject; the exponents of the law, however, have, as it seems to me, derived considerable advantage in the precision with which they are enabled to lay down a rule by which their courts will be guided in granting or refusing relief from not being hampered by previous decisions. We see in our own courts a constant endeavour to limit the equitable jurisdiction to the principles laid down by Lord Hardwicke in *Blanchard v. Hill*; and though the good sense of later judges has at length firmly established the jurisdiction on a wider basis, I think no one who reads their decisions will fail to be struck by a species of timidity in their expressions, by an anxiety to guard against anything like a recognition of property in a trade-mark, although in fact some of these very decisions can only be supported by reference to the general right of a court of equity to interfere for the protection of property against injury. This general principle has, however, been fully recognised in the American courts. Mr. Justice Story (*Comm. Eq. Jur.* s. 947, *seqq.*) places injunctions granted in restraint of an alleged violation of a trade-mark together with cases of piracy of dramatic works, publication from notes of an oral lecture without the author's permission, publication of private letters, or engravings, under the general head of protection to property. In *Coffeen v. Brunton*, 5 McLean 256, the principles by which the American courts will be guided are stated in the following words, "To entitle a complainant to protection against a false representation it is not essential that the article should be inferior in quality, or that the individual should fraudulently represent it so as to impose upon the public; but if by representation it be so assimilated as to be taken in the market for an established manufacture or compound of another, the injured party is entitled to an injunction." In the case of *Partridge v. Menh*, 2 Sand. Ch. 622, the right of a trader in the use of his mark is regarded as a species of goodwill which he acquires in his business (which is undoubtedly a proprietary right); and it is said that by the appropriation to himself of a particular label, sign, or mark, indicating that the article is made or sold by him, or by his authority, or that he carries on business at a particular place, he is entitled to protection against one who attempts to pirate upon the goodwill of his friends or customers, or the patrons of his trade or business, by using such label, sign, or trade-mark without his authority.

I have before (*sup.* p. 487) referred to the case of *Howard v. Henriquez*, which certainly carries the jurisdiction to its limit; for it appears that in that case the proprietor of an hotel called the "Irving House," or "Irving Hotel," obtained an injunction to restrain the defendant from using the same title for his place of business, although the name did not appear upon any part of the building of the plaintiff. The case of *Colladay v. Baird*, decided in the Court of Common Pleas of Philadelphia, and recently reported in this Journal (*sup.* p. 543), enters very fully into the reported cases, as well English as American, on this subject; and while it recognizes the principle that a manufacturer, though having no copyright in a label, may adopt a trade-mark which so far becomes his own property as to entitle him to the protection of the courts of law and equity, yet admits the possibility of cases arising in which one trader may use a name adopted by another as a trade-mark, and yet not interfere with his legal or equitable rights. No one, indeed, will be disposed to deny this, or to assert that a manufacturer can, by the use of a name, obtain an absolute right in it as a name merely; "it is only when a name is printed in a particular manner upon a particular label, and thus becomes identified with a particular style of goods, or where a name is used by a defendant in connection with his place of business (and not his manufactured goods),

under such circumstances as to deceive the public, and to rob another of his individuality, and thus destroy his goods and injure his profits, that it becomes a trade-mark, or in the nature of a trade-mark, and as such entitles its possessor or proprietor to the protection of the courts of justice." These words (quoted from the report of the lastly-mentioned case), agree very closely with the definition of the right of property in a trade-mark, which I have ventured to lay down, and do, in fact, recognize its qualities as property of a peculiar sort. There are other cases in the American reports to which I will only refer (*Coats v. Holbrook*, 2 Sand. Ch. 599; *Clench v. Maddick*, 16 Leg. Int. 236; *Dayton v. Wilkes*, ib. 292; *Coats v. Piatte*, 19 Leg. Int. 213; *Davis v. Kendall*, 11 Am. L. Reg. 680). The case of *Taylor v. Carpenter* (2 Sand. 603), is valuable inasmuch as it shows that the courts of the United States will grant an injunction to a native of this country against one of their own subjects, to restrain an infringement of the right to a trade-mark, although it was, in that case, argued on the alleged authority of *Delondre v. Shaw*, that the English courts would not grant relief to a foreigner for such a violation of his rights, and that the trade-marks of Englishmen in the United States were, therefore, not entitled to protection. In the judgment in this case, however, it was admitted that *Delondre v. Shaw* lays down no such rule, but rather that the English courts will always restrain the fraudulent sale of a spurious article; the greatest abhorrence is expressed of the doctrine that fraud by a citizen should be sanctioned because it was practised on a foreigner in the prosecution of a legitimate business within the American jurisdiction, or that a suitor should be denied the ordinary remedy to protect him in the enjoyment of his rights because he is a foreigner; and it is truly said that every dictate of enlightened wisdom requires that a foreigner, especially in a commercial country, shall be entitled to the same protection of his rights as a citizen.

The French law, while it differs in some minor points from our own, fully recognises the existence of property in a name or mark; and a right of action for damages for an injury done to this species of property by a copying or colourable imitation of the name or mark. The general principles of the law are to be found in the "Diet. de Droit Commercial Art. Nom.," by M. M. Gouget and Merger, from which the following remarks are translated and adapted.

A trader acquires a property in the name which he affixes to articles of his manufacture, whether it be his own name, or a fanciful designation to recommend them to the public; so also, in the case of wrappers or labels, these distinctive marks become the property of the trader, and give him a right of action against any rival in trade who may pirate them, for the purpose of misleading purchasers, and also against any person who may aid or abet such piracy. On these principles, it has been decided that a printer has no right to hand over the labels of a house of business, except on the demand of the house itself, or of some person duly authorised by it; and that he is liable for damages for handing such labels over to unauthorised persons, and that it makes no difference that they are to be used in another country. [This doctrine is certainly opposed to what has been laid down in our courts, for Lord Cranworth in *Farina v. Silverlock*, 6 De G. M. & G. 214, recognises the right of a printer to print and sell generally such labels, and that there may be a legitimate trade in them with persons other than the original proprietor.]

So also with painted signs, or escutcheons, and with names and marks on carriages. In short, with any external mark which a trader may use to distinguish his goods, the use of which by other parties gives a fair ground for presuming an intention on their part to appropriate to themselves his advantage in the market.

We must not, however, forget that the French law draws a distinction between such names and signs as I

have enumerated above, and those which are more specially termed *marques de fabriques*, or trade marks. All the remarks which I shall make here allude to the former class of marks only, the latter being subject to certain provisions for deposit and registration, in virtue of which only they are legally cognisable. In fact, they correspond more nearly, as far as the principles extend on which the right to use them is founded, with books, &c., and inventions, which are, in our country, the subject of copyright or of a patent.

The French law does not look upon the names and signs which are comprised under the former of these two heads as so important as the *marques de fabriques*, or trade marks. It protects them, however, against any attempted violation, direct or indirect, on the ground of the right to protection which the credit of every trader enjoys. This implies that there must be a possibility of damage, as we have seen in our own law. The imitation, therefore, must be such as to be likely to deceive.

In France the action is brought, as in our own country, by the proprietor of the trade mark; and in considering how this proprietary right has arisen, the very important question is involved, whether or no it can be possessed by a foreigner. I have not been able to find out that this point is definitely settled, although the balance of authority certainly leads me to conclude the right of a foreigner would, as in our own courts and in America, be protected in France. On the one hand, it is said that this right to protection is grounded either on the general right, in which case, according to the 11th & 13th articles of the Civil Code, an alien in France only enjoys those civil rights which are reciprocally given to French subjects by treaty with the nation of the alien; so that, for an English subject, there would be no such right, although it may be questioned whether, under the provisions of the new commercial treaty, even on this ground an English subject might not succeed in maintaining such a right; or it depends on the special law by which an action for damages is given for the fraudulent use of the name of a manufacturer to his injury, and that this law does not expressly include aliens; so limiting the jurisdiction in a manner exactly analogous to that which was followed in the case of *Jeffreys v. Boosey*. So far, however, as the decisions of the Royal Courts of Paris and Rouen extend as an authority, the jurisdiction is placed upon a broader and sounder basis. Admitting that aliens are to be excluded from those civil rights which are the mere creations of French law, they are still entitled to enjoy such as arise out of natural law, or the law of nations, the existence of which the French law recognises, and the exercise of which it regulates. The principle that every injury demands a reparation from the person committing it, is certainly one of these natural rights, and is sanctioned, though by no means created, by French law. This maxim of natural equity is not limited in application, it governs the rights of aliens as well as of native-born subjects; the only case in which it may cease to become applicable is where a special law regulates the enjoyment of certain rights, in virtue of which alone, over-riding the natural law, those rights exist. The property of a trader in his name is universally recognised, though this may be and is regulated in France by certain special laws (the law of July 28, 1824, and the law of the 22nd Germinal Ann. 11.) These are to be considered only as acting in aid of and not as over-riding the natural law. In short it is stated, that an alien bringing into France a trade or any manufactured article, ought to be protected equally with a French subject; that the rules of equity are universal, and that therefore the French tribunals are bound not to allow the consumer to be taken in by fraudulent speculations; and that these general principles cannot be controlled in their application by any general laws.

We see, therefore, that on the whole the same spirit

has inspired the decisions of both the American and the French courts with that which dictated the judgment in the cases of the Collins Company (*vide sup.* p. 569.) There can be no doubt that the principle laid down there is a just one—that for a personal wrong, and the piracy of a trade-mark is such,—the alien as well as the native subject is entitled to a remedy in the courts of the country where the wrong is committed.

CHANCERY PRACTICE.—ENFORCING DECREES AND ORDERS.

We have already noticed the provisions of the practice introduced in August, 1841, with reference to the enforcement of decrees and orders, and suggested a more extended application of the principle involved in such provisions. We now pursue the subject.

The full benefit of the provisions referred to has not yet been applied to cases where the decree or order is to be enforced against a corporation. Previously to August, 1841, a writ of execution, attachment, attachment with proclamation, commission of rebellion, and serjeant-at-arms, were necessary preliminary steps in process of contempt before sequestration could, in ordinary cases, be obtained. Since that time, and in such cases, service of the order or decree has taken the place of the writ of execution; and sequestration has been obtainable upon the sheriff's return to the first attachment. But the practice introduced in 1841 has been applied to corporations only to the extent of substituting service of the order in lieu of the writ of execution. In all other respects the practice in such cases has continued as before. For instance, to obtain sequestration for breach of an order or decree against a corporation, the following preliminary steps are necessary:—A copy of the order must be served personally upon the secretary or other person acting officially for the corporation. Then a *distringas* is issued. If the sheriff returns "*nulla bona*," an *alias distringas* is issued. If the sheriff again returns "*nulla bona*," a *pluries distringas* is issued. And if the sheriff still returns "*nulla bona*," upon such third return of "*nulla bona*," an order *nisi* for sequestration may be obtained. But if the sheriff returns "issues forty shillings" to the first or either of the subsequently issued writs of *distringas*, upon such return an order *nisi* for sequestration may be obtained. See *Harvey v. The East India Co.*, 2 Vernon, 395; and *Lowther v. The Mayor, &c., of Colchester*, 3 Merivale, 543.

We are unable to trace the origin of the practice. Very little information respecting it is to be gleaned from existing works upon the subject—and this observation applies equally to the standard works on sheriff law as to other works on the general practice of the Court. We have consulted many volumes of such works—some very old—and in every instance we find the practice stated just as concisely as it is stated in the modern books of practice. Its origin, the reasons for its adoption, or detailed information as to how such writs should be executed, are points barely touched upon. Hence a case which came under our notice very recently did not at all surprise us. In executing a *distringas* founded on a contempt, the sheriff's officer dealt with it as he would have dealt with a *fi. fa*. He sought to levy the whole amount in respect of which the writ issued, and remained in possession six or seven days, and there being even then no goods upon which a distraint could be made, he returned the writ "*nulla bona*,"—a return which he might and should have made immediately upon his entry. And, in the same case, the like proceeding was repeated with an *alias distringas*, thus delaying justice to the parties, and involving them in unnecessary expense. The number of steps in the process seems to be in imitation of the process formerly sued forth against ordinary parties, and the origin of the former practice, as against ordinary parties, is, perhaps, traceable to the source indicated by Gilbert in his "*Forum Ro-*

manum." In that work he shows that the usual steps in process of contempt as applied by the Court of Chancery were in imitation of the old canon and civil law. On page 32 he says, "By the canon law, the defendant was to be thrice cited, or else *per unum peremptorium*, and then, if he did not appear, he was pronounced *contumax*." In page 33 he speaks of the citation in civil cases of a defaulting defendant, and, in page 34, says, "If this citation be from the prince, then the very first is peremptory, and if the person does not appear, he is *contumax*." The *subpoena* is with us the citation, and if the defendant does not duly appear upon it, he is *contumax* of course, because this is a citation from the prince." He then mentions the subsequent steps necessary to be taken to enforce obedience, viz., attachment, attachment with proclamation, serjeant-at-arms, and sequestration—adding, in page 35, "so that they had three real citations before they came to sequestration." But so very little information being procurable respecting the writ of *distringas* founded on a contempt, it is difficult to say how far any modification of the existing practice might affect the principle upon which such process is founded, and, therefore, in suggesting any such modification, we must be chiefly guided by an endeavour to assimilate the practice in such cases to the improved general practice, applicable to the enforcement of decrees and orders.

It would very much simplify the practice if the course of procedure against corporations were the same as against persons having privilege of peerage or of Parliament. In some respects they stand in a like position. Neither can be held to obedience by personal arrest. Formerly, in case of contempt against peers, a writ of attachment was actually sealed and entered (though not executed) to ground a sequestration upon:—See Gilbert's "*Forum Romanum*," page 67. The attachment has, however, long since been dispensed with in such cases, and an order *nisi* for a sequestration may now be obtained at once upon proof of service of the decree—and we think that like facilities might be afforded as against corporations. Under Rule 4 of Order 30 of the Consolidated General Orders, p. 94, service of the decree or order binds the party to obedience, and is a sufficient foundation for process of contempt—and, thus far, the provisions of such rule have been applied to corporations in accordance with Article 3 of Rule 10 of the Preliminary Order, p. 5. Do the writs of *distringas* answer any other purpose than that of holding the party to obedience? The *distringas* on a contempt is not a writ remedial for actual recovery of money due. The sheriff is not bound to levy the whole amount in respect of which the writ issues. The levy under the first *distringas*, of "issues 40s." only is regular, see *Lowther v. The Mayor &c. of Colchester*, 3 Merivale, 543. The amount levied is merely in the nature of a fine or amercement, and to distress the parties in their possession until obedience rendered. And it appears from Tidd's Practice, 8th edition, (1840) pp. 34, 36, that in the writ of *distringas* issued to compel appearance the amount of the issues (limited to 40s.) was specified in the writ, shewing, evidently, that the amount levied was not to satisfy the party, but only to hold the defaulting party to obedience—and the writ of *distringas* founded on a contempt of the Court of Chancery, and issued against a corporation likewise merely holds the parties to obedience and distresses them in their possession in order to enforce that obedience. The *alias distringas* does no more. The *pluries distringas* does no more. In fact, when the three writs have been issued and executed, nothing more is done than is effected by service of the decree, which service, under Rule 4 of Order 30, itself binds the party to obedience. But, if an order *nisi* for sequestration may not be obtained upon proof of service of the decree, and thus the writs of *distringas* be dispensed with altogether, we think that the *alias* and *pluries* writs might be dispensed with, and that such a modification of the practice would be in harmony with the modern practice as applied to ordinary cases. Under Rule 8 of

Order 29 of the Consolidated General Orders, p. 89, applicable to ordinary cases, sequestration may be obtained upon the sheriff's return to the first attachment, and even upon the first return *non est inventus*. If sequestration absolute may, in ordinary cases, be obtained upon the first return *non est inventus* to an attachment, why may not an order *nisi* for sequestration against a corporation be obtained upon the first return "*nulla bona*" to a *distringas*? This would harmonize the practice. And we conceive that such a modification would be in accordance with the spirit and intent of Rule 3 of Order 29, and, if in accordance, its application would be authorised by article 3 of Rule 10 of the Preliminary Order, which article expressly provides that the word "person" or "party" shall include a body politic or corporate. It is considered that although a party may issue and execute the three writs of *distringas* against a corporation, he can, nevertheless, recover 13s. 8d. only as the "fixed" costs of contempt. If such opinion be correct, it supplies an additional reason for the adoption of our suggestion—for it were certainly inconsistent to require a party to issue and execute three writs and yet allow to him the costs of one only.

Of course, if the modification of the practice suggested be at any time made, it will be applicable alike to all cases of contempt against corporate bodies.

There is another writ which deserves notice. We allude to the writ of assistance—a writ issued to enforce the delivery of possession of land, &c. In Lord Bacon's time the issuing of this writ was preceded by writ of execution, then the ordinary process of contempt to commission of rebellion, and the serjeant-at-arms and injunction. (See "*Beame's Orders*," p. 6). Since August, 1841, all these preliminaries have been dispensed with—but delay and expense still attend the obtainment of the writ. It is still requisite to apply for an order for the writ. The application is by motion in court, *ex parte*, and is granted as of course, upon proof, by affidavit, of personal service of the order directing delivery of possession. (See Rule 5 Order 29 Consol. Gen. Ord. p. 90). The main part of the order thus granted simply directs that the writ do issue. In all other respects it is a repetition of the previous order. The order for the writ being granted as of course, no further notice is given to the party affected by

and we think that the object might be as effectually accomplished, if words to the following effect were inserted in the order directing delivery of possession, and which is served upon the party, viz. "And in default thereof it is ordered that a writ of assistance directed to the sheriff of ——— do forthwith issue to put the said ——— into such possession as aforesaid, without further order." The only needful variation in the writ would consist in the omission of the recital of the separate order directing the writ to issue.

We suggest, too, that the copy of the order served should, in these cases, be endorsed with a notice or memorandum showing the liabilities consequent upon disobedience—thus assimilating the practice to the general practice of the Court as applied to other cases.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF QUEEN'S BENCH.—SECOND COURT.

(Sittings at Nisi Prius, at Guildhall, before Mr. Justice HILL and Special Juries.)

July 2.—*Miller v. Atherton*.—This was an action brought by the plaintiff, who is an attorney in the City, to recover damages for slanderous words used by the defendant concerning the plaintiff. The defendant merely pleaded "Not guilty."

According to the plaintiff's case, he was attending at the Bankruptcy Court as a solicitor on behalf of the bankrupt and the creditors. The defendant attended to prove a debt under the bankruptcy. The plaintiff required to see the securities he held, when the defendant called the plaintiff a pettifogging lawyer, a dirty sweep, a rogue, a — rascal, and added that

he should be able to prove him such. The plaintiff told the defendant if he had used that language in any other place he would have pulled his nose. On the following day the plaintiff wrote to the defendant demanding an apology, but, receiving no answer, the present action was brought with a view of vindicating the plaintiff's character, and it was stated that if the defendant would then make a retraction the plaintiff would be satisfied. No apology, however, being offered, the case proceeded. The words, as alleged, were proved to have been used in the Bankruptcy Court when it was crowded with people.

On behalf of the defendant, it was contended that the words were mere vulgar abuse, used by an angry and passionate man.

The jury retired for a short time, and then returned a verdict for the plaintiff—Damages, 40s.

COURT OF QUEEN'S BENCH.

(Sittings at Nisi Prius, at Guildhall, before Mr. Justice HILL and a Special Jury.)

July 3.—*The Queen v. Blundell*.—This was an indictment, charging the defendant with having threatened to publish certain libels against James Bell, with intent to extort money from James Bell and others. It further charged the defendant with having published certain libels, knowing the charges therein contained to be false. The defendant pleaded "Not guilty" generally, and some of the charges he justified on the ground of their being true.

It appeared from the statement of the plaintiff's counsel that the prosecutor, James Bell, was a solicitor, residing at Surbiton, but also carrying on business in Leadenhall-street; he was also clerk to the magistrates of the Kingston division. The defendant, Mr. Blundell, was also an attorney. The prosecution was instituted in consequence of a series of libels published during a number of years, and which had gone to such an extent that Mr. Bell found it absolutely necessary to adopt this proceeding in order to vindicate his character, and prevent the defendant from continuing to annoy him. In 1850 Mr. Bell was the London agent to an attorney in the country, who had brought an action against Mr. Blundell at the instance of a Mr. Browne. The case was tried at Gloucester, and a verdict for the plaintiff, with £50 damages, was given. After the trial Mr. Blundell had written a letter to the attorney in the cause, offering peace. Mr. Browne afterwards brought an action against Mr. Blundell, when the jury gave £300 damages. After this action Mr. Blundell frequently called upon Mr. Bell with a view of obtaining time for the payment of the damages and costs. He was ultimately taken in execution. This gave rise to some ill-feeling on the part of Mr. Blundell, and in July, 1855, he commenced a series of libels against Mr. Bell. In the first letter he called upon him to pay him £1,500 of which he alleged he had been despoiled, and also to make an apology. If he received these within 10 days he would expose him and his confederates no further. Mr. Blundell then wrote a circular to the county court judges, the leaders on the Oxford Circuit, and others. In this circular he particularly mentioned the late Serjeant M. R. Clark and Mr. John Gray. Other libels followed, and on the 7th of November, 1859, Mr. Blundell wrote a letter to the Kingston bench of magistrates in which he said of Mr. Bell that he knew him to be a plausible, well-dressed, respectably-connected, and decently-attired, scoundrel, capable of any roguery, and he would not credit his testimony uncorroborated. Mr. Blundell also wrote to the Secretary of State complaining of the conduct of the Kingston magistrates. This conduct was inquired into, and the explanation was perfectly satisfactory. Mr. Blundell had been asked to apologize, but this he had refused to do, and said he would facilitate any proceeding that might be adopted against him. He also said that he had for a short time suspended practice in order that he might have time to castigate Mr. Bell and his confederates, and he added that he should be at Surbiton for a few days, and should not be inactive. To bring an action against such a man would be useless, and therefore the present proceeding by indictment was instituted.

The learned JUDGE having summed up,

The jury returned a verdict of "guilty" of sending a threatening letter, but not with a view of extorting money, and "guilty" on the other counts.

The CROWN prayed judgment.

The JUDGE said, in the present state of the record, there having been some demurrers, he could not pass judgment. The defendant must be brought up for judgment next term.

Sir William Atherton has been appointed Attorney-General in succession to the present Lord Chancellor.

Mr. Roundell Palmer, Q.C., who has been appointed to the office of Solicitor-General, will become a candidate for the representation of Richmond, Yorkshire, which is vacant by the resignation of Mr. Henry Rich. A writ for the election was ordered on the 4th inst., and by Tuesday or Wednesday next, the new Solicitor-General will in all probability have taken his seat for the borough.

Mr. Joseph George Wilson, of Alfreton, Derbyshire, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Parliament and Legislation.

HOUSE OF COMMONS.

Tuesday, June 2.

THE BANKRUPTCY BILL.

Mr. HADFIELD asked the noble lord at the head of the Government, whether it was intended to proceed with the Bankruptcy and Insolvency Bill this session, and on what day he would proceed, if such was his intention.

Lord PALMERSTON said that it was the intention of the Government to proceed with this Bill; but that as it involved legal considerations, he would not name a day for bringing it on until the law officers were in the House, which he trusted would be very shortly.

THE COURTS OF JUSTICE BUILDING ACT (MONEY) BILL.

This Bill was read a second time, and ordered to be referred to a select committee, with an instruction to consider the question of site.

Wednesday, July 3.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

Mr. WALPOLE moved the second reading of this Bill, which had come down from the Lords, and the principle of which is contained in the first and second clauses. The first provided that no charge should be preferred against a person by going behind his back to a grand jury in the first instance, when there was an opportunity of going to a trained professional magistrate, who could understand the charge, and see whether it was of such a nature and supported by such proofs as rendered it proper that the person charged should be sent to trial. The second clause enacted that when a charge was investigated by a justice of peace, in open court, it should no longer be necessary to go to the grand jury. The main objection which was urged against the Bill was that it tended to supersede the grand jury system; and in that case, it was asked, what was to be done with a class of offences called political offences, in respect to which the grand jury system had acted as a shield of protection, and as a barrier between the Crown and the subject? His answer to that objection was that the 8th clause of the Bill provided for that class of offences, and if the clause should not be deemed sufficient for the purpose it could be amended in the committee. It was said, and truly said, that the grand jury system had been a great protection to the people of this country against improper accusations, and against the undue exercise of power on the part of persons in authority; if there was anything in the Bill which could supersede that system, he for one would not move the second reading. But what ground was there for such an apprehension, when in fact the grand jury system would, under the present Bill, be as complete in the country as now, and when political cases in the metropolitan district were by the 8th clause excepted from the operation of the present Bill? Fifty years ago, the criminal law commissioners considered this subject, and directed questions to be put to a vast number of persons—judges, magistrates, barristers, recorders, solicitors, and other persons acquainted with the practice of the criminal courts, and there was scarcely an answer given which did not amount to an acknowledgment that in the metropolis the grand jury system was in almost all cases superfluous, and in many cases was very mischievous. [The right hon. gentleman, in support of this statement, quoted the opinions expressed by the late Lord Denman, Sir J. Patteson, and in various presentments by grand juries at the Middlesex Sessions and Central Criminal Court.] In reply to the objection that there were no stipendiary magistrates in the city of London, or in those districts subject to the jurisdiction of the Central Criminal Court, he observed that from all he could learn, the clerks

who assisted the mayor and aldermen in the discharge of their magisterial duties in the city were men of so much ability and experience that there would be in their case no greater risk of a miscarriage in the administration of justice under the operation of the Bill than in those instances in which the stipendiary magistrates were the persons presiding. Having made these observations, he begged to move the second reading of the Bill.

Mr. AYRTON contended that it was, at the present late period of the session, impossible to do justice to the important question which the right hon. gentleman had submitted to the notice of the House, and that it would be extremely undesirable to proceed with the Bill at a moment when there was no opportunity of learning with respect to it the opinions of the law officers of the Crown. While admitting that the number of grand juries summoned in the metropolis might be looked upon as a great evil, he could not concur with the right hon. gentleman as to the expediency of asking hon. members to assent to a measure which was calculated entirely to subvert the existing system of administering justice as that which was now proposed. He was also prepared to maintain that however much the right hon. gentleman might endeavour to separate the metropolis from the rest of England, yet the principle which he advocated was in the main applicable to grand juries throughout the country at large. The grand jury system, at all events, afforded a guarantee that no man would be put on his trial for felony unless his case had undergone a preliminary ordeal, and twelve men of repute had declared it to be one which demanded fuller investigation. There was at the present moment no very strong feeling against the continuance of grand juries, and he felt it, under those circumstances, to be his duty to object to the course which the right hon. gentleman was taking.

Sir G. C. LEWIS said he was prepared to give his vote for the second reading of the Bill. He thought that there was sufficient ground for the establishment of a distinction between the metropolis and the country with respect to grand juries, and he saw no reason why the House should not at once agree to the Bill.

Mr. B. JOHNSTONE supported the Bill.

Mr. HUNT would deprecate the passing almost *sub silentio* of a Bill which proposed to disturb an integral part of our criminal jurisprudence. He could not help thinking that the Bill was fraught with the greatest danger to the liberty of the subject and the cause of justice. The grand jury system had come down to us from our forefathers, and he had no fear that it would be parted with lightly as long as the names of Jeffries and Scroggs were remembered by the English people. The hon. gentleman, in the absence of Mr. M'Mahon, concluded by moving as an amendment that the Bill should be read a second time upon that day three months.

Sir M. RIDLEY seconded the amendment.

On the motion of Mr. NEWDEGATE the debate was adjourned.

Thursday, July 4.

THE LAW OF LUNACY.

The HOME SECRETARY having taken his seat while the hon. member for Bristol was addressing the House,

Mr. TITE, pursuant to notice, asked the right hon. gentleman whether it was the intention of the Government to introduce any Bill this session for amending the laws relating to lunatics in England, as recommended by the select committee of last year; and, if not, whether it was their intention to proceed with the Bill of the late Lord Chancellor which had been sent down from the House of Lords, having for its object the amendment of the laws relating to the lunatics under the care of the Court of Chancery.

Sir G. C. LEWIS said he intended to proceed with the Bill which had come down from the House of Lords with reference to Chancery lunatics. The report of the select committee had reference to lunatics generally, particularly to criminal lunatics, and they recommended an alteration and also a consolidation of the existing law. He was afraid that even if he laid on the table a Bill to carry out their suggestions it would be impossible that it could pass this session. The measure which had come down from the House of Lords, and with which he would proceed, was simply confined to Chancery lunatics.

CHANCERY LUNATICS BILL.

On the motion of Sir G. C. LEWIS, this Bill was read a first time, and ordered to be read a second time on Monday next.

COPYRIGHT OF DESIGNS BILL.

This Bill was read a second time.

Recent Decisions.

EQUITY.

RIGHT OF LIEN ON PAPERS WHERE SOLICITOR DISCHARGES CLIENT.

Rawlinson v. Moss, V. C. W., 9 W. R. 733.

In the case of *Colegrave v. Manley* (1 Turn. & Russ. 400), Lord Eldon held that the sale of his business by a solicitor amounted to a discharge by the solicitor of himself from the client's employ. Where the solicitor thus discharges himself the rule as to the use of papers is quite different from what it is where the solicitor is discharged by the client. The suitor in the former case is entitled, in Lord Eldon's words, "to have his business conducted with as much ease and celerity, and as little expense, as if the connection of solicitor and client had not been dissolved." In another case Lord Eldon intimated a doubt whether a solicitor discharging himself could claim a lien—"an expression which," as Lord Cottenham says, in the case to which we shall next refer, "must be understood as meaning not that the solicitor loses the lien altogether, but that he cannot set it up so as to prevent the client from proceeding in the cause." Acting upon the principle thus laid down, Lord Cottenham, in *Heslop v. Metcalfe* (3 My. & Cr. 183), made an order on a solicitor, who withdrew from the conduct of the plaintiff's cause, that he should deliver up to the plaintiff's new solicitor all such papers and documents connected with the cause as, upon inspection, such new solicitor might deem necessary for the hearing, without prejudice to any right of lien for costs, and upon an undertaking to return such papers and documents after the hearing. Lord Cottenham, in his judgment in that case, said, "I think the principle should be, that the solicitor claiming the lien should have every security not inconsistent with the progress of the cause. But it is clear that there will neither be, to use the expression of Lord Eldon, the same ease and celerity, nor as little expense, in the conduct of it, if the new solicitor is merely to have access to the papers, as when they are placed in his hands upon his undertaking to restore them after the immediate purposes of the production have been served." It should be observed that, in this case, there was a withdrawal in fact by the solicitor in consequence of the non-payment of his bill. In the case of *Griffiths v. Griffiths* (2 Hare 587), a party had employed, as his solicitors in a cause, a firm of two solicitors in partnership, and it was held that the retirement from the business of one of such partners, under an arrangement with the other, operated as a discharge of the client by the solicitors. This being so, it followed that the client was entitled to require that the papers in the cause, necessary for its prosecution, should be delivered up to his new solicitor, upon the usual undertaking for saving the lien of the discharged solicitors. Sir James Wigram's reasoning in this case was, that where a person employs two solicitors who are partners, he stipulates for the activity and services of both. If, then, the withdrawal of one partner from the contract had taken place by arrangement between the two, for purposes of their own, no obligation to one alone could remain upon the party with whom the two made the contract, nor could he be compelled to rely upon the responsibility of one alone. The principle would be the same whether the retiring or the continuing partner happened to be more or less conversant with the particular business. The retirement of one partner had the effect of discharging himself and the other partner as solicitors in the cause; and, therefore, the client was entitled to the benefit of the rule applicable where the relation of solicitor and client is terminated by the act of the solicitor.

In the two cases last referred to the order was made in a pending cause for the conduct of which the papers were required. In the case which has suggested this article, the suit was between solicitors for a dissolution of partnership, and an order was made in it dealing with the papers and documents of clients required in the conduct of conveyancing and other business. It appears, therefore, that the rule laid down in previous cases applies equally, whatever be the kind of business for which the papers are required. It appears, also, that the dissolution of a partnership by decree of the court operates, like a dissolution by mutual consent, as a discharge of the client by the solicitor, and entitles the client to the full benefit of the above-stated rule, as to the convenient use of his papers, notwithstanding the lien of the solicitors.

INVESTMENT OF FUND IN COURT IN EAST INDIA STOCK.

Cockburn v. Peel, L. C. & LL.J., 9 W. R. 725.

The petitioner in this case was entitled for life to the divi-

dends of a sum of Three per Cent. Annuities, standing in trust in the cause, to which her infant children were entitled in remainder after her decease. The petition prayed that the fund in court might be transferred into East India Stock. The Court refused to make the order. The late Lord Chancellor was desirous, if possible, to lay down some general rule as to such applications, but, on consideration, he thought that "the Court could not safely lay down any more precise rule than that, in the absence of any special circumstances which might make the transfer asked by the tenant for life beneficial to those in remainder, irrespective of pecuniary calculations, the transfer ought not to be permitted, if, on pecuniary calculations, it may be injurious to those in remainder." It had been proposed to guard against the risk of loss in case the East India Stock should be redeemed by establishing a sinking fund; but the Court did not approve of that expedient. There was no suggestion of advantage to the children from the proposed change. Lord Justice Turner said it was in the power of the Court to make the order; but also in the discretion of the Court whether to make it or not.

In the previous case of *The Equitable Assurance Company v. Fuller*, 9 W. R. 400, the application was by the settlor, and Vice-Chancellor Wood came very reluctantly to the conclusion that he could not refuse to make the order, as it was the duty of the Court to carry out the General Order of the 1st February, 1861. He said it was not necessary to consider what might be the decision where the application was by a person who had not created the trust. The recent case before the full Court of Appeal was of this character, and we see that the application has been refused. But it does not seem satisfactory to make the difference between the two decisions depend upon this distinction. Indeed, in *Bishop v. Bishop*, 9 W. R. 549, Vice-Chancellor Kindersley treated this distinction as unimportant. Probably if the case before Vice-Chancellor Wood had come before the full Court, there would have been a disposition quite as strong as was felt by him to refuse the application, and also less hesitation in assuming the authority to refuse it. It is important to observe that, notwithstanding the late decision, trustees making a change of investment in good faith, will be entitled to the protection of the Court.

REAL PROPERTY AND CONVEYANCING.

PERIOD OF SURVIVORSHIP IN GIFTS BY WILL.

Thompson v. Thompson, M. R., 9 W. R. 728.

In the 47th chapter of Mr. Jarman's "Treatise on Wills," the subject of the above case is treated with the author's usual clearness. He says, that one of the questions which arise under gifts to survivors is, whether they mean survivors indefinitely, or survivors at some specific point of time. In seeking for a period to which the words of survivorship could be referred, the obvious rule, where the gift took effect in possession immediately on the testator's decease, was to treat these words as intended to provide against the death of the objects in the lifetime of the testator. Where, however, the gift was not immediate, there being a prior life or other particular interest carved out, so that there was another period to which the words in question could be referred, the point was one of greater difficulty. In these cases, as well as in those of the other class, the courts for a long period uniformly applied the words of survivorship to the death of the testator. The latest case in which this rule was applied to a bequest of personal estate, was that of *Brown v. Bigg* (7 Ves. 279), where a testator gave the interest of his personal estate to his wife for life, and after her decease he gave the capital to his several nephews and nieces therein named, "to be divided amongst them, and the survivors of them, share and share alike." A niece having died in the lifetime of the widow, her personal representative claimed her share as vested at the decease of the testator, and Sir William Grant so decreed. This and many other cases might seem to have established that a gift to several objects as tenants in common, and the survivors and survivor of them, vested the subject of gift absolutely in the objects living at the death of the testator, the words of survivorship being referable to that period. "The sequel," says Mr. Jarman, "will serve to show that no rule of construction, however sanctioned by repeated adoption, is secure of permanence, unless founded in principle." To the inadequacy of the grounds on which the rule was established, may be ascribed the frequent agitation of the question, and the numerous exceptions engrafted upon the rule, which at length occasioned its total subversion, at least as regards personal estate. Mr. Jarman thinks that a perusal of the later cases will bring the reader to the conclusion that "where there is a gift of personal estate to a person for life, or

any other limited interest, and after the determination of such interest to certain persons *nominatim*, or to a class of persons, as tenants in common, and the survivors of them, these words are construed as intended to carry the subject of gift to the objects who are living at the period of distribution." The first of the cases which suggest this conclusion is that of *Cripps v. Wolcott*, 4 Madd. 11, where the testatrix gave and appointed her real and personal estate in trust for her husband for life, and after his decease she directed that her personal estate should be equally divided between her two sons, A. & B., and C., her daughter, and the survivors or survivor of them, share and share alike. A. died in the lifetime of the husband. B. & C., as the survivors at his death, claimed the whole. Sir John Leach considered that "there being no special intent to be found in the will, the terms of survivorship were to be referred to the death of the husband, who took a previous estate for life." Among numerous recent cases to the same effect, it may suffice to refer to that of *Neathway v. Reed*, 3 D. M. & G. 18, decided by the full Court of Appeal in 1853. In that case the testatrix gave thus:—"To my sister C. N.'s surviving children, £30 each." She then gave to C. N. thus:—"The interest of my funded property for and during her natural life, and after her decease, such property to be equally divided between her surviving children." It was held that though, on the construction of the word "surviving" in the first clause, the period of distribution was referable to the death of the testatrix, yet that the period of distribution in the last clause was to be referred to the death of C. N., and that those children only who survived C. N. were entitled. The result of all these cases is stated by Mr. Jarman thus: "The rule which reads a gift to survivors simply as applying to objects living at the death of the testator, is confined to those cases in which there is no other period to which survivorship can be referred; and where such gift is preceded by a life or other prior interest, it takes effect in favour of those who survive the period of distribution, and of those only." It must be remembered, however, that cases not yet overruled forbid the confident application of this rule to devises of real estate.

In the case before us, the testator bequeathed to his wife for her life all his interest in a leasehold house, and at her death he directed the same to be disposed of for the benefit of his surviving children, share and share alike. The testator left seven children, of whom three died in the lifetime of the widow, who was now dead. The Master of the Rolls held that the four children who survived her were entitled to the property. He said that all the modern authorities went in one line, and this case was governed by them.

COMMON LAW.

ADMITTANCE AFTER TERM—23 & 24 VICT. c. 127, s. 12.

Re — M.A., an Articled Clerk, B. C., 9 W. R. 639.

The Attorneys' and Solicitors' Act of last year contains (s. 12) a provision to the effect that, whenever the period of service under articles expires *in time of vacation*, the articled clerk may pass his examination in the term preceding such vacation; and may be admitted, enrolled, and sworn in, at any time in or after such vacation, upon proving, by affidavit or otherwise, that his period of clerkship has expired.

The utility of this enactment is shown by the present case, in which a question arose whether certain articles expired on the last day of term, or on the day which immediately followed the last day of term. The service was for the period of three years from the date of the articles; and the Court held that in computing the time, the day of their date must be included, which made the articles not to expire until the 9th of May, Easter Term in the present year having ended on the 8th of the month. Under these circumstances, the Court authorized the admission to be made in the vacation under the above provision, though it appears that this permission was not in fact acted on.

HUSBAND AND WIFE—ORDER OF PROTECTION NOT RETROSPECTIVE IN ITS EFFECT.

The Midland Railway Co., Appellants, v. Pye, Respondent, C. P., 9 W. R. 658.

This case raises and disposes of the question whether the 21st clause in the 20 & 21 Vict. c. 85 (the statute establishing the new Divorce Court), was intended to have a retrospective effect. This provision enables a wife who has been deserted by her husband to obtain an "order of protection" with regard to money or property thereafter acquired by her own lawful industry, and property which she may become possessed

of after such desertion, against her husband or persons claiming under him; and the clause declares that during the continuance of such order the wife shall "be and be deemed to have been during such desertion in the like position in all respects with regard to property, and contracts, and suing and being sued," as if she had obtained a decree of judicial separation. In the present case such an order was obtained by a married woman after she had commenced proceedings in her own name upon a cause of action accruing previously. These proceedings—her husband not being joined—she could not maintain, unless she was helped by the order of protection: but all the judges of the Common Pleas held that it could not have such auxiliary effect. It would, in the words of Chief Justice Erle, be giving "a monstrous effect" to the clause to construe it as making valid an action begun without the legal right to maintain it. It may be observed that Mr. Justice Byles (while concurring in the general judgment of the Court) stated that he was unable to reconcile the wording of the 21st section of which the effect is above given, with that of the 25th section, which says that in every case of a judicial separation the wife shall be considered as a *feme sole* with respect to after acquired, or devolving property from the date of the sentence, and during the continuance of the separation, and (sect. 26) shall be considered as a *feme sole* for certain purposes, and amongst others for suing and being sued.

EXEMPTION FROM TOLL—3 GEO. 4, c. 126, s. 32; 4 & 5 VICT. c. 33, s. 1.

Horwood v. Powell, B. C., 9 W. R. 659.

This case discloses a singular attempt at defeating a just claim by a piece of special pleading which was quietly submitted to by the magistrates, but was very properly set aside by Mr. Justice Wightman on appeal. The Turnpike Acts (3 Geo. 4, c. 126, s. 32, and 4 & 5 Vict. c. 33, s. 1) contain an exemption from payment of toll in respect of any horse, &c., which shall only cross any turnpike road, or shall not pass above one hundred yards thereon. In the present case a person when he came to the turnpike gate had only gone on the road a very few yards, and claimed to be exempted from the payment of toll thereat under the above proviso, contending that for any thing the toll-keeper could know he was not going on the other side of the gate a sufficient distance to make up the number of one hundred yards. This defence the magistrates considered a valid one, and dismissed an information which had been preferred for refusing the toll—although it appeared at the hearing that in point of fact the person informed against had, after forcing open the toll-gate, proceeded along the turnpike road several hundred yards. Mr. Justice Wightman held that as the traveller was *prima facie* liable to pay toll, it was for him to make out to the satisfaction of the toll-keeper that he came within the exception; and that the latter was entitled to demand and take the toll, at the peril of having to render it back again if he found that the payer left the road within the proscribed distance.

It may be convenient here to observe that there have in addition to the present case been recently two decisions upon the proper construction of 3 Geo. 4, c. 126, s. 32. In one of these (*Gerrard v. Parker*, 7 Ell. & Bl. 498) it was held that the exemption from toll therein given applies to the case of a travelling more than one hundred yards in the aggregate over two turnpike roads in the same trust so that one hundred yards on the same road be not passed over. In the other, *Veitch v. Trustees of Exeter Roads*, (8 Ell. & Bl. 986) it seems to be the opinion of the Court that the exemption may be claimed if the turnpike road be used at different times on each occasion to an extent less than one hundred yards, but being more than that distance when taken altogether—provided always there be not under the special circumstances of the case, an intent manifest to "evade the payment of toll" within the meaning of 3 Geo. 4, c. 126, s. 41.

HOUSE AGENT—LIABILITY OF, FOR NEGLIGENCE.

Heys v. Tindall, Q. B., 9 W. R. 665.

This case will operate as a useful check upon house agents, in whom necessarily considerable confidence is reposed by the owners of that species of property; and it is (so far as we are aware) one *prima impressionis*. It appears to be an authority for the proposition that a house agent is obliged to use reasonable precautions with regard to the solvency of a person whom he procures his principal to take as tenant, and in respect of whom he has charged a commission. In the present case the person introduced by the agent was, to his knowledge, in insolvent circumstances, and the jury found—and the finding

was supported by the ruling of the judge, and afterwards by the Court—that such conduct showed negligence which was sufficient foundation for the action.

Although, as above observed, we are not aware of an action having before been brought under the above circumstances, it is one which is altogether consistent with the course of the decisions upon the general law of principal and agent. These show that it is the latter's duty, in the absence of specific instructions, to pursue the accustomed course of that business in which he is employed, and it is clear that it is not the business of a house agent to let to an insolvent tenant. Again, it has been laid down that an agent is chargeable with all losses incurred by his own negligence, and this even, in some cases, where at first sight such a doctrine might seem to savour of hardship; as where he has been induced to part with his principal's property by the production of a forged authority (*Forster v. Clements*, 2 Camp. 17), a much stronger case than the present one. Here, indeed, he actually knew of the tenant's insolvency; but it is apprehended that he would also be liable if he accepted him without taking reasonable means to ascertain his respectability.

Correspondence.

LAW EXAMINATIONS.—AVERAGE OF PLUCKING.

The results of the examinations of the Incorporated Law Society, held at different periods of the year, contrast in a remarkable manner. Taking much interest in the examinations, I have referred to the official statements, which show variations from as low as 4 per cent. to as high as 28 per cent. in the numbers of unsuccessful candidates; and, strange to say, the Hilary and Michaelmas examinations seem to be most fatal, whilst the Trinity is undoubtedly the most favourable, the number of postponements at the latter being generally very insignificant. As an illustration, at the last examination (Trinity), there were only 5 out of 125; but at Hilary, there were 28 out of 105. On comparing the results, for some years back, equally strange contrasts present themselves. Can any of your readers account for these phenomena?

July 2.

A SUBSCRIBER.

Review.

Roscoe's Digest of the Law of Evidence in Criminal Cases. 5th edition, with considerable additions. By DAVID POWER, Esq., one of Her Majesty's Counsel, Recorder of Ipswich. London: V. & R. Stevens & Sons; H. Sweet; and W. Maxwell. 1861.

The Magisterial Formulist, being a complete Collection of Forms and Precedents for practical use in all Cases out of Quarter Sessions, and in Parochial Matters, by Magistrates, their Clerks, and Attorneys; with an Introduction, Explanatory Directions, Variations, and Notes. By GEORGE C. OKE, Assistant Clerk to the Lord Mayor of London, Author of "The Magisterial Synopsis," "The Laws of Turnpike Roads," &c., &c. 3rd edition, enlarged and revised. London: Butterworths. 1861.

Stone's Practice of Petty Sessions, with the Statutes, a List of Summary Convictions, and an Appendix of Forms. 7th edition. By THOMAS BELL, and LEWIS W. CAVE, of the Inner Temple, Esquires, Barristers-at-law. London: V. & R. Stevens & Sons; H. Sweet; and W. Maxwell. 1861.

The publication within a few weeks of three works relating to the Criminal Law looks as if both law authors and publishers had more faith in the prognostications of Mr. Coode, than in the long announced consolidation of our criminal law, which was to have been certainly and effectually achieved by the series of Bills for that purpose now before Parliament. It is so many years since the first attempt at a criminal code, and so many and such earnest promises have been made, during the last six sessions, about its complete achievement, we are not surprised that people have little faith in what the present inert session will do in the way of consolidating our criminal law. Although the Criminal Statutes Repeal Bill has been read a third time in the House of Commons, and the Consolidation Bills have made some progress, it is not very likely that the Statute Book for 1861 will contain a criminal code, even such as that comprised in the Bills of the Statute

Law Commissioners, and castigated by Mr. Coode in his letter to Lord Palmerston which we recently noticed. If, contrary to general expectation, however, these Consolidation Bills shall forthwith become law, we shall, of course, require some new text books adapted to the new statutes. But until then we can hardly have anything better as a text-book for practitioners in criminal courts than the last edition of Roscoe, in which all the modern cases relating to the subjects comprised in the work have been methodically and accurately noted up by Mr. David Power, the present editor, with the assistance of Mr. Markby of the Northern Circuit. Both of these gentlemen have had considerable experience as counsel practising in criminal courts, and have proved themselves well qualified for the task which they have undertaken. Roscoe has been so long recognised as the best and most convenient book upon the law of evidence in criminal cases, that we need say nothing further of the present edition than that it is the most complete which has yet appeared; and whatever Parliament may do with the Consolidation Bills now before it will have little effect to render this volume less useful, except by altering the references from the old incorporated Acts to the new code. Nearly all if not the entire of that part of the work which relates to evidence and modes of proof will remain untouched; and so will the definitions of crime, although, so far as they are to be found in Acts of Parliament, the places of which will be changed whenever the code comes into operation. So that, all all events, until that long promised event occurs, barristers and solicitors who take sessions business cannot well do without a late edition of Roscoe, and even afterwards, whatever unscientific or fanciful shape the code may assume, they cannot be far astray so long as they have their old guide to consult.

Mr. Oke, the assistant clerk to the Lord Mayor, is also well known as a writer on criminal law. The late Lord Chancellor referred with praise to the author of the Magisterial Synopsis, in which Mr. Oke gives, according to a tabular arrangement, an account of summary convictions and indictable offences, and of the procedure relating to them in a manner which is extremely convenient for reference. His "Formulist," as the term implies, is mainly a collection of forms and precedents, and being the compilation of a gentleman of very great experience and learning in such matters, has been found extremely useful as a companion volume to the synopsis. The two volumes together constitute a complete library for magistrates, and are indispensable for their clerks, and for attorneys practising before magistrates. The new edition of "The Formulist," is 364 pages larger than the previous one, and contains many useful additions of special forms which are not to be found elsewhere. The best recommendation of the book, however, is that two editions have been exhausted since 1850, when the first edition was published.

Stone's "Practice of Petty Sessions" has also gone through several editions, the present being the seventh. It is a small and unpretending volume; and in a great measure the present edition may be (as, indeed, it is confessed by its editor to be) a compilation from larger works on criminal law, and particularly Mr. Oke's "Synopsis," to which we have just referred. This little work, however, has been found a compendious manual for young practitioners and magistrates who do not care to be very learned in their office. It contains an appendix of the forms in common use, and may be taken as a reliable guide as far as it goes.

Obituary.

SIR JOHN PATTESON, KNT.

The decease of Lord Campbell has been soon followed by the death of another eminent judge, Sir John Patteson, who expired on the 28th ult., at his seat Feniton-court, near Honiton, Devonshire. He was born at Norwich in 1790, and was the second son of the Rev. Henry Patteson, of Drinkstone, Suffolk, by the daughter of Mr. Richard Ayton Lee, a banker in London. Sir John's paternal uncle, John Patteson, for some time represented the city of Norwich in Parliament. The deceased judge was educated at Eton, where he was a pupil of the present Primate. He was elected on the foundation, and succeeded to King's College, Cambridge, where he was the first that obtained the Davies' University scholarship. Besides a fellowship, he obtained in that university the degree of B.A. in 1813, and that of M.A. in 1816. He soon afterwards entered at the Middle Temple and became a pupil of Mr. Joseph afterwards Justice Littledale. Sir John commenced practice as a certificated special pleader, and soon acquired a

very large practice, and had a great number of pupils, many of them being Irish students, and among whom was the Right Hon. Joseph Napier, late Lord Chancellor of Ireland, who was greatly distinguished at the Irish bar as a pleader. The deceased judge was called to the bar in 1821, and soon rose to eminence on the Northern Circuit, which was then eminent both for its leaders and juniors. He had a very large junior business, and was often called upon to argue important cases at Westminster. At the close of his argument in the case of *Reynell v. The Bishop of Lincoln*, Mr. Justice Bayley handed him a note from the bench worded thus:—"Dear P., per Tenterden, C.J.—An admirable argument; shows him fit to be an early judge." He was much engaged in *quo warranto* cases, and on the Crown side of the Court of King's Bench; and he drew the pleadings, in the case of the Cato-street conspirators, against Thistlewood and his confederates. Time, however, did not admit of the full development of his forensic powers. In 1830 he was elevated, within the unusually short period of nine years from the date of his call, to a *puisne* judgeship in the Court of Queen's Bench, upon which occasion he received the honour of knighthood. Upon the adoption by Parliament of the report of the Common Law Commissioners, of whom Mr. Patteson was one, the Welch Judicature was abolished, and three new judgeships established to meet the consequent increase of business; thus altering the historic number of the common law judges from twelve to fifteen. Lord Lyndhurst selected Taunton, Alderson, and Patteson—the first and last to the Queen's Bench—Sir James Parke being translated from the latter court to the Court of Exchequer. Mr. Justice Patteson had not previously a silk gown; he had never led a cause or addressed a jury. Yet, owing to the urbanity of his manner, and the acknowledged goodness of his disposition, his promotion gave satisfaction to all.

He enjoyed the entire confidence of Lord Tenterden, notwithstanding the difference in standing and age between the Lord Chief Justice and him. With Lord Denman his intimacy was of the most cordial character. Lord Campbell likewise held the abilities of his senior *puisse* in the highest estimation, and both in public and private, was lavish of his encomiums on him.

Sir John was distinguished on the bench for lucid judgments, and deep and extensive knowledge of law, as also for good sense and courtesy. He had great breadth of view, and rare sagacity in applying the principles of law to the cases before him. This was the more important during the reign of special pleading, which was calculated to engender, both in the court and in the bar, an acute and critical habit of mind rather than broad or sound principles of judgment.

He had great urbanity of manner united to tenderness of disposition. This latter quality was doubtless the cause of his retirement. He became deaf, and was so tender of the interests committed to his charge that it caused him to withdraw even from the Judicial Committee, where there is little forensic bustle. His memory is associated with the most pleasing recollections, in the minds of all who knew him either in his judicial capacity or in private life. In 1852, on his departure from the Bench, Sir Alexander Cockburn, the then newly appointed Attorney-General, made a very touching speech, which was listened to with the entire sympathy of the bar. Sir John was very much moved, and expressed a hope that his deafness, or, as he supposed, his irritability, had not caused injustice in any case.

In the important and well-known case of *Stockdale v. Hansard*, which involved a conflict between the courts of law and the House of Commons, he concurred with his Court in their opinion of the paramount authority of courts of law. The case is commented on in the first volume of Smith's Leading Cases, under that of *Ashby v. White*, in which a similar struggle for superiority arose between the Lords and the Commons. Sir John, soon after his retirement from the bench, was made a member of the Privy Council, and was very constant in his attendance on appeals before the Judicial Committee. He was appointed, in 1853, a commissioner to inquire into the state of the Corporation of the City of London. He was also appointed to determine the limits of the jurisdiction of the Mayor and Corporation of Cambridge as against the University of Cambridge. Of late years, owing to increasing infirmities, he had entirely withdrawn himself from judicial duties. The cause of his death was a lingering and painful one—cancer of the throat.

Sir John was twice married; first to the third daughter of Mr. George Lee, of Dickleburgh, Norfolk; and secondly, to a daughter of Mr. James Coleridge, of Ottery St. Mary, Devon-

shire, and sister of Mr. Justice Coleridge. The deceased judge survived his second wife, and has left several children, one of whom was recently consecrated a missionary bishop to the islands of the South Pacific Ocean; and another was also, some short time since, appointed a revising barrister for one of the districts on the Northern Circuit. Since his retirement from judicial functions, Sir John Patteson resided wholly at his seat in Devonshire, where he dispensed a cordial hospitality, as well as a freely given advice and arbitration, to all who sought his aid. The deceased judge was a good type of the erudite and benevolent English gentleman, as well as of the clear, learned, and painstaking judge. Sir John paid a visit about six years ago to the members of the Northern Circuit at Liverpool, where he was most warmly received by all, his name having been a tradition upon that circuit for everything that was dignified and humane. His name will, doubtless, be long held in veneration.

LAW STUDENTS' DEBATING SOCIETY.

The following is the report of the committee of this Society to the annual meeting of its members, which was held on Tuesday last:—

Gentlemen—The committee, in presenting their annual report, have great pleasure in recording their unanimous opinion that the society was never in a more flourishing condition than at the present time, numbering more than a hundred members, of whom fully seventy attend the debates. The register book shows that ninety-two members have spoken on the various subjects during the last three months, and the average during the year is fully eight to each question, there being twenty-five present at each of the twenty-nine meetings that have been held; and when it is remembered that, on two occasions, no question was discussed, the time having been occupied in disposing of motions respecting alterations in the proceedings of the society, these and other statistics will be considered satisfactory. The debate has occupied nearly two hours and a half, and sixteen votes have been recorded each evening this quarter. Nineteen legal and ten jurisprudential questions have been discussed during the year, upon one of which there was an adjournment.

In consequence of long-continued absence and nonpayment of fines and subscriptions, the names of seven gentlemen have been erased from the list of members, and eight others have resigned from their having left town and other causes. A more than equivalent addition has, however, been made, as twenty-eight new members have been elected.

During the current year it was resolved: "That no member of this society, other than the opener of the debate, should in future be permitted to speak on any question for a longer period than twenty minutes. And also, that any member desirous of withdrawing from the society should send his resignation in writing to the secretary."

The abolition of the custom of members giving notice of absence for their friends does not appear to have been productive of any personal inconvenience, and is likely to produce regular attendance.

It gives us much pleasure to report that at each of the examinations, members of this society have obtained prizes, certificates of merit, or have been otherwise honourably distinguished.

Several changes have taken place in the committee of management since the last annual report. At the annual meeting Mr. Wingate was elected secretary in the room of Mr. Bradford, and Mr. Marchant, not desiring to be re-elected, Mr. Green was chosen in his place. Since then Mr. Miller resigned the office of treasurer, to which Mr. Lawrance was elected, the vacancy being thus caused in the committee was supplied by Mr. Bradford. Mr. Plaskitt and Mr. Matthews subsequently retiring, were replaced by Mr. Dowse and Mr. Hills.

Mr. Jackson has also been elected an auditor, in conjunction with Mr. Richard.

Your committee have given their careful consideration to upwards of forty legal questions proposed for discussion, and have been enabled to approve of twenty-three, all of which have appeared in the papers, as well as some very interesting ones of a jurisprudential character, which have afforded a constant succession of new and varied subjects of the highest order, upon which much difference of opinion has been well expressed. And in consequence of the great diversity of authorities to be found on each of the legal questions, very able arguments have been adduced, and narrow majorities

invariably obtained, as appears from the president's book. We desire to render our best thanks to those members who have afforded us assistance by proposing questions for discussion, and at the same time to remind you of the absolute necessity there is that great diligence should at all times be shown in this respect, particularly during the coming vacation.

The committee, however, feel compelled to call attention to the fact that many members have habitually omitted this necessary duty, thereby putting the committee to great inconvenience.

The society has been in existence for a quarter of a century, having completed its twenty-fifth year in the month of May last. Your committee cannot help thinking that this fact calls for special notice at their hands, and that it is a subject of congratulation that the society has been gradually increasing in strength and influence from year to year since its formation; and they feel sure that, as its advantages become better known and appreciated by the younger members of the profession, its influence will become more widespread, and that it will, at no distant period, be recognised by the profession at large as an institution which deserves their support, for the energy which it displays in endeavouring to stimulate the abilities and cultivate the debating powers of all who enrol themselves in its ranks, and who by its means acquire one of the many attributes which at the present day are needed to ensure success in the profession of the law.

Our example has, we have every reason to believe, been extensively followed by the formation of similar societies in most of the large provincial towns, and we take this opportunity of suggesting that great advantage would accrue if general intercommunication could be established.

Your committee have had their attention directed to a letter which appeared in the *Solicitors' Journal* in April last, and in which the writer complained of the arbitrary and exclusive nature of sec. 2, of rule 1, which restricts the right of admission to the society to such persons as are either subscribers to the library or lectures of the Incorporated Law Society, or are clerks articulated to members of that society, or who, having been articulated, are in the service of members of that society. It was urged that by such restriction the usefulness of the society was lessened, and there was no reason why the doors of the society should not be open to every articulated clerk who wished to avail himself of its privileges. To this letter the treasurer replied that, while it was far from the intention of the society to limit its sphere of action or narrow its usefulness, yet that, in deference to the Council of the Incorporated Law Society, to whom it owes many advantages, it could not break faith with the council by a relaxation of the rule in question, inasmuch as these advantages were especially intended to be conferred upon those persons who were, in some way or another, connected with the Incorporated Law Society, an institution which affords valuable assistance to students for methodising and extending their legal knowledge by the use of an extensive library and attendance at the lectures delivered under its auspices.

The committee hope and believe that in arriving at this conclusion, not only were the best interests of the society consulted, but also that the treasurer acted in accordance with the wishes and instructions of the Council of the Incorporated Law Society, who have always shown this society much liberality and consideration.

The treasurer's report of the receipts and payments for the year has been audited, and shows a balance in favour of the society.

In conclusion, your committee beg to impress upon students the importance of early acquiring the art of giving expression to their thoughts with self-possession and perspicuity; this can only be acquired by practice, and no better means will be found than a constant attendance at the debates of this society.—We are, gentlemen, your obedient servants.

EDWARD LAWRENCE, jun.
LEWIS WINCKWORTH.
J. BRADFORD.
MELVILL GREEN.
OCTAVIUS L. HILLS.
H. A. DOWSE.

GEO. L. WINGATE, Hon. Sec.

Law Institution, 2nd July, 1861.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

BOGNOR.
HAMMERSMITH, PADDINGTON, AND CITY JUNCTION.
MANCHESTER AND MILFORD (Aberystwith branch).
MUCH WENLOCK.
SALISBURY AND DORSET.
SITTINGBOURNE AND SHEERNESS.
SOUTHAMPTON AND NETLEY.

The following Bills have been read a third time and passed in the House of Lords:—

LUDLOW AND OLEE-HILL.
MIDLAND (Otley and Ilkley Extension).
NORTH EASTERN (Extension to Otley).
WEST CHESHIRE.

REPORT OF MEETING.

PERPETUAL INVESTMENT SOCIETY.

The tenth annual meeting of this society was held on the 3rd inst., at which it was stated that the sum of £117,288 had been received during the year, making an aggregate, in ten years, of £915,019. A bonus of four per cent. was declared, making, with the interest, 8½ per cent.

Births, Marriages, and Deaths.

BIRTHS.

BOURNE—On June 24, at Dudley, the wife of James S. Bourne, Esq., Solicitor, of a daughter.
CORRIE—On June 27, at 20, Leinster-square, Kensington-gardens, the wife of William Corrie, Esq., of a son.
FIELDING—On July 1, at Canterbury, the wife of Allan Fielding, Esq., Solicitor, of a son.
PERCIVAL—On June 28, at Peterborough, the wife of Andrew Percival, Esq., Solicitor, of a son.

MARRIAGES.

CRESSWELL—HANDS—On June 22, George Cresswell, Esq., Solicitor, of Willenhall, to Sarah Ann, daughter of Mr. F. Hands, of Bloomsbury.
NEUBALD—BETTISON—On June 25, Henry Neubald, Esq., Solicitor, Newark-upon-Trent, to Helen, daughter of W. Bettison, Esq., Oxtou, Cheshire.
ROBINSON—MOON—On July 2, James Robinson, Esq., Solicitor, of Clement's-lane, Lombard-street, to Mary, daughter of Henry Moon, Esq., M.D., of Brighton.

DEATHS.

HANCOCK—On July 1, Charles Hancock, Esq., Solicitor, of Tokenhouse-yard, City, aged 44.
KING—On July 3, Alfred King, Esq., of 4, Dane's-inn, Strand, Solicitor, in his 61st year.
SLANEY—On June 29, Thomas Slaney, Esq., Solicitor, of Birmingham, aged 51.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Name will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

DENISON, SAMUEL, Esq., Bedford-row, £500 Old South Sea Annuities.—Claimed by MARGARET ELLIOTT SANDES (heretofore Bowzer, spinster), wife of William Gough Sandes, the surviving executrix of Lucy Bowzer, Widow, who was the surviving executrix of the said Samuel Denison.

WOOD, ANDREW, Gent., Leatherhead, Surrey, £3,800 Reduced Threes per Cents.—Claimed by JAMES BARLOW, the surviving executor.

London Gazette.

Professional Partnership Dissolved.

TUESDAY, July 2, 1861.

BOTLIN, CHARLES, & RICHARD ARTHUR DUFFY, Attorneys and Solicitors, Nottingham; by mutual consent. June 29.

FRIDAY, July 5, 1861.

NETHERSOLE, HENRY, and HENRY JAMES OWEN (Nethersole & Owen), Attorneys & Solicitors, 1, New-inn, Middlesex, by mutual consent.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, July 2, 1861.

HADFIELD'S PATENT CASE AND PACKING CASE COMPANY (LIMITED).—Proof of debts. July 24, at 12; Liverpool.

UNLIMITED IN CHANCERY.

FRIDAY, July 5, 1861.

NATIONAL INDUSTRIAL AND PROVIDENT SOCIETY.—Order to wind up June 29. M.R.

NATIONAL INDUSTRIAL AND PROVIDENT SOCIETY.—The Master of the Rolls has appointed Robert Palmer Harding, 3, Bank-buildings, London, and 5, Seric-street, Lincoln's-inn, Middlesex, Interim Manager of this company.

NATIONAL INDUSTRIAL AND PROVIDENT SOCIETY.—Creditors to meet on July 16, at 2, at Roll's-yard, Chancery-lane, for the purpose of appointing creditors' representative.

LIMITED IN BANKRUPTCY.

FRIDAY, July 5, 1861.

PLUMSTEAD AND WOOLWICH CO-OPERATIVE PROVISION COMPANY (LIMITED).—Creditors to prove their debts before Com. Holroyd, at Basinghall-street, on July 12, at 11.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, July 2, 1861.

COCKE, JOHN, formerly Grocer and Tallow Chandler, Guildford, but late of Ripley, Surrey, Gent. Capron, Solicitor, Guildford. Aug. 9.

DAWE, RICHARD, Gent., Trevadock, Looannick, Cornwall. Nicolls, Solicitor, Callington, Cornwall. July 30.

HOLME, ANN, Widow, Abbey-street, Greenheys, Manchester. Redfern, Solicitor, Oldham. Aug. 31.

HOLWORTHY, DIANA SARAH, Widow, Brighton. Desborough, Young, & Desborough, Solicitors, 6, Sise-lane, London. Aug. 1.

HYDE, CHARLES, Esq., Hyde End, Berks, and Fladong's Hotel, Old Cavendish-street, Middlesex. Parker, Rooke, & Parkers, 17, Bedford-row, London, W.C. Sept. 1.

LETCHER, JOHN JAMISON, Bullo Mill, Gloucestershire. Carter & Gould, Solicitors, Newnham. Sept. 1.

MASON, THOMAS, Jamaica Coffee House, St. Michael's-alley, Cornhill, London. Hoppe & Boyle, Solicitors, 3, Sun-court, Cornhill. Sept. 9.

OLIVER, DAVID, Licensed Victualler, Lord of Hay Public House, Praed-street, Paddington, Middlesex. Gray & Berry, Solicitors, 108, Edgware-road, W. Sept. 1.

SEMSER, ANNE, Spinster, Marsden's-square, Wigan, Lancashire. Marshall, Solicitor, King-street, Wigan. Aug. 1.

TURN, THOMAS, (and not SURE, as advertized in the Gazette of 28th June) Yeoman, Dufton, Westmoreland. Thompson, Solicitor, Appleby, Westmoreland. Sept. 7.

WARRENTON, JOHN, Agent, and Inspector of Weights and Measures, Bury, Lancashire. Rodfern, Solicitor, Oldham. Aug. 31.

WOOD, Mrs. ISABELLA MARY, 5, Cambridge-terrace, Dover. Percy & Goodall, Solicitors, Nottingham. Aug. 1.

FRIDAY, July 5, 1861.

CARELESS, JAMES, Free Vintner, Epsom, Surrey, formerly of the Paxton Arms Tavern, Anerly, said county, Licensed Victualler. White & Ward, Solicitors, County Court, Epsom. Aug. 1.

COURTENAY, THOMAS PEREGRINE, Esq., South Town, Kenton, Devonshire. Buckingham, Solicitor, Southernhay, Exeter. Aug. 18.

GREENWOOD, ELIZABETH, Widow, Watkyn-terrace, Camberwell, Surrey. Sills & Gordon, Solicitors, 16, Old Broad-street, London. Sep. 4.

HARTOP, WILLIAM, Gent., Little Hampton-street, otherwise Hampton-street, Birmingham. Maudesley, Solicitor, 41, Temple-street, Birmingham. August 19.

HUSDELL, JACOB, Coal-Fitter & Ship Broker, Sunderland. Ranson & Son, Solicitors, 12, East Cross-street, Sunderland, or Kidson, Solicitor, 66, John-street, Bishopwearmouth. Aug. 1.

KITLEY, ANN, Widow, 1, Elizabeth Cottages, Grove-hill, Tunbridge Wells, Kent, but late of Prince of Wales Public House, Sadeley-street, Islington, Middlesex. Mackeson & Goldring, Solicitors, 59, Lincoln's-inn-fields. Sept. 1.

KITLEY, HENRY, Licensed Victualler, Prince of Wales Public House, Sadeley-street, Islington, Middlesex. Mackeson & Goldring, Solicitors, 59, Lincoln's-inn-fields. Sept. 1.

NEWBY, ANNA MARIA, Widow, Tranmere, Chester. Fisher & Son, Solicitors, Liverpool. Aug. 16.

PEACE, WILLIAM, Mining Engineer & Colliery Viewer, Haigh, near Wigan. Peace, Solicitor, Wigan. Aug. 8.

TODD, ANTHONY, sen., Butcher, Coleahill, Warwickshire. Cottrell, Solicitor, 22, Bennett's-hill, Birmingham. Aug. 8.

WAGNIEKE, CHARLES, Gent., 2, Upper Kennington-green, Lambeth, Surrey. Fraser, Solicitor, 16, Farnival's-inn, London. Sept. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, July 2, 1861.

CARPENTER, JOHN, Miller, Hutton Bridge, Abbots Langley, Herts. White & Chester, V.C. Wood. July 20.

FORREST, WILLIAM, Curiosity Dealer, 54, Strand, Middlesex. Forrest & Harrington, M. R. July 29.

HARE, JOHN WILLOX, Stationer, 1 and 2, Brunswick-place, Brunswick-street, Blackwall, Middlesex. Bird & Hare, V.C. Wood. July 21.

HARROP, JOHN GASKELL, Solicitor, Torkington, Cheshire. Harrop & Holt, M. R. July 30.

HIRD, ANTHONY, Upholsterer, 143, Tottenham-court-road, Middlesex. Ablett & Hunter, V.C. Stuart. July 15.

KNOTT, WILLIAM, Esq., 3, Newington-place, Kennington, Surrey. Bonfield & Bonfield, M. R. July 29.

LANG, JOHN THEODORE, formerly a Lieutenant in her Majesty's 14th Regiment of Light Dragoons, and late of her Majesty's 2nd Regiment of Dragoon Guards. Bidwell & Bremridge, V.C. Stuart. Nov. 1.

MACHIN, EDWARD, Upholsterer, Birmingham. Baker & Machin, V.C. Kindersley. July 20.

PENRY, HENRY, Oxford-street, Swansea, Glamorganshire. Penry & Penry, M. R. July 25.

ROSS, Sir WILLIAM CHARLES, Knight, 38, Fitzroy-square, Middlesex. Chapman & Ross, V.C. Stuart. July 19.

FRIDAY, July 5, 1861.

CANNON, THOMAS, Coffee Planter, Wastara Talook, Mysore Territory, East India. Allardice & Onslow, V.C. Kindersley. Feb. 28, 1862.

DREDGE, WILLIAM, Accountant, formerly of London-street, Reading, Berks, and late of Diple, Hants. Dredge & Dredge, V.C. Stuart. July 22.

EDWARDS, WILLIAM, Innkeeper, Tredegar, Monmouthshire. Edwards & Richards, M. R. July 30.

GRAY, SARAH ANN, Lockhampton, Gloucestershire. Gray & Wing, V.C. Stuart. July 30.

LAMPRELL, CHARLES FITCH, Licensed Victualler, 12, Cannon-street, London. Lamprell & Johnson, V.C. Wood. July 19.

LEIGH, JOHN, Clerk, Eglington, Derbyshire. In the matter of the Rev. John Leigh, V.C. Kindersley. Aug. 5.

MULLENBUX, JOHN WOOLFALL, Distiller, Liverpool. Laurence & Mullenbux, V.C. Wood. July 27.

WING, BENJAMIN, Gent., Springfield, Essex. Gray & Wing, V. C. Stuart. July 30.

Assignments for Benefit of Creditors.

TUESDAY, July 2, 1861.

BARWISE, JOHN, Draper, Bilston, Staffordshire. June 5. Sol. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester.

FLETCHER, EDMONDSON, Draper, Clapham-common, Surrey. June 5. Sol. Reed, 3, Gresham-street, London.

HANCOCKS, GEORGE, Bookseller, Stationer, and Printer, Cross-street, Abergavenny, Monmouthshire. June 11. Sol. Batt, Abergavenny.

HART, HENRY, Farmer, Hailing and Snodland, Kent. June 14. Sol. Few & Cole, 40, Wellington-street, Southwark, London Bridge, S.E., agents for King & Hughes, Maidstone.

HIRST, WILLIAM, Colcar, Yorkshire. June 20. Sol. Clough, 37, Market-street, Huddersfield.

HORSEFIELD, THOMAS STANLEY, Tobacconist, Rusholme-road, Manchester. June 1. Sol. Hankinson, 3, Essex-street, Manchester.

LEWIS, WILLIAM, Publican, the Holly Bush, Whitchurch, Glamorganshire. June 24. Sol. Matthews, Church-street, Cardiff.

MARFELL, JOHN, General Shopkeeper, Painter, and Glazier, Drybrook, East Dean, Gloucestershire. June 8. Sol. Whatley, Mitchel Dean, Gloucestershire.

SHEARD, HENRY, & SAMUEL SHEARD, Manufacturers, Batley, Yorkshire (Sheards & Senior.) June 10. Sol. Scholefield, Batley.

FRIDAY, July 5, 1861.

BROAD, THOMAS, Woollen & Linendraper, Fore-street, Tiverton, Devonshire. Sol. Morris, 6, Old Jewry, London. June 10.

COBBY, ALFRED, Pianoforte Dealer, Bognor, Sussex. Sol. Perkins, 13, Great James-street, Bedford-row, Middlesex. May 30.

DALBY, WILLIAM, and JOHN HADFIELD, Builders, Burton-upon-Trent, Staffordshire. Sol. Bass & Jennings, Burton-upon-Trent. June 19.

DIXON, ROBERT, Coal Merchant, Pier Wharf, Wandsworth, Surrey. Sol. Bower, 6A, Tokenhouse-yard, London. May 9.

HARVEY, GEORGE, Whitesmith & Fish Merchant, Great Yarmouth, Norfolk. Sol. Holt, Great Yarmouth. July 3.

HIGGS, JOHN SRAOAVE, Innkeeper, Market Harborough. Sol. Chamberlain, Desford. June 25.

MANDERS, ROBERT, Tailor, 33, High street, St. Stephen, Exeter. Sol. Bush, 9, Bridge-street, Bristol. June 17.

PIGGM, RICHARD, Farmer, Albrook, Kingsteinton, Devonshire. Sol. Francis & Baker, Newton Bushel, Devonshire. June 13.

ROBINSON, JOHN MALLAM, Draper & Milliner, Grainger-street, Newcastle-upon-Tyne. Sol. Lever & Son, 1, Frederick's-place, Old Jewry, Agents for B. & T. R. Wheldon, North Shields. May 21.

SUTTON, JOHN FROST, Printer, Nottingham. Sol. Hunt, Nottingham. June 11.

WATSON, WILLIAM, & JAMES MELVILLE GRANT, Dyers, Hendham Vale, Collyhurst, Manchester (Watson & Grant). Sol. Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester. June 13.

Bankrupts.

TUESDAY, July 2, 1861.

BATLEY, RICHARD, Timber Dealer, 5A, Park-village East, Regent's-park, Middlesex. Com. Evans: July 13, at 2, and Aug. 17, at 12.30; Basinghall-street. Off. Ass. Bell. Sol. Billing, Chapel-place, Poultry. Pet. June 29.

DONLEVY, HENRY, Glass Manufacturer, New York, Brinsworth, Rotherham, Yorkshire. Com. West: July 13, and Aug. 3, at 10; Sheffield. Off. Ass. Brewin. Sol. Vickers, Sheffield. Pet. June 23.

GEARNS, JOHN, & FREDERICK AUGUSTUS TARRANT, Auctioneers, 27, Bucklersbury, London. Com. Evans: July 13, at 1, and Aug. 17, at 12; Basinghall-street. Off. Ass. Johnson. Sol. Lawrence, Flews, & Boyer, Old Jewry-chambers. Pet. June 28.

GREEN, WILLIAM, Licensed Victualler and Tavern Keeper, Liverpool. Com. Perry: July 10, at 12.30, and Aug. 2, at 11; Liverpool. Off. Ass. Morgan. Sol. Lowndes, Bateson, Lowndes, & Robinson, Brunswick-street, Liverpool. Pet. June 25.

GRIFFIN, MICHAEL, Leather Dealer, Liverpool. Com. Perry: July 13, and Aug. 2, at 11; Liverpool. Off. Ass. Bird. Sol. Woodburn & Pemberton, Liverpool. Pet. June 22.

JASSOP, JOHN, Innkeeper, Maltster, and Farmer, Preston Brockhurst, Salop. Com. Sanders: July 18, and Aug. 5, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Cooper, Shrewsbury, or James & Knight, Birmingham. *Pet.* June 22.

JOSEPH, JOHN, Importer of Foreign Goods, 87 and 88, Houndsditch, and 8, Alton-terrace, Albion-road, Dalston, Middlesex. Com. Evans: July 15, at 2.30, and Aug. 14, at 12; Basinghall-street. *Off. Ass.* Bell. *Sols.* Sydney & Son, 46, Finsbury-circus. *Pet.* June 26.

LEGG, JOH. Draper and Haberdasher, Willenhall, Staffordshire. Com. Sanders: July 18, and Aug. 5, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* James & Knight, Birmingham. *Pet.* July 1.

LLOYD, NATHAN KIMBLETT, Grocer, Birmingham. Com. Sanders: July 12, and Aug. 2, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Collis & Ure, Birmingham. *Pet.* July 1.

MARTIN, WILLIAM GEORGE, Innkeeper and Furniture Dealer, Risca, Monmouthshire. Com. West: July 16, and Aug. 27, at 11; Bristol. *Off. Ass.* Agraman. *Sol.* Cathcart, Newport, Monmouthshire, or Brittan & Son, Small-street, Bristol. *Pet.* June 27.

MESSOP, JOHN, Provision Dealer, Liverpool. Com. Perry: July 15, and Aug. 2, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Tyrer, Liverpool. *Pet.* June 24.

MOWAT, JOHN ALEXANDER, Boot and Shoe Maker, 115, Crawford-street, St. Marylebone, Middlesex. Com. Fane: July 12, at 2, and Aug. 10, at 11; Basinghall-street. *Off. Ass.* Whitmore. *Sol.* Rushbury, 33, Coleman-street, London. *Pet.* June 17.

PRESTON, JAMES, Tobacconist, 2, Kingsland-gate Bassar, Kingsland-road, Middlesex. Com. Holroyd: July 12, at 12.30, and Aug. 13, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Morris, Stone, Townson, & Morris, Moorgate street-chambers, London. *Pet.* June 26.

SPUDEN, JOHN, Builder, 1, Charles-terrace, Paxton-park, Sydenham, Kent. Com. Fane: July 12, at 11, and Aug. 9, at 12.30; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Flux & Argles, 68, Cheapside. *Pet.* July 1.

FRIDAY, July 5, 1861.

DENNIS, JOSEPH, Draper & Milliner, Snelton, Nottingham. Com. Sanders: July 18, and Aug. 6, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Coope, Nottingham. *Pet.* June 29.

FLEET, SAMUEL, Mercer & Draper, Audlem, Chester. Com. Perry: July 22, and Aug. 7, at 11; Liverpool. *Off. Ass.* Bird. *Sol.* Tyrer, Liverpool. *Pet.* June 26.

HALL, ROBERT, Army Clothier & Tailor, Great Warley, Essex. Com. Holroyd: July 15, and Aug. 13, at 11.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Wood, 27a, Bucklersbury, London; or Stone, Wall, & Simpson, Tunbridge Wells, Kent. *Pet.* July 2.

HARDEN, CHARLES, Warehouseman, 133, Fenchurch-street, London. Com. Fane: July 17, and Aug. 16, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Harrison & Lewis, 6, Old Jewry; or to Sole, Turner & Turner, 68, Aldermanbury. *Pet.* July 4.

HILLIER, GEORGE, Marine Store Dealer, Trowbridge, Wilts. Com. Hill: July 16 & Aug. 27, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Webber, Trowbridge, or Henderson, Bristol. *Pet.* June 28.

LAW, JOHN, Chemist & Druggist & Omnibus Proprietor, 9, New Church-street, Marylebone, Middlesex. Com. Holroyd: July 16, at 11.30, & Aug. 20, at 12.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Bicknell & Bicknell, 79, Connaught-terrace, Edgware-road, London. *Pet.* July 4.

LENOX, HENRY, Merchant, Liverpool. Com. Perry: July 17 & Aug. 7, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Lowndes, Bateson, Lowndes, & Robinson, 3, Brunswick-street, Liverpool. *Pet.* June 22.

MARTIN, JAMES, Watch Maker & Jeweller, Faversham, Kent. Com. Evans: July 15, at 1, & Aug. 15, at 11; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Langford & Marsden, Friday-street, Cheapside. *Pet.* June 28.

OVENDEN, HENRY FRENCH, Maidstone, Kent. Com. Evans: July 15, at 11.30, & Aug. 14, at 12.30; Basinghall-street. *Off. Ass.* Johnson. *Sols.* Sole, Turner, & Turner, Aldermanbury. *Pet.* July 2.

VAGG, SAMUEL, commonly called or known as SAM. COLLINS, late of Hyde, Hendon, Middlesex, and now Licensed Victualler, 40, Gower-place, Bedford-square, Middlesex. Com. Fane: July 16, at 11, & Aug. 16, at 12; Basinghall-street. *Off. Ass.* Cannan. *Sol.* Harcourt, 2, King's Arms-yard, City. *Pet.* July 2.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, July 2, 1861.

BELL, WILLIAM, Miller, Urpeth Mill, Chester-le-street, Durham. Aug. 1, at 12; Newcastle-upon Tyne.—**BAIGT, HENRY SMITH**, Merchant and Commission Agent, Kingston-upon-Hull (Taylor & Bright.) July 31, at 12; Kingston-upon-Hull.—**FOWLER, JOHN**, Stock and Share Broker, and Commission Agent, Whitehaven, Cumberland. Aug. 1, at 12.30; Newcastle-upon Tyne.—**HARRISON, ROBERT, JAMES KIERO WATSON, & HENRY PHASE**, Bankers, Kingston-upon Hull (Harrison, Watson, & Co.) Aug. 7, at 12; Kingston-upon-Hull. Same time, separate estate of Robert Harrison. Same time, separate estate of James Kiero Watson.—**HASSELL, SAMUEL TALBOT**, Merchant, Kingston-upon-Hull. July 31, at 12; Kingston-upon-Hull.—**HEATH, WILLIAM, & THOMAS STEVENS**, Factors, Aldermanbury, London. July 24, at 11.30; Basinghall-street.—**JENNENS, THEODORE HILD**, Papier Maché Manufacturer and Japanner, 6, Halkin-street West, Belgrave-square, and Church street, Chelsea, Middlesex. July 23, at 12; Basinghall-street.—**LYON, SIMON**, Cabinet Maker and Upholsterer, 23, Frederick's-place, Hampstead-road, Middlesex (James Simon Lyon). July 23, at 11, Basinghall-street.—**MANSFIELD, ELIAS**, Boat-wright, Timber Dealer, and Publican, Chesterton, Cambridgeshire. July 25, at 12; Basinghall-street.—**MILLS, JOHN**, Cotton Manufacturer, Royton, Oldham, Lancashire. July 25, at 12; Manchester.—**POSTER, THOMAS**, Chair and Cabinet Maker and Upholsterer, 8, Beauvoir-place, Kingsland, Middlesex. July 23, at 12; Basinghall-street.—**PRIOR, EDWARD STAFF, & ALFRED STAFF**, Coal Merchants, Bishopgate-street, Middlesex. July 23, at 12; Basinghall-street.—**SALOMONSON, SAMUEL**, Bill Broker and Scrivener, 33, Abchurch-lane, London. July 23, at 11.30; Basinghall-street.—**SCHOFIELD, JAMES, & LOUIS HORRIS**, Grease Manufacturers, Blue Pits, Rochdale, Lancashire, and Keighley, Yorkshire (Schofield & Horrie). July 23, at 12; Manchester.—**WAGSTAFF, WILLIAM RACSTER**, Wharfinger, Granary Keeper, and Steam Tug Owner, 155, Fenchurch-street, London. July 12, at 12; Basinghall-street.

FRIDAY, July 5, 1861.

ASHLEY, CHARLES KITCHEN, Common Brewer, Sheffield, Yorkshire. July 27, at 10; Sheffield.—**BOOTH, JAMES, jun.**, Worsted Manufacturer,

Bramley, Yorkshire (J. & J. Booth.) July 25, at 11; Leeds.—**BRITTEN, JOHN**, Dealer in Silk & Worsted Braids, Fringes, & other Goods, 32, Noble-street, Falcon-square, London, and 9, Park-road, Dalston, Middlesex. July 30, at 11.30; Basinghall-street.—**CAYORN, FRANCIS MEREDITH**, Lace Manufacturer, Nottingham. July 26, at 11; Nottingham.—**CHOWN, HENRY CHARLES**, Shoe Dealer, Sheffield, Yorkshire. July 27, at 10; Sheffield.—**COX, WILLIAM**, Grocer & Provision Dealer, 77, Dale End, Birmingham. July 27, at 11; Birmingham.—**DEIGHTON, SAMUEL**, Draper, Preston. July 26, at 12; Manchester.—**DEUFFIELD, JOHN, & WILLIAM RISPIN DACEY**, Grocers, Sheffield. July 27, at 10; Sheffield.—**EDWARDS, JOHN**, Draper, Cwm Yniscoy, near Pontypool, Monmouthshire. July 30, at 11; Bristol.—**FENN, PATRICK**, Umbrella & Parasol Manufacturer, 13 & 14, Milk-street, London. July 26, at 1; Basinghall-street.—**HAINSWORTH, JONATHAN**, Plumber & Glazier, Halifax. July 26, at 11; Leeds.—**HOOD, CHRISTOPHER, & JOHN NIXON**, Elastic Web Manufacturers, Nuneaton, Warwickshire. July 29, at 11; Birmingham.—**JARVIS, CHARLES KEDMAN**, Bookseller & Stationer, Division-street, Sheffield. July 27, at 10; Sheffield.—**KIRK, WILLIAM, JOHN WALE, & JOHN KIRK**, Coal & Timber Merchants, Mountsorrel, Leicestershire. July 26, at 11; Nottingham.—**MARTIN, JAMES MARK**, Ironmonger, Brazier, & Gas Fitter, Chesterfield. July 27, at 10; Sheffield.—**MATHER, CHARLES BENJAMIN**, Tea Dealer & Grocer, Newbury, Berks. July 26, at 11; Basinghall-street.—**MILLAR, ALEXANDER, & WILLIAM BLACKBURN**, Woollen Warehousemen, Star-court, Broad-street, Cheapside, London. July 26, at 11; Leeds.—**MILLS, THOMAS**, Elastic Web Manufacturer, Leicester. July 26, at 11; Notts.—**NORTH, JOSEPH**, Carrier & Contractor, Montague-street, Brighton. July 15, at 12.30; Basinghall-street.—**ORMESHER, JAMES, & WILLIAM ORMESHER**, Silk Manufacturers, Manchester, and also of Blackley, Lancaster (James & William Ormesher). July 18, at 12; Manchester.—**PARRY, ELIZA**, Timber Dealer, Liverpool. Aug. 2, at 11; Liverpool.—**SIMON, LOUIS**, Manufacturer, Nottingham. July 26, at 11; Nottingham.—**WALK, ALFRED, HOMER**, Nottingham. July 26, at 11; Nottingham.—**WHITE, ROBERT, JAMES WHITE, & WILLIAM WHITE**, Lace Manufacturers, Nottingham. July 26, at 11; Nottingham.—**WILMOTT, SAMUEL**, Lace Manufacturer, Nottingham. July 26, at 11; Nottingham.

WHY BURN GAS IN DAYTIME? Use Chappuis' reflectors; they diffuse daylight in dark places. The patentee and manufacturer is Mr. Chappuis 69, Fleet-street.—*ADV.*

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s.; copies 1s., or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process.—*ADV.*

THE CHILDREN'S PHOTOGRAPHER.—Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary.—*ADV.*

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TO INSURANCE COMPANIES.—AGENTS'

REGISTER: Being a complete Alphabetical Index of the Principal Towns of the United Kingdom, with space for inserting the Names of Agents, &c. Large Post Folio, price £2 2s.

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STATE FIRE INSURANCE COMPANY.—Chief

Offices, 32, Ludgate-hill, and 3, Pall-mall east, London.

Chairman—The Right Hon. Lord KEANE, Stretchworth-park, New market.

Managing Director—PETER MORRISON, Esq.,

Capital, Half-a-Million.

13,926 new policies were issued during the year ending

31st of March, 1860, insuring	£6,829,918	6	0
New premiums for the year ending 31st of March, 1860.	23,476	8	3
Total premium income for the year ending 31st of March, 1860	41,760	5	1

The increase of Government duty paid by the State Fire Insurance Company in 1859, exceeded that of 39 other companies, while the increase upon farming stock insurances effected with the State Fire Insurance Company during the year 1859 exceeded that of 26 other offices.

This Company grants insurances against Fire on every description of property, both at home and abroad.

Plate-glass insured against breakage.

Agents Wanted, to whom a liberal commission will be allowed. Application to be made to the Secretary, 32, Ludgate-hill.

WILLIAM CANWELL, Secretary.

PROMOTER LIFE ASSURANCE OFFICE,

London: established in 1826.—This SOCIETY has REMOVED to its new offices, 29, Fleet-street. Every description of assurance effected. Low rates without profits. Moderate rates with profits.

MICHAEL SAWARD, Secretary.

We cannot notice any communication unless accompanied the by name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, JULY 13, 1861.

CURRENT TOPICS.

Deputations from the Metropolitan and Provincial Law Association, and the Manchester, Birmingham, and Lincoln Law Societies, have had an interview with Sir Cresswell Cresswell, on the subject of the General Order issued a short time since, respecting the business to be transacted by the Registrars of the District Courts of Probate. In the course of the interview his Lordship intimated that any proposal for an alteration in the Order must receive the previous sanction of the Lords of the Treasury, their Lordships having on the faith of the new Order made their arrangements respecting the salaries of the District Registrars.

In consequence of the above suggestion of Sir Cresswell Cresswell, the Metropolitan and Provincial Law Association has forwarded to the Lords of the Treasury a memorial, of which the following is a copy.

To the Right Honourable the Lords Commissioners of her Majesty's Treasury.

The humble memorial of the Metropolitan and Provincial Law Association,

Sheweth,—

That the Metropolitan and Provincial Law Association is composed of nearly 800 practising attorneys and solicitors in England and Wales.

That by recent orders of your lordships and of the judge of the Probate Court, the district registrars of such Court are required to prepare for personal applicants the necessary affidavits and evidences in support of their applications for probates and letters of administration, at a lower scale of fees to be taken for the use of the Government, than that prescribed to be taken by solicitors for their own use.

That Government has thus commenced to compete with solicitors for a portion of their professional employment, by offering to perform, by means of salaried officials, professional business for less than professional fees.

That the result of this competition is likely to be to attract to the Government officials the whole of the non-contentious business of the Court, which is vastly more in amount and importance than the contentious business.

That for the Government to enter upon such a competition would be harsh and oppressive towards any profession or calling, and is especially so towards a profession which is highly and exceptionally taxed, and which in respect of such excessive taxation is entitled to receive from Government protection against all invasion of its legitimate professional functions; and yet it is believed that it is the only profession or calling with which the Government has as yet sought to compete in the acquisition and transaction of business.

That your memorialists view with great alarm the introduction of a system which, if extended, may work great injustice and hardship on the legal, and also on other professions and callings, and may very much encroach upon the independent action and freedom from officialism which have hitherto happily prevailed in this country.

That this invasion of the practice of solicitors is a breach of the understanding, upon which, on the passing of the Probate Act, on the one hand, the whole body of proctors were at once admitted as solicitors; whilst, as an equivalent on the other, the business previously transacted by proctors, of which the non-contentious is the more valuable portion, was thrown open to solicitors.

That if the Government should still think it right to transact the business in question, it would be but just that it should do so only at the same scale of fees as are thought to be a fair remuneration to solicitors.

That it is not advantageous to the community that facilities and encouragement should be offered to personal applications for the grants of probates and letters of administration, inasmuch as the registrars cannot, in most cases, know anything

of the applicants personally, nor have any means of protection against fraud and forgery, whilst a solicitor must in every case know something, at least, of the applicants, and generally all the peculiar circumstances upon which a judgment could be formed as to the propriety of granting or refusing the application. It is quite compatible with the system of permitting personal application that probates of forged wills and grants of letters of administration to living persons may be obtained, and that without difficulty, and the funded and other personal property of the supposed deceased be realised and the fraudulent parties have absconded with the proceeds before the owner could be aware of the transaction. The registrar can have no means of judging whether the will produced is a genuine or a forged one, whether the supposed deceased be really living or dead, whether there be or not a subsequent will to that propounded, nor whether the testator was sane or insane or under undue influence; whilst, on the contrary, the solicitor, who is responsible as an officer of the court, feels it to be his duty to inquire into all these circumstances.

That in the Manchester district registry a case has already recently happened—viz. that of Ann Dean, in which, upon personal application to the registrar, probate of a forged will has been obtained; and the present system offers every facility for the repetition of such an imposition.

That to permit the same official, who is constituted the arbiter and judge of the sufficiency of the evidence which may be brought before him to entitle the applicant to grant of probate or administration, to be the preparer and getter up of such evidence, is inconsistent with all known systems of jurisprudence in this country, and with all correct principle, and a dangerous innovation in itself, and the duties which the registrars now have to perform under it are inconsistent and conflicting.

Your memorialists therefore humbly pray that your lordships will take such measures in concert with the judge of the Probate Court, as will prohibit the registrars from preparing or being in any wise concerned in preparing the evidence in support of applications for grants of probate or administration; and that in the meantime, your lordships will be pleased to direct that the fees to be taken by them for so doing shall be the same as those which are now prescribed to be taken by solicitors.

And your memorialists will ever pray, &c.

Signed on behalf of the Metropolitan and Provincial Law Association,

J. S. TORR, *Chairman.*

PHILIP RICKMAN, *Secretary.*

It will be seen that the statements in this memorial are substantially to the same effect as those addressed to the judge ordinary, which were contained in our impression of last week. It is obviously desirable that all the provincial law societies, and where there are none, that local solicitors, should address themselves to the Lords of the Treasury in support of the movement for the abrogation of the new order. It will not be necessary to do more than memorialise in general terms against the obnoxious innovation; as abundant argument upon the question has already been adduced, and all that is wanted is to show that the grievance complained of is generally felt and resented. But the attention of the authorities should be called to any particular cases, like that which has happened in the Manchester District, showing the actual injury which arises from the employment of district registrars as the private solicitors of parties applying for probate or administration. It is to be observed that the recent general order does not apply to London. At the same time, London solicitors have a deep interest in the question, as the intention was, no doubt, to introduce the same practice in the metropolis after it had been tried in the provinces.

Several petitions from provincial law societies in favour of the Government concentration of courts scheme have been presented to both Houses of Parliament during the week; and there can be no doubt that the great body of solicitors, not only in London but throughout the provinces, feel a deep interest in the passing of the two Bills now before Parliament for providing a site and funds for the new building. But there

appears to be little hope at this late period of the session that these Bills will be passed into law, although undoubtedly the Government is sincere in its efforts to push them forward. The real obstacle is the *vis inertiae* of Parliament, and not any particular opposition which the measure has had to encounter. The reasons for and against it have been so long and fully discussed that the question of concentration, and also of the site for the new palace of justice, may be considered as definitively settled not only by the report of the commissioners, which is conclusive in point of argument, but also by the common consent of all intelligent persons whose judgments are not affected by personal or special considerations. Neither does there seem to be any serious difficulty about the proposed application of the Chancery fee funds, for the purpose of providing the requisite buildings. Yet there now appears to be almost a certainty of the postponement for at least another session of this important and well considered measure. The Joint Stock Companies Bill, the Highways Bill, the County Courts Consolidation Bill, the Artistic Copyright Bill, the Domicile Bills, and the Copyright of Designs Bill, are not unlikely to share the same fate, although some of them have made considerable progress. What is to become of the Criminal Law Consolidation Bills is still extremely uncertain, as their further progress in the House of Lords is delayed by the stoppage in the House of Commons of the Offences against the Person Bill, which is one of the batch, and has not yet been considered by the lower House. The Trade Marks Bill was sent up to the House of Lords some weeks ago, since which time it appears to have slept. We have heard nothing for some time of the Statute Law Revision Bill, but it will probably receive the sanction of Parliament before the conclusion of the session. The Bankruptcy Bill is still in a very uncertain position: but as Lord Palmerston has named so early a day as Monday for the Government to state its intentions with reference to the Lords Amendments to the Bill, it would seem that Ministers are anxious that they should boast of the enactment of this Bill, at least, as the fruit of the present session.

Some months ago we took occasion to call the attention of the benchers of Gray's-inn to the scandalous revelations respecting two members of that society which were made in a trial in which one of them was a plaintiff, and the other a defendant; and we called upon the benchers to vindicate the character of their ancient and honourable Society, by immediately instituting inquiries into the matters which had been disclosed, so far as they affected the character of the persons in question. We believe that in doing this, we merely gave expression to the feeling of the general body of the profession, who are certainly interested in the good name of its members, and especially of those who, from their position as advocates, may be considered in a great measure to represent the whole body in the eye of the public. We are sorry to say, however, that notwithstanding this appeal to the benchers of Gray's-inn, they have taken no step to set themselves or the profession right with the public in respect of the subject of our complaint. It has been privately rumoured, indeed, that some investigation has actually taken place; but what the result of it has been, is a secret. Whether the person who, according to the evidence upon the trial, pursued the double avocation of law student and bill-discounter, is still a probationer from the dignity of barrister-at-law, or has been expunged from the roll of his inn of court, is a matter upon which we can satisfy ourselves only by making private inquiries for that purpose. It is said that the benchers of Gray's-inn did, in fact, attempt a rigid investigation into the conduct of the parties in question; but as to how far it was carried, or in what it resulted, not only the general

public and the legal profession, but even the members of the inns of court remain in complete ignorance. The subject of the jurisdiction of the Inns of Court over their members has been recently revived in a manner which commands attention. The great secrecy with which certain proceedings affecting the professional position of at least one prominent member of the Common Law Bar has not prevented any person who feels the slightest interest in the subject from gaining no little information, more or less exact, about the nature of the issues raised in these investigations, the charges which have been made, and the evidence which has been adduced in support of them. But the decisions (if any) which have been arrived at by these anomalous tribunals are, as might have been expected, reported very variously; although assuming the jurisdiction to be competent and the rumours relating to the charges and evidence to be well founded, it is not easy to conceive how there can be much difficulty in arriving at a just and satisfactory conclusion. There is no denying the fact, however, that while solicitors are continually exposed to have their conduct canvassed in the public courts and animadverted upon with severity not only by censorious judges, but by advocates, some of whom have the slenderest pretensions to assume the guardianship of public morals, it is by no means impossible for members of the Bar to pursue for many years an unimpeached and successful course of practice, while it is matter of common notoriety that they have rendered themselves obnoxious to imputations which, so long as they remain unexplained, ought to be sufficient to place them outside the pale of respectable society. Yet so strangely inert are the governing bodies of the higher branch of the profession that nothing short of the greatest public scandal appears to have the least effect in putting them in motion against wrong-doers. This is no doubt partly owing to the jealousy in favour of personal independence which exists among all bodies of Englishmen; but in the case of the Bar it is to be attributed much more to the exceptional and inefficient character of the self-constituted tribunals for the determination of questions affecting the honour of its members, and also to the mysterious secrecy with which such proceedings are conducted. The time seems to have come, however, for the Bar to contrive some more active and efficient means than it now possesses for this purpose.

A Bill for amending the Laws relating to Attorneys and Solicitors in Ireland has passed through committee in the House of Commons. It contains provisions analogous to some of those relating to the admission of candidates which were enacted in the English Act of last session. It provides that persons who have taken degrees in Arts, or in the Faculty of Laws, at any of the universities in England or Ireland, or members of the Bar, may be admitted after three years' service. There is also a clause similar to the "ten years clerks' clause" in the English Act, and another which provides that no articulated clerk—or "apprentice," as the term is used in Ireland—who has been a barrister, or a "ten years clerk" (in the latter case, where he has served at least two years in a Dublin office), shall be required to attend lectures or keep terms in Dublin during his apprenticeship.

It is said that already applications for silk gowns have been made to the present Lord Chancellor by some of the leading juniors of the Chancery bar; but that his lordship has notified that it is not his intention at present to increase the number of her Majesty's Counsel. It is not unlikely, however, that on account of the prominent position and large business of the gentlemen who are said to have applied for promotion, that their names will be included in the next list of Queen's Counsel. We have not heard that any applications from the common law bar have yet been made.

LAWYERS FOR CORONERS.

Our attention has been called to a vigorous contest which is now going on for the coronership of the south-eastern division of Somersetshire. The vacancy has been caused by the death of Mr. Ashford, a solicitor, who was the last coroner for the division; and there are now several candidates in the field. The fight really lies between two of them—Mr. Watts, a solicitor, of Yeovil, and Mr. Wybrants, a medical practitioner, residing at Shepton Mallett. It is not our habit to interfere in such contests, or in the management of local affairs, except so far as they may involve topics of professional interest; and if, in the present case, the question merely affected the personal character, or the interests of the candidates, we should abstain from touching it. But the last number of the *Lancet* newspaper, in a short article enforcing the claim of Mr. Wybrants, appeals in his favour for the strenuous support of the medical practitioners of that division; and we therefore consider ourselves bound, as the organ of solicitors throughout the country, to offer some observations upon the duties and requirements of the office of coroner, with a view of showing that the pretensions which the *Lancet* suggests on behalf of the medical body over those of lawyers, are altogether unfounded.

The office of coroner is one of the most ancient of our institutions, and any freeholder having land in the county "sufficient to answer all people," is capable of being elected, unless he be a common trader, or occupied in some business which is incompatible with the duties of such office. There is no doubt, therefore, that the freeholders may elect a medical practitioner, or almost any other respectable man residing in the district, who does not lie under some special incapacity. We do not attempt to deny the perfect right of medical men to offer themselves, and if possible to obtain their election, for the office of coroner. What we say is, that their professional avocations and experience do not render them so fit as practising lawyers to discharge the duties of the office. These duties are partly ministerial and partly judicial. Some of them, however, and especially those of the former character, are fast becoming historical, and have little occasion or interest in the present day. We do not now often hear of inquisitions of treasure trove, of wrecks of the sea, or of sturgeons or whales; yet the ministerial functions of a coroner are not, at least in theory, entirely obsolete. The coroner may any day be called upon, in case of disability on the part of the sheriff, to execute the Queen's writs; and it appears, also, that he may sometimes have to pronounce judgment of outlawry. We admit that these duties are of little practical importance compared with those that belong to the judicial part of the office, by which he is required to hold inquests on the bodies of persons dying by violence, or in cases of sudden death under circumstances of suspicion, and to prepare and make return of his inquisitions, as well as to apprehend persons charged with murder or manslaughter, and to bind over according to law prosecutors and witnesses. At first sight, and also, we think, after the best consideration, an unprejudiced person can hardly fail to be struck with the important character of these judicial duties. A coroner's inquest is frequently a preliminary trial for murder. The evidence there adduced affects not only the verdict to be given on that occasion, but indirectly—by the impressions which it makes on the public mind—the verdict of the jury upon the arraignment, and the ultimate fate of the person charged. It is, therefore, but common justice to the parties whose reputations and lives are liable to be thus put in jeopardy, that the judge presiding in the coroner's court should at least have some acquaintance with the rules of evidence, and with the proceedings of courts of justice; and it is hardly necessary to insist that we cannot expect this from men whose lives are devoted to the study and practice of medicine.

The accused, moreover, are not the only persons interested in securing for our coronerships competent judicial officers. The public have a deeper interest in this matter. An inquest is one of our most constitutional, and ought to be the most effective, of all the agencies for the detection of crime which exist in this country. We have not, as some continental countries have, a ramified system of officialism for inquiring into cases of death under suspicious circumstances, nor have we, as they have in Scotland, a number of procurators-fiscal, whose duty is to institute secret and *ex parte* inquiries into such cases. Our only direct agency is the coroner's inquest; and upon that the public is obliged to rely for the discovery of guilt as well as for the protection of innocence. An ignorant or inapt person presiding in this court, may, by his unskillfulness, not only unintentionally cause the escape of the guilty, but the accusation of the innocent. Indeed, in this respect, unless we are to have competent lawyers for our coroners, common justice suggests a preference for the Scotch system of secret inquiry. At all events it requires hardly more than a mere statement of the duties of the coronership to be convinced that they ought not to be assumed by persons who are untrained in judicial business, and in the law of evidence. A medical practitioner might, no doubt, be expected upon a view of the corpse to account for the death more satisfactorily than a person who had no acquaintance with the practice of physic. But in every such case the doctor's opinion should be given as matter of evidence and not as a judicial dictum. It is for the jury to decide what weight it will give to the medical testimony when considered in the light of all the other evidence; and it is manifestly undesirable that the person whose duty it is to act as a judge should be exposed to the temptation of maintaining any pet hypotheses of his own which may have the effect of coercing the decision of the jury, who are the only constitutional judges of the facts.

It ought not to be forgotten that in another division of the county of Somerset, there recently occurred a memorable instance illustrating the importance to the public interests of having in every coroner a person competent to conduct, after something like a judicial manner, an inquiry into cases of death under suspicious circumstances. In the famous Road Murder Case the coroner, if we mistake not, was a medical practitioner, who of course cannot be supposed to have had much experience in the conduct of cases involving voluminous and complicated evidence. It is no wonder then that the inquest over which he presided, in that remarkable case, and the mode in which it was conducted generally, should have given rise to great dissatisfaction throughout the country. Indeed, it would have been a marvel if the fact were otherwise. But the country will have made little use of the important lesson which it received in the Road Case, if in future more care than hitherto is not shewn, by the selection, for the office of coroner of persons competent to discharge judicial functions and acquainted with the procedure of Courts of Justice.

ON THE LAW OF TRADE MARKS.

No. VI.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Of the Nature and Classification of Trade Marks.

I have thought it more convenient to defer the consideration and definition of the nature of a trade-mark, until I had discussed the general principles on which it has been protected, because the word itself gave a very good notion of what sort of cases we should have to consider. There are, however, distinct from what may be looked on as trade-marks proper, two species of property which have been protected in the Court of Equity on principles analogous to those on which the decisions

in the former class of cases rest: these are the good-will of a trade so far as it is contained in the style and title of a partnership, or the name of a trader, or the description of his place of business; and property in a name or distinguishing style, as connected with a literary publication or a work of art.

These two classes of cases it is my intention to consider before taking a survey in order of time of those relating to trade-marks properly so called; they are branches, and of some importance too, of the same subject, and as such, the principles which we find laid down in them are most valuable in leading us to those which support the decisions on the main head. There is another class of cases too which must not be entirely omitted from consideration, I mean those in which the interference of the Court has been grounded on the general doctrine of the prevention of damage arising from a breach of trust or confidence.

By this method of classification I hope to be able to include most of those cases which remain to be considered, under some general head. It seems to me, however, that there would be much convenience in having a statutory definition of a trade-mark, which should distinguish, as is done by the French law, between the different classes of cases—between the *marques de fabriques* or trade-marks properly so called, consisting of a stamp affixed to or incorporated with a manufactured article, and the use of a name, or label, or a sign-board, or placard, and all those less permanent marks of distinction which are in use in trade; and again separating from them all cases which involve literary or industrial property.

In *Crutwell v. Lye*, 17 Ves. 335, the nature of a good-will in a trade, and the extent to which it is protected, are fully illustrated. The good-will in that case consisted in certain premises in Bath and in Bristol, which were sold by the assignees in bankruptcy of one of the defendants, Edward Lye, who had for some years, together with his father, George Lye, carried on the business of a carrier from Bristol through Bath to London; the same parties having also a carrying business from Bristol through Salisbury and Warminster to London. At the sale, the whole of the premises of the Messrs. Lye, and their business as carriers from Bristol through Bath to London, and the good-will of that business, was sold in one lot to the plaintiffs; the carrying business from Bristol through Warminster and Salisbury being put up for sale separately, and eventually bought by friends of E. Lye, the defendant, who then set him up in that business. The question was, whether the defendant, according to the facts stated, was really carrying on his own trade and not the plaintiff's. There is no doubt that a person having sold a house and stock-in-trade is, in the absence of any special covenant, at liberty to set up a similar business, if he pleases, next door to his former shop,—that is merely a fair case of competition in trade; but he must not, under colour of chalking out a different course of trading, really carry on, for his own benefit, the trade of others. The good-will in this case was defined to be nothing more than the probability that the old customers would resort to the old place of business, and if that species of property was damaged by the fraudulent act of the defendant, that would give a right to relief; but it was considered by Lord Eldon that the facts were not sufficient to prove such a fraudulent design; he says that they "amount to no more than that the defendant asserts a right to set up this trade (the carrying business) and has set it up as the like but not the same trade with that sold, taking only those means that he had a right to take to improve it." The case of *Keen v. Harris* was also commented on and distinguished from the present, on the ground that there an injunction was granted to relieve against a breach of trust. In that case, the printer of the *Bath Chronicle* left to his widow the benefit of that newspaper, subject to a trust for bringing up her family; she formed an attachment for the foreman of the business, and allowed him the

use of the old house and types to set up a rival paper under the same name.

The case of *Lewis v. Langdon*, 7 Sim. 421, goes further to illustrate the same notion of property in a partnership's name, as a species of goodwill, attached, not to the place of business, but to the name of a firm or of the trader. Accordingly, it was held by the Vice-Chancellor, that a surviving partner had, on the death of his co-partner, a right to carry on the business under the designation of the original firm; that the goodwill arising from the use of a particular designation was, during the partnership, the joint property of the partners, and became, on the death of one of them, the sole property of the survivor. His Honour, however, while granting the injunction, at the same time directed the plaintiff to bring his action-at-law.

Thus far we have been considering the general goodwill in trade appendant to a place or a person; but it seems to me that the advantage gained in the market by the use of a trade-mark is only a sort of special goodwill, having the same qualities as property, and entitled to the same species of protection. There is, perhaps, one distinction to be fairly drawn between the two classes of cases; that whereas in the latter we may have, as in *Millington v. Fox*, 3 My. & Cr. 338, the adoption of a trade-mark by unauthorised persons, without any intention to commit fraud, and still have such an adoption restrained in equity, it is difficult to conceive a case coming under the former head in which the goodwill, either personal or local, of a trader, could be otherwise than fraudulently impeached (supposing the title to it to be clear); and therefore it might seem that in such cases the jurisdiction is founded on fraud only. That, however, does not seem to be the ground upon which the Vice-Chancellor decided in *Lewis v. Langdon* (*vide sup.*), and I think that we may fairly look upon the goodwill in trade as a species of property, of a like nature with the quasi-property in a trade-mark.

There is another class of cases which appears to me to form the connecting link between those where a goodwill in trade has been protected, and the cases which I would venture to call those of trade marks proper. Those are when the advantages in the market (or goodwill) is due either to the name of the trader or trading firm, or to their place of business, or to both these causes combined, but not being as a goodwill allowed to rest merely in *nubibus*, is embodied in a label or wrapper and affixed to the article sold; this name is then called a trade-mark. *Croft v. Day*, 7 Beav. 84, is a very important case under this head. The trade-mark there consisted in the name of Day & Martin, and their address 97, High Holborn, with other devices on a printed label attached to the bottles of blacking made by the plaintiffs, the executors of the former firm of Day & Martin, and then carrying on the same business; this was so closely imitated by the defendant as to afford the fair presumption that he intended the public to be deceived into buying his blacking as and for that of the original firm. In his judgment in this case the Master of the Rolls observes that the act complained of was equivalent to a sale by the defendant of his goods as those of the plaintiffs; that two things were requisite for the accomplishment of this fraud. First, a general resemblance of the forms, words, symbols, and accompaniments, such as to mislead the public. And, secondly, a sufficient distinctive individuality was to be preserved, so as to procure for the person himself the benefit of that deception, which the general resemblance was calculated to produce. In *Burgess v. Burgess*, 3 De G. M. & G., it was held, on grounds which I shall examine hereafter, that no fraud was intended; that it was always a question of evidence as to the false representation, and that it was incumbent on the party applying for an injunction that there was such a sale of the defendant's goods by him as to induce

the public to conclude that these were those of the plaintiff. So, also, the cases of *Burgess v. Hills*, 20 Beav. 244, and *Burgess v. Hatley*, Id. 249. What we see done in all these cases is, in short, that a trader, perceives that an article manufactured by a particular house of business and known in the market by a particular stamp or design is sought after and has acquired a peculiar value; this advantage in the market he endeavours to appropriate to himself by offering for sale a similar article, recommended to the purchaser by a like distinctive mark; what is this in fact but an attempt to appropriate the goodwill of his rival? The term goodwill is, however, applied to the general result arising from the use in trade of that which, when applied or annexed to a single article, is called a trade-mark.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before the LORD CHANCELLOR.)

July 6.—*Dickason v. Foster*.—In this case, which was an appeal from a decision of the Master of the Rolls, the Lord Chancellor, in dismissing the appeal with costs, observed that unless in very exceptional cases he was of opinion that costs ought to follow the event; and also stated that he thought the discretion vested in the Court had in some instances been exercised injudiciously.

COURT OF COMMON PLEAS.—SECOND COURT.

(Sittings at Nisi Prius, before Mr. Justice WILLES and a Special Jury.)

July 6.—In a case sent over from the other court for the purpose of taking a verdict by consent, some argument took place on the propriety of allowing the costs of a special jury. The plea was one almost imputing fraud, and it was urged that a similar plea was pleaded every day.

Mr. Justice WILLES.—All I can say is, that whenever I try a cause in which such a plea is pleaded without good reason, I shall always certify for a special jury against the defendant.

The plaintiff's counsel said, "It would be well that your Lordship's intimation should go forth to the world."

SUMMER ASSIZES.

NORTHERN CIRCUIT.—YORK.

July 9.—Mr. Baron WILDE opened the commission in this city to-day. It was stated that the cause list would be very heavy when made up, 21 special juries having been applied for.

OXFORD CIRCUIT.—OXFORD.

July 10.—Mr. Justice HILL and Mr. Justice KEATING opened the commission in this city to-day. The cause list contained eight causes, one being marked for a special jury.

NORFOLK CIRCUIT.—AYLESBURY.

July 11.—Mr. Justice ERLE opened the commission in this borough this morning. There were only three causes entered for trial.

THE NEW SOLICITOR-GENERAL.—Mr. Roundell Palmer is the second son of the late Rev. William Jocelyn Palmer, Rector of Mixbury, in Oxfordshire, by the youngest daughter of the late Rev. William Roundell, of Gladstone-house, in the county of York, and grandson of the late Mr. William Parker, of Nazing-park, in the county of Essex, and thus nephew of the late Mr. George Palmer, M.P. for South Essex, and also of the late Mr. John Horsley Palmer and of Sir Ralph Palmer, and cousin to Sir George Palmer, of Wanlip-hall, Leicestershire. Mr. Roundell Palmer was born in 1812, and married in 1848 the Lady Laura Waldegrave, second daughter of William, eighth Earl Waldegrave, by whom he has several children.

A vacancy has occurred in the office of deputy-keeper of her Majesty's records, by the death on Saturday last, at an advanced age, of Sir Peter Francis Palgrave.

It is stated that Sir Frederick Slade, Q.C., will be brought forward to contest the election of the Eastern Division of the county of Somerset, on the retirement of Sir W. Miles.

Parliament and Legislation.

HOUSE OF LORDS.

Thursday, July 11.

CONCENTRATION OF COURTS.

The LORD CHANCELLOR presented a petition in favour of the concentration of the Courts.

TRANSFER OF STOCKS AND ANNUITIES BILL.

This Bill went through committee.

HOUSE OF COMMONS.

Tuesday, July 9.

THE BANKRUPTCY BILL.

Mr. CRAWFORD asked whether it was the intention of the Government to proceed on Monday next with the consideration of the Lords' amendments in this Bill.

Lord JOHN RUSSELL replied he believed it was, but he was not positive.

SUPPLY—CIVIL SERVICE.

The following votes were agreed to:—

£32,395 for law charges, salaries, &c., including prosecutions relating to coin in the department of the Solicitor to the Treasury.

A sum to complete £167,000 for criminal prosecutions at assizes and quarter sessions.

A sum to complete £10,950 for the salaries and expenses of the Registrar and Marshal of the Court of Admiralty.

£6,176 for the salaries of the commissioners and other officers and the expenses of the Insolvent Debtors' Court.

£71,980 for the salaries of the registrars and officers and for the expenses of the Courts of Probate and Divorce and Matrimonial Causes.

A sum to complete £200,320 for the salaries and expenses of the county courts.

£3,342 for the salaries of the Lord-Advocate and Solicitor-General of Scotland.

£18,213 for the salaries and expenses of the officers of the Court of Session in Scotland.

£11,071 for salaries and expenses connected with the Court of Justiciary in Scotland.

£4,000 for criminal prosecutions under the authority of the Lord-Advocate.

£1,620 for the salaries and expenses of the legal branch of the Exchequer in Scotland.

£25,000 for the charges of the several sheriffs and stewards in Scotland, &c., who are not paid by salaries.

£18,935 for the salaries of such of the procurators fiscal as are not remunerated by fees.

Thursday, July 11.

CONSOLIDATION BILLS.—THE BANKRUPTCY, &c., BILL.

In answer to a question put by Mr. HADFIELD, The ATTORNEY-GENERAL said the Offences against the Person Bill stood second in the orders of the day for Monday next, and it was proposed to report progress in supply between 11 and 12 o'clock, to give an opportunity of discussing the only clause in the Bill that remained to be considered. It was most important that no delay should take place, inasmuch as the further progress of the other Consolidation Bills in the other House was delayed, in consequence of this Bill not being sent forward. It was the intention of the Government to bring on the discussion of the Bankruptcy and Insolvency Bill on Thursday next.

SALMON AND TROUT FISHERIES.

The House went into committee on this Bill, and after a short discussion on some of them, the clauses were agreed to and the House resumed.

NEW MEMBER.

Mr. Roundell Palmer, Q.C., took the oaths and his seat on his election for the borough of Richmond, and was warmly congratulated by many of the members. The hon. and learned gentleman was introduced by Mr. Crawford and Mr. Brand.

PENDING MEASURES OF LEGISLATION.

The following Bill was introduced by the late Attorney-General, the present Lord Chancellor, and differs in some important respect from that introduced into the House of Lords by Lord St. Leonards, and which is also now in the House of Commons waiting for the second reading.

A BILL TO AMEND THE LAW IN RELATION TO THE WILLS AND DOMICILE OF BRITISH SUBJECTS DYING WHILST RESIDENT ABROAD, AND OF FOREIGN SUBJECTS DYING WHILST RESIDENT WITHIN HER MAJESTY'S DOMINIONS.

Whereas by reason of the present law of domicile the wills of British subjects dying whilst resident abroad are often defeated, and their personal property administered in a manner contrary to their expectations and belief; and it is desirable to amend such law, but the same cannot be effectually done without the consent and concurrence of foreign states: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by authority of the same, as follows:

1. Whenever her Majesty shall by convention with any foreign state agree that provisions to the effect of the enactments herein contained shall be applicable to the subjects of her Majesty and of such foreign state respectively, it shall be lawful for her Majesty by any order in council to direct and it is hereby enacted, that from and after the publication of such order in the *London Gazette* no British subject resident at the time of his or her death in the foreign country named in such order shall be deemed under any circumstances to have acquired a domicile in such country unless such British subject shall have been permanently resident in such country for one year immediately preceding his or her decease, and shall also have made and deposited in a public office of such foreign country (such office to be named in order in council) a declaration in writing of his or her intention to become domiciled in such foreign country, and every British subject dying resident in such foreign country, but without having so resided and made such declaration as aforesaid, shall be deemed for all purposes of testate or intestate succession as to moveables, to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country as aforesaid.

2. After any such convention as aforesaid shall have been entered into by her Majesty with any foreign state, it shall be lawful for her Majesty by order in council to direct, and from and after the publication of such order in the *London Gazette* it shall be and is hereby enacted, that no subject of any such foreign country who at the time of his or her death shall be resident in any part of Great Britain or Ireland shall be deemed under any circumstances to have acquired a domicile therein, unless such foreign subject shall have been resident within Great Britain or Ireland for one year immediately preceding his or her decease, and shall also have signed, and deposited with her Majesty's Secretary of State for the Home Department, a declaration in writing of his or her desire to become and be domiciled in England, Scotland, or Ireland, and that the law of the place of such domicile shall regulate his or her moveable succession.

3. This Act shall not apply to any foreigners who may have obtained letters of naturalization in any part of her Majesty's dominions.

4. Whenever a convention shall be made between her Majesty and any foreign state, whereby her Majesty's consuls or vice-consuls in such foreign state shall receive the same or the like powers and authorities as are herein-after expressed, it shall be lawful for her Majesty by order in council to direct, and from and after the publication of such order in the *London Gazette* it shall be and is hereby enacted, that whenever any subject of such foreign state shall die within the dominions of her Majesty, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, it shall be lawful for the consul, vice-consul, or consular agent of such foreign state within that part of her Majesty's dominions where such foreign subject shall die, to take possession and have the custody of the personal property of the deceased, and to apply the same in payment of his or her debts and funeral expenses, and to retain the surplus for the benefit of the persons entitled thereto; but such consul, vice-consul, or consular agent shall immediately apply for and shall be entitled to obtain from the proper court letters of administration of the effects of such deceased person, limited in such manner and for such time as to such court shall seem fit.

Recent Decisions.

REAL PROPERTY AND CONVEYANCING.

PRIORITY OF INCUMBRANCES ON LAND IN MIDDLESEX AND GENERALLY.

Benham v. Keane, V. C. W., 9 W. R., 765.

This case decides a point of considerable importance as to priority of incumbrances upon land in Middlesex. A. had entered up judgment, and, on the passing of 1 & 2 Vict. c. 110, in 1838, he registered it in the Common Pleas. He duly re-registered it within successive periods of five years, but it was not registered in Middlesex until 1857. In 1846 B. entered up judgment and registered it in the Common Pleas and in Middlesex; but it was not re-registered in the Common Pleas until 1858. The first question which arose was whether, supposing B. gained priority by being the first to register in Middlesex, he lost that priority by omitting to re-register in the Common Pleas. By 3 & 4 Vict. c. 11, s. 4, it is enacted that all judgments registered under the provisions of 1 & 2 Vict. c. 110, shall, after five years from the date of entry, be void against lands, &c., as to creditors, unless a memorandum be again left at the Common Pleas Office within five years before the right of such creditors accrued. It was decided in *Beavan v. Lord Oxford* (6 D. M. & G. 492; s. c. 4 W. R. 112), that the effect of this provision is to deprive the judgment creditor who omits to re-register within five years of protection against subsequent creditors, but not to alter his position as to previous creditors. It followed from this that B.'s right against A. was not affected by his omission to re-register in the Common Pleas. The next and more difficult question was whether A. by his prior registration in the Common Pleas obtained such an interest in the property as could not be divested by B.'s prior registration in Middlesex, having regard to the allegation that B. had notice of A.'s judgment. It was attempted in argument to place B.'s judgment upon the same footing as if he had been a purchaser who had contracted with the debtor to buy the land. But Vice-Chancellor Wood held that the position of the judgment creditor was not intended to be varied by the 1 & 2 Vict. c. 110, s. 13, to the extent of turning a judgment, which was a proceeding *in iudicio*, into a contract. "The conscience of the debtor was not affected in the same way as if he had contracted to sell; but rather the creditor got as good a charge as if he had contracted to purchase." Reference was made by his Honour, in illustration of this view, to the case of *Beavan v. Lord Oxford*, in its second stage (6 D. M. & G. 507; s. c. 4 W. R. 275), where it was decided that a judgment creditor is not a purchaser within the meaning of the statute 27 Eliz. c. 4, and further, that the statute 1 & 2 Vict. c. 110, s. 13, does not confer on the judgment creditor any right against a person claiming under a voluntary settlement previously made by the judgment debtor. It is, perhaps, rather difficult to trace the course of the argument of counsel which we have taken up. The object of it was to prepare the way for the application of the Middlesex Registry Act to the circumstances of the case. The question is, for the present, to be looked at irrespective of registration in the Common Pleas. The point to be considered is, whether B. could hold the interest which he had acquired in the land in the face of his having notice of the prior interest of A. It seems to have been the object of A.'s counsel, if we may so say, to elevate A. and to depress B. into the position, respectively, of purchasers. It was sought to establish that A.'s right was something more, and B.'s right something less, than the right as ordinarily understood of a judgment creditor. The object of this contention was to postpone B. on proof of the allegation that he had notice of A.'s interest in the land. It is laid down in Sugden's "Vendors and Purchasers," 13th ed. p. 599, that "a purchaser (of land in a register county) with notice of a prior unregistered incumbrance, is bound by it;" and further, that "a purchaser may in equity be bound by a judgment or a deed, although not registered." It was strenuously contended by A.'s counsel that the rule stated in these passages applied to a judgment creditor as much as to a purchaser; but Vice-Chancellor Wood said:—"With regard to a subsequent judgment-creditor (he was not speaking of a purchaser) he had come to the conclusion that the question of notice was wholly immaterial." The reason given by his Honour for this conclusion will explain the remark we made above, that A.'s counsel endeavoured, in his argument, to depress B. into the position of a purchaser. "The whole doctrine," said his Honour, "of notice proceeds upon this, that when a man has created a charge affecting his estate, he himself is not at liberty to enter into a new contract

in derogation of that charge. The Court would not allow him to do a wrong; and if he could not do it himself, no one could help him to do it by engaging to part with money for his benefit, or to release him from difficulties, knowing that it was contrary to his duty to do the net proposed to be done." But this principle did not affect the judgment creditor, who was acting in *invitum*. "The conscience of a purchaser was affected by notice, through the medium of the person with whom he entered into the contract, but the conscience of the judgment creditor was not thus affected. He was not assisting his debtor, but simply stood upon his own rights."

Looking, now, to the Middlesex Registry Act, 7 Ann. c. 208, s. 18, we find that it enacts that no judgment shall affect or bind lands, but only from the time that a memorial shall be entered at the registry office. It has been decided in *Westbrook v. Blyth* (3 Ell. & B. 742) that the statute 1 & 2 Vict. c. 110, did not repeal the 7 Ann. c. 20; and, therefore, that a judgment registered in the Common Pleas would have the effect of a charge upon lands in Middlesex only from the time that the judgment had been also registered in the Middlesex registry. The notion of a personal equity affecting the judgment creditor on the ground of notice having been got rid of, the case last cited was decisive of the question, B. having registered his judgment in Middlesex in 1846 was preferred to A., who had not registered until 1857.

A further question arose upon the general law of registry between B., who had neglected until 1858 to re-register his judgment in the Common Pleas, and a mortgagee of a purchaser from the original debtor. We have seen that B.'s judgment was registered in the Common Pleas in 1846. In 1847 the debtor mortgaged to C., and in 1850 he conveyed the equity of redemption to him. In 1853, after the effect of B.'s registration was spent, C. mortgaged to D. It appeared that D. had notice of B.'s judgment. The counsel for D. relied upon the statute 3 & 4 Vict. c. 82, s. 2, which provides that no judgment shall affect lands "as to purchasers, mortgagees, or creditors," unless a memorandum shall have been left at the Common Pleas Office, any notice to any such purchaser, mortgagee, or creditor notwithstanding. This Act does not expressly refer to the 2 & 3 Vict. c. 11, requiring re-registration after five years; but the 18 & 19 Vict. c. 15, s. 5, has declared that it applies to the neglect of repeated as well as of original registration. Upon this question, whether a mortgagee of a purchaser from the judgment debtor was within the 3 & 4 Vict. c. 82, s. 2, Vice-Chancellor Wood held that the proper construction of the Act was, that whenever there was a judgment registered against any owner of the land, that judgment must be kept up by the creditor from five years to five years, if he wished to affect that land into whatsoever hands it passed. Nothing was said in the Act as to the person by whom the conveyance or mortgage was to be made; but the words were large enough to confer the benefit intended by the Act on all *bonâ fide* purchasers and mortgagees deriving titles from the judgment debtor. It was, therefore, held that B. must be postponed to D.

COMMON LAW.

PRACTICE—MISJOINDER OF PLAINTIFFS—23 & 24 VICT. c. 126, s. 19.

Bellingham v. Clarke, Q. B., 9 W. R. 667.

This was an attempt to make the provision in the Common Law Procedure Act, 1861, which enacts that "the joinder of too many plaintiffs shall not be fatal, but that every action may be brought in the name of all the persons in whom the legal right may be supposed to exist," subserve a purpose certainly never intended by the framers of that measure—namely, to abrogate the well known and useful rule which forbids the joinder of two plaintiffs in one and the same action, one of whom appears by the declaration to claim in his own right, and the other in a representative character. Here the declaration was for money paid to the defendant's use by A. (one of the plaintiffs) and B. the testator of the other plaintiff, and it was successfully demurred to on the ground that both plaintiffs could not on the face of the record be entitled to recover; for if it was a joint debt, the right to sue thereon would have survived to A.; and, if otherwise, then A. should have sued for what he advanced in one action, and B. in another action should have sued as executor or administrator in respect of the residue.

LAW OF LIFE ASSURANCE—DEATH BY ACCIDENT.

Trew v. The Railway Passengers Assurance Co., 9 W. R. 671.

In noticing some weeks ago the case of *Sinclair v. Mari-*

*time Passengers Assurance Co.**—in which it was held that a death in consequence of a "sun stroke" did not come within the meaning of the contingency provided against by the policy, of an injury to be sustained by the assured "from or by reason or in consequence of an accident to him happening," but rather resulted from a natural cause—that is to say, an inflammatory disease of the brain brought on by over exposure to the heat of the sun—it was remarked that the present case (in which judgment had been given by the Court of Exchequer in favour of the defendant) was, to a certain extent an authority against the claimants on the policy in the case then under discussion; for that in the judgments delivered by the Barons, there were observations used which tended to define and narrow the circumstances under which a death could be held to have happened by an accident. It is proper, therefore, to remark that the judgment of the Court of Exchequer, in that case, has now been reversed in error; but not on any ground which would have influenced the Court of Queen's Bench in their judgment, with respect to a death by sunstroke not being, in the intentment of the law, accidental.

LAW OF EVIDENCE—PRIVILEGE OF WITNESS NOT TO CRIMINATE HIMSELF.

Reg. v. Boyes, Q. B., 9 W. R. 690.

When noticing recently the case of *Fernandez*,† it was remarked that there was another question involved, though not mentioned in the judgment (which proceeded on other grounds) and that this was whether, when a witness is asked a question which he is unwilling to answer as tending to his crimination, he or the presiding judge is the person to decide whether it will have the apprehended effect; and that the Court of Exchequer intimated their opinion to be that the judge ought to decide; and this, notwithstanding certain *dicta* to the contrary to be found in *Fisher v. Ronalds*, 12 C.B. 765, and *Adams v. Lloyd*, 3 H. & N. 357. Shortly after this opinion was reported, the Court of Queen's Bench, in the present case, had occasion expressly to decide the point (which is one of very considerable interest and importance), and they have settled it as suggested in *re Fernandez*, which is obviously the most convenient solution for the purposes of justice; for if a witness's being obliged to answer is to depend on the view taken by himself, as to his own safety in consequence, an humane protection afforded to him by the law is likely enough to be often abused.

The present case, in the circumstances under which it arose, much resembled that of *Fernandez*. In both the proceeding was a prosecution for bribery, and in both a witness, in the exercise of the above privilege, objected to answer whether he had received a bribe from the defendant. In the case of *Fernandez*, the witness had obtained a certificate under 15 & 16 Vic. c. 57, purporting to protect him against all future pains and penalties in respect of his having received a bribe; but in the present case, on his objecting to answer, a pardon under the great seal was tendered to him, as a means of obviating the only danger which the witness could apprehend,—it being admitted that the only ground for the exercise of the privilege was, that in consequence of his self-crimination, some penal proceedings might, or might reasonably be expected to be instituted against him; and in both instances the ground on which the witness still persisted in refusing to answer, was that the document he was called upon to rely on as a sufficient protection, would not operate against an impeachment by the Commons in Parliament. In the case of *Fernandez*, it will be remembered that the witness persisting in his refusal, was committed to prison by the judge, and that with this sentence the Court of Queen's Bench refused to interfere. In the present case an arrangement was come to by the counsel engaged, and sanctioned by the judge, that the witness should answer the disputed question; subject to its being taken as evidence, only in the event of the same Court being of opinion that the tender and acceptance of the Queen's pardon destroyed the privilege. The Court, taking into consideration the shadowy nature of the risk of a parliamentary impeachment, held that the privilege was destroyed by the pardon, and consequently gave judgment for the Crown. But they went further than this, and gave a deliberate opinion as to the other point involved in the case, though scarcely required for the purpose of the judgment alone; and laid down the doctrine (in accordance with the ruling of Lord Wensleydale in *Osborne v. The London Dock Co.*, 10 Exch. 701) that to entitle a party called as a witness to the privilege of silence, the Court must see from the circumstances of the case, and the nature of the evidence the witness is called upon to give, that there is reason-

* Sup. p. 395.

† Sup. p. 639.

able ground to apprehend danger to him from his being compelled to answer. And further, that a judge is bound to insist on a witness answering, unless he is satisfied that the answer will tend to put the witness in peril, that is, in a danger real and appreciable with reference to the ordinary operation of law in the ordinary course of things, and not a danger of an imaginary and unsubstantial character, having reference to some extraordinary and barely possible contingency, so improbable that no reasonable man would suffer it to influence his conduct.

Correspondence.

DEVISE OF REAL ESTATE.

I should feel obliged by some of your readers favouring me with a reply to the following query:—

S. by will devises his real estate to "A. for her natural life, and at her decease I give the said premises to the children of H., to be equally divided amongst them." H. had several children, and all survived the testator. S. H., one of those children, dies in the lifetime of A., the tenant for life, and by will gives all his realty and personalty to his widow. Q. Does S. H. take an absolute vested interest as tenant in common in fee in his share so as to enable his widow to stand in the same place as S. H. would have done with the other children if he had survived the tenant for life, and take her share of the rents and proceeds of the estate when sold? J. N. C.

IRISH ANTE-UNION STATUTES.

In an article in the last number of the *Solicitors' Journal*, on a settlement case at Warwick Quarter Sessions, which involved a question of Irish marriage law, it is said:—"As English courts do not take judicial cognizance of Irish statutes passed before the union, which must, therefore, be proved to those courts as facts, an Irish barrister deposed," &c.

Any one who holds the opinion thus expressed must, it would seem, either overlook or disregard the Act 41 Geo. 3 (U. K.), c. 90, which enacts (s. 9) that the copy of the statutes of the Kingdom of Ireland, made by the Parliament of the same prior to the union, and printed and published by the printer duly authorised by his Majesty, or any of his royal predecessors, to print and publish the same, shall be received as conclusive evidence of the several statutes made by the Parliament of Ireland, prior to the union of the Kingdoms of Great Britain and Ireland, in all suits, actions, or prosecutions, in any court of civil or criminal jurisdiction in that part of the United Kingdom called Great Britain.

Lincoln's-inn, July 11, 1861.

F. S. REILLY.

THE NEW PROBATE ORDER.

I see that it is assumed in an article in another law journal, that the New Order of the Court of Probate, which requires the district registrars to act as the solicitors of parties applying in person for probate or administration, applies to London as well as the country. It is obvious, however, that the writer of the article to which I allude, has never taken the trouble to read as much as the title of the General Order in question. If he had done so he might have learned that it relates only to "the District Registries of the Court of Probate." It is absurd, therefore, to speak of the order being only "of small effect in London." I hope that this blunder will not be adopted in any of the memorials to the Treasury which are now in course of signature.

E. W.

Foreign Tribunals and Jurisprudence.

FRENCH JURISPRUDENCE.

[By ALGERNON JONES, Esq., Advocate in the Imperial Court of Paris.]

EXECUTION OF ENGLISH JUDGMENTS IN FRANCE AGAINST FRENCH SUBJECTS.

Other decisions of the French courts upon the subject of my last article, (*ante*, p. 590), offering me an opportunity of returning to the same, I will here attempt to give your readers some further information with respect to the execution of foreign judgments in France. In my remarks upon the judg-

ment of the Imperial Court of Paris, in the case of the British Screw Ship Company, I demurred to a *dictum* in that judgment with reference to a presumed right in a Frenchman to ignore an action brought by himself in a foreign country against a subject of that country, and to bring the same action *de novo* in France, by virtue of article 14 of the Code Napoleon, which enacts as follows:—"An alien, even though not resident in France, may be sued in the French courts to compel him to execute the engagements contracted by him in France in favour of a French subject; he may likewise be sued in the French tribunals for the engagements contracted by him in a foreign country in favour of a French subject." Now the question is, whether the French subject cannot lose this privilege. Some contend that he cannot—that it sticks to him *volens volens*, whatever may have been his proceedings. Others, and I have shown that the weight of authority lies that way, maintain that he is estopped from claiming the privilege against his alien antagonist, whenever he has of his own free will waived the same, either by beginning, without any compulsion to take such a course, his suit against the alien in a foreign country, or by agreeing—to submit his suit to the jurisdiction of foreign judges; in which cases he would either be barred according to circumstances by *lis pendens* or *res judicata* in the first, or estopped by his own agreement in the second, from claiming his privilege under article 14.

An example of such an agreement occurs in the following case:—A Mr. Reid, by a charter-party made in London, freighted a steam vessel named the *Alice*, to the firm of Couillard & Fautrel, of Havre. The charter-party contained a clause to the following effect:—"Every difference which shall arise between the parties with reference to this charter-party shall be submitted to the arbitration of two persons selected respectively by each party. Such two persons shall have authority to join unto themselves a third, and the decision of the majority of the three arbitrators shall be final and binding upon both parties." Some time afterwards Couillard & Fautrel wished to break the contract, and in consequence arbitrators were named under the above clause; but their award was favourable to the validity of the charter-party, which was ordered to be carried out. Subsequently, and in consequence of this decision, another French firm, Allain & Co., subfreighted the *Alice* from Couillard & Fautrel with a clause endorsing the conditions of the original charter-party. However, Allain & Co. showed no disposition to further the carrying out of those conditions, for, notwithstanding the demands of the master of the *Alice*, of the name of Bouden, to that effect, they refused to insert in the bills of lading which they gave out such clauses as would insure the execution of the same. And on Bouden's insisting that the bills of lading should state that the conditions were to be the same as those embodied in the original charter-party, Allain & Co. brought an action against Couillard & Fautrel in the Tribunal of Rochefort, to cause the latter to compel Bouden to desist from his pretensions, and for damages; and the latter was summoned by Couillard & Fautrel to interplead in the action. They likewise brought another action against him in the same Court, as agent of Reid, the original freighter, to the same effect as that laid before and rejected by the London arbitrators, namely, to have the charter party made with Reid set aside. But Bouden demurred to the latter suit, on the ground that there had been *res judicata* by the arbitrators elected under the agreement in the charter party, and to the action of Allain and Co., by reason of their having adopted that same clause of the charter party, and being, therefore, estopped from bringing their action in any but the court instituted by the same. To this Allain Couillard & Fautrel replied that the clause in question was void in France, as being a *clause compromissoire*, or arbitration clause, wanting, in the ingredients required for the validity of the same by article 1006 of the code of French procedure, namely, the choice of the arbitrators, and the specification of the litigious matter. Couillard & Fautrel added, with respect to the suit in which they had compelled Bouden to interplead, that the interpleader must of necessity take place in the court where the original action was brought; that the venue of that brought by Allain & Co. against them was laid in the Tribunal of Rochefort, and that, therefore, Bouden could not demur to the jurisdiction of that court.

These views were adopted by the Tribunal of Rochefort, which accordingly declared its jurisdiction over the case. Its judgment, however, was reversed on appeal by the Imperial Court of Poitiers, the judgment or *arrêt* of which was in its turn assailed by a *pourvoi* or writ of error in the Court of Cassation. But the Court of Cassation confirmed the judgment

of the Court of Poitiers in an *arret*, which, after setting forth the facts of the case, lays down the law as follows:—"The Court.....on the first point: whereas, a French subject may waive this privilege of applying to the French Courts, granted to him by the article 14 of the Code Napoleon;—And the plaintiffs in cassation, have, by the charter party of the 13th February, 1858, signed in London, agreed to submit their differences to arbitrators, to be named in that city: whereas the plaintiffs contend that such clause is not to be taken into account as being an arbitration clause framed without regard to the article 1006 of the Code of Procedure, and that therefore the defendant cannot take his stand on the said clause to repudiate the jurisdiction of the courts of France; but whereas the plaintiffs have voluntarily executed the said clause by co-operating in the elections of the said arbitrators and entering before them into the differences having arisen between the said plaintiffs and Reid represented in the present suit by Boden: whereas in reversing the judgment of the Court below, which had declared invalid the arbitration clause, the Court most properly abstained from expressing any opinion upon the validity of the said clause, a point which could not be mooted after the execution of the same by the parties. As to Allain & Co., whereas they hold their rights from Couillard & Fautrel, and therefore stand in the same position as their assignors: whereas furthermore it has been decided in fact by the court below that they had expressly accepted the conditions laid down by the charter-party of the 13th of February, 1858; whereas in denying the jurisdiction of the French courts on the ground of the judicial contract contained in the charter-party of the execution of that contract by Couillard & Fautrel, and of the acceptance of the conditions of the said charter by Allain & Co. The Court below has given sufficient and satisfactory motives for its decision.

"On the second point concerning the judgment in which Allain & Co. appear as principal plaintiffs. Whereas it has been decided in fact that the arbitration agreement contained in the original charter-party had been made binding on Allain & Co. as well as on Couillard & Fautrel: whereas if the articles 59 and 181 of the Code of Procedure enact that the judge of the original action shall be likewise that of the interpleader, that rule does not apply where, as in the case, an agreement binding upon the parties in either, has elected a special jurisdiction for the case: whereas, therefore, the Court below by deciding that Allain & Co., as well as the original charterers, were bound to submit to the jurisdiction agreed upon with the affreighter Reid, of whom Boden is the agent, has violated no law, rejects the writs of error (*pourvois*)."

So much for the validity of an agreement by which a French subject gives up the protection of the article 14 of the Code Napoleon. All persons who have dealings with French subjects, and who would dislike to be involved in a suit in the French courts, will do well to take the hint.

The following is an instance where a Frenchman was considered as not having lost the privilege of the article 14 by having brought an action against an alien in a foreign court, because it had been done only under the pressure of necessity:—A French vessel named *Le Courier des Indes*, belonging to M. De Beauveau Craon having suffered from stress of weather he took her into Manilla to refit, and made with the house of Jenny & Co., in that port, an agreement in some form or other by which they were to furnish him with the funds necessary to make the repairs. There was between them, however, some disagreement which caused De Beauveau Craon to sue Jenny & Co., in the Court of Binondo, on the ground of their not carrying out their agreement; but a judgment of the 18th July, 1853, not only rejected his suit, but sentenced him to pay certain sums to the defendants. This judgment was subsequently confirmed on appeal.

In the meanwhile De Beauveau had returned to France, and applied to his underwriters for the payment of the sums insured by them on his vessel. But this was prevented by attachments which Jenny & Co. had put into the hands of the underwriters for the amount given in their favour by the judgment in the action of De Beauveau against them at Binondo. This, however was resisted by De Beauveau, who revived before the tribunal of Havre, in which the venues were laid, the very same pleas which he had brought forward, and which had been rejected by the Court of Binondo. This Jenny & Co., therefore, demurred to, both on the pleas of the *res judicata*, in the judgment in the Court below; and *lis pendens* of the appeal in the Appellate Court, which had not at that moment been disposed of. The tribunal of Havre, however, ruled against Jenny & Co., and decided that Beauveau Craon was not barred from profiting of the privilege of the Article 14 of the Code Napoleon, and bring-

ing his action against Jenny & Co. before the French Courts, although he had already himself opened and prosecuted the same to a final judgment in a foreign court, because such a course had not been optional in him, but a matter of necessity under the circumstances. Jenny & Co. appealed from this to the Court of Rouen; their appeal was rejected by a judgment of the 9th of February, 1859, grounded on the same reasons, and of which it is unnecessary to give the terms, but against which they brought a *pourvoi* or writ of error in the Court of Cassation, and upon which the judgment of the latter sufficiently epitomises the arguments on both sides. It runs as follows:—"The Court: whereas, by the terms of the Article 14 of the Code Napoleon, an alien may be sued in the French Courts by a Frenchman for engagements contracted with the latter in a foreign country; that the said enactment, founded on public policy, ceases to apply only when the French subject has waived the privilege granted to him by the same, and that such waiver has been free and voluntary; that such is not the case where a Frenchman has sued an alien before a foreign court in emergencies where the freedom of the person or the execution of urgent contracts are jeopardised, and that, under such circumstances, the French subject cannot be considered as having given up all right to claim the protection of the judges of his own country as soon as may be; that thence follows the duty for the French judges to look into the circumstances which have determined the French subject to bring his action in the foreign courts: whereas the judgment of the Court below affirms, as a proven fact, that it was not of his free and unconstrained will that de Beauveau Craon brought the action against Jenny & Co. in the Court of Manilla; that such is a *dictum* of fact upon which the judgment of the Court below is final, and is, besides, justified by the documents and facts of the cause; that, therefore, the defendant in the present suit having acted under the pressure of circumstances which, to a certain extent, deprived him of the freedom of his will, had the right to appeal to article 14 of the Code Napoleon on returning to France rejects the writ of error."

This is in accordance with the principles and authorities quoted in my last.

THE CASE OF MIREs—FRENCH CRIMINAL LAW.

The well-known banker and speculator has just been tried in the Court of Correctional Police (Tribunal de Police Correctionnelle) for alleged misdemeanours and malpractices committed in the vast speculations which have given such a sudden rise to his fortunes. Is he, as he alleges, the victim of a plot hatched by his enemies and his rivals? It is not for me to decide. My purpose is not with the causes of the prosecution, but with the prosecution itself, by means of the incidents of which I will attempt to give to your readers some notion of the theory and practice of the French penal procedure and its peculiar defects, which are great. Many portions of the law of France deserve the highest admiration and might be and are imitated with advantage, and the *ensemble* of the fabric is highly symmetrical and commodious; but the criminal law is certainly not among the portions which deserve such an eulogium. It requires no information but that derived from its spirit to discover at what time it was contrived. The power given to the machinery of the prosecution, the continual sacrifice which is made to the general interest, of the private interest of the accused (as if that also did not involve a great general interest) sufficiently prove that it was not brought forth at a time when France was much troubled with liberty; but when, on the contrary, it was laid under the protection of a strong government, which was well aware of the advantage of having a powerful hold of the sword of justice. But the Code d'Instruction Criminelle or Code of Criminal Procedure, and the Code Penal or Code of Penalties, were promulgated in the full bloom of the first empire, and they bear the undeniable stamp of the times under which they were born. Inasmuch as the best way to give an idea of the principle of a machine is to set it working, I cannot do better than display the spirit of the Code d'Instruction Criminelle by showing it in full operation in the prosecution of M. Mirès. As is well known he is, or rather was, a wealthy banker. Many of the largest and boldest financial undertakings of the day were promoted by him. Most of these he had formed for the benefit and through the instrumentality of the *caisse des chemins de fer*, which he had established with the view of furthering great financial undertakings. This *caisse des chemins de fer* was a company *en commandite*, the capital of which had been progressively raised to the large sum of two million sterling, and to make its speculations more successful he had pur-

chased for the same a financial paper—the *Journal des Chemins de Fer* and two political papers, the *Pays* and the *Constitutionnel*. With these he was enabled to operate most powerfully on the market, and had succeeded in compassing undertakings which seemed impossible to any but coalitions of the largest capitalists, and in bringing them to a considerable pitch of prosperity; but, as usual, the greater the success, the greater the amount of enmity he excited. To this he attributes his fall. However, whether from the hostile combinations of envy, or the reverses of speculation, he was, at a certain period, driven to straits which gave a hold upon him to his enemies. Of these, the most active and the most interested was a certain Baron de Pontalba, who was member of the council of surveillance of the Caisse des Chemins de Fer, and some of the satellite undertakings which gravitated around the same. The opportunities he had in these various functions allowed him to collect information as to certain transactions of Mirés which bore a suspicious appearance, and he determined to use this information for his own benefit. Some time previously, in his capacity of member of the Council of Surveillance, he had been deputed by Mirés to go to Marseilles and to Rome to settle certain difficulties which had arisen in the way of the company of the port of Marseilles and that of the Roman railroad. This was a portion of his duty in his official capacity. He demanded, however, £20,000 for going to Marseilles, and £48,000 for arranging matters at Rome, where he had, he alleged, been obliged to negotiate fork in hand. Dinners seem to be as favourable to business in the financial as in the diplomatic world. Mirés having demurred to the claim, M. de Pontalba's vindictive feelings seem to have been roused, and he threatened Mirés both with a civil and a criminal prosecution, on the ground of the facts he had discovered, and which he expressed himself ready to reveal. Mirés having refused with considerable, but, as it turned out, ill-omened spirit, to succumb to these demands, for the certainly somewhat plausible reasons that they were exorbitant, when it was M. de Pontalba's duty, as member of the Council of Surveillance, to give service gratuitously; and that as to the complaints against him, if there were any, it was the member of the Council of Supervision's duty to have made them before he was prompted to do so by such interested motives. M. de Pontalba then realised his threats, and in consequence of his accusations, the seals were put by the *juge d'instruction* on the books and offices of Mirés. This alarmed the latter, who felt immediately alive to the ruinous consequences a criminal prosecution would have to himself, and all the interests under his direction, and supposing, for what reason does not appear, that notwithstanding the rule of French law which prevents any compounding with private parties having the effect of staying the public prosecutor, he consented to compromise with M. de Pontalba, and paid him £36,000.

This payment took place on the 18th of December, and the seals were taken the next day from the books of Mirés. But this was only a momentary lull in the storm. The 15th and 16th of February we find his books seized again. The 17th he is arrested. Mirés is fairly in the hands of the prosecution, and we are now going to see it at work.

The prosecution in France is in all except a very limited number of cases *ex officio*. Private parties may put it into motion by complaints or indictments, and co-operate with it, in the view to obtain damages; but the suing out of the application to the delinquent of the penalties of the law belongs only to a peculiar institution called the *Ministère Public*, or public ministry. As the name sufficiently shows it is established for the purpose of protecting the public interest. There sits, in every civil court, a member of the public ministry, whose duty is to watch the proceedings, and interfere in all such as are likely to interest public order, policy, or those private interests the protection of which the law considers as of public importance. There, however, the *Ministère Public* is only an adjunct to the cause; whereas, in all penal jurisdictions, he sits as the prosecuting party. The chief of the *Ministère Public* within the jurisdiction of each imperial court or court of appeal is the *Procureur*, or Attorney-General. He has advocates-general and substitutes, who represent him in the Imperial Court and in the various tribunals of first instance within the jurisdiction of that court. The *Procureur-Imperial*, or imperial attorney, with his substitutes, all of whom act not in their personal capacity, but under the direction and responsibility of the *Procureur-General*, who is *par excellence* the *Ministère-public*, and of whom they are only so many proxies. The prosecution, as a rule, is begun in the tribunal of first instance; and, therefore, by the *Procureur-Imperial*, or one of his substitutes; and the first step thereof is a *requisitoire*, or requisition,

of the *ministère-public* to the *juge d'instruction* to *instruire*, or investigate, the case, and collect the evidence. The *juge d'instruction* is a judge of the tribunal of first instance, who is chosen by the minister of justice to fulfil those functions. He is named for a period of three years, but remains in office till another is named, which will not very soon happen if he gives satisfaction. His duties, though in many respects unenviable, are generally cheerfully accepted, because they give the nominee a greater chance of displaying his activity and zeal than mere judicial functions, and offer him, therefore, a greater chance of promotion. He is the examining magistrate, but unfortunately he is not that alone. His duties are, to a certain extent, inquisitorial. He it is who collects the evidence and makes up the case. In theory he is supposed to do nothing without being prompted thereto by the prosecutor; but in practice, if I may use the expression, as soon as his steam has been put up by the first requisitions of the *Ministère-Public*, he goes on investigating the case; and when he has hunted down what he considers the truth, he communicates the minutes of the evidence and the other documents to the public prosecutor, who makes his requisitions as to there being a true bill or no bill against the accused, and the *juge d'instruction* either discharges him, or, to use English phraseology, finds a true bill against him; and according as the charge bears the character of a misdemeanour or a felony (*délit* or crime), he commits him for trial to the Correctional Tribunal (a section of that of first instance), or makes his report to the Chamber of Accusation of the Imperial Court, which, if it agrees with the conclusion of the report, and if the public prosecutor in that chamber, takes requisition to that effect, and decides that the prisoner shall be arraigned in the Court of Assizes. Now, let us pause and reflect upon the attributes of the *juge d'instruction*. He it is who in reality makes up the whole case. He it is who interrogates the prisoner, who summons and interrogates the witnesses, who preserves the various physical elements which constitute the *corpus delicti*, or the vestiges by which it is to be traced. How will he fulfil these delicate duties? conscientiously, no doubt! He will use his strongest efforts to discover the truth—to open an equally willing mind to the arguments in favour of the accusation and the defence. But will not there be, or may not there be, a moment when an opinion is in process of formation in the judge's mind? And what if that be unfavourable to the prisoner? No doubt the judge will do his best to be unbiassed; but will he always succeed? Will not these elements of evidence, of which he is the sole collector, little by little be warped and moulded according to the bent taken by his mind? And what will that bent habitually be? No deep cogitation is necessary to answer that question. His duty is to find out guilt where it is; and the first desideratum to find it is of course to suspect it; to thrust in every direction, to probe everything with the glance of suspicion. Suspicion must, therefore, be the chronic condition of a *juge d'instruction's* mind. When, therefore, a prisoner comes before him with resolute denials, and a firm and well-connected defence, is it very unreasonable to suppose that there may arise in him that spirit of angry contention with which one is prompted to meet clever deceit? And to judge how dangerous the consequences to the prisoner, if such a spirit should arise in the examining magistrate, let us take a glance at his proceedings, and follow him into his little office in the *Palais de Justice*, where he sits, day by day, industriously weaving the web of the prosecution. There he sits, together with his *greffier*, or clerk; and the prisoner just taken out for the purpose from the solitude of secret confinement, from the prison where, ignorant, not only of what may concern his case, but the fate of his dearest relations, he has not been allowed to communicate either with them or with his counsel, and where, therefore, he has lived a prey to an anxiety which must leave him but little nerve for any contest. And in that state, alone—for all the part of the investigation is secret, and no assistance or counsel is allowed to reach the prisoner—he must confront a cool and able man of business, clothed in all the majesty of dread authority, who can at his leisure well plunge into and deliver him from the secret, and who plies him with such questions as his practised intellect may devise. And the clerk is there who takes down every answer of the prisoner. Not a shorthand-writer, mind, but a man who may not have a first-class capacity or education, and who has to condense in his minutes the substance of the dialogue which takes place before him. It is true that the prisoner has to sign the minutes, and may decline to do so should he consider them incorrect; but if he be an illiterate man, ignorant of the value of words, or a timid one, overawed by the dignity of a magistrate upon whom his fate appears so entirely

to depend, is it likely that he will presume to contend with him about niceties of expression? And yet from those minutes will be drawn the report of the judge, and the act of accusation or statement of the case for the Crown, by which the case will be opened in the assizes, and from which the first impressions of the jury will be drawn. In the same way will things go with the witness, and with the difference that they are not in prison. The high honour and capacity of the judges will, no doubt, prompt them to set everything right; but it suffices that such consequence should be within the range of possibility to condemn so dangerous a system. More especially as the current is so strong that it may unconsciously carry the magistrate along with it, and in this very case there is a striking example of this.

Mirés being accused of fraudulent transactions, it was of course necessary to investigate his books, in which the true nature of these transactions would appear, and Mirés being involved in the most enormous and intricate transactions which he himself conducted, it would be a matter of considerable difficulty to extract the truth therefrom. Anybody who has ever had anything to do with commercial cases can easily understand that. It was, therefore, necessary to employ professional book-keepers as experts. Who names these experts? Are they jointly named by the prosecution and the defence, since the latter is quite as interested as the former in the investigation? No, they are named by the juge d'instruction alone. Are they at least commissioned, since they are as it were the eyes of justice in this matter, to look impartially at both sides of the question, and collect without distinction such materials as may furnish evidence to either side? Let us read the commission which is issued to them by the judge, and that will inform us. It runs as nearly as possible literally as follows:—"We order that by Isoard, inspector of finances, Van Himbeek and Monginot, experts in book-keeping, after they shall have taken an oath at our hands, examination shall be made of all the books, documents, and papers which shall be put at their disposal, for the purpose of discovering the proof of the facts aforesaid, as well as of all such of which the accused may have been guilty, and which are of a nature to come under the penal law, and authorizes the experts to get all the necessary information from all such persons as may be able to furnish it." I have neither time nor space to comment upon the document, nor will it be necessary, especially to lawyers. I will only say, if the expert be not a man of intelligence and fair feeling, or if he be desirous of propitiating the juge d'instruction (not that I mean to insinuate such was the case in the present instance), for the purpose of obtaining further employment by chiming in with what he may have discovered to be his bias, what will not be the danger of the prisoners? That the counsel for the defence were not satisfied with the way the experts had done their duty in this case is clear; for they, as well as the prisoner himself, accused them in the strongest language of having exhibited as guilty transactions which would shine forth with the fullest innocence, if they had been but fully displayed; and when we recollect that the experts, with the books at their fullest and exclusive disposal, had been months in building up their report, and that the defence had only a few days to go through this vast tract and prove its all its parts, what must not have been their feeling at its discovery? When I say that the defence had a few days, I think they had about a fortnight, for which they applied; a request in which the substitute of the procureur imperial, M. Senart, who prosecuted in this case in the courts (and who, to do him justice, acted in this case in a most fair and honourable manner) most heartily joined. But this very application was the source of the discovery of a strange arrangement, or at least omission, of the French law on a most important point. The counsel for Mirés, on applying for time to examine his books, and compare them with the report, demanded likewise that Mirés should be taken out of prison, and taken to his office under safe custody, to give him the opportunity of furnishing his counsel with the necessary documents and explanations. This one would think reasonable request met with considerable difficulty; and here comes the peculiarity. The Court declared that they had not power to direct these measures, and that they, as well as the production of the books, must be allowed by the ministère public. The law of this decision I believe questionable; but does it not seem strange that there should be a doubt whether the defence is not to depend upon the prosecution, the adverse side for the weapons with which it is to meet it; and that the Court should have no authority to order a proper dispensation of the same, should the prosecution be backward or niggardly therein? However, in this case, the prosecutor was by no means so; but,

on the contrary, as liberal as he could well be, but it is a strange and unreasonable thing that the defence should be dependents upon his courtesy for the exercise of its most sacred rights.

But to return to the proceedings of the prosecutor. After the investigations, the juge d'instruction having discovered no felony in the transactions of Mirés (he had been originally suspected of forgery), decrees upon the requisition of the ministère public that Mirés shall be arraigned in the tribunal of correctional police. A citation is notified to him accordingly, and he prepares to appear before his judges. Nearly five months have elapsed since the prison doors have closed upon him: he has frequently, during that time, complained of harsh treatment, unjustly, I believe, though the prison discipline might well appear irksome and harsh to one of his habits, activity and situation. He has likewise complained of his imprisonment as unusually long. Alas! that complaint likewise is ungrounded. The length of the preliminary confinements to which he has been subjected is by no means unusual, and that is one of the greatest hardships arising out of the French criminal practice, and which it has been frequently, but as yet vainly been attempted to remedy.

I have little more to add. As to the particulars of the trial, they are all in the papers. The president proceeded according to the usual practice to interrogate the prisoner and the witnesses conducting the case, and doing what is in England the province of the counsel on both sides; after which exciting work, he of course had to settle down into the calm frame of mind of the judge to pass on Mirés the sentence of five years' imprisonment, the highest penalty of the law for the offence. The only member of the Council of Surveillance who has been condemned is Count Simeon, as civilly responsible for the damages to the aggrieved parties. Mirés will no doubt appeal, as he cannot fare worse, M. de Pontalba has been acquitted from all responsibility.

TRIBUNAL OF COMMERCE.

The installation of the newly-elected judges of the Tribunal of Commerce took place on the 6th inst., with the usual formalities, and M. Deniere, the President, delivered an address, in which he gave an account of the business of the Tribunal during the year, from the 1st of July, 1860, to the 30th of June, 1861. The following are the principal points in his statement:—The number of new causes inscribed was 67,693, and on adding those standing over from the preceding year the total to be heard was 68,558. Of that number 41,442 were decided by default, 20,134 after hearing the parties, 3,713 were withdrawn, in 2,349 arrangements were made, and the rest remain to be judged. The 68,558 were 3,140 more than in the preceding year. The number of appeals from decisions of the tribunal presented to the Imperial Court was 824, and that standing over from the preceding year 653. The total to be decided was, consequently, 1,477, and in 417 cases the judgments of the Tribunal were confirmed, in 186 they were quashed, in 207 the parties came to an arrangement, and the rest remain to be heard. The number of appeals from decisions of the Council of Prud'hommes presented to the Tribunal was 71, and in 31 the decisions were confirmed, in 18 set aside, in 17 the parties came to an arrangement, and the remainder are to be disposed of. The number of bankruptcies declared was 1,296 and those standing over from the preceding year 1,253. The total was, consequently, 2,549, in 1,378 of which the proceedings have been brought to a close. Of the bankruptcies terminated, 512 were arranged by composition between debtors and creditors, the dividend given being in twelve cases from 5 to 10 per cent., in 65 from 10 to 20, in 151 from 20 to 30, in 75 cases from 30 to 40, in 57 from 40 to 50, in 23 from 50 to 60, in 13 from 60 to 80, and in 28 the whole capital was paid. In 136 cases there were no assets at all. The credits of the bankruptcies open at the end of the year amounted to 8,937,365*f.*, and of that sum 889,992*f.* were deposited in the Caisse des Consignations. The amount ordered to be paid to creditors in the course of the year was 8,503,843*f.* The number of new companies in shares registered was 1,330, of which 1,027 were what is called *non collectif*, 291 *en commandite*, 12 *anonymes*. The total was 10 more than in the preceding year. The capital of the companies *en commandite* was on the 30th of June, 81,770,000*f.*, and that declared in the companies in *non collectif*, 17,576,000*f.*; that of the *anonymes* is not stated. In the preceding year that of the first was 117,000,000*f.*, and of the second 21,900,000*f.* Finally, the number of companies dissolved in the course of the year was 942. In the course of his address the President stated that the great failures in the leather trade

in London, and the diminution in trade with America, caused by the political crisis in that country, had produced bankruptcies in Paris." He also pointed to the decline in the capital of companies *en commandite* as a proof that the law of the 17th of July, 1856, on such associations does not work well; and he said that the adoption of the principles of English legislation on joint stock companies would be desirable.

Review.

A Treatise on Wills. By THOMAS JARMAN, Esq. The Third Edition. By E. P. WOLSTENHOLME, M.A., and S. VINCENT, B.A., of Lincoln's-inn, and the Inner Temple, Barristers-at-Law. H. Sweet, 3, Chancery-lane, London; Hodges & Smith, Dublin. 1861.

The first edition of Mr. Jarman's *Treatise on Wills* incorporated a large portion of the matter contained in his edition of "*Powell on Devises*," and in the 10th volume of the Bytewood series of "*Precedents in Conveyancing*," amplified by the judicial and legislative donations conferred upon this branch of law since the publication of those works, and enriched by the author's then more matured opinions. About one-half of the first edition consisted of completely new matter. The additions contained in the subsequent editions are, of course, of the same character, so that the work now before us comprises a large amount of original disquisition. The method of inserting the editorial additions within brackets, which was observed in the second edition, is continued in the present, being considered by the editors as more convenient than an arrangement of their contributions in notes or an appendix. Serjeant Stephen has so familiarised our early impressions with this method, that its inherent awkwardness at present escapes observation. It is not, however, a course which we desire to see generally adopted, and reminds us of a classic building, the needful repairs of which are unnecessarily notified by too fresh-looking bricks and mortar. The cases published since 1st February, 1861, are, in the present edition, noticed partly in the text and partly in the addenda.

It is not easy for the reader of Jarman on Wills to determine whether he should bestow his admiration more on the excellence of the general arrangement of that work, or on the philosophical method and the accuracy of its details. We shall best discharge our present duty by endeavouring to give a brief account of the general scope of this masterpiece of professional art.

The first chapter relates to the local laws of wills, and in the first place informs us that testamentary powers are regulated as to realty by the *lex loci rei sitæ*, and, as to personalty, by the *lex domicilii*; but that treaty may alter the latter rule. Thus, Englishmen domiciled in Turkey may, by treaty, dispose of their property, though subjects of the Porte cannot. The case of *Bremer v. Freeman*, 5 W. R. 618, which has suggested to Lord Kingsdown the propriety of facilitating international conventions contravening the *lex domicilii*, receives illustration from two cases cited in the first chapter of this treatise, *Collier v. Rimas*, Curt. 85, and *Laneville v. Anderson*, 17 Jur. 511, which decided, in different ways, the question of the mode of acquiring a French domicile. A will may be made contingent, and be written in pencilling, and with blank spaces. If an instrument is testamentary in its nature, its form as a deed, or even as a bill of exchange (2 Rob. 228), will not defeat its operation as a will, nor exempt its bequests from legacy duty. Probate has always been deemed conclusive as to the testamentary character of the instrument, though not of its validity. The third chapter, which relates to the personal disabilities of testators, is not intimately connected with the scientific exposition of the nature of testamentary instruments, and involves merely questions of status. The fourth chapter informs us that what may be inherited may be devised, and details the testamentary powers conferred by the Wills Act, 1 Vict. c. 26, over rights of entry or action, and after-acquired estates. When informed who cannot be devisees, we are indirectly told who can, according to the maxim "*exceptio probat regulam*." Corporations, with the exception of a few collegiate bodies, cannot take real estate under a will. Aliens may take, but cannot retain; and so attesting witnesses, their wives or husbands, cannot take; but it has been held that a witness to a codicil may take under the will. The execution, revocation, and republication of wills, as also the rules of construction as settled by the 1st Vict., c. 26, are treated by the present

editors with a minuteness of detail which leaves nothing to be desired on these points.

The rule against perpetuities, one of the great landmarks which distinguishes the conflicting claims of private and public right, has been treated by Mr. Jarman more briefly, but not in a less masterly manner, than the same subject is illustrated in Mr. Lewis's admirable treatise. A devise for hundreds of lives *in esse*, and twenty-one years after, is good; a devise for twenty-one years and one day, even without any limitation as to lives, is void; but a nominal postponement of the period of vesting for a great number of years, is valid, if the limitation be substantially in its terms within the line of perpetuity; *Lacklan v. Reynolds*, 9 Hare 796. This appears to us to countenance Lord St. Leonards' opinion stated in his edition of "*Gilbert on Uses*," that the exility of the interest devised, as, for instance, an estate *par autre vie*, will in all cases prevent the devise of such an interest from being too remote. For, though the actual occurrence of the period of vesting within the line of perpetuity will not effectuate a limitation that was originally invalid; yet, when a testator could not by possibility contemplate an evasion of the rule—the quantity of the interest devised not requiring or admitting of such—the policy of the rule appears inapplicable to such a case. A curious statement occurs in Mr. Fearn's treatise, viz., that a limitation engrafted upon an estate tail cannot be too remote. The editors of the present work seem disposed to dispute this position. We may suppose the case of a devise to A. in tail, and if A. have no son who shall attain twenty-seven years, remainder over, as Mr. Smith, the editor of Fearn's "*Contingent Remainders*," p. 522, ed. 1844, puts it, and that A. dies the day after the testator, and A's son is born the next day. Here the property is tied up for twenty-seven years—a period which the law will certainly in no case allow. In *Doe d. Winter v. Perratt*, decided by the House of Lords, 9 Cl. & Fin. 606, it was held that a remote contingent limitation after an estate tail was valid, not because it succeeded such an estate, but because it was a contingent remainder. Thus a devise of a reversion or of an executory interest may be too remote where a devise of a remainder would not, because the former are not dependant for their vesting or failure upon the determination of the former estate, and, therefore, require an express rule to prevent them, if too remote, from taking effect. These questions are very fully treated of in the present edition. In the case of *Jack v. Fetherstone*, 2 Huds. & Br. 320, Busho, C. J., accurately distinguished the limitation from the event, the latter being immaterial in a question of remoteness. The statute 8 & 9 Vict., c. 106, which preserves contingent remainders from destruction in certain cases, does not affect the question of their remoteness. As a gift to a class, some members of which are beyond the line of perpetuity, invalidates the gift as to all, the editors of this treatise suggest that the vesting of personal property given in strict settlement should not be postponed until some one of the tenants in tail come of age; *Broune v. Staughton*, 14 Sim. 369. The vesting should be deferred only until some tenant in tail by purchase attain that age. Alternative limitations are good or not according to the event; *Leake v. Robinson*, 2 Mer. 368. The *cy pres* rule, which in some cases gives an estate tail to the first taker of realty, and thus preserves many limitations that otherwise would be void, is, in the present edition, properly commented on in full detail as a rule peculiar to wills. In the late case of *Basil v. Lester*, 9 Hare 177, Sir G. Turner, V.C., held that the Thellusson Statute 39 & 40 Geo. 3, c. 98, did not apply to a direction in a will to apply a part of the income of the testator's property in keeping up policies of insurance, which he directed to be settled, upon his children's marriage, on their wives and children. The editors of this work consider that this case involves a direct sanction of a contravention of the statute. We are of the same opinion, and think, as they do, that the case of a partnership agreement, put by Sir George Turner, is not a case in point, as such contracts, even when intended to endure for many years, may be at any time rescinded, and, therefore, cannot infringe upon either the statutory or common law period; *Bateman v. Hotchkin*, 10 Hov. 426. The exceptions in the statute apply to provisions for the payment of debts or portions, and to directions touching the produce of timber.

The thirteenth chapter, which relates to the admissibility of parol evidence to help the construction of devises, is one of the most important in the treatise. Such evidence is excluded in cases of wills not only by the general rule of law applicable in this respect to all written documents, but still more by the Wills Acts, which expressly invalidate parol devises. Parties

claiming under defective instruments *inter vivos*, may have a parol variance enforced in equity. But devisees under a will cannot, even though they should be creditors of the testator, and would be aided in equity, as in the defective execution of a power by deed. Thus, neither the letters of a testator, nor the evidence of the person who drew the will, is admissible to prove a parol variance. A negative converse of the rule mentioned, however, has been established, so that a clause improperly introduced may be rejected; *Re Davey*, 1 Sw. & Tr. 262; 5 Jur. N. S. 252. This reminds one of the construction which the Statute of Frauds has received as to invalidating certain unwritten contracts and yet not validating any written ones which might be against equity. Parol evidence is admissible as to wills in cases of fraud, or to repel a resulting trust, and, consequently, then also to support such a trust; *Palmer v. Newell*, 20 Beav. 39. It can be also used to explain the circumstances in which the testator was placed at the date of his will. The present editors of the treatise before us have fully discussed the rule which asserts that parol evidence is admissible to explain latent, but not patent, ambiguities. They limit its application in all cases even of latent ambiguity to cases which require an identification of the subject or object of the disposition, and in which different gifts or devisees would equally answer the description contained in the will. But this evidence is not admissible when a distinct ground of preferring a particular object is afforded by the will; *Douglas v. Fellows*, Kay 114; or by the circumstances of the testator; *Jeffries v. Nichell*, 20 Beav. 15. If no part of the description applies to the claimant, he cannot adduce parol evidence of an intention on the part of the testator to designate him; *Miller v. Francis*, 8 Bing. 244. In *Beaumont v. Fell*, 2 P. W. 141, a legatee not corresponding either to the Christian or surname of the person mentioned in the will, and not otherwise described in it, was held entitled to the legacy. This case, however, was denied by Lord Brougham in *Mostyn v. Mostyn*, 5 H. of L. Cases, 168, to be law. The case of *Beaumont v. Fell* appears to have been decided on the ground of the names being used as nicknames. The decision is disapproved of by the editors, and, indeed, appears irreconcilable with any principles of interpretation applicable to a solemn written instrument. Parol evidence is inadmissible to show that a testator considered property to be his own which did not belong to him; in other words, cases of election under wills must arise from the construction of the instrument solely; *Seaman v. Woods*, 24 Beav. 381. The rules as to contradictory clauses, supplying and transposing words, recitals, and enlargement of gifts by implication, are in the present edition treated of in minute detail. The judicious advice is given of limiting an estate to preserve contingent remainders not during the life of the preceding taker, but during the period of the possible continuance of the contingency.

The chapter on conditions contains an elaborate analysis of this recondite branch of law. What by the old law was construed to be a devise upon condition would now, as a general rule, be construed a devise in fee upon trust. Instead of the heir taking advantage of the breach of condition, the *cestui que trust* can in such cases compel an observance of the trust; *Wright v. Wilkins*, 9 W. R. 161, Q. B.; 1 Sug. Pow. 122, 7th edit. With regard to personal estate, the civil law, which has been in this respect adopted by courts of equity, recognises no distinction between conditions precedent and subsequent, except that if the condition be *malum in se* it defeats the gift in all cases. The assimilation of the law of conditions in real and personal property appears to be a desideratum. An inalienable trust for maintenance is not permitted by the law of England; *In re Sanderson*, 3 Jur., N. S. 809; (though it is in Scotland), except in the case of a married woman. A prohibition against alienation within a limited period is valid both as to realty and personalty; see *Kiallmark v. Kiallmark*, 26 L. J., Ch. 1. Although property cannot be given exempt from the operation of bankruptcy, yet the interest of the donee may be made to cease on that event. Assignees in bankruptcy are entitled to the benefit even of a trust for the maintenance of the bankrupt, notwithstanding that the trustees have a discretion as to the mode in which the fund is to be applied. The case of *Tropeny v. Peyton*, 10 Sim. 487, which has tended to unsettle this rule, is, rightly we think, not considered by the editors of this treatise to have been decided on sound principles. Insolvency was, unlike bankruptcy, formerly considered a voluntary alienation. Since the passing of the Act 1 & 2 Vict. c. 110, s. 36, whereby a creditor may obtain a vesting order, insolvency appears no longer capable of being regarded as a voluntary act done by the debtor. How much the technical rules of law are suffered to conflict with the intention of tes-

tators is shown by the fact that a condition in partial restraint of marriage is void, unless there be a gift over; while a like restraining clause is good if worded in the form of a limitation as distinguished from a condition; *Heath v. Lewis*, 2 D. M. & G. 954; *West v. Kerr*, 6 Ir. Jur. 141. The diversity between our laws of real and of personal property is also shown by the rule that a condition that a legatee shall not dispute a will is invalid unless there be a gift over, while a like condition binds a devisee, even if there be limitation over; *Cooke v. Turner*, 15 M. & W. 727. Acceptance of a conditional gift under a will estops the donee from afterwards disputing his liability to the duty imposed by the condition, *Gregg v. Coates*, 23 Beav. 33.

The chapter on "The rule in Shelley's case," most lucidly distinguishes those cases in which the heir in tail takes by descent from those in which he takes by purchase, as regards lapse, dower, and curtesy, and the alienation of his ancestor by an enrolled conveyance. In *Doe d. Woodall v. Woodall*, 3 C. B. 349, the words "heirs of the body in manner aforesaid," were held to mean children. On the whole we think that the current of modern decisions inclines to narrow the technical meaning of words, when these are in any degree inconsistent with the context. Fearn appears to have leaned too much to strictness of construction as to devisees. The words "in default of issue," reminds us of the *pons asinorum* of law students. The various cases which have settled the meaning of these words are noted in the treatise before us with a judicious and perspicuous method seldom attained in a work on so complicated a branch of law. The 29th section of the 1st Vict., c. 26, does not apply to cases where the words "die without issue" would previously to the Act have been held not to mean an indefinite failure of issue; *Morris v. Morris*, 17 Beav. 198. The effect of these words in raising cross-remainders by implication is strongly illustrated by the case of *Forrest v. White-way*, 3 Exch. 367. In that case estates in fee were cut down to estates tail with cross-remainders. The devise was to two sisters and their heirs and assigns for ever, but in case both should die without issue, then over. The Court of Exchequer held that the sisters were joint tenants for life, having several inheritances in tail, with cross-remainders between them in tail. Although the implication of cross-remainders is not affected by the limited meaning given to the word "issue" by the 1st Vict., c. 26, yet the whole line of limitations may by reason of that enactment be so altered as to preclude any question as to cross-remainders. This would have been the case in *Forrest v. White-way* if the will in that suit had been made since 1837; see *Stanhope v. Gaskell*, 17 Jur. 157. Cross-executory gifts cannot be implied in the case either of realty or personalty; and there is no distinction whether the prior gift be vested or contingent. Thus in the case of *Buxter v. Gosh*, 14 Beav. 612, the residue was bequeathed to be equally divided between A. and B., their executors, &c., absolutely for ever, and if A. and B. should neither of them be living at a particular period, then over; B. alone survived the period specified, and claimed that there was an implied gift to him of the share of A.; but Sir John Romilly, M.R., held that the event not having happened in which the gift over was to take effect, the moiety of A. had lapsed. As to the annexing personal to real estate which is devised in strict settlement, in the cases of *Cox v. Sutton*, 25 L. J. Ch. 845, and *Lord Scarsdale v. Curzon*, both decided by Sir W. P. Wood, V.C., the words "entitled in possession," and "actual," were held to show that the testator intended a suspension of the vesting of the personalty, until some tenant in tail by purchase became of age, and that the representative of the first tenant in tail who had died in the lifetime of the tenant for life, was not entitled to the personalty, which should follow the devolution of the estates in settlement.

Where the executor is devisee of real estate, even in tail, a direction to him to pay debts or legacies has been held to cast them upon the realty so devised; *Cloudestley v. Felham*, 1 Vern. 411. Recently it has been held that a similar direction will charge an estate devised to the executor only for life. *Harris v. Watkins*, Kay, pp. 438-447; *Cook v. Dawson*, 7 Jur. N. S. 130. Where a specific portion of personalty is subjected to certain charges, the general personalty is only subsidiary if the residue be disposed of; *Newbegin v. Bell*, 23 Beav. 368. The effect of the death of the object of a prior gift in the testator's lifetime upon ulterior legacies, has received some illustration in the case of *Ive v. King*, 16 Beav. pp. 53, 54, and the case of *Domeville's Trust*, 22 L. J. Ch. 947, as to the distinction between such gifts to a class and to individuals. If the posterior gift fail by lapse, the title of the heir and since the passing of the 1st Vict., c. 26, that of the residuary devisee

is let in; but if the posterior gift fail in event, the first devisee holds the estate absolutely. *Jackson v. Noble*, 2 Keen 590; *Tarbut v. Tarbut*, 4 L. J. (N. S.), Ch. 129.

The reviewer of a treatise such as that of Jarman on wills has a pleasing duty to perform. The author has, according to the Horatian maxim, himself discharged all censorial functions; while in the subsequent editions we only find different degrees of excellence. The present edition contains 386 pages of new matter, comprising notices of all the more important cases which have tended to illustrate or develope testamentary law since the issuing of the second edition. It should be a source of pride to the profession to contemplate in this treatise the gifts of more than one acute mind to a most complicated branch of law, and the reduction of its varied details to a scientific order. "Jarman on Wills" has long been an oracle both for the professional man and the law student. But although indicative of a master hand, it is, nevertheless, a treatise not so well adapted for the discipline of the law student, as "Ferne on Contingent Remainders," or "Lewis on Perpetuity." These works, however, develope only a single and very definite branch of law, and they therefore afford more scope for purely deductive reasoning, and greater facilities for forming a legal mind, than could well be furnished by a treatise such as the subject of this review, which has to investigate not only principles of testamentary construction, but also the incidental questions of personal capacity, and the marshalling and administration of assets. This treatise will prove of especial value to the practitioner, by whom it leaves nothing to be desired. Mr. Allnutt recommends in his book on Wills, p. 16, that instructions for wills should be duly executed by the testator, in order that, if necessary, they may be used instead of a formal instrument. The concise "Suggestions to persons taking instructions for wills" at the end of the present treatise comprise a series of simple but most valuable rules that should be strictly observed by all who discharge such important functions.

Societies and Institutions.

INCORPORATED LAW SOCIETY.

The annual general meeting of the members of this Society took place on Tuesday, July 2nd, at their hall, in Chancery-lane, London. The chair was taken by William Strickland Cookson, Esq., the President.

The minutes of the last general meeting having been read, the President stated the vacancies in the council, and the following gentlemen were elected:—Mr. Joseph Maynard, President; Mr. William Sharpe, Vice-President; and Mr. Edward Savage Bailey, Mr. Alfred Bell, Mr. John Henry Bolton, Mr. John Clayton, Mr. Bartle John Laurie Frere, Mr. Henry Lake, Mr. Joseph Maynard, Mr. William Murray, M.P., Mr. John Hope Shaw, and Mr. Edward White, as members of the council. Mr. Frederic Ouvry was also elected a member of the council in lieu of Mr. John Swarbrick Gregory, deceased. The following gentlemen were elected auditors of the accounts of the Society:—Mr. Charles Rose Lucas, Mr. William Henry Domville, and Mr. George Lee Pitteson.

The annual report of the council was then read by the secretary. It stated that in obedience to the charter of incorporation and the constitution and laws of the Society, it became the duty of the council to present their report for the year 1861, to trace the progress and indicate the present position of the society, and of the profession with which it is so intimately connected, and for whose benefit it was called into existence; to advert to the subjects which have occupied the attention of the council since the last annual meeting, to show that the council have endeavoured at least, if not always successfully, to further the legitimate objects and to protect the just rights of the body whose representatives they are, and to prove that they have not been wholly undeserving of the confidence which has been reposed in them,—a confidence which was indispensable to their usefulness.

The council observed that there is abundant cause for congratulation in the retrospect of the last few years. There is satisfactory evidence of a growing conviction among the members of the Government and the Legislature, that the profession, as a body, are deserving of confidence, and are judicious and disinterested promoters of law amendment, and are qualified, by their experience and legal information to render efficient service in the correction of old abuses. There is a marked improvement in the tone of the public mind with reference to the profession; vulgar and unjust prejudices are giving

way to a more enlightened estimate of their value as members of the great social community; and year by year increasing numbers of well educated gentlemen, graduates of the universities and others, are entering the ranks of the profession.

These important and satisfactory changes the council considered to be in a great degree attributable to the existence and influence of this and other kindred law societies in London and the provinces, and to the cordial manner in which those societies co-operate with each other.

In obtaining the sanction of the Legislature to the important statute of last session for the amendment of the law of attorneys, arduous and pressing efforts were required, and though the Act, when it received the royal assent, was not entirely satisfactory on some minor points, the council confidently anticipate very beneficial results from its operation.

The report, which will be hereafter published, comprised the following subjects:—1. The amendment of the law of attorneys. 2. The statutes of the last and present session. 3. The Bills now before Parliament. 4. The concentration of the courts and offices. 5. The chancery evidence commission. 6. The chancery funds commission. 7. The usages of the profession. 8. The Probate Court, and the new regulations relating to the district registrars. 9. Unqualified practitioners. 10. Cases of malpractice. 11. Privilege of the bar with reference to attorneys. 12. The general affairs of the society—the state of its funds—its library—lectures, &c.

During the past year, 86 new members had been elected, and after deducting deaths and retirements, the present number was, of town members, 1,370; of country, 432; making in all 1802.

The report of the council was approved and ordered to be entered on the minutes.

The report of the auditors on the accounts of the society was also read and approved of.

The council were, by a resolution of the meeting, authorised to convene social meetings of the members in the evening in the hall and library, to procure for exhibition works of art, to invite visitors, and defray the expense out of the funds of the society.

It was also suggested that a fund should be raised for the enlargement of the library in the departments of foreign law, classics, and general literature.

The thanks of the meeting were then presented to the president, vice-president, and council, and to the secretary.

LAW AMENDMENT SOCIETY.

At a general meeting of this society, held on Monday, the 8th inst., a paper was read by Edward Zimmerman, Esq., LL.D., on the subject of INSURANCE. He stated that the precipitate withdrawal of the Bill lately brought into the House of Commons by Messrs. Sotherton Estcourt, Adderley, and Bonham Carter, to require all friendly and assurance societies to publish and distribute among members copies of their annual accounts, had been looked upon as a significant if not a suspicious fact. A large amount of capital was entrusted to the management of such companies, and the late Bill was founded on the obviously sound principle that a deposition should be furnished with some criteria for forming a judgment upon their position and prospects. The broad distinction, however, between assurance societies and joint-stock companies should not be forgotten. The present tendency was to obliterate, or at least to under-estimate that distinction. In exacting a statement of accounts, the one was entitled to greater indulgence than the other. Assurance companies undertook to indemnify depositors on the happening of certain contingencies, upon the principle established by a wide and careful comparison of statistics, that the returns of one year, or a certain number of years, would more than compensate for the disbursements of other years. All that could be fairly expected was a periodical general statement of their assets and liabilities. Sufficient length of time must be allowed for the play of circumstances. The ebb and flow of chance could not be nicely calculated, and the capital of a company might, through very legitimate trading, and without the least danger of bankruptcy, be reduced to so small a sum as to excite alarm and hasten a result which otherwise might not have occurred. On the other hand, it was against the most evident and best established principles, that a company should be allowed to trade with the capital of others without giving an account of its transactions sufficiently minute and at reasonable intervals. After criticising with much ability the clauses of the late Bill, pointing out certain ambiguities and omissions, which, in any future legislation on the subject, should be guarded against,

he gave some valuable information on foreign legislation as regards friendly societies and insurance companies. He then proceeded to state as follows:—

"By the statute passed 1860, in the state commonwealth of Massachusetts, a board of insurance commissioners is appointed. These commissioners shall visit and examine any insurance company, when requested by five or more persons pecuniarily interested in such company, and also whenever the same shall deem an examination necessary.

"Upon some day in each year, designated by them, they shall calculate the value of all existing outstanding policies of life insurance. They may examine officers or other persons under oath.

"If, upon examination, they are of opinion that the company is insolvent, or that its condition is such as to render its further proceedings hazardous to the public, they shall apply to the justice of the supreme court for an injunction, and such justice may forthwith issue an injunction, and, after full hearing of the parties, dissolve or make perpetual the same."

"The Legislature in Prussia has dealt with this subject on the most extensive scale. A very minute supervision is exercised over every insurance company. After the most vigorous and rigid examination of the deed of settlement of such company, a special commissioner is appointed by the government for the constant supervision of each such company. So far this system of superintendence has been extended, that not a single fire insurance proposal can be entertained by any company without the same having previously been sanctioned by government.

"But there is only one opinion, that Government is going too far in such superintendence, and the present tendency of the Prussian Legislature is clearly to relax all these regulations.

"Only lately this subject has come under the consideration of the Prussian Home Secretary with regard to certain friendly societies, who, on the 21st June last, did express himself to the effect that, as a rule, any supervision should be restricted to the filing of an annual balance sheet, to the examination of the due administration and state of the funds generally, and especially to the proper investment of the assets; and that any further interference should take place only on distinct complaint being made. At the same time he generally expressed his views as to supervision of insurance societies in the following manner:—Although it is a high duty of government to prevent, not only fraudulent exactions, but also mismanagement arising from inexperience and carelessness, it ought not to be overlooked that any general and real endeavour to alleviate the misfortunes of human life by uniting to common action, is of the highest interest for the community at large, and the public authorities will have to well take care that such useful enterprise should not be repressed by their over zealous interference in an injurious manner.

"There is no doubt that these principles, as laid down here by the Prussian Home Secretary, will meet with general approval, and it is only to be hoped that they will be carried out with due energy in their true spirit."

This being the last general meeting of the present session, there was no discussion on the subject. But it is expected that, at an early meeting next session, it will receive the careful consideration of the society.

STAMPS ON FOREIGN BILLS OF EXCHANGE.

We extract the following from the *Times* City article of the 10th instant:—

The subjoined communication relates to the new peril introduced into all dealings in foreign bills of exchange by the Act which provides that the adhesive stamps required to be affixed on such bills shall be cancelled by the name and address of the first negotiator being written across them. The measure seems as if it were distinctly framed to give a means of evading payment on a quibble, and is worthy to rank with some of the other recent specimens of commercial legislation in which sound principles have been wholly disregarded, while the most tenacious ingenuity has been devoted to the creation of technical pitfalls. We have seen, for instance, the Minister of the day allowing on the one hand a Bill to pass enabling trustees to invest funds in the speculative capital of a joint-stock bank, and on the other hand refusing to pay a dividend solemnly guaranteed by the Government and voted by the House of Commons without submitting the matter to a search for flaws on the part of the law officers of the Crown. The operation of the present Act is tantamount to imposing a penalty of £5,000 for an accidental neglect on the part of any one not conversant with its provisions in cancelling a 60s. stamp, since such irregularity

would give a valid plea in law for the acceptor to refuse payment. Of course, as all the principal business of the country is conducted upon honour, the general risk of any individual being found ready to take advantage of the temptation thus placed in his way by our legislators is small, but exceptions will of course arise, and it is on behalf of the dishonest classes alone that such a statute can be permitted to exist:—

"Sir,—The commercial public are much indebted to you for directing attention to the consequences of neglecting to comply with the stringent requirements of the 17th & 18th Victoria, chap. 83, in reference to the cancellation of adhesive stamps on foreign bills of exchange. A long and extensive experience enables me to say, that the practical difficulty attendant on a literal compliance with the enactment, that the 'person who shall endorse, transfer, or negotiate such bill, shall, before he shall deliver the same out of his hands, custody, or power, cancel the stamp so affixed by writing thereon his name, or the name of his firm, and the date of the day and year on which he shall so write the name,' has led to its being in many, I might I think say in most cases disregarded.

"Foreign bills are frequently sent to private parties in this country, who know nothing of this requirement nor of the amount of stamp requisite, scarcely even where to obtain the stamps if they did know. They simply endorse the bill, and send it to their banker or agent, who affixes the stamp, but who, according to the strict interpretation of the Act in question, to which you refer, is not legally qualified to cancel it. But, even when such bills are remitted direct to merchants and bankers, they are often cancelled by the date merely, or, at most, by the date and the initials of the holders. And so common has this practice become, that the payers of such bills do not examine the cancellation of the stamp, but make their payment without further inquiry, provided the amount of such stamp be correct. If the payer were to inquire into this, much delay and inconvenience must arise from the difficulty that would be found in deciding whose name ought to be used for such purpose, and those acquainted with the subject know well that there is more than sufficient inconvenience now experienced in ascertaining the correctness of endorsements, without the party paying a bill having to inquire also into the correctness of the cancellation of the stamp. The only object of the provision in question being the protection of the revenue, it would seem to be amply sufficient that the stamp on foreign bills should be cancelled by any one of the persons whose names appear upon the back of the bill, and that the initials of such person, with the date of cancellation, would fully accomplish the object.

"As the present practice is found convenient, and seems to answer the purpose of securing the due payment of the stamp duty, and as, notwithstanding this, such practice may entail in many cases on those adopting it serious annoyance and loss, it is most desirable that some steps should be taken to obtain a modification of the clause which renders the present mode of cancellation illegal.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have passed through committee in the House of Lords:—

BISHOP'S STORTFORD AND DUNMOW.
CONWAY AND LLANRWST.
EAST SUFFOLK.
FOREST OF DEAN CENTRAL.
RAMSEY.
SWANSEA VALE.
WARE, HADHAM, AND BUNTINGFORD.

The following Bills have passed through committee in the House of Commons:—

CORNWALL.
SAFFRON WALDEN.

REPORT OF MEETING.

LONDON AND GREENWICH RAILWAY.

At the half-yearly meeting of this company, held on the 9th inst., a dividend of £1 6s. 8d. per cent. on the ordinary stock of the company was declared for the past half-year.

Court Papers.

COMMON LAW VACATION BUSINESS AT THE JUDGES' CHAMBERS.

8th July, 1861.

The following regulations for transacting the business at these chambers will be strictly observed till further notice:—

Acknowledgments of deeds will be taken at half-past ten o'clock.

Original summonses only to be placed on the file.

Summonses adjourned by the judge will be heard at eleven o'clock precisely, according to the number on the adjournment file, and those not on that file previous to the numbers of the day being called will be placed at the bottom of the general file.

Summonses of the day will be called and numbered at a quarter after eleven o'clock, and heard consecutively.

The parties on two summonses only will be allowed to attend in the judge's room at the same time.

All long orders to be left that they may be ready on being applied for the following day.

Counsel will be heard at half-past one o'clock. The name of the cause to be put on the counsel file and heard according to number.

Affidavits in support of *ex parte* applications for judge's orders (except those for orders to hold to bail) to be left the day before the orders are to be applied for, except under special circumstances, such affidavits to be properly endorsed with the names of the parties and of the attorneys, and also with the nature of the application and a reference to the statute under which any application is made, the party applying being prepared to produce the same.

All affidavits read or referred to before the judge to be properly endorsed and filed.

Further time to plead will not be given as a matter of course.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	231	Shrs. Stock Ditto A. Stock	90
3 per Cent. Red. Ann. ..	89½	Stock Ditto B. Stock	131
3 per Cent. Cons. Ann. ..	90½	Stock Great Western	71
New 3 per Cent. Ann. ..	89½	Stock Lancash. & Yorkshire ..	112
New 2½ per Cent. Ann. ..	90½	Stock London and Blackwall. ..	63
Consols for account ..	90½	Stock Lon. Brighton & S. Coast ..	130½
India Debentures, 1854. ..	25	Stock Lon. Chatham & Dover ..	43
Ditto 1859. ..	25	Stock London and N.-Westn. ..	94½
India Stock	99½	Stock London & S.-Westn. ..	95
India 3 per Cent. 1859. ..	99½	Stock Man. Sheff. & Lincoln. ..	47
India Bonds (£1000) ..	dis.	Stock Midland	121
Do. (under £1000) ..	dis.	Stock Ditto Birm. & Derby ..	97
Exch. Bills (£1000) ..	7 dis.	Stock Norfolk	34
Ditto (£500) ..	7 dis.	Stock North British	63
Ditto (Small) ..	7 dis.	Stock North-Eastn. (Brwk.) ..	106
		Stock Ditto Leeds	63
		Stock Ditto York	93
		Stock North London	93
		Stock Oxford, Worcester, & Wolverhampton ..	48
		Stock Shropshire Union	40
		Stock South Devon	40
		Stock South-Eastern	81½
		Stock South Wales	63
		Stock S. Yorkshire & R. Dun ..	96
		Stock Stockton & Darlington ..	40
		Stock Vale of Neath	91
RAILWAY STOCK.			
Stock Birk. Lan. & Ch. June. ..	85		
Stock Bristol and Exeter	96		
Stock Cornwall	6		
Stock East Anglian	18		
Stock Eastern Counties	49½		
Stock Eastern Union A. Stock ..	41		
Stock Ditto B. Stock	30		
Stock Great Northern	107½		

Births, Marriage, and Deaths.

BIRTHS.

MANNING—On July 4, at Blackrock, near Dublin, the wife of C. J. Manning, Esq., of a daughter, stillborn.

THOMPSON—On July 4, the wife of William Thompson, Esq., formerly of the Supreme Court, Calcutta, of a daughter, stillborn.

TREVENEN—On July 6, at Helston, Cornwall, the wife of William Trevenen, Esq., Solicitor, of a son.

WILLIAMS—On July 11, at 22, Lonsdale-square, N., the wife of R. Griffith Williams, Esq., Barrister-at-law, of a son.

MARRIAGE.

LEECH—HARRISON—On July 6, Samuel Leech, Esq., Solicitor, Derby, to Lydia, daughter of Joseph Bridgesford Harrison, Corn-market, Derby.

DEATHS.

PALGRAVE—On July 6, Sir Francis Palgrave, K.H., Deputy-Keeper of the Public Records, in his 73rd year.

RHODES—On July 6, aged 22, Alice, the wife of Charles Fredk. Empson, Surgeon, and daughter of Thomas Rhodes, Esq., Solicitor, Market Rasen.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BAKER, SUSANNA, Widow, Fore-street, Cripplegate, £722 Reduced Three per Cents.—Claimed by Rev. THOMAS JAMES, the surviving executor.

LECHMERE, ANTHONY, & WILLIAM WALL, Bankers, Worcester, £123 18s. 3d. Consols.—Claimed by Rev. ANTHONY BERWICK LECHMERE, & JOSIAH CASTREE, the surviving executors.

London Gazettes.

Professional Partnership Dissolved.

TUESDAY, July 9, 1861.

WHALL, JOHN, & HENRY MASON, Attorneys and Solicitors, Workup and Wakefield. July 6, by effluxion of time.

Windings-up of Joint Stock Companies.

TUESDAY, July 9, 1861.

UNLIMITED IN CHANCERY.

NATIONAL INDUSTRIAL AND PROVIDENT SOCIETY.—The Master of the Rolls will, on July 15, at 12, appoint an official manager or official managers of this company.

LIMITED IN BANKRUPTCY.

GREAT WESTERN IRON COMPANY (LIMITED).—Commissioner Hill will sit on Aug. 1, at 11, Bristol, to make a final dividend of the estate of the company.

MARTLESTONE GAS CONSUMERS COMPANY (LIMITED).—Peremptory order for a call of £1 per share, on contributories settled on the list, to be paid on or before July 30, to Edward Watkin Edwards, Official Liquidator, 22, Basinghall-street.

FRIDAY, July 13, 1861.

ISLE OF WIGHT FERRY COMPANY.—Petition for winding-up presented 8th July, will be heard before the Master of the Rolls, on July 20. Cates & Elgood, 48, Lincoln's-inn-fields, Agents for Hearn & New, Solicitors for Petitioner, Ryde, Isle of Wight.

LIMITED IN BANKRUPTCY.

LANDED INVESTMENT COMPANY (LIMITED).—Petition for winding up presented July 8, will be heard before Com. Fane on July 31, at 12. Kimber, Solicitor for the petitioner, 1, Lancaster-place, Strand.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, July 9, 1861.

BUTTERWORTH, EDMUND, Music Seller, Commercial-street, Leeds. Middleton & Son, Solicitors, 32, Park-row, Leeds. Sept. 1.

HARTCOOP, WILLIAM, Gent., Little Hampton-street, otherwise Hampton-street, Birmingham, formerly Sword-blade Maker, Birmingham. Maudslayi, Solicitor, 41, Temple-street, Birmingham. Aug. 19.

HINCHLIFFE, GEORGE HAYES, Solicitor, West Bromwich, Staffordshire. Gough, Solicitor. Aug. 5.

HUTCHINS, HENRY, Yeoman, Folly-farm, Mildenhall, Wilts. T. B. & W. Merriman & Gwillim, Solicitors, Marlborough, Wilts. Aug. 31.

JONES, ELIZABETH, Spinster, St Leonards, Mortlake, Surrey. Fryer, Solicitor, 1 & 2, Gray's-inn-place, Gray's-inn, London. Sept. 5.

LEWIS, EDWARD, Glyn Pedr, Breconshire. Wilkins, Solicitor, 87, Old Broad-street, London. E.C. Aug. 12.

MAIR, WILLIAM, Plumber, Painter, Glazier, and Builder, West Malling, Kent. Clarke, Solicitor, 14, Serjeant's-inn, Fleet-street, London. Sept. 1.

ROACH, GEORGE RICHARD, Gent., 42, Sun-street, Liverpool. Wright & Hunter, Solicitors, 6, Brunswick-street, Liverpool. Aug. 3.

FRIDAY, July 12, 1861.

ANTHONES, GIBBS CRAWFORD, Esq., Eaton Hall, Congleton, Cheshire. Reade, Solicitor, Congleton. Sept. 14.

BARHAM, JOHN, Brewer, Farnacres, near Gateshead, Durham. Armstrong, Solicitor, 60, Dean street, Newcastle-upon-Tyne. Sept. 12.

CARLES, JAMES, Licensed Victualler, Epsom, Surrey, Free Vintner, formerly of the Paxton Arms Tavern, Anderly, same county. White & Ward, Solicitors, County Court, Epsom. Aug. 1.

GROVES, BELINDA, Spinster, Over Monnow, Monmouth. George, Solicitor, Monmouth. Aug. 14.

KNOTT, ELIZABETH INWOOD, Widow, High-street, Deptford, Kent. Paine & Layton, Solicitors, Gresham-house, 24, Old Broad-street, London. Sept. 10.

LEWIN, THOMAS FOX, Esq., late of Haverstock-hill, Middlesex, of the Corn Exchange, Mark-lane, and of Kennet-wharf, Upper Thames-street, London. Gregory, Skirrow, Rowcliffe, & Rowcliffe, Solicitors, 1, Bedford-row, London. Aug. 20.

MORGAN, MARY, Widow, Sevenoaks, Kent, and afterwards of Hillingdon, Middlesex. Batt, Solicitor, Uxbridge, Middlesex. Aug. 24.

MEMBRAY MARGARET, Widow, 44, Saint Paul's terrace, Canonbury, Middlesex. Stuart, Solicitor, 5, Gray's-inn-square, London. Sept. 9.

OSBROOK, WILLIAM, Gent., Kexby, Lincoln. Heaton & Oldman, Solicitors, Guinsborough. Sept. 3.

PEARCE, JOHN, Shopkeeper, Leedstown, Crowan, Cornwall. Rogers & Son, Solicitors, Helston. Aug. 15.

SCARRATT, JAMES, Button & Trimming Seller, Milk-street, Cheapside, London. Lawrence, Flaws, & Boyer, Solicitors, 14, Old Jewry Chambers, London. Aug. 1.

TOMLINSON, MARMADUKE, Gent., formerly of Leeds, but late of Mickley Lodge, West Riding, Yorkshire. North & Son, Solicitors, 4, East Parade, Leeds. Oct. 1.
TONE, RICHARD CASTLE, Gentleman, Evesham, Oxford. Walsh, Solicitor, 10, New Inn, Hall-street, Oxford. Aug. 23.
WATSON, WILLIAM GEORGE, Watch & Case Gilder, and Electro Plater & Gilder, 7, James-street, St. Luke's, Middlesex. Stophor, Solicitor, 36, Coleman-street, London. Sept. 1.
WELTON, CATHERINE, Widow, Marine-parade, Dover. Parker, Solicitor, 40, Bedford-row. Aug. 31.
WYATT, WILLIAM, Oilman, formerly of King-street, Soho, Middlesex, afterwards Gent., of Rickmansworth, Hertfordshire, and late of Pinner, Middlesex. Lawrence, Plews, & Boyer, Solicitors, 14, Old Jewry-chambers; or Barton & Longden, Solicitors, 1, Bennet's-hill, Doctors'-commons. Aug. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, July 9, 1861.

BIGGS, THOMAS, Wine Merchant, Grafton-place, Norwood, Surrey. Saxton v. Biggs, M. R. Nov. 2.
GARDNER, JAMES, Yeoman, Brize Norton, Oxfordshire. Gardner v. Evans, V.C. Kindersley. Aug. 1.
GENT, GEORGE, Esq., Moyns Park, Steeple Bampstead, Essex. Finch v. Gent, M. R. Nov. 2.
HORWOOD, AYM, Spinster, 2, Spencer-street, Islington, Middlesex. Nicklinson v. Tibbatts, M. R. July 30.
HUBB, DANIEL, Baker, 153, Whitechapel-road, Middlesex. North v. Hubb, M. R. Aug. 1.
JARVIS, STEPHEN, Gent., formerly of Marshalls Sawbridgeworth, Hertfordshire, but late of 23, Cecil-square, Margate, Kent. Jarvis v. Jarvis, M. R. Aug. 3.
LILLEY, ELIZABETH, Widow, Boston, Lincolnshire. Procter v. Slight, M. R. July 30.
MOLYNEUX, MARY ANN, Gambler terrace, Hope-street, Liverpool. White-locker, Hassall, V.C. Kindersley. Aug. 5.
SHEPPARD, MARY, Widow, Sand, Kewstoke, Somersetshire. Sheppard v. Sheppard, M. R. Nov. 4.

FRIDAY, July 12, 1861.

BEACH, JOSEPH, Farmer, Tamworth, Warwickshire. Wells v. Boulton, V.C. Wood. Aug. 5.
BRIGHT, RICHARD, Silk Mercer & Linen Draper, formerly of Bold-street, Liverpool, and late of Spa-villa, Great Malvern. Bright v. Bright, M. R. Nov. 2.
JONES, MARY, Spinster, 6, Holland-place, Kensington, Middlesex. Maunder v. Barnes, M. R. Aug. 3.
KNOTT, WILLIAM, Gent., 3, Newington-place, Kennington, Surrey. Bousfield v. Bousfield, M. R. Aug. 5.
POSTLE, JEROMAS, DAVY, Blodfield, Norfolk. In re Postle, M. R. July 29.
ROBERTSON, ALEXANDER, Parliamentary Agent, 1, Great College-street, Westminster. Lamb v. Daley, V.C. Stuart. Nov. 2.
TAYLOR, GEORGE EDWARD, Gent., Bristol. Frayne v. Taylor, V.C. Kindersley. Aug. 2.

Assignments for Benefit of Creditors

TUESDAY, July 9, 1861.

BROWN, GEORGE, Tailor and Draper, Knaresborough, Yorkshire. Sol. Harle, 10, Bank-street, Leeds. June 14.
EWIN, ROBERT, & RICHARD MIDDLETON, Upholsterers & General House Furnishers, 4, High-street, Islington, Middlesex. Sol. Scott, 4, Skinner-street, Snow-hill, London. June 12.
LEACH, ELIZABETH, & CALLED LEACH, Drapers, Bradford. Sol. Wood, Hall Ings, Bradford. June 14.
LOCKS, WILLIAM, Mahogany and Timber Merchant, Hoxton Old Town, Shoreditch, Middlesex. Sol. Carr, 25, Road-lane, London. July 4.
NUDDS, WILLIAM SMITH, Carpenter and Builder, Chapel Field-road, St. Stephen's, Norwich. Sol. Sadd, Theatre-street, Norwich. June 11.
PEARSON, BENJAMIN GRIMSHAW, & WILLIAM ALEXANDER BRIGGS, Manufacturers, Stanhill, Church, Lancashire. Sols. G. & R. W. Marsland, 23, John Dalton-street, Manchester. June 18.
SHARMAN, JOHN CLOSE, Baker and Confectioner, Great Yarmouth. Sol. Costerton, Queen-street, Great Yarmouth. June 25.
TAYLOR, ROBERT, Cart Owner, 201, Upper Parliament-street, Liverpool. Sol. Conway, 4, Harrington-street, Liverpool. June 14.
THOMAS, WILLIAM, & DAVID THOMAS, Drapers, Grocers, and Ironmongers, Pontewelly, Llanfihangel-y-nhau, Carmarthenshire. Sols. Bevan, Girling, & Press, 3, Small street, Bristol. June 22.
WILKINSON, SARAH, Hotel Keeper, Carlisle. Sol. Bendle, Carlisle. June 24.

FRIDAY, July 12, 1861.

CASSIDY, PATRICK, Tailor & Draper, 57, Aldersgate-street, London. Sol. Peckham, 40, Ludgate-street, London. June 14.
COTTON, BENJAMIN, & CHARLES COTTON, Draper, Crewe, Chester. Sol. Worthington, Manchester. June 19.
DEBLET, ROBERT JOHN, & JOHN EDWARDS, Jewellers & Photographic Case Manufacturers, 28, Gloucester-street, Clerkenwell, Middlesex. Sol. Stophor, 36, Coleman-street. July 9.
EAVES, RICHARD, Plumber, Glazier, & Painter, Coleshill, Warwickshire. Sol. Saunders, 41, Cherry-street, Birmingham. June 17.
HAWKES, JOSEPH, Straw Hat Manufacturer, 40, George-street, Luton, Bedfordshire. Sols. Ingle & Gooddy, 37, King William street, London-bridge. July 8.
HEDDON, EDWARD BAXTER, Grocer & Tea Dealer, 16, Crawford-street, St. Marylebone, Middlesex. Sol. Peachey, 17, Salisbury-square, Fleet-street, London. July 8.
IMBOTT, JOSEPH, Ship Owner, Shipping & Commission Agent, Goole, Yorkshire. Sol. England, Howden, Yorkshire. June 15.
MILLS, WILLIAM, Grocer & Provision Dealer, Prince's End, Sedgely, Staffordshire. Sol. Barnes, Moseley Heath, Tipton. June 7.
MOYCE, CHARLES STEPHENS, Outfitter, Southsea, Hants. Sols. Mason, Sturt, & Mason, 7, Gresham-street, London. June 20.
NETHEATON, CHARLES SOWELL, Tailor & Draper, Manchester. Sols. Langford & Maraden, 69, Friday-street, Cheapside, London. July 3.
PORTER, WILLIAM, Grocer, Melksham, Wilts. Sols. Moule & Gore, Melksham. June 12.
WIFFEN, JOHN, General Shopkeeper, Littleport, Isle of Ely, Cambridge-shire. Sol. Hall, Ely. July 1.

Bankrupts.

TUESDAY, July 9, 1861.

BARNER, THOMAS CRESTY, Carder and Leather Seller, 67, High-street, Gravesend, Grays, Essex, and Enfield Middlesex. Com. Fane July 20, at 11, and Aug. 16, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sols. Wilkinson, Stevens, & Wilkinson, 4, Nicholas lane, Lombard-street, or Sharland, Gravesend. Pet. July 6.
BRITTON, MAURICE WINGRAVE, Wholesale Milliner, 152, Shoreditch, Middlesex. Com. Fane July 22, at 2, and Aug. 23, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sols. Mason, Surt, & Mason, 7, Gresham-street, London. Pet. July 9.
CRISSEY, JAMES, Grocer, Wakefield. Com. Ayrton: July 23, and Aug. 30, at 11; Leeds. Off. Ass. Hope. Sol. Markland, Leeds. Pet. July 3.
DAVIS, GEORGE, Builder, Plumber, and Brass Founder, Southampton. Com. Fane: July 20, at 1, and Aug. 23, at 12; Basinghall-street. Off. Ass. Cannan. Sol. Stocken, 61, Cornhill. Pet. July 9.
GOODWIN, GEORGE, Auctioneer and General Dealer, Manchester. Com. Jemmett: July 24 and Aug. 21, at 12; Manchester. Off. Ass. Herniman. Sol. Stead, Essex-street, Manchester. Pet. July 5.
GREEN, JOHN, Licensed Victualler, Swansea, Glamorganshire. Com. Hill: July 22 and Aug. 27, at 11; Bristol. Off. Ass. Miller. Sol. Strick, Swansea, or M. Brittan & Sons, Bristol. Pet. June 7.
HORNSEY, GEORGE, Gasfitter and Engineer, 13, West Front, Kingsland-place, Southampton. Com. Fane: July 20, at 12.30, and Aug. 16, at 2; Basinghall-street. Off. Ass. Cannan. Sols. Thomson & Son, 60, Cornhill. Pet. July 6.
IMBOTT, JAMES, Builder, Somersham, Huntingdonshire. Com. Fane: July 19, at 11.30, and Aug. 16, at 12.30; Basinghall-street. Off. Ass. Whitmore. Sols. Emmet & Son, 14, Bloomsbury-square, or Nicholson, St. Ives, Huntingdonshire. Pet. July 2.
LEERS, THOMAS, Contractor, Norwood, Surrey. Com. Holmoyd: July 23, at 11, and Aug. 20, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Abraham, 17, Gresham-street, London. Pet. June 27.
MOSS, THOMAS JOSEPH, Jeweller, 19a, Edgware-road, Hyde Park, Middlesex. Com. Evans: July 14, at 11.30, and Aug. 17, at 11; Basinghall-street. Off. Ass. Bell. Sol. Abrahams, 17, Gresham-street. Pet. July 4.
OVENDEN, HENRY FRENCH, Draper, Maidstone, Kent. Com. Evans: July 15, at 11.30, and Aug. 14, at 12.30; Basinghall-street. Off. Ass. Johnson. Sols. Sole, Turner, & Turner, Aldermanbury. Pet. July 2.
PARNHAM, WILLIAM, Licensed Victualler and Dealer in Tobacco, Nottingham. Com. Sanders: July 19, and Aug. 13, at 11; Nottingham. Off. Ass. Harris. Sol. Smith, High-street, Nottingham. Pet. July 5.
ROSS, CHARLES, Butcher, Walsall, Staffordshire. Com. Sanders: July 19 and Aug. 8, at 11; Birmingham. Off. Ass. Kinnear. Sol. Moore, Walsall, or James & Knight, Birmingham. Pet. June 28.
SHELLARD, JOHN EDWARD, British Wine Manufacturer, Bristol. Com. Hill: July 22, and Aug. 26, at 11; Bristol. Off. Ass. Miller. Sols. M. Brittan & Sons, Bristol. Pet. July 5.
SHARREY, WILLIAM BANTON, & CHARLES SHARREY, Builders, Burton-upon-Trent, Staffordshire. Com. Sanders: July 15 and Aug. 14, at 11; Birmingham. Off. Ass. Kinnear. Sol. Flewker, Derby. Pet. July 8.
SOLOMON, LOUIS, Cap Manufacturer and Trimming Seller, 124, London-wall, London. Com. Evans: July 25 and Aug. 14, at 2; Basinghall-street. Off. Ass. Bell. Sols. Blake & Snow, 22, College-hill, Cannon-street. Pet. June 24.
WILSON, RICHARD, Flax Spinner, Leeds. Com. Ayrton: July 23 and Aug. 20, at 11; Leeds. Off. Ass. Hope. Sols. Teale & Appleton, Leeds. Pet. July 2.
WILSON, THOMAS, Saddler, Calverley, Salop. Com. Sanders: July 19 and Aug. 8, at 11; Birmingham. Off. Ass. Kinnear. Sols. Potts & Gordon, Bridgnorth, or James & Knight, Birmingham. Pet. July 3.

FRIDAY, July 12, 1861.

ANDREWS, JOHN GEORGE, Licensed Victualler, Powder Platter Public-house, Charles-street, Hatton-garden, Middlesex. Com. Fane: July 26, at 12.30, and Aug. 23, at 11.30; Basinghall-street. Off. Ass. Cannan. Sol. Edwards, 12, Farnival's-inn. Pet. July 10.
BENTON, JOHN WHEELOON, Picture Frame Maker, 62, Sun-st., Bishopsgate-st., London. Com. Evans: July 25, at 11, and Aug. 29, at 12; Basinghall-street. Off. Ass. Bell. Sol. Weatherfield, 17, Devonshire-square. Pet. July 4.
BRAINE, JOSEPH, Grocer, Joiner, & Farmer, Methley, York. Com. Ayrton: July 29, and Aug. 20, at 11; Leeds. Off. Ass. Hope. Sols. Rayner, Harbury, or Bond & Barwick, Leeds. Pet. July 11.
BROWN, PATRICK, Lead & Glass Merchant, 3, Puddington-green, and 7, West-place, Islington-green, Middlesex. Com. Fane: July 25, at 11.30, and Aug. 30, at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Lawrence, Smith, & Fawdon, 12, Broad-street, Cheapside. Pet. July 11.
BROWN, ISAAC, Wine Merchant, late of Brabant court, Philipot-lane, London, but now of 25, Philipot-lane. Com. Fane: July 24, at 1, & Aug. 23, at 11; Basinghall-street. Off. Ass. Cannan. Sols. Hensman & Nicholson, 25, College-hill. Pet. July 11.
BRUTON, JOHN, Dealer in Corn, Chandler, Wood & Manure Dealer, Hereford. Com. Sanders: July 26 & Aug. 16, at 11; Birmingham. Off. Ass. Whitmore. Sols. Garrold, Hereford, or E. & H. Wright, Birmingham. Pet. July 10.
COCKATNE, CHARLES, Builder & Licensed Victualler, Cannock Chase Burntwood, Staffordshire. Com. Sanders: July 26 & Aug. 16, at 11; Birmingham. Off. Ass. Kinnear. Sols. Jackson, West Bromwich, or E. & H. Wright, Birmingham. Pet. July 10.
DEPRIES, ELEAZAR, Gas Meter, Stove & Bath Manufacturer, 403, Enston-road, Middlesex, and of 19, Tavton-street, Middlesex. Com. Holmoyd: July 23, at 1.30, and Aug. 27, at 12; Basinghall-street. Off. Ass. Edwards. Sol. Lindus, 35, Bedford-row, London. Pet. July 2.
HALL, ROBERT, Army Clothier & Tailor, Great Warley, Essex. Com. Holmoyd: July 15, at 11, and Aug. 13, at 11.30; Basinghall-street. Off. Ass. Edwards. Sol. Preston, 14, Broad-street-buildings, London. Pet. July 2.
INGLEDEW, JAMES FREDERICK, Coal Merchant & Furniture Dealer, 20, St. James's-street, and of 7, Rock-place, Brighton. Com. Fane: July 24, at 11, and Aug. 23, at 1.30; Basinghall-street. Off. Ass. Cannan. Sols. Lawrence, Plews, & Boyer, 14, Old Jewry Chambers, Old Jewry. Pet. July 9.
JONES, MARY ANN PILON, Widow, Licensed Victualler, 2, Buckingham-street, Strand, Middlesex. Com. Fane: July 24, at 12, and August 23, at 2; Basinghall-street. Off. Ass. Whitmore. Sol. Wild & Barber, 104, Ironmonger lane. Pet. July 10.

MASON, JOHN GURNEY, Ironmonger, Ironmonger-street, Stamford, Lincolnshire. Com. Sanders: July 23, and August 20, at 11.30; Nottingham. Off. Ass. Harris. Sols. James & Knight, Birmingham, or to Shephard, 9, Sise-lane, London. *Pet.* July 5.

MONK, HENRY, Furniture Dealer, Shoebournness, Essex. Com. Fane: July 23, at 2, and August 23, at 1; Basinghall-street. Off. Ass. Whitmore. Sol. Wells, 47, Moorgate-street. *Pet.* July 9.

ROBERTS, WALTER, Builder, Phoenix Works, East Stonehouse, Devonshire. Com. Andrews: July 23, and Sep. 2, at 12.30; Plymouth. Off. Ass. Hirtzel. Sols. Elworthy, Curtis, & Dawe, Plymouth. *Pet.* July 11.

SMITHSON, STEPHEN STORRY, Provision Merchant & Ship Owner, Kingston-upon-Hull. Com. Ayton: July 24, and August 21, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sols. Lightfoot, Earnshaw, & Frankish, Hull; or Pettinell, Hull. *Pet.* July 6.

WORSLEY, JOSEPH, Draper, Wiltton, Chester. Com. Perry: July 23, and Aug. 18, at 12; Liverpool. Off. Ass. Bird. Sol. Cheahire, Northwich. *Pet.* July 9.

BANKRUPTCY ANNULLED.

TUESDAY, July 9, 1861.

COLLIER, JAMES, Topmaker, Menston, Yorkshire. July 4.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, July 9, 1861.

BROWN, WILLIAM, Butcher, Marlborough, Wilts. Aug. 1, at 11; Bristol. — **HOLDICH, THOMAS LOW**, Ironmonger and Seedsman, Hinckley, Leicestershire. Aug. 2, at 11; Birmingham. — **HULFORD, JOSEPH**, Licensed Victualler, Navigation Inn, Oxford-street, Birmingham. Aug. 2, at 11; Birmingham. — **JOHN, WILLIAM**, Grocer, Draper, and Dealer in Provisions, Pontypridd, Glamorganshire. Aug. 1, at 11; Bristol. — **PEARSON, GEORGE**, Machine Maker, Store-street Mills, Manchester (George Pearson & Co.) Aug. 6, at 12; Manchester. — **PERKES, SAMUEL**, Engineer, Manufacturer of and Dealer in Machines for the Crushing of Ores, and Manufacturer of and Dealer in Bedsteads. Aug. 1, at 1.30; Basinghall-street. — **RILEY, JOHN**, Ironfounder and Machine Maker, Blackburn, Lancashire. July 31, at 12; Manchester. — **ROBINSON, MARK**, Shoemaker and Leather Seller, Bloxwich, Staffordshire. Aug. 3, at 11; Birmingham. — **STARKEY, RICHARD**, Draper, Stroud, Gloucestershire. Aug. 1, at 11; Bristol. — **STOVELD, MARGARET JANE**, Ship Builder, Blyth, Northumberland. August 1, at 1; Newcastle-upon-Tyne. — **SUTCLIFFE, JOSEPH**, Upholsterer, Scarborough, Yorkshire. July 29, at 11; Leeds. — **TURPIN, WILLIAM**, Rhdler, Methley, near Leeds. July 29, at 11; Leeds. — **WOOLSTORTON, CHARLES**, Ironmonger, 73 & 74, West Smithfield, London. Aug. 1, at 12.30; Basinghall-street. — **YOUNG, JOHN JAMES CHRISTOPHER**, Licensed Victualler, Duke of Wellington Public-house, Stonebridge-common, Kingsland, Middlesex. Aug. 1, at 11; Basinghall-street.

FRIDAY, July 12, 1861.

BARTON, THOMAS, TANNER, Liverpool (Barton & Son). Aug. 2, at 12; Liverpool. — **BEART, MORLEY**, Brickmaker, Upwell, Norfolk. Aug. 2, at 1.30; Basinghall-street. — **BELLAMORE, RICHARD**, Baker, Grocer, & Draper, Boon Gate and New England, Peterborough. Aug. 2, at 12; Basinghall-street. — **CALVERLEY, JOHN**, Builder, 34, Portsdown-road, Maida-valle, Middlesex. Aug. 2, at 1.30; Basinghall-street. — **COPELAND, ELIZABETH**, Widow, Grocer & Druggist, March, Cambridgeshire. Aug. 2, at 2; Basinghall-street. — **EGAN, ROBERT**, Gun Maker, Bradford. August 2, at 11; Leeds. — **HIGHWAY, THOMAS, & CHARLES HIGHWAY**, Iron Masters, Coal Masters, Iron Manufacturers, Line Masters, Brickmakers, Millers, Maltsters, Bakers, & Provision Dealers, Walsall, Stafford. Aug. 5, at 11; Birmingham. — **HOLT, THOMAS**, Retailer of Beer, Leeds, York. Aug. 2, at 11; Leeds. — **MARSHALL, WILLIAM SKYMOCK**, Cooper & Hardwareman, Durham. Aug. 2, at 11.30; Newcastle-upon-Tyne. — **ROBINSON, BENJAMIN**, Cloth Merchant, Huddersfield, York. Aug. 2, at 11; Leeds. — **TONGUE, JOSEPH**, Boot & Shoe Maker, Rugby, Warwick. Aug. 2, at 11; Birmingham. — **TURNER, JOHN**, Grocer, Halifax, York. Aug. 2, at 11; Leeds. — **WHITELOCK, PETER**, Grocer, Leeds, York. Aug. 2, at 11; Leeds. — **YOUNG, FREDERICK**, Woollen Warehouseman, 29, Basinghall-street, London. Aug. 2, at 11.30; Basinghall-street. — **YACOTTI, FRANCIS LK.**, Wine Merchant, Muscovy-court, Tower-hill. Aug. 2, at 1; Basinghall-street.

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THE SOLICITORS' JOURNAL.

LONDON, JULY 20, 1861.

CURRENT TOPICS.

The Benchers of the Inner Temple have at length arrived at a decision in the case of Mr. Edwin James, which has been notoriously pending before them for some months past. On Thursday evening, they decided after a long investigation and many adjournments, that Mr. Edwin James should be disbarred, and the decision was ordered to be communicated to all the judges of the superior courts, both of law and equity, and the other three inns of court. We are not aware whether this communication will disclose anything more than the mere fact of the name of Mr. James being struck off the roll of the Inner Temple. It is rumoured very currently, however, that the most serious charge which the benchers had to consider was not that in respect of which Mr. James is said to have been compelled to relinquish his seat in Parliament, and the recordership of Brighton, but another, more immediately affecting his character as an advocate. But as all the proceedings have been conducted with secrecy, it is not likely that the public or the profession will ever have any opportunity of learning upon authority either the specific charges or the character of the evidence which was brought against Mr. James. It has been reported that while the proceeding was still pending, Mr. James offered, if it were allowed to drop, to give an undertaking never again to practise in England or any English colony, and that he made this offer with the view of proceeding to the United States in his character of an English barrister, and of obtaining leave to practise there, which will probably now be impossible. It has not yet been announced what the Government intend to do about his patent as Queen's Counsel. There is no instance on record, that we know of, in which one of her Majesty's Counsel has been disbarred; but there appears to be no room to doubt as to what ought to be done in such a case. It is impossible that a man who is declared unfit to remain a member of his Inn of Court should be allowed to hold professional rank and social precedence in his capacity of Queen's Counsel.

A commission to inquire into the constitution and procedure of the Irish common law and equity courts is about to be issued on the motion of Lord Clanricarde. Its main ground is that the judicial establishment in Ireland has grown out of all proportion with the work which it has to perform. If reliance can be placed upon the statistics which have been adduced, there certainly appears to be insufficient work in Ireland for twelve superior common law judges. According to Lord Clanricarde two puisne judges in England do as much as nine in Ireland. The question is one in which both suitors and solicitors are especially interested, as the most serious portion of the cost of litigation arises at present from the heavy court fees which are required to maintain expensive judicial establishments.

In the case of *Clarke v. Mitchell*—an appeal before the House of Lords on Wednesday last—of the two law lords present when judgment was delivered one, Lord Cranworth, was for affirming, and the other, Lord Wensleydale, was for reversing the decision of the Court

below; and their lordships being equally divided in opinion, the judgment appealed from was affirmed. Thereupon some discussion took place with regard to the question of costs, on which also there was a difference between the two learned lords—Lord Wensleydale desiring to have the appeal dismissed without costs, upon the ground that there was an equal division of opinion between the judges of appeal; but Lord Cranworth considering that the appeal ought to be dismissed with costs, because it was usual for the costs to follow the event; and the question being put to their Lordships' House, the decision was in favour of Lord Cranworth's view on this point. This decision corresponds to that of the present Lord Chancellor, reported last week in this journal. Lord Westbury there stated that, unless in very exceptional cases, he was of opinion that costs ought to follow the event. Although this rule, if too inflexibly adhered to, may sometimes work harshly, there is no doubt that, upon the whole, it is very convenient, and tends to discourage protracted and reckless litigation.

The massacre of the innocents has commenced already. The Trade-marks Bill, after passing the House of Lords, and gaining a second reading in the House of Commons, has been shelved till next session. Mr. Milner Gibson announced on Thursday evening, that since considerable difference of opinion existed as to what the precise provisions of a Bill to prevent the forging of trade-marks should be, it was thought advisable to bring it in at the earliest moment next session and to refer it then to a select committee. It therefore stands over for the present.

The National Association for the Promotion of Social Science proposes to hold its fifth annual meeting at Dublin, from the 14th to the 21st of next month. Lord Brougham will preside. In the department of "Jurisprudence and Amendment of Law," of which the Right Hon. Joseph Napier is president and one of the Irish judges is vice-president, papers upon the following subjects will be read:—

I. The Principles of Jurisprudence and Legislation.—Province of legislation, adaptation of law to social changes, statute law of Ireland as compared with that of England.

II. The Method of Legislation.—The preparation and passing of Bills, minister of justice, judicial and legislative statistics, codification, &c.

III. The Administration of Justice.—Superior and local courts, procedure and evidence—Professional regulations.

IV. Laws relating to Property.—Mercantile law—Real property law, transfer of land, registration of title—Landed Estates Court, patent law, &c.

V. Laws relating to Persons.—The law of marriage, law of domicile, &c.

The honorary secretaries of the department are—in England, J. Napier Higgins, Esq., of Lincoln's-inn, and Arthur Ryland, Esq., of Birmingham; in Ireland, D. C. Heron, Esq., Q.C., and W. D. Ferguson, Esq., LL.D. Any gentleman desirous of reading a paper at the meeting should send the same to the General Secretary, at the office of the society, 3, Waterloo-place, Pall-mall, London, or to one of the honorary secretaries of the department, on or before the 1st of August next; and the subject, the name of the author, and his address, should be written on the first page of the paper.

THE BANKRUPTCY BILL.

The reception which the proposal of the Government to retain a chief judge in bankruptcy met on Thursday night in the House of Commons renders it very unlikely

that the Bill will pass this session. The amendments which were made by the Lords were very numerous, but most of them were merely obvious corrections and emendations in a draft which was never remarkable for its lucidity of arrangement or accuracy of expression. The Lords, however, made two important and radical changes in the measure. They struck out the clauses providing for the appointment of a chief judge and the constitution of a new Court of Appeal in Bankruptcy; and they also very much modified the clauses relating to the creditors' assignees, so as in effect to restore the functions of the official assignee. After a considerable delay and some disappointments, Lord Palmerston on Tuesday evening stated to the House of Commons that the Government intended to recommend the House to agree to the Lords' amendments in regard to the constitution of a new court of appeal, but that the Government was disposed to insist upon a preference of the clause relating to creditors' assignees. On Thursday, however—notwithstanding this announcement of the Premier—the Attorney-General made an elaborate speech against these amendments of the Lords, which he considered, “whether for good or for evil, materially affected the character and scope of the measure.” Although his speech was a long one, and had evidently been carefully prepared, the arguments which he adduced in favour of his motion may be fairly stated in a very small compass. First, he alleges that the present Court of Appeal in Bankruptcy is costly and dilatory, and that the Lords Justices could not be expected “to address themselves summarily to appeals in bankruptcy to the neglect of their more ordinary business.” This argument, however, as Mr. Rolt subsequently stated, proceeds upon a mere hallucination. There is no reason why an appeal to the Lords Justices should cost one shilling more than an appeal to a Chief Judge, and we believe that Sir William Atherton's estimate of £60 “as the smallest or the average expense,” is the purely conjectural statement of an advocate. At all events whatever the average expense of an appeal in Bankruptcy may be at present, it is owing either to the character of the general run of the cases or to onerous Court fees. If proceedings before the existing Court of Appeal are burdened by the latter, that is no reason why Parliament should constitute a new court for the purpose of easing suitors of this burden. It may be removed in a less expensive way than by creating a new tribunal for the purpose. No one can pretend that the proposed court would so alter the character of the business in appeals coming before it as to reduce the costs to any appreciable extent in this manner. But Sir William Atherton also objects to the present court on the ground that its proceedings are dilatory, and that it has not time to attend to appeals in bankruptcy. Both of these statements, however, are such as ought not to have been made in Parliament by a law officer of the Crown, because neither of them has any foundation in fact. Appeals in chancery and also in bankruptcy are now heard with much greater expedition than appeals are heard at common law. We believe that, as a rule, any bankruptcy appeal may be heard within two or three weeks after it is put in the paper for hearing; and throughout all the agitation which has taken place for the reform of the bankruptcy law no one ever alleged the dilatoriness of the present court of appeal as a reason for the proposed change. The Attorney-General having made the charge of delay, was of course bound to account for it; and he does so by referring to the great amount of important business, besides appeals in bankruptcy, which the Lords Justices have to attend to, and which, he says, they must neglect if they were not to postpone bankruptcy appeals. It is evident that when the Attorney-General made this statement he had taken very little trouble to acquaint himself with what he was talking about. It is matter of notoriety in the profession that for the last two or three years the chancery appellate business has

been frequently at zero, that the courts of appeal have been living merely from hand to mouth, and that the Lords Justices have sometimes been enabled to attend the Privy Council for want of work at Lincoln's Inn. Everybody knows that the Rolls more than once lately has been closed, because there were no causes in the paper for hearing. Even the general public have read in all the newspapers that when the late Lord Chancellor rose at the commencement of last long vacation, there was not a single appeal then pending. Is it not then a little too bad to hear the first law officer of the Crown making such statements to the House of Commons as the ground for its rejecting an amendment of the Lords, which was adopted by their lordships on the recommendation of Lords Cranworth, Kingsdown, St. Leonards, Wensleydale, and Chelmsford, and which had no other opponent among the law lords than Lord Chancellor Campbell? The number of appeals decided in bankruptcy by the Lords Justices last year was only forty-five; but assuming it to be doubled or trebled under the proposed new jurisdiction of the county courts, we have no hesitation in saying that the present Court of Appeal will be able to do the work not only with sufficient speed, but in a manner more completely satisfactory than could be expected from a single judge.

The next argument of the Attorney-General in favour of a new appeal judge, relates to his proposed duties at chambers. The 59th clause of the Bill as it stood when it went to the House of Lords provided that the chief judge and commissioners should respectively sit at chambers for the dispatch of such part of the business of their courts as could “without detriment to the public advantage arising from the discussion of questions in open court” be heard in chambers; and by the 61st clause, any party during the proceedings before a registrar was to be at liberty to take the opinion of the judge or commissioner upon any point or matter arising in the course of such proceedings, which was to be stated by the registrar in the shape of a short certificate to the judge or commissioner, and his signature to the same was to be binding on all parties to the proceeding. The Lords in these two clauses have simply struck out the judge and not interfered with the jurisdiction intended to be conferred upon the commissioners. The Attorney-General, however, considers that the provision of the Bill enabling any party to have recourse to the chief judge for his advice would confer a great advantage both on debtors and creditors. Upon this question we have only to remark that the work done at chambers is much more suitable to a commissioner or a county court judge than to a purely appellate judge. There can be little doubt that practically the 59th clause would be a dead letter so far as it affected the chief judge; and it is not easy to imagine any case of an appeal in bankruptcy which ought not to be discussed in open court rather than in chambers. The 61st clause as it stood before amendment by the Lords was simply preposterous. Last year there were 2,820 petitions in the Insolvency Court, and 1,336 bankruptcies and petitions for private arrangements. There were also over 14,000 creditors' deeds of arrangement which, under the present Bill, must be registered in the new court. If, therefore, the chief judge had been appointed last year, every one of the parties to these 18,000 and odd causes and proceedings, would have been at liberty, as often as he pleased, while the proceedings were before the registrar, to require that officer to frame a case for the opinion of the chief judge. Sir William Atherton says that under the proposed system, not only the number of appeals, but the entire bankruptcy business of the country would be greatly increased; but still being fearful that the appellate business would be insufficient to occupy the time of the chief judge, he suggests that the applications under the 61st clause from parties desirous to have his opinion, would probably be sufficient to prevent him

from having an unreasonable amount of leisure. But we cannot help thinking that if the clause is not in practice made altogether nugatory, so far as it affected the chief judge (which would undoubtedly be the case), he would not only have no leisure on his hands, but would have no time to attend to his proper business of hearing appeals. But, in truth, this specious and new-fangled notion of every party to a cause being at liberty to rush into the chambers of every judge for extempore advice and assistance, has been found practically to be a "delusion, a mockery, and a snare." It has proved utterly abortive in the Court of Chancery, and so it would in the Court of Bankruptcy. It proceeds altogether upon a misconception of the proper functions of the judge, and of the relation between him and suitors. It is an attempt to introduce into England the practice of Utopia. Sir Thomas More tells us, *Utopienses causidicos excludunt . . . robus ut suam quisque causam agat, eamque referat judici quam narraturus fuerat patrono; sic minus ambagum, et veritas facilius elicietur.* We admit that old Burton, in his "Anatomy of Melancholy," argues in favour of the same rule; for he would have "every man, if it were possible, to plead his own cause, to tell that tale to the judge which he doth to his advocate, as at Fez in Africk, Bantam, Aleppo, Raguse, *suam quisque causam dicere tenetur;*" and M. Ubicini, in his book on Turkey, tells us that even at the present day the Government of that country provides lawyers who are bound, for a fee of about twopence-halfpenny of our money, to answer any case that is presented to them. But notwithstanding the strong efforts which have recently been made to introduce the same system into this country, and the establishment of a number of law agencies in the district probate registries throughout the provinces, we expect upon the whole it will be found somewhat impracticable and very unsuitable to the notions and habits of Englishmen. Lord St. Leonards' Property Act of two years ago enabled trustees and executors to obtain at chambers in a summary manner, upon a written statement, not only the opinion of a chancery judge, but also his advice or direction on any question respecting the management or administration of the trust property. This was considered at the time a great boon by some short-sighted would-be law reformers; but all lawyers of any experience in such matters knew well enough that, practically, this specious enactment must be a dead letter. Its only effect could be, on the one hand to convert the chancery judges into universal and perfunctory law advisers of all the trustees and executors in the country; or, on the other, to make them discourage parties from coming before them, except after previous advice and consideration, and with cases framed not only to elicit, but to be a record of, the judge's opinion when obtained. Nor is there any ground whatever for supposing that if— notwithstanding the opinion of the House of Lords—a new Court of Appeal in Bankruptcy shall be constituted, the 59th clause which affects to enable everyone of at least 100,000 persons to require the opinion of the chief judge upon every "point" or "matter" arising in the course of the proceedings in which they are interested, will not prove itself to be wholly inoperative and delusive.

The other points touched upon by the Attorney-General related to the criminal jurisdiction of the new court, and the power of the judge to try issues of fact before himself and a jury. As to these points it may be remarked that modern experience has shown, especially in county courts, how rarely the intervention of a jury is sought when it depends upon the option either of the parties or of a judge. But if juries are so very important in some bankruptcy questions, why should not their aid be invoked for the Lords Justices as well as for the new chief judge? and why should not the present Court of Appeal have as much power as the proposed one to punish bankrupts? We altogether agree with those speakers in the debate of Thursday night

who considered the new judge as a mere excrescence upon the pending measure, and as involving a large and useless expense. Mr. Bovill well likened the present proceeding to Lord Brougham's project of 1831, which inflicted upon the country a Superior Court of Bankruptcy, originally consisting of four judges, of whom three became pensioned off, leaving a single Chief Judge in Bankruptcy, who was finally abolished from sheer want of business. The lesson which the country was then taught ought not to be yet forgotten; and although a majority of the House of Commons has refused to adopt the amendment suggested by the House of Lords on the united recommendation of nearly every one of their great lawyers, we hope the country may be saved the expense, and the profession the scandal of a new tribunal for which no occasion really exists, and which must necessarily be idle more than half its time.

ON THE LAW OF TRADE MARKS.

No. VII.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Nature of a Trade Mark in Literary Property not the Subject of Copyright.

We have now to consider those cases in which the use of a particular title or title-page to a book or the use of an author's name, has been restrained by injunction. For such cases, although they can hardly be classed under the strict head of trade-marks, are yet so far similar, that we find the same principles brought to bear in the decisions on them as are laid down in cases of trading.

The first of these cases is *Hogg v. Kirby*, 8 Ves. 215, where the plaintiff was proprietor of a monthly magazine published by the defendant, and sold at his shop upon commission. This publication continued during five months, but at the end of that time disputes arose between the parties; it was agreed to discontinue the joint publication, and a final settlement of accounts was had. The plaintiff then circulated advertisements stating that the publication under its old title would be continued by him, and that a sixth number of the magazine would be, as it accordingly was, shortly afterwards published by him. The defendants at once advertised and published the first number of a periodical work under a title similar to the plaintiff's, but described as a "New Series Improved." The injunction applied for was to restrain them from selling any copies of their publication, and from printing or publishing any future or other number either under the same or any similar appellation, and from borrowing and using the title and appellation or copying the ornaments or any part of the plaintiff's original publication. Several circumstances were alleged by the bill to show that the defendant's work was intended to mislead the public to the conclusion that it was a continuation of the plaintiff's; such as the general resemblance, though not an exact similarity of its title-page and wrapper, the continuation in the new magazine of an article left unfinished by the old, and the publication of an index to the first five numbers of the old work, under the name of an index to the first part. This intention was, however, denied by the defendant's answer, which attempted to give a sufficient reason for the steps which he had taken in composing the form and substance of the new magazine, to show that it was not intended by him to represent it to the public as a continuation of the old work, and he submitted that he had a right to publish a work under a similar title. The Court, however, held that upon the facts stated, there appeared to be an intention on the part of the defendant to put his work before the world as a continuation of the old magazine. Lord Eldon there did not rest his decision so much on the ground of copyright or of con-

tract, but relied principally upon that of fraud. After referring to other cases as having been generally where, under colour of a new work, an old work has been republished, and copies multiplied, he proceeds to consider whether the same principles may not be applied to the case before him, and goes on to say,—“In this case, while protesting against the argument, that a man is not at liberty to do anything which can affect the sale of another work of this kind, and that, because the sale is affected, therefore there is an injury (for if there is a fair competition by another original work, really new, be the loss what it may, there is no damage or injury), I shall state the question to be not whether this work is the same; but, in a question between these parties, whether the defendant has not represented it to be the same, and whether the injury to the plaintiff is not as great and the loss accruing ought not to be regarded in equity upon the same principles between them as if it was in fact the same work.” What we may gather from this decision amounts to this, that by a certain resemblance of form and matter a publisher may put forth to the public a literary work so as to be taken for another work of established reputation, so that the advantage in the market enjoyed by the original work is fraudulently obtained by the copy; and that this advantage in the market corresponds in some measure with the property created by the Copyright Act, and will be protected by the Court on analogous grounds.

The case of *Spottiswoode v. Clarke*, 2 Ph. 154, is of a similar character. There an application to discharge an order of the Vice-Chancellor was granted because the Court was not satisfied that it was a case in which the plaintiff had a legal right against the defendant, so as to justify it in restraining the latter from the sale of his work until the legal right had been established in the proper tribunal. The injunction had been granted to restrain the defendant from selling or exposing for sale any almanacks bound in wrappers or covers with the title “Pictorial Almanack” printed thereon, so as, by colourable representation or otherwise, to represent the almanack published and sold by the defendant to be the same as the almanack printed and sold by the plaintiff for the coming year, with a direction that the plaintiff should forthwith bring an action against the defendant for the alleged colourable imitation of his wrapper. I have (*sup.* p. 540) quoted some of the remarks of Lord Cottenham on this case, showing that the difficulty felt by him was, as to the question whether the legal title of the plaintiff was so clear as to make the interference of a court of equity by injunction the most reasonable course. The following remarks of his lordship are, however, worthy of notice:—“In the course of argument, cases of trade-marks were referred to; but trade-marks have nothing to do with this case. Take a piece of steel; the mark of the manufacturer from whom it comes is the only indication to the eye of the customer of the quality of the article; so it is of blacking, or any other article of manufacture, the particular quality of which is not discernible by the eye. But these cases are quite different from the present case, in which, if you are deceived at all, it is not by the eye; the size, the colour, the engravings, are all different in the two works, so that no one who sees the two could mistake the one for the other.” In this last remark, I imagine, lies the whole gist of the question; where the alleged imitation is such that a person cannot detect the difference between two works without a critical examination of the style and title of each; perhaps even where a casual observer would probably be induced to purchase the imitation in the place of the original, then the principle laid down in cases of trade-marks is applicable, and the use of a particular name, title, or wrapper will be restrained.

There is a remarkable case of *Lord Byron v. Johnston*, 2 Mer. 29, the principle of which, it seems to me,

to be somewhat difficult to reconcile with the decision in *Clark v. Freeman*, 11 Beav. 112. In the former case the defendant, a publisher, advertised for sale certain poems which he represented by the advertisement to be the work of Lord Byron, on whose behalf a bill was (during his lordship's absence abroad) filed to restrain the publication under the title described in the advertisement. There appears to have been some doubt at the time of original application whether or not the poems were Lord Byron's, but when the defendant at the hearing declined to swear as to his belief that the poem in question was actually the work of Lord Byron, the Court granted the motion for an injunction until answer or further order. Now, is not this something like recognising a proprietary right in a mere name? At any rate, it goes so far as to grant relief against damage arising from the use of a particular name in conjunction with a particular article offered for sale; it being impossible for the purchaser to ascertain on inspection the truth or falsehood of the representation on the faith of which he buys the article. In *Clark v. Freeman*, as I have before remarked (*sup.* p. 487) it was held that Sir J. Clark had no property in his name such as would be liable to damage from the unauthorized use of it by the defendant, as a puff to recommend his consumption pills. The only distinction, therefore, which I can draw between the two cases, that in the former the author must be held to have a species of property in his name, consisting in the recommendation to the public, which the use of that name gives to the sale of a literary work; if Sir J. Clark had been in the habit of selling medicines, or of deriving a profit from the sale of medicines, it might have been argued that by the piracy of his name, his trade had suffered injury; but the Court would not recognise an injury done to his reputation, which it treated as an illusory damage; it must, therefore, have held in the former case that the author has a species of interest in his name quite similar to that of a trader in his name or mark affixed to the articles of his manufacture.

From the general considerations, therefore, brought forward in these cases of literary works, I think we may fairly conclude that an author or publisher has, either in the title of his work, or in the application of his name to that work, or in the particular external marks which distinguish it, just such a species of property as a trader has in his trade-mark, and may equally claim the protection of a Court of Equity against such a use or such an imitation of that name or mark as is likely, in the opinion of the Court, to be a cause of damage to him in respect of that property.

The Courts, Appointments, Promotions, Vacancies, &c.

SUMMER ASSIZES.

HOME CIRCUIT.—CHELMSFORD.

July 15.—The commission for the county of Essex was opened in this town to-day by Mr. Justice Williams and Mr. Justice Blackburn. Eleven causes were entered for trial, two of them being special jury causes.

MIDLAND CIRCUIT.—LEICESTER.

July 13.—The commission was opened in this town to-day by Mr. Justice Willes. There were only two causes set down for trial.

NOTTINGHAM.

July 17.—The Lord Chief Baron opened the commission in this town to-day.

NORFOLK CIRCUIT.—BEDFORD.

July 15.—The commission was opened in this town to-day by Mr. Justice Wightman.

SOUTH WALES CIRCUIT.—HAVERFORDWEST.

July 11.—Mr. Justice Crompton opened the commission here on this day. There was not a single cause entered for trial.

MIDDLESEX SESSIONS.

At the close of their duties on the 15th instant the grand jury handed to the judge the following protest:—"The grand jury cannot separate without expressing their opinion that no necessity appears to them to exist for the continuance of the duties of the grand jury, all the cases laid before them at this session having already been fully investigated by a stipendiary magistrate, and which preliminary inquiry appears to them all sufficient (checked as the absoluteness of the power is by the press) to preserve a prisoner from being unduly or unfairly placed on his trial, without the intervention of a grand jury, the machinery of which seems to be useless for the purpose of justice, and alike troublesome and expensive to prosecutors, witnesses, and jurymen."

On Thursday evening, at a parliament held, after many adjournments, Mr. Edwin James, Q.C., was disbarred by the benchers of the Inner Temple, and that fact was ordered to be communicated to all the judges of law and equity, and the other three inns of court.

Mr. William Thrush Jefferson, Northallerton, Yorkshire, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the North Riding of the county of York.

Parliament and Legislation.

HOUSE OF LORDS.

Monday, July 15.

ADMINISTRATION OF JUSTICE IN IRELAND.

The Marquis of CLANRICARDE rose to move an address to the Crown for the appointment of a commission to inquire into the constitution, practice, and procedure of the common law and equity courts in Ireland. He complained that the reform of the practice and procedure of the English courts had not been extended to the Irish courts. The result was not only a great waste of money and time to suitors in Ireland, but an extravagant expenditure of public funds, for the judicial establishment was overgrown, and out of all proportion to the work it had to perform. The value of property assessed to the income-tax in England exceeded £246,000,000. The value of property so assessed in Ireland, where the population was, he believed, about 7,000,000, was only £22,000,000. He wished to call particular attention to the fact of the existence of three masters, performing judicial duties, when those offices had been practically abolished in England. How extravagant the staff of equity judges in Ireland was appeared by a comparison of the business of those courts with the business of the equity courts in England. The total amount of money paid out of the English Court of Chancery in 1859, was £14,185,035. The amount paid out of the Irish Court of Chancery was £1,145,000, or about one-fourteenth. The cash, stocks, and securities, held by the Court of Chancery in England amounted in October, 1858, to nearly £53,000,000. The cash, stocks, and securities, held by the Court of Chancery in Ireland, amounted on the 1st of January last to nearly £4,000,000. The amount of business in the Irish court was infinitely inferior to that of the English court, and yet the cost of administering property in the English Court of Chancery was little more than one-third that of the Irish court. The expenses of the common law courts had increased in proportion as the business had decreased. The staff was larger than necessary, for, while there were only 15 common law judges in England, there were 12 in Ireland. These 12 might safely be reduced to 9, and instead of six circuits, four circuits would be quite sufficient. As far as he could make out, two puisne judges in England did as much work as nine puisne judges in Ireland. In England the number of orders made in chambers in 1859 was 44,970, of which 41,325 were made without the attendance of counsel, the number of chamber orders made in Ireland in 1860 were 1,782, of which a few more than 100 only

were made without the attendance of counsel. In 1851 the number of judgment cases entered in the three law courts in Ireland was 7,229, at a cost to the public in salaries and emoluments of £17,759, while in 1859 the number of cases and judgments entered had dwindled to 3,421, and the expense had risen to £22,399. The only objection which he could conceive to the motion was that it would be unpopular with the profession in Ireland, as it would diminish the number of places; for there could be no doubt that the effect of new regulations in the law courts would be to diminish the amount of public money expended on the staff of these courts, and the number of fees uselessly paid. He did not believe that any Irish lawyer worthy of his profession would take such an objection. His object was to raise the Irish bar. He moved that an humble address be presented to her Majesty, praying that her Majesty would be graciously pleased to issue a royal commission to inquire into the constitution, establishment, practice, procedure, and fees, of the superior courts of common law in Ireland; and the differences between the constitution and the forms of practice, procedure, and fees of the Courts of Chancery of England and of Ireland.

Lord WENSLEYDALE supported the motion.

Earl GRANVILLE admitted that a clear case had been made out for inquiry in this matter, and he, therefore, on the part of the Government, would make no opposition to the motion.

Lord BROUGHAM said that nothing could be more necessary than the issuing of this commission, but there was one part of the subject which required an inquiry, he meant the subject of judicial statistics. Whether the laws and the practice of the two countries required assimilation might demand investigation, and in all possibility legislative interference, but a system of judicial statistics ought to be extended to Ireland, as it had been to Scotland and to England.

After a few words from the Marquis of CLANRICARDE in reply,

The motion was agreed to.

Thursday, July 18.

EXAMINATION OF DEFENDANTS IN CRIMINAL CASES.

Lord BROUGHAM, in presenting a petition from Mr. Blundell on this subject, said he had always desired to extend to criminal trials the great improvements which had been introduced with regard to civil actions, in which the examination of the defendant was not only permitted, but in some instances had now been rendered compulsory. He would not make it imperative upon the accused to give evidence, but he would permit him to do so in case he thought proper; and the fact that the defendant either did or did not submit himself to cross examination was fairly entitled, in his opinion, to weight with the jury. The facts disclosed in the petition which he had presented strongly illustrated the necessity for such a change in the law. Mr. Blundell, in his endeavours to improve the administration of the county court, became involved in a correspondence which, it was alleged, partook of a libellous tendency. Proceedings were taken against him, and Mr. Blundell offered to deposit £100, to cover the costs of his adversary, if he would allow the action to be brought in a shape which would admit of his being examined. That proposition, however, was declined, and an indictment was brought against him not only for libel, but for an attempt to extort money. The latter part of the case broke down, and an acquittal was directed; but the charge of libel was persevered in, and as Mr. Blundell was unable to be heard in his own defence, he was convicted. His only remedy, as he was advised, was to prosecute his opponent, who would in turn be debarred from giving evidence in his own behalf. Mr. Blundell complained of this state of the law of libel, and asked that defendants might be heard in their own behalf. For his own part, he would be prepared to go further, and to extend the principle to all criminal cases.

HOUSE OF COMMONS.

Tuesday, July 16.

THE BANKRUPTCY BILL.

Lord PALMERSTON: I promised to state to the House this afternoon what course we mean to pursue in regard to the Bankruptcy Bill. There are three main points in which the Lords have made amendments to that Bill. One is as to the appointment of the judge; another is the substitution of official assignees for the creditors' assignees; and the third is as to the retrospective operation of the Bill. What we mean to re-

commend to the House is to agree with the Lords' amendments in regard to the judge; in regard to the assignees, we must prefer the creditors' assignees. We have no proposal to make to the House in regard to the third point.

Wednesday, July 17.

CRIMINAL PROCEEDINGS OATHS RELIEF BILL.

The adjourned debate on the question that the House go into committee on this Bill was resumed by

Mr. DENMAN, who observed that the exact words employed in the Common Law Procedure Act had been introduced into the Bill, and that it had no other object than to carry out in criminal cases what was now the law in civil cases—to give the judge power to exempt persons from taking an oath who had a religious objection to so doing. The evils of the present system were that it oppressed tender consciences, and operated against the administration of justice; for cases occurred in which witnesses went to prison rather than give evidence on oath, and thus known criminals sometimes escaped conviction. As an illustration of the power of conscience in reference to oaths, he mentioned the case of a respectable lady who was a witness for the plaintiff in a case at the Lewes Assizes, and who was sent to prison because she refused to take the oath. So impressed was this lady that she had been the cause, though innocently, of the plaintiff losing his case, that she sent him a check for the full amount of the debt he had sued for. He hoped the House would observe that the Bill only referred to persons who had a religious objection to taking an oath.

The House then went into committee, when the clauses of the Bill were agreed to.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

The adjourned debate on this Bill was postponed until the 24th inst.

Thursday, July 18.

TRADE MARKS BILL.

Mr. HADFIELD asked the right hon. gentleman the President of the Board of Trade whether he intended to proceed with this Bill.

Mr. M. GIBSON replied that, as it stood, the Bill would give rise to great discussion, and it was not likely that it could be passed through the House this session. Considerable difference of opinion existed as to what the precise provisions of a Bill to prevent the forging of trade marks should be. The subject had never been referred to a select committee. It was, therefore, thought advisable that the Bill should be brought in the first thing next session, and referred to a select committee. The right hon. gentleman then moved that the order for going into committee on the Bill be read, for the purpose of being discharged.

The order was accordingly read and discharged.

HIGHWAYS BILL.

Mr. DENNIS stated that the Highways Bill had, since the 2nd of March, stood on the business paper no less than twenty-five times, and it would be a matter of great convenience to know when the Bill would really come on, for it had stood for to-morrow, but had been put off.

Sir G. LEWIS said, that the Bill now stood for Tuesday, at twelve o'clock, and he hoped to be able to bring it on then.

BANKRUPTCY AND INSOLVENCY BILL.

On the order for considering the Lords' amendments of the Bankruptcy and Insolvency Bill,

The ATTORNEY-GENERAL moved that the House disagree to the amendments in the preamble and other parts of the Bill which related to the appointment of a chief judge of the Court of Bankruptcy. He examined and discussed the reasons which he understood had been assigned for the rejection of the clauses creating a chief judge, and urged the great increase of business that would devolve upon the Court of Bankruptcy by the abolition of the Insolvent Debtors' Court; and that, besides the appellate jurisdiction and duties in the Court, there were duties in chambers which required a judge of that character, who, by the 67th clause, as it originally stood, was empowered to try questions of fact at once by a special jury,—a great advantage in proceedings in bankruptcy. The Court would likewise be authorized to determine differences arising under deeds of arrangement, and to exercise novel powers in criminal jurisdiction,—offences new to our commercial code being introduced into the Bill—which were not entrusted to judges of a

rank inferior to that which it was proposed to give to the Chief Judge of the Bankruptcy Court. In conclusion, he observed that it was impossible not to see that if the Bill passed without the judge clauses, in all probability parts of the measure that would have worked well with them would not work satisfactorily, and discredit would thus be entailed upon the Bill.

Mr. BOVILL, after remarking upon the great weight of legal authority in favour of excluding the judge clauses, and, upon the assent, tacit or expressed, to the same effect, of a large portion of the mercantile community, reminded the Attorney-General that the duties which he had elaborately detailed as appertaining to the chief justice might be performed by the Commissioners of Bankruptcy. The Bill had proposed to give £5,000 a-year to a new judge to perform a duty which up to the present time had been performed by a satisfactory tribunal; to transfer to a single judge functions now executed by the two lords justices. The Attorney-General had calculated upon an increase in the number of appeals; but was a new judge, with £5,000 a-year, to be appointed because there might be an increase in the number of appeals? If there should be an increase, what was easier than for the lords justices to have the assistance of one of the Vice-Chancellors or the Master of the Rolls? After replying to other arguments of the Attorney-General he saw no reason, he said, for dissenting from the opinion of the Lords.

Mr. COLLIER was of opinion that the House of Commons was right in providing a superior judge for the new Court of Bankruptcy.

Mr. MALINS stated the grounds upon which he thought it was not only essential that the chief judge should be retained, but that without a chief judge the measure would be worse than worthless. The present system had worked badly, and instead of being patched up, as Mr. Bovill recommended, he was of opinion it should be replaced by a new one. Unless the Bill created a good commercial court the House had been troubled in vain.

Mr. ROLT thought it would be wise to agree to the Lords' amendment, because it was most unwise to be tampering year after year with an important tribunal, making changes all but avowed not to be final but temporary, with a view to expediency, and going backwards and forwards. It would be far better, in his opinion, to continue the present system a little longer.

Mr. TURNER admitted that there existed in Manchester, as in Liverpool, a great diversity of opinion on the subject of a chief judge. He thought the appointment of a chief judge would be a great improvement, and should vote for the original proposition.

Mr. HENLEY observed that the real question was whether sufficient judicial power was now at command for the appellate jurisdiction. If it was, all agreed that it was a good and satisfactory tribunal, and if, when tried, it was found not to be able to do its work, a judge could be added; but if a judge was appointed before trial, and he was found to be unnecessary, he could not be got rid of. He believed, as well as others, that the present judicial power was sufficient.

Mr. WALPOLE said one thing was clear—that in introducing such a great alteration of the law, there should be a superintending judge; but he was bound to ask himself the question whether, this being a tentative measure, and future legislation might be necessary, was it right or not to saddle the country with a new judge, with £5,000 a-year, unless it was tolerably certain that a new judge would be required? His opinion was that this superintending control might be obtained by engrafting the jurisdiction upon the Vice-Chancellors, in order to see how the experiment worked.

The SOLICITOR-GENERAL observed that the chief judge had been regarded only as a judge of appeal; but he was to have had a large amount of original jurisdiction. In the clauses relating to the discharge of bankrupts the whole commercial morality of the kingdom was confided to the chief judge, and the effect of the Lords' amendments was to throw this important function back upon the Commissioners in Bankruptcy.

Sir H. CAIRNS said he dissented from the opinion that the appeals under the Bill would increase; but, assuming that the number would be doubled, the present appellate tribunal, the Lords Justices, would be able to dispose of them without delay, there being at present no arrears.

Upon a division, the House disagreed with the Lords in their amendment of this part of the Bill, by a majority of 44, the numbers being—ayes, 173; noes, 129.

The consideration of the other amendments was postponed, the debate being adjourned until Monday.

Recent Decisions.

EQUITY.

RIGHTS OF CESTUIS QUE TRUST ON FRAUD BY ONE WHO IS TRUSTEE UNDER TWO TRUSTS.

Case v. James, L. C. & LL. J., 9 W. R. 771.

In this case the plaintiff and T. were trustees of a sum of stock, which we will call *a*. T. was trustee for the defendants of another and rather larger sum of stock which we will call *b*. This sum he had applied to his own purposes. As the defendants made searching inquiry after their fund, T. resorted to the following contrivance:—He forged a deed of mortgage to himself, and persuaded the plaintiff to join with him in advancing fund *a*. on the security of an assignment of this fictitious mortgage. Accordingly, fund *a*. was transferred by the plaintiff and T. into the name of T. alone; and the mortgage was assigned by T. to the plaintiff. A few days afterwards T. invested in the same stock a small sum which with fund *a*. made up the amount of fund *b*.; and he then announced to the defendants that their fund was standing in his name upon the trusts thereof. The defendants ascertained that the fund was so standing, and placed a *distringas* thereupon. T. having died insolvent, the fraud practised by him was discovered, and the plaintiff, on behalf of his *cestuis que trust*, now claimed out of the stock standing in T.'s name the amount of fund *a*., insisting that to that amount the stock was earmarked, and that it never lost the character of being the trust fund of the plaintiff's *cestuis que trust*. The Master of the Rolls, before whom the case originally came (9 W. R. 528) treated the suit as if all the *cestuis que trust* as well as the trustee were plaintiffs in it, and he held that they were not entitled to any relief. He relied upon the authority of *Thorndike v. Hunt*, 3 De G. & J. 563; s. c. 7 W. R. 246, in which his own decision had been reversed, as strictly applicable to the case before him. In the case to which he referred a trustee of two different settlements having applied to his own use a fund subject to one of the settlements, replaced it by a fund, which, under a power of attorney from his co-trustee under the other settlement, he transferred into the names of himself and his co-trustee under the former. In a suit in respect of breaches of trust of the former settlement, the trustees of it transferred the fund thus replaced into court on a motion. It was held that this transfer was equivalent to an alienation for value without notice, and that the *cestuis que trust* under the other settlement could not follow the trust fund. Lord Justice Knight Bruce, in that case, said that an order had been made directing the defendants, the trustees, to transfer the fund admitted to be in their hands into court, for the purposes of the cause. Thereupon a transfer was made, and the legal title to the fund became vested in the Accountant-General, for the purposes only of the cause. In the case before him, the Master of the Rolls thought that the only difficulty arose from the circumstance that T. was sole trustee for the defendants. If another person had been associated with him, and the stock had been transferred into their joint names, there could not have been any question about the matter. But his Honour considered that what was actually done equally amounted to a disposition of the fund to a *bonâ fide* purchaser, without notice of the fraud committed against the plaintiff. The addition of a small sum to make up the amount of fund *b*., and the declaration of trust extending to the whole fund, were equivalent to a transfer into the name of a trustee for the defendants. Up to that time the plaintiff might have recovered the fund, but by the declaration of trust T. transferred it "from his own name as beneficial owner into his own name as trustee for the defendants." In answer to the argument that T. was a trustee of the fund, for the persons represented by the plaintiff, and that a trustee cannot transfer a trust fund from one set of *cestuis que trust* to another, his Honour observed that in the proper sense of the term T. was not a trustee of the fund for those persons, because the original trust had been discharged. The bill, therefore, was dismissed. When the case came before the full Court of Appeal, the late Lord Chancellor declined to look at it as if the *cestuis que trust* of fund *a*. as well as the trustee were plaintiffs. He said that the only parties before the Court were the plaintiff and the *cestuis que trust* of fund *b*., and he asked on which of those two parties ought the loss to fall? Clearly on the plaintiff, who confessed that he had committed a breach of trust, and not on the defendants, to whom no *laches* or incaution could be imputed. Therefore, without entering into the controversy between one

set of *cestuis que trust* and the other, his Lordship thought that the bill ought to have been dismissed.

The same view was adopted by Lord Justice Knight Bruce. "It is now contended," said he, "that those who were active and correct in the assertion of their rights should lose the benefit of their regularity and diligence in favour of one who, when not inactive, was only active erroneously and mischievously." His Lordship thought the bill was properly dismissed; but he expressed no opinion whether it would have been proper to dismiss it if the *cestuis que trust* had been parties to it. Lord Justice Turner intimated doubt both as to the view taken by the other members of the Court, and as to that on which the Master of the Rolls had proceeded. His Lordship was not satisfied that the plaintiff was not entitled to maintain the suit in his character of trustee notwithstanding the breach of trust which he committed in transferring the stock. His doubt arose upon the case of *Franco v. Franco*, 3 Ves. 75, where the bill was by one trustee of stock against the other to compel him to replace it or give security according to his engagement, the plaintiff having joined in transferring the stock into the defendant's name, and a demurrer on the ground that the *cestuis que trust* were not parties was overruled. This case had been followed in two later cases by Vice-Chancellor Knight Bruce. In one of them, *May v. Selby*, 1 Y. & C. C. C. 235, it was held that a trustee might file a bill against his co-trustee to recover the trust fund without making the *cestuis que trust* parties. In the other case, *Bridget v. Hames*, 1 Coll. 72, the bill was by a trustee against one of several *cestuis que trust* to recover the trust securities which he had got into his hands, and it was held that the other *cestuis que trust* were not necessary parties. It is believed that the other cases referred to by his Lordship are of less immediate application to the point in question than those of which we have above stated the effect. Upon those cases it is obvious to remark that there may be a great difference between a bill by the deluded against the deluding trustee, and a bill which seeks to throw upon innocent parties the consequences of the deluded trustee's error. The cases cited would be authorities for this, that the plaintiff might, during his fraudulent co-trustee's life, have filed a bill against him to have the fund brought back into their joint names without making the *cestuis que trust* parties; but they do not seem to establish that the plaintiff was entitled to have his present bill looked at exactly as if it were the bill of the *cestuis que trust*, which was the view taken of it by the Master of the Rolls. The equity of the defendants as against the negligent trustee, might very well be higher than as against the innocent beneficiaries, and there appears to be no sufficient reason for depriving the defendants of any legitimate defence which they might make to any bill brought against them. Upon the larger question in the case, Lord Justice Turner expressed dubiously an opinion opposite to that of the Master of the Rolls. He thought it doubtful whether the trust in the fund which we have called *a*. could be defeated "whilst the fund remained vested in T., and he continued to be a trustee under the testator's will." It will be observed that the Lord Justice does not say "continued a trustee of the fund," but "under the will," so that he avoids the force of the declaration of trust in favour of the defendants relied on by the Master of the Rolls. It appears that T. was, until his death, looked upon by the parties interested in what had been fund *a*. as their trustee jointly with the plaintiff. There is great force in the concluding observation of the Lord Justice. "I am not," said he, "as at present advised, prepared to hold that the *cestuis que trust* under the will were not entitled to place confidence in their trustees, or were bound to take any proceedings for securing the fund against their acts, or that any priority could be gained over them by reason of their not having taken such proceedings by such proceedings having been taken on the part of the defendants to this suit." Although the Lord Justice expressly stated that he gave no final opinion on the case, it may be expected that what he did say will encourage the filing of another bill, which will be ostensibly the bill of the beneficiaries, although, perhaps, really the bill of the trustee, and in which it will become the duty of some judge or court to decide the difficult and important question, on one side of which we have the elaborate judgment of the Master of the Rolls and on the other the doubts difficult of solution propounded by Lord Justice Turner. The case is not the less interesting because it arises upon the application of general principles of equity and not, as many cases do, out of the artificial and gratuitous ambiguities of our law.

REAL PROPERTY AND CONVEYANCING.

PRIORITY OF INCUMBRANCES ON LAND IN MIDDLESEX AND GENERALLY.

Benham v. Keene, V. C. W., 9 W. R. 765.

(Continued from p. 631.)

Besides the two points which we last week noticed as arising in this case, there was a third which may still, perhaps, deserve a brief consideration. The question between A., the first judgment creditor registered in the Common Pleas, and B., the first judgment creditor registered in Middlesex, was decided, as we saw, in favour of B., and it was held that notice was immaterial. Subsequently to these judgments, the debtor conveyed to C., and C. mortgaged to D. Now, assuming that D. had notice, as was alleged, of A.'s judgment, it might be contended that that judgment, although not registered in Middlesex, must prevail against D. This contention appears to be supported by the passage which we last week quoted from Sugden's "Vendors and Purchasers," 13th edit., p. 599, "a purchaser (of land in a register county) may in equity be bound by a judgment or a deed although not registered." Supposing it to have been adopted by the Court, A. would gain priority over D. But our first point last week was, that A. must be postponed to B.; and our second point was, that B.'s judgment was void as against D. for want of re-registration after five years. In this state of things, it was contended by A.'s counsel that, assuming his priority over D., he was entitled to stand in D.'s place as against B., and thus escape, to the extent of the amount of D.'s charge, the effect of the decision postponing him to B. Vice-Chancellor Wood denied that this consequence would follow, even if the preliminary claim raised by A.'s counsel were admitted; and it therefore became unnecessary to consider the admissibility of that claim. His Honour said that it was clear upon the facts that B.'s debt, which had priority to A., would exhaust the estate, and he knew no principle on which A. could claim the sum which D. was entitled to claim as against B. The argument on behalf of A., when reduced to its simplest form, stands thus:—It is true that B. ranks before A., but A. ranks before D., and D. ranks before B., and therefore A. ranks before B.—on argument which seems equally effective, whether turned one way or the other. The order of priority stated by the Vice-Chancellor was thus:—D.—B.—A.—C.

A perusal of this case and of the authorities referred to in it will introduce the student to perhaps the most bewildering maze of entanglement which English lawyers and legislators ever contrived to weave. The enacting of the 1 & 2 Vict. c. 110, and the amending and explaining Acts, while the Middlesex Registry Act was left untouched, is, we think, an unsurpassed example of skill in the art of complication.

COMMON LAW.

DONATIO MORTIS CAUSA—NATURE OF

Witt v. Amis, Q. B., 9 W. R. 691.

That particular species of gift which is named by the civilians a *donatio mortis causa*, is said by Blackstone to arise when a person in his last sickness, apprehending his dissolution near, delivers, or causes to be delivered to another, the possession of any personal goods to keep in case of his decease; upon the implied trust, nevertheless, that if the donor lives, the property thereof shall revert to himself. Other authorities show that in all cases the donation, to be effectual against the personal representatives of the donor or next of kin (for against his creditors it never prevails if the assets be otherwise deficient), there must be a delivery either of the thing itself or (if it be in action and not in possession) of the instrument by which it is secured, the personal representative of the donor being, in the latter case, bound to put the instrument in suit for the benefit of the donee (see *Duffield v. Hicks*, 1 Bligh N. S. 497.) In the present case, the gift in question was of a policy of assurance, and the point was whether such an instrument could be the subject of a *donatio mortis causa*. A case very similar was decided by the Master of the Rolls in the year 1859, in favour of the affirmative of this proposition. There some promissory notes, payable to the donor or order, and not endorsed, were given to the donee, with an injunction not to examine them till after the donor's death, who, though ill at the time, lived for three months afterwards. This was held to be a valid gift of the description under discussion, for it was observed by the Court that the beneficial interest in a bond had been already

decided to be so transferable; and that there was no sound distinction to be drawn between the two classes of instruments. The Court of Queen's Bench has now decided in the same way, and therefore it may now be taken as established law that the donation before death of any security for money, which the donor intends to be complete and sufficient will be upheld against the personal representatives or next of kin, although some technicality may have been omitted; as, for an example, an actual endorsement by the donor where endorsement is required by law.

It may be worth while to remark here, that a *donatio mortis causa* as it is in the nature of a legacy, so (under 36 Geo. 3, c. 52, s. 7, and 8 & 9 Vict. c. 76, s. 4) it is expressly made subject to legacy duty: and also, in reference to the delivery required to the donee, that the gift is void if, at any time before death, the possession be resumed by the original owner. See *Bunn v. Markham* (7 Taunt. 224).

ACTION FOR MALICIOUS PROSECUTION—REQUISITES OF THE SUMMING-UP BY THE JUDGE.

Payne v. Evans, Q. B., 9 W. R. 693.

This case is a striking illustration of the essentiality of malice, or rather of the assertion of malice by the verdict of a jury, to the successful maintenance of an action for a malicious prosecution. In summing up the case to the jury the judge must in express terms require them to give their opinion upon this point, or the trial will be set aside. It will not even suffice to put to them such questions as will raise by their answers a presumption as to the belief entertained by the jury with regard to the existence of malice. Thus, in the present case, where the defendant had caused the plaintiff (who had become insolvent immediately after receiving certain goods from the defendant) to be apprehended on a charge of obtaining them under false pretences, one of the questions put to the jury was "did the defendant really believe that he had good grounds for charging the plaintiff with obtaining the goods by false pretences?" The jury said that he did so believe—thereby pretty clearly indicating their persuasion that there was no malice on the part of the defendant. Yet the Court made an absolute rule for a new trial, and this though the rule *nisi* which had been granted was not for a new trial on the ground of misdirection, but a rule for the entering of the verdict for the defendant in pursuance to leave reserved at the trial. The Court, moreover, imposed on the defendant the costs of the second trial; but this probably was because (as may be collected from the report) the defendant gave credit to the plaintiff in parting with the goods in question, and did not treat him merely as an agent in the transaction—a fact which seems (notwithstanding the verdict of the jury) somewhat inconsistent with any reasonable belief that the goods had been obtained by the plaintiff on the false pretences charged—namely, that he knew a third party by whom the goods would be purchased.

PUBLIC TRUSTEES—NON-LIABILITY OF FOR NEGLIGENCE OF WORKMEN.

Holliday v. The Vestry of Shoreditch, C. P., 9 W. R. 694.

The position of persons who, as trustees or otherwise act gratuitously for the public benefit, with reference to the negligence of those employed under them, is naturally one which has been frequently discussed and which gives rise to questions of considerable interest. The general rule as to the responsibility of employers does not here obtain, by reason rather of an arbitrary interference by the law in favour of persons who fill posts of such utility, than of any legal principle. With regard, however, to the existence of an exception in their favour to the maxim *respondet superior* (applicable to all other cases of master and servant), there is no room to doubt; and Chief Justice Erie's judgment in the present case contains a lucid history of the course of judicial decisions on the point, the voluminous character of which may be judged of from the fact that no fewer than 18 cases were cited *arguendo* by the counsel of one of the parties. One of these, *Hall v. Smith* (2 Bing. 156), lays down the proposition that no action can be maintained against a man acting gratuitously for the public, for the consequence of any act which he was authorised to do, and which, so far as he is concerned, is done with due care and attention, and that such person is not answerable for the negligent execution of an order properly given; and we learn from the judgment already referred to, that this doctrine was solemnly affirmed by the House of Lords in the case of *Duncan v. Findlater* (6 Cl. & Fin. 894.) The cases (and they are numerous), which at first sight seem inconsistent with this law

will be found on examination to be decided against the defendants, by reason of their having (though it may be indirectly) received a profit from the public undertaking with which they were connected.

Correspondence.

IRISH ANTE-UNION STATUTES.

There occurs in the *Journal, ante*, p. 611, the following statement, "As English courts do not take judicial cognizance of Irish statutes passed before the Union, which must, therefore, be proved to those courts as facts, an Irish barrister deposed as to the effect of the Irish law in invalidating mixed marriages, and that the Act of George 2 was still, as regards the parties to such marriages, unrepealed." Mr. Reilly, in his letter, *ante*, p. 632, which comments upon this statement, quotes it as far as the word "deposed," and then assumes that the legal witness was called to prove the passing of the 19th Geo. 2, c. 13. The Act 41 Geo. 3, c. 90, to which Mr. Reilly refers, renders a copy of an Irish Act passed before the Union, printed and published by the King's printer, conclusive evidence of the passing of such Act. Further proof, therefore, of the passing of such an Act would have been unnecessary. But in the case at Warwick sessions, it was incumbent upon the appellants to prove not only the passing of the Irish Act referred to, but also the construction of that Act, and its force at the present time; in short, the present state of the Irish marriage law as regards mixed marriages by a Roman Catholic priest. If the justices then present read over the indexes of all the Irish statutes passed from the 19th Geo. 2, c. 19, down to the year of the Union, they would have seen that the last-mentioned statute was not repealed by the Irish Parliament. But this perusal would have occupied the Court a considerable time; and, even after such an examination, they would have been unaided as to the construction of that Act.

The statute to which Mr. Reilly refers merely affirmed the rule of international law, which permits foreign laws to be proved "by authenticated copies;" Story's *Conflict of Laws*, p. 1012. In *Emmie v. Smith*, decided by the Supreme Court of the United States, 14 Howard, 400, Amer. Rep., a copy of the Civil Code of France, purporting to have been printed at the royal press, Paris, was held admissible as evidence of the law of France. The Act, 41 Geo. 3, therefore, involved no new principle of evidence. It would have been very different if it had enacted that English courts should take judicial cognizance of Irish statutes. When proof of an Irish statute is made by the production of a copy printed by the King's printer, (which was done at the Warwick sessions), the Court may then examine any other evidence it may choose, in order to ascertain the construction of such a statute. It is the more necessary for parties who have to prove not merely the passing of a particular Act, but the present state of the law, to produce skilled evidence when the question which is to be determined is the construction given to a foreign statute in a foreign country. It was to meet such cases that the statute 22 & 23 Vict. c. 63, which was intended to facilitate the ascertainment of the law of one part of her Majesty's dominions by the courts of another part, and which is commented upon in your *Journal, ante*, p. 522, was passed. The construction given to a foreign statute in a foreign country is to be determined not by the Court but by the jury; *Holman v. King*, 7 Met. 384, Amer. Rep.; Story's *Conflict of Laws*, p. 1011; although the general rule is, as stated in the *Journal, ante*, p. 521, that foreign laws should be proved as facts to the court. It can hardly, therefore, be supposed that the appellants in the case at Warwick sessions erred from excess of caution in producing proper oral evidence of a matter which partakes so much of the nature of an issue in fact, or that the remarks in the *Journal* were deficient in necessary criticism of that case. M.

The Provinces.

BOLTON.—At the Town-hall, Bolton, a case came on for hearing on Monday last, involving a very knotty question, as to whether a cart laden with lime, intended for agricultural purposes, is liable to pay toll. It appeared that on the 29th ult., James Bromiley, of Horwich, passed through the Lady-bridge toll-bar, near Bolton, with an empty cart, and returned

laden with lime, which he said was for tillage for the land. When going through with the empty cart he paid the toll, one shilling, and on his return he expected the toll to be returned, it not being considered legal to take toll for lime when intended for the improvement of land; but the tollkeeper refused to return the money. A summons was taken out charging him with taking illegal toll.—Mr. Edge, solicitor, appeared for complainant.—Mr. Hall, for defendant, said they were entitled to charge for lime, it not being exempt, and referred to the various Acts of Parliament. By 3rd & 4th George 4, cap. 126, sec. 32, no toll was to be demanded for any cart conveying manure, soil, compost, dung, &c., (save and except lime). Difficulties afterwards arose, and 4th & 5th George 4, cap. 16, sec. 1, was passed, which stated that lime for the improvement of land should be exempt. Still greater difficulties arose, and another Act was passed, 5th & 6th William 4, cap. 18, sec. 1, enacting that, as disputes had arisen about conveying manure for the improvement of land, from the 1st January, 1836, no toll should be demanded for manure, &c., again excepting lime. By the 3rd & 4th Vict., cap. 51, sec. 1, which was intended to amend the former Acts upon the question of conveying lime, it is enacted that no toll shall be chargeable for lime when the local Act says it shall not be chargeable. And by the 13th and 14th Vict., cap. 79, lime was again made liable, notwithstanding anything said in either any local or general Act; but, in defiance of all claims by mortgagees or others upon the rent-charges of the tolls, it further provides that the trustees of the turnpike shall have power to take the toll of lime, if they think fit, leaving the power entirely in their hands; and in this case the trustees have not chosen to make lime exempt from toll, and there was nothing in the local Act for that road which related to lime, either that they should take toll or otherwise. Accordingly the magistrates decided for the defendant.

Foreign Tribunals and Jurisprudence.

FRANCE.—A technical decision of some interest was recently given by the Court of Cassation; it was to the effect that simple falsehood is not sufficient to constitute the "fraudulent manoeuvre" which Art. 405 of the Penal Code declares to be an essential element in swindling, but that it must be accompanied by circumstances which influence the person duped. In virtue of that definition the Court quashed a condemnation of six months' imprisonment pronounced on one Duval by the Imperial Court of Caen, for swindling, under these circumstances:—A young man who owed him money was lodged in the Debtors' Prison at Caen by another creditor; and he (Duval) went to the young man's mother and representing himself to be the detaining creditor, obtained from her a guarantee of the debt, subject to the condition of his releasing the young man. The Court decided that though what he had done was blameworthy, it was not a "fraudulent manoeuvre," within the meaning of the Penal Code.

The French law is very severe on persons who take girls under age from their parents, even when the girls themselves are perfectly willing to go. A young man named Guillard, aged 20, clerk to a huissier, at La Villette, was recently condemned by the Tribunal of Correctional Police to a year's imprisonment for having received into his lodging, and kept for three days, a girl, aged between 15 and 16, named Faure and yet it was found that not only did she go of her own accord, but that it was by advances which she made that the young man became acquainted with her.

Review.

A Treatise on Facts as Subjects of Inquiry by a Jury. By JAMES RAM, of the Inner Temple, M.A. Cambridge, Barrister-at-Law. Maxwell. 1861.

This book is called a "treatise," which has been defined to be a "written composition on a particular subject in which the principles of it are discussed or explained;" and if one looked no further into the work before us than the chapter of contents, he would probably come to the conclusion that the author had handled his subject in a manner fairly entitling him to dignify his work with so pretentious a designation. Mr. Ram commences with an introductory discourse, which at first

sight looks like science, and then he devotes a number of separate chapters to such abstract topics as "perception," "impression," "memory," "recognition," "suspicion," "probability, &c.;" and, as a rule, each chapter opens with a definition or description of the principal topic under consideration. So far we do not complain that he has not sufficient seeming regard to scientific method and treatment. What we object to is, that the science of the book is confined wholly to the names of the chapters, and to the definitions and descriptions to which we have referred. For the rest, it is little more than an incongruous collection of extracts, with very slender pretensions, for the most part, to anything like skilful collation, or appositeness to the matter in hand. Some of the definitions themselves, moreover, are frequently curious specimens of logic, and are by no means likely to aid the reader in his attempt to appreciate the design of the author or to understand the question immediately before him. The introductory chapter informs us, that "subjects of jurisprudence are facts and laws;" and having made this lucid and logical averment, Mr. Ram proceeds to tell us that "facts are the source and the cause of laws. From facts proceed rights and wrongs; both requiring the government of law." These are his first utterances, and are somewhat calculated to deter criticism, for they are sufficiently scholastic in form, and dogmatic in tone. They are, nevertheless, as nonsensical as they could well be; and this we think must be apparent to Mr. Ram himself by this time, if he has taken the trouble to consider their meaning. Why facts and laws should be said to be *par excellence* subjects of jurisprudence, more than men and things, rights and wrongs, punishment and reformation, individuals and society, or any one of a dozen of such couples of nouns as we might string together, Mr. Ram will not find it easy to show. Indeed, until we read this introduction, we were under the impression that of all the entities or abstractions in the world, of which it could not be predicated that they were not subjects of jurisprudence, laws most certainly belonged to this category, inasmuch as they are themselves identical with jurisprudence, and we know of nothing that can be its own subject. As to the remaining term included in the predicate of the first proposition, we admit it is difficult to deny that facts are subjects of jurisprudence; but inasmuch as facts are also subjects of every other science, actual and possible, just as much as they are of jurisprudence, and as this part of the definition is, therefore, merely a truism, and utterly worthless for the author's purpose, it might as well have been omitted. It gives us no more information than Mr. Emerson did, when he informed the world that "belief consists in accepting the affirmations of the soul, unbelief in denying them." This is only a showy way of talking sheer nonsense, the matter but not the manner of which is equalled by our author in the work before us. We confess to an inability on our part to extract anything like a definite idea of what is meant by the proposition that "facts are the source and the cause of laws," especially after being told that both facts and laws are in common the subjects of jurisprudence. In one sense, facts are the source and the cause not only of laws, but of everything in the universe, except the self-existent great First Cause: but of what use it can be to propound this, as an important axiom especially applicable to the subject of jurisprudence, we are at a loss to discover. Indeed, we doubt very much whether Mr. Ram himself attached any very definite meaning to the words "source" and "cause," as they are used in this definition. Does he mean that facts are the final, the efficient, or the physical cause of laws, the *id a quo*, the *id ex quo*, or the *id propter quod*. We have been told by some that jurisprudence owes its origin to an original contract between men emerging from the savage state, and that it is merely the creature of society; by others, that it emanates and derives its sanctions from the moral nature of man; while a third class of teachers inform us that it is at once the creature of political society and of human reason. But if Mr. Ram's fundamental proposition be true, namely, that facts are the cause of laws, he may claim to be the founder of a new legal philosophy. However, lest we might go astray in following the logic of our author, he gives us a definition of the sense in which he uses the term "fact," which we are tempted to quote:—"By fact is here meant," says Mr. Ram, "anything that is the subject of testimony; anything that a witness rightly testifies to be a fact. If a thing be perceived by any sense of the body or faculty of the mind, the perception is a fact. If anything is seen or heard, the seeing or hearing of it is a fact. If any emotion of the mind is felt, as joy, grief, anger, the feeling of it is a fact. If the operation of the mind is productive of an effect, as intention, knowledge, skill, the possession of this effect is a fact. If any proposition

be true, whatever is affirmed or denied in it is a fact. A. said this or that, or did this or that—if these propositions be true, then that A. did so say or did so do is a fact."

It will be seen from this extract that our author here gives up the only excuse which he could possibly have for his prior definition of the cause of laws; for although, as we have observed, "facts"—using the word in its absolute sense—are the cause not only of laws but of every other study, yet it is sufficiently obvious that "facts," according to Mr. Ram's use of the word, as it is so elaborately explained by himself, are neither the source nor the cause of laws except that very small part of them which prescribe rules for the admission of evidence. Mr. Ram tells us that "from facts proceed rights and wrongs," and then he goes on to say that he means nothing for a fact except a perception, or that objective phase of a fact which may be given in evidence; "a fact is . . . anything that a witness rightly testifies to be a fact"—a definition which we may be allowed to observe violates one of the first rules in logic. But we do not dwell on that; we merely ask how can it be said that rights and wrongs proceed from perceptions, or from the evidential quality of things? Again, what is the meaning of telling us "that if a proposition be true, whatever is affirmed or denied in it is a fact"? But supposing this to be something else than a silly truism, how can such a fact be the cause of laws, or in what sense do rights and wrongs proceed from it? Mr. Ram tells us that "if any emotion of the mind is felt (what emotion of the mind is not?) as joy, grief, anger, the feeling of it is a fact." But why is not the emotion itself a fact, and in what sense is the feeling of an emotion by one person the subject of testimony by another? We find, however, that our comments upon the first half page leave us little room for any observations upon the remainder of the book, as to which we can only say, that it is very pleasant reading excepting the first few lines of some of the chapters, where our author will try his hand at dialectics, in which he is by no means an adept. A good notion of the staple of the book may be obtained from the information that immediately after the extract which we have given above, comes "a tale which consists exclusively of facts." The tale is a page from Wordsworth's poem of "Lucy Gray;"—then comes a single line from the pen of our author informing us that "in Shakespeare is this example of testimony of facts," upon which we have a page and a half from "Romeo and Juliet," being for the most part the speech of the Friar, after which the youth describes how

"He came with flowers to strew his lady's grave;"

and what then happened. Our author next solemnly proceeds to add by way of comment that "a fact once in complete existence, once ended, admits of no addition no subtraction;" an apothegm which is supported by a quotation from Horace, and another from the sayings of Lady Macbeth. It is indisputable that Mr. Ram is a man of very extensive reading, and that his book is characterised both by scholarship and taste. It abounds in learned references, although they are not always very apposite to the subject. Great industry, moreover, is shown in bringing together passages from the "State Trials," and a variety of authors, as illustrations of the rules laid down in this treatise—if indeed it contains what can properly be so called. We can only add that Mr. Ram has written a very readable and amusing book, and one calculated to be of use to beginners in law,—if they have the resolution to confine their reading wholly to the extracts.

THE LAW AMENDMENT SOCIETY.

The seventeenth anniversary festival of the Law Amendment Society took place on Saturday evening, the 13th instant, at the Ship Tavern, Greenwich, the Right Hon. Lord BROUGHAM president of the society, in the chair. Amongst the company were the Attorney-General (Sir William Atherton, M.P.); Sir Fitzroy Kelly, M.P.; Mr. Scholfield, M.P.; Mr. Crauford, M.P.; Mr. W. H. Marsh, M.P.; Mr. Hodgkinson, M.P.; Mr. Steel, M.P.; Mr. Hadfield, M.P.; Mr. Russell Gurney, Q.C. (Recorder of London); Mr. Serjeant Shee; Mr. Macqueen, Q.C.; Sir Erskine Perry; Sir Laurance Palk, &c.

The cloth having been removed, and the usual loyal and patriotic toasts given from the chair and duly honoured,

The noble PRESIDENT rose to propose the toast of the evening, and said it afforded him great satisfaction at that seventeenth annual meeting to be able to state that during the past year great and important success had attended the operations of the society, although they had sustained a severe loss in the death

of the late Lord Chancellor, a warm friend of the association, and of their former secretary, Mr. James Stewart. These were irreparable losses, and he could only name them and pass on. Some very important measures of law amendment had been desired and introduced to Parliament; and if they had not yet actually passed, he saw no reason to doubt of their shortly passing and being placed on the statute book. There was the Bankruptcy and Insolvency Bill, which had so far passed both Houses of Parliament that it only remained for the House of Commons to consider the changes, by way of amendment, that had been made in the Bill by the Lords; and it was most satisfactory to know that even if all those alterations were deemed to be erroneous and such as ought not to have been made, there would still remain enough in the Bill to merit great approval, and to occasion grievous disappointment if it should now be lost. He trusted, therefore, that the Bill would be passed in its present shape. The other great measure almost certain to pass this session was the Consolidation of the Criminal law. Four of these Bills had gone up to the Lords, and the fifth was to go on Tuesday; and, therefore, they were entitled to expect that the whole five were upon the point of becoming law. Many earnest attempts had been made during the last ten years to consolidate the criminal law. The subject had been referred to a select committee of the House of Lords, and thoroughly sifted; and Bills were prepared by learned, experienced, and skilful draftsmen. These were approved by the Upper House, and sent to the Commons, where they met with a fate which it was not very extraordinary that they should meet with in a House composed of so many and diverse members, entering upon a discussion of three or four hundred legal clauses, when there was no question of change or amendment, but only of consolidation and arrangement. Until the House of Commons should be content to accept the advice of Lord Lyndhurst, and confide in skilful and learned persons, and adopt their work with as little change as possible, no effective consolidation could be hoped for. Happily, at length, the House of Commons had most wisely and judiciously seen the propriety of adopting that course, and therefore it might be expected that the five Bills would be carried through both Houses and lay the foundation of the consolidation of the statute law, civil as well as criminal. This was a great subject, and he hoped and trusted that it would be felt to be so by the public, as well as by the members of this society. There were many other changes in progress, and some of them were in a hopeful state, while others were less so. For instance, there was the Bill of Mr. Denman sent up from the House of Commons last session for extending to criminal cases the change which had been made in the common law procedure in civil cases. The Bill passed the Lords, but with an amendment that was objected to by the Commons, and the prorogation took place before it could be considered. It was an unfortunate amendment, and he agreed with the House of Commons in the wish to reject it, because it gave as an option to the Court that which ought to be the right of the party—namely, whether a second speech was to be allowed to the defendant or not. The Bill had been brought in again this year, and he hoped it would be carried through the House of Lords, though it had been delayed in the Commons through the influence of the chairman of quarter sessions, who entertained an unwholesome fear of long speeches except from those upon the bench, especially at the latter part of the day at that critical period—the approach of the dinner hour. There was one measure which he had frequently attempted to carry, but had always failed in doing, yet without which he held that our criminal jurisprudence was extremely defective—namely, the giving to the defendant in criminal cases the same right to be examined, if he desired it, as the defendant possessed in civil cases. In civil cases the defendant must be examined whether he desired it or not, but in criminal cases it should be optional. If he chose to subject himself to a cross-examination, he should not be prevented from so doing. The consequence of his not being allowed was absurd enough. The prosecutor was, of course, always examined, and he might prejudice the case of the prisoner; but if the verdict went against him, what remedy had he? None but to prosecute his prosecutor for perjury; and then his mouth was shut, and that of the defendant in the former case was open, and it had happened over and over again that the original prisoner had convicted his prosecutor without his being able to say a word. Those who objected to the defendant in a criminal case being examined, did so on the ground that no man ought to be called upon to criminate himself; but he was not called upon to do so, but only voluntarily to expose himself to cross-examination upon the evidence which he gave. But it was said by some that if this should be the course of practice, every man who

did not volunteer to be examined, would be supposed to be guilty. Well, for himself, he should not much mind if that supposition should be entertained. He trusted that those of them who lived to see another session of Parliament would witness the adoption of a measure of this kind, and of other much-needed reforms. Having adverted to the favourableness of both the late and the present Governments to the cause of Law Reform, the noble lord complimented the present Attorney-General, the Lord Chancellor, and Sir Fitzroy Kelly upon their most useful exertions in this direction. He then adverted to the defective state of the criminal law in continental countries, and to the improvements that had been effected in France of late years, and spoke of his friend M. Berryer as one of the first lights of the law in that country—a man of great diligence and extraordinary eloquence, whose powers as an advocate, and whose unsullied honesty and integrity to his clients, at all hazards to himself, were such that he could only be compared to our own illustrious Erskine, that greatest of advocates and brightest of legal luminaries. He expected that M. Berryer would pay a visit to this country at the beginning of next Michaelmas term; and might mention that he had taken the advice which he (Lord Brougham) had tendered to him, to prepare some of his most remarkable speeches for the press, for the benefit of the profession, after the manner of Erskine and Curran. He might mention that the late Lord Plunkett had also listened to his advice to the same effect, and was in the course of preparing some of his eloquent and meritorious speeches for the press, at the time of his decease, and he hoped to learn that considerable progress had been made. The noble lord concluded by giving "Prosperity to the Law Amendment Society."

The ATTORNEY-GENERAL proposed the next toast, "Lord Brougham, President of the Society," and said he felt that any one who was called upon to do honour to Lord Brougham was himself honoured in the invitation. And on no occasion since the manifestation of approval, if he might so say, of the sovereign had been extended to himself in the promotion he had recently received—had he felt prouder of that promotion than he did at that moment when it called him to the performance of this pleasing task. At the same time he must confess to a feeling of embarrassment as to the course which he ought to pursue. He felt that one could never say too much in approbation of the meritorious career of the noble and learned president; but at the same time he remembered that the noble lord had been so long under the notice of his countrymen, that his talents, his acquirements, and his great achievements, were so well known, and had rendered him so illustrious, that to say much of the noble lord personally would be to commit the fault of using the bush as an indication of where the good wine was to be found. It would certainly be superfluous, and perhaps be hardly in good taste, to refer in any detail to the achievements of his life. For much more than half a century had the noble lord been engaged in the amelioration of both the civil and the criminal law of his country. The nature and extent of his efforts were well known, and the talent involved in those efforts all must appreciate, while they hailed with gratitude the eminent success that had attended the endeavours he had made. The noble lord had enjoyed a pleasure and satisfaction which to many illustrious men before him had been denied—he had lived to witness, largely, the fruits of his own labours. He had lived to reap a harvest from the seed he had himself sown. He had lived to know what his countrymen think of him at the present time; and he could be in no mistake or doubt as to what of himself the opinion of posterity would be. He need not say that the noble lord had worked within no narrow or circumscribed area of law reform. The criminal law he had assisted to ameliorate, and the civil law he had helped to deprive of grave defects, and to put upon a footing consonant with reason and justice, so that no English lawyer needed to be ashamed. If a barbarous criminal code had been altered, so that our criminal law consisted with an enlightened judgment, and proper Christian feeling, the noble lord was entitled to say, "I did it." The civil law, also, and its administration at the present time compared most favourably with the state in which it was found in the early days of their president; and to most of the changes that had been effected, the noble lord might fairly point, as having been directly brought about by his personal interference, or mainly caused by his having well prepared the way for those by whom the improvements were actually accomplished. Having ventured so far to speak of the labours and great merits of the noble lord, he would be guilty of committing an injustice if he did not say that their noble and learned friend had not only been a great lawyer among great lawyers, but also a philosopher among philosophers,

and a chief among men of letters; and above all, the towering and consummate orator of the age. To these things, at least, a word of reference should be made—to his high deserts, to the acknowledgment they have received at the hands of his countrymen, and to the success with which his efforts have been attended. He need say nothing of the long connection of the noble lord with this society, for it was mainly owing to him that it had been able to do so much, and that comparatively, so little remained for it to do. He would not further occupy the attention of the meeting, but propose the toast which he was sure would be received by all with the highest possible gratification—"Lord Brougham, President of the Society."

The toast was drunk with loud applause.

His LORDSHIP said he returned his hearty thanks for the very kind reception which had been given to the much too kind statement of his honourable and learned friend the Attorney-General, and he felt that he ought to say that one of the greatest improvements in our courts of justice relating to the examination of witnesses in civil cases, was effected in the first instance by his noble and lamented friend, Lord Denman. But further improvement was required in this department by the carrying more fully out the principle of the Act of 1851.

The RECORDER OF LONDON gave "The House of Lords and the House of Commons." It would not be difficult to point out many members of the House of Commons who take a warm interest in the improvement of the law, and there were also not a few eminent law reformers among the colleagues of the noble lord the president of this society, whom they must all rejoice to see still in possession of that vigour of mind which it seemed that he would never lose. In both Houses, measures of great value had been produced, and found general favour; and had there been a little more of joint action between the two branches of the Legislature, more of them would have doubtless passed into law. It was certainly a matter of deep regret that Law Reform Bills were not sent more speedily from one House to the other. It frequently happened that when a measure had met the approval of one House, it was not sent to the other time enough to be considered and passed. One session the Commons approve of a measure, and the next session the Lords, but each sends it to the other too late to have it passed into law. He must, therefore, rather refer to the intentions than to the acts of the Houses. He rejoiced to believe that there never was a time when so great and prevalent a desire existed to carry into effect real amendments of the law, and when so few interested motives stood in the way of the necessary reforms being effected. The society had reason to congratulate itself that its endeavours to excite public attention to the subject it had in view had not been in vain. The honourable and learned gentleman concluded by proposing the toast, which was cordially received.

Sir FITZROY KELLY said it had sometimes, though not often, fallen to his lot to return thanks on behalf of the House of Commons for a compliment like that which both Houses of Parliament had at that moment received at the hands of the present company; but this was the first time, in a pretty long public life, that he had been called upon to return thanks for the House of Lords. He might say with perfect sincerity that he was thankful we have a House of Lords. And he was thankful indeed, that his noble and learned friend, whose kindness was equal to his genius, had for so extended a period belonged, and yet belongs, to that great assembly; for he believed that in times like these, and in a great and free country like this, where loyalty and attachment to our eminent institutions exist in the minds of all classes, the House of Lords, one of the chief of our institutions, would ever be safe, would ever be respected. And he held it to be entitled to the respect which it enjoyed at the hands of the community in general. In that House the noble and learned lord occupied a high place, if indeed it might not be said that he was unrivalled by any of his compeers; while it might most certainly be said that he had done much towards making the House of Lords to be respected in the manner that it was. It was impossible for him also to return thanks for the House of Commons without remembering, and of which the company needed not to be reminded by the very eloquent and appropriate observations of his learned and worthy friend the Attorney-General, whom he, for one, might venture to say that he rejoiced to see in that office, that the noble lord the president of this society was once the most distinguished of all the members of that great assembly. They needed not the eloquent voice of the hon. Attorney-General to remind them that the noble and learned lord, who had been the great law reformer of the age,

was also the chiefest of orators in that great assembly of the nation. He was himself old enough to remember the time when the noble and learned lord, who was then the leader of the great party to which he belonged brought forward in the House of Commons the great reforms which his genius had devised, and which it had been his happy fortune, in the evening of his life, to mature and bring to such successful issues. He remembered seeing his noble friend rise in so thin a House that it might have been counted out, if any wretched enemy of his country had attempted it, and in a speech of six hours develop those reforms which he conceived ought to be made in the laws of the country. It might be remarked in passing that there were some pre-eminent men then members of the House of Commons who when the illustrious speaker rose and began to address the assembly rose also to pass out of the House to dinner, but who were arrested before they could reach the threshold, and returning to their places sat listening motionless until that speech of six hours had terminated in a peroration which never could be forgotten while the records of the country should continue to exist. In that speech was laid the foundation of those vast and excellent law reforms which had since occupied the attention of the country, many of which had passed into law, but some of which had still to be struggled for. They had but little reason, however, for disappointment if they considered how many useful and comprehensive measures had become law since 1828. Because of the difficulties of the times, these great questions passed almost unheeded, but they had since sunk deeply into the minds and hearts of the people of this country. Difficulties had since existed, and all had not been done that might have been done, or, at least, that was wished by many; but all must feel and acknowledge that through the untiring exertions of the noble lord and others, statesmen in both Houses of Parliament, many great law reforms had been carried into practical effect. In fact, such extensive strides had been made towards the perfection of the law, as to lead to the belief that in the course of time their highest hopes would be accomplished. Having enumerated the various steps by which the present stage had been reached, and paying a warm tribute to the services of Lord Lyndhurst, Lord Wensleydale, and other legal lights, he pointed out some valuable assistance which had been given by the society whose anniversary they had met to celebrate. But there were still many things to do in the way of reform before it would be complete, and he looked forward to the time when there should have been effected a complete consolidation of the statute law of the realm. He should never consider his own task wholly done, or think he had succeeded in that which ought to be the great object of a Christian country, till he should have seen several reforms completely effected in the criminal law. First and foremost was the question of a criminal appeal. At present, a man's life as well as his fortune and character depended upon a single opinion without appeal. He did trust that before very long we should have some system of criminal appeal established. It had always been inconceivable to him why or how it should have arisen that in the most enlightened country in the world, he, who above all mankind, knew most of the subjects under investigation, should alone have his lips closed; and therefore he cordially agreed with the noble lord, that a person charged with a criminal offence ought not to be precluded from giving evidence, and that to permit a prisoner to give evidence on his own behalf, would be one of the greatest amendments of the law. As this was the first time for many years it had been his good fortune to attend the annual meeting of this society, and especially as it was the first time he had had the advantage of seeing the noble and learned lord in the chair, he had been tempted to expatiate upon these subjects, and in conclusion he would say that in his own efforts in the cause of law amendment, he should always be thankful to have the assistance of this society, and that he would always do his best to carry their suggestions into effect. His earnest wish was that the society might long continue to do that signal benefit to the country it had hitherto done, and be presided over for many years by the noble and learned lord.

The proceedings then terminated.

CONCLUSION OF A WILL.

We are indebted to an eminent conveyancer for the following form of attestation to a will, and for the directions and reasons for its use, which are appended:—

"In witness whereof I have hereunto set my hand the day and year first above written (a).

(Signed)

"HUGH JONES.

"The above writing contained in this and the preceding sheets of paper having been signed by A. B., of

as his last will in the presence of us present at the same time, we, without quitting his presence, do attest and subscribe the same in the presence of each other, the [5] alterations against which respectively the letter A is placed having been first made."

(a) As it is often necessary when a will has come into operation, to ascertain the date and the names of the executors, those facts should be placed first, that they may be found at once, without any turning over of the sheets composing the document.

The attestation clause should not be written in a corner, as it usually is, but across the page, and immediately under the signature of the testator, for the witnesses are to *subscribe* the will of which the signature of the testator is part.

It is incorrect in the attestation clause to refer to "the said testator," for the witnesses are not supposed to have any knowledge of what is contained in the will; it is sufficient if they read the clause they sign.

The form of attestation given above seems to contain in as few words as possible all the facts necessary for a due and proper execution of a will. First, it teaches that the testator has signed, and this is not unnecessary, for cases have occurred where the witnesses signed first, and then the testator, which, of course, was not a due execution. Secondly, it teaches that the witnesses were present at the same time, and that they subscribed in the presence of the testator, and also in the presence of each other; and it also provides a convenient mode of authenticating alterations instead of the testator and the witnesses placing their initials opposite to each.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have been referred to committee in the House of Lords:—

LONDON, CHATHAM, DOVER, AND MARGATE.
MONMOUTHSHIRE.
WEST MIDLAND AND SEVERN VALLEY.

The following Bills have been read a third time and passed in the House of Lords:—

ABERYSTWITH AND WELCH COAST.
BISHOP STORTFORD, DUNMOW, AND BRAINTREE.
CLEVELAND.
COCKERMOUTH, KESWICK, AND PENRITH.
FOREST OF DEAN CENTRAL.
LUDLOW AND CLEE-HILL.
LYNN AND HUNSTANTON.
MUCH WENLOCK.
RAMSEY.
SALISBURY AND DORSET JUNCTION.
SWANSEA VALE.
VALE OF CLWYD.
WARE, HADHAM, AND BUNTINGFORD.
WAVENEY VALLEY.

The following Bill has been read a third time in the House of Commons:—

HAMMERSMITH, PADDINGTON, AND CITY JUNCTION.

The following Bill has passed through committee in the House of Commons:—

WEST LONDON EXTENSION.

REPORT OF MEETING.

BIRKENHEAD RAILWAY.

At the half-yearly meeting of this company, held on the 13th inst., a dividend at the rate of £2 10s. per cent. per annum was declared. This railway has been transferred to the London and North Western and Great Western Railway Companies, and the above dividend has been declared without prejudice to the right of the Birkenhead Company to receive £3 10s. per cent. from the other two companies under the agreement

entered into with them, should the earnings of the Birkenhead Company be ascertained to exceed more than 2½ per cent. per annum. The exact earnings could not be stated, as the accounts had not been audited.

Law Students' Journal.

LECTURES AT THE INCORPORATED LAW SOCIETY.

The council of this society have elected Mr. Thos. Henry Haddan to deliver a course of lectures on equity; Mr. Freeman Oliver Haynes, on Conveyancing; and Mr. William Murray on common law and mercantile law.

The lectures will commence in next Michaelmas Term, and be continued until the end of the several courses in March.

Court Papers.

ORDER OF COURT.

JULY 13, 1861.

THE Right Honorable RICHARD, BARON WESTBURY, Lord High Chancellor of Great Britain, by and with the advice and assistance of The Right Honorable Sir JOHN ROMILLY, Master of the Rolls, The Honorable the Vice-Chancellor Sir RICHARD TORIN KINDERSLEY, The Honorable the Vice-Chancellor Sir JOHN STUART, and The Honorable the Vice-Chancellor Sir WILLIAM PAGE WOOD, Doth hereby, in pursuance and execution of all powers and authorities enabling him in that behalf, Order and direct in manner following:—That in all cases in which a Bill of Complaint shall have been or shall be ordered to be taken pro confesso against any defendant or defendants, such Bill may be read at the hearing from a printed copy thereof, stamped with a proper stamp, by one of the Clerks of Records and Writs, indicating the filing of such Bill of Complaint, and the date of the filing thereof; and, where such Bill shall have been amended, the same may be read from a printed copy thereof, or from a copy thereof partly printed and partly written, stamped with the proper stamp, by one of the Clerks of Records and Writs, indicating the amendment of such Bill and the date thereof, without the attendance of the Clerk of Records and Writs, as hath hitherto been the practice.

WESTBURY, C.

JOHN ROMILLY, M. R.

RICHD. T. KINDERSLEY, V. C.

JOHN STUART, V. C.

W. P. WOOD, V. C.

BANKRUPTCIES THIS YEAR.—As was to be expected, the number of bankruptcies in the first half of the current year is considerably above the average. In the Liverpool district 63 bankruptcies were gazetted; in the Manchester, 56; in the Birmingham, 130; in the Leeds, 78; in the Bristol, 43; in the Exeter, 25; in the Newcastle, 11; and in the London, 321; showing a total of 727, or at the rate of 1,454 per annum, as compared with 1,123, the average for the preceding ten years. The only district which is below the average of the previous decade is Newcastle, where the bankruptcies have diminished to the extent of 39 per cent. In the Liverpool district there has been an increase of 59 per cent.; in the Manchester an increase of 26 per cent.; in the Birmingham an increase of 34 per cent.; in the Leeds an increase of 48 per cent.; in the Bristol an increase of 26 per cent.; in the Exeter an increase of 19 per cent.; and in the London an increase of 17 per cent. The increase, taking the country generally, is 29 per cent. After all however, these statistics afford by no means a complete view of the state of the commercial world, an immense number of "private arrangements" being now made between debtors and creditors.

Every year we are reminded of the extravagant grant of compensations made when the Probate Court was reformed, by the publication of a list of the annuities paid during the twelvemonth. In 1860, after buying up 268 small allowances, they amounted to £115,987. Some of the proctors and registrars receive above £1,000 a-year for ceasing from their labours, one registrar above £3,000, and the Rev. Robert Moore £7,990 a-year. Judging from the compensation, which we believe is

the largest ever granted, the work done by this rev. gentleman should have been stupendous. The salaries and expenses of the new Court of Probate in London, and of the London registry, amount to nearly £40,000 a-year, and the entire charge for the Courts of Probate in London and Dublin (including these compensations) reached £180,144 in the year 1860. The fees received in those courts amounted to £61,903, leaving a deficiency of £118,241. It seems that this may be reduced by the fees in the country district registries exceeding the salaries and expenses, but the deficiency appears to be still about £100,000 a-year, to be paid from the public purse.

English Funds and Railway Stock

(Last Official Quotation during the week ending Friday evening.)

ENGLISH FUNDS.		RAILWAYS—Continued.	
Bank Stock	89½	Stock Ditto A. Stock	100
3 per Cent. Red. Ann. ..	89½	Stock Ditto B. Stock	131
3 per Cent. Cons. Ann. ..	89½	Stock Great Western	70½
New 3 per Cent. Ann. ..	89½	Stock Lancash. & Yorkshire ..	111½
New 2½ per Cent. Ann. ..	89½	Stock London and Blackwall. ..	62
Consols for account ..	89½	Stock Lon. Brighton & S. Coast ..	121
India Debentures, 1858. ..	219	25 Lon. Chatham & Dover ..	45
Ditto 1859.	99½	Stock London and N.-Westm. ..	94½
India Stock	99½	Stock London & S.-Westm. ..	47½
India 5 per Cent. 1859. ..	121½	Stock Man. Sheff. & Lincoln. ..	121½
India Bonds (£1000) ..	97	Stock Midland	97
Do. (under £1000)	97	Stock Ditto Birn. & Derby ..	39
Exch. Bills (£1000) ...	63½	Stock Norfolk	63½
Ditto (£500)	107	Stock North British	107
Ditto (Small) ..	64	Stock North-Eastn. (Brwck.) ..	64
	94½	Stock Ditto Leeds	94½
	94	Stock Ditto York	94
	48	Stock North London	48
	41	Stock Oxford, Worcester, & Wolverhampton ..	41
	61½	Stock Shropshire Union	61½
	66	Stock South Devon	66
	97	Stock South-Eastern	97
	40½	Stock South Wales	40½
	93	Stock S. Yorkshire & R. Dun ..	93
		25 Stockton & Darlington ..	
		Stock Vale of Neath	

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

- DEWAR, CAROLINE, Widow, Melville-street, Edinburgh, £270 14s. 10d. Consols.—Claimed by JOHN COCKBURN, the acting executor.
- GREENWOOD, THOMAS, Gent., Bensington, Oxon, £3,300 Consols.—Claimed by ANNE ELIZABETH GREENWOOD, Widow, the acting executrix.
- KITCHENER, GEORGE, Seal Engraver, Little Britain, £150 New Three per Cents.—Claimed by THOMAS KITCHENER and WILLIAM JOHNSON, the persons named in the said order.

Births, Marriages, and Deaths.

BIRTHS.

- CHANCE—On July 13, at 23, Leinster-gardens, Hyde-park, the wife of George Chance, Esq., Barrister-at-Law, of a son.
- FRANCIS—On July 13, at 3, Gordon-place, Tavistock-square, the wife of Philip Francis, Esq., Barrister-at-Law, of a son.
- HENNIKER—On July 16, at Leinster-square, the wife of Aldborough Henniker, Esq., Barrister-at-Law, of a son.
- MORRIS—Recently, at Blackrock, near Dublin, the wife of William O'Connor Morris, Esq., J.P., Barrister-at-Law, of a daughter.

MARRIAGES.

- O'GRADY—PAPILLON. HAVILAND—PAPILLON—On July 10, Carew Louis Augustus O'Grady, Esq., Captain Royal Engineers, to Emily Caroline, daughter of Thomas Papillon, Esq., of Crowhurst-park, Sussex; also, at the same time and place, Francis Gregory Haviland, Esq., Barrister-at-Law, to Adelaide, daughter of Thomas Papillon, Esq.
- RUDOLE—SOLOMON—On June 12, at Lunenburg, Nova Scotia, Captain G. J. Rudole, of Liverpool, to Bessie, daughter of G. L. Solomon, Esq., Barrister-at-Law, and Judge of Probate for the county of Lunenburg.

DEATHS.

- BUSH—On July 18, at Kew Green, Surrey, in his 9th year, William Methuen Bush, fifth son of Frank Whittaker Bush, Esq., of Lincoln's-inn, Barrister-at-Law.
- HUDSON—On July 6, W. H. Hudson, Esq., Town Clerk of Bradford.
- KETTERER—On July 12, at Nutley Villa, Torquay, Oswald William Ketterer, Esq., of the Supreme Court of Judicature, Bombay, aged 56.
- MORE—On July 12, at Edinburgh, John Schank More, Esq., Advocate, LL.D.
- PRICE—On July 9, at the residence of Stephen Walcott, Esq., 17, Lansdowne-crescent, Notting-hill, Miss Caroline Price, last surviving sister of the late Richard Price, of Bristol and Hampstead, Barrister-at-Law.

London Gazettes.

Professional Partnership Dissolved.

FRIDAY, July 19, 1861.

BOWERMAN, RICHARD, & JOSEPH WARE, Attorneys & Solicitors, Uffculme, Devonshire (Bowerman & Ware), by mutual consent July 15.

Windings-up of Joint Stock Companies

TUESDAY, July 16, 1861.

LIMITED IN BANKRUPTCY.

LIVERPOOL TRADESMAN'S LOAN COMPANY (LIMITED).—Commissioner Perry will sit on Aug. 7, at 12, to make a dividend.

FRIDAY, July 19, 1861.

UNLIMITED IN CHANCERY.

MEAKIN'S JOINT STOCK BREWERY COMPANY.—The Master of the Rolls will, on July 30, at 12, appoint an official manager of this company.

MEAKIN'S JOINT STOCK BREWERY COMPANY.—Creditors to prove their debts before the Master of the Rolls on July 30.

NATIONAL INDUSTRIAL AND PROVIDENT SOCIETY.—The Master of the Rolls has appointed Robert Palmer Harding, of 3, Bank-buildings, London, and Serle-street, Lincoln's-inn, Middlesex, Accountant, official manager of this company.

LIMITED IN BANKRUPTCY.

DISTRICT SAVINGS BANK (LIMITED).—Petition for winding-up, presented July 15, will be heard before Com. Fane, at Basinghall-street, on Aug. 3, at 11.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, July 16, 1861.

- BAKER, GEORGE, Rope Manufacturer and Ship Chandler, 2, Jamaica-row, Bermondsey, Surrey, carrying on business at Chunnel-row, Bermondsey-wall, Surrey, and 12, Upper East Smithfield, Middlesex (George Baker & Son). Cattarius, Solicitor, 33, Mark-lane, London. Oct. 1.
- BENSON, WILLIAM, Ironish Dealer, Liverpool. A. J. & Wm. Moore, Solicitors, 4, Bridge-street, Sunderland. Sept. 30.
- DAWSON, WILLIAM KENDALL, Auctioneer, Colchester, Essex. Cattarius, Solicitor, 33, Mark-lane, London. Oct. 1.
- GAINSFORD, GEORGE RICHARD, Esq., 99, Regency-square, Brighton. Cattarius, Solicitor, 33, Mark-lane, London. Oct. 1.
- HEAVER, ELIZABETH, Widow, 3, St. Martin-street, Dover. Watson, Solicitor, 14, Suargate-street, Dover. Sept. 17.
- KIDSON, JAMES, Farmer, Topcliffe-common, Thirsk, Yorkshire. Richardson, Solicitor, Thirsk, Yorkshire. Sept. 1.
- KIRKHAM, SAMUEL, Farmer, Inerton, Audlem, Cheshire. Belyse, Solicitor, Audlem. Aug. 13.
- LETT, ELIZABETH, Widow, 12, Upper Hamilton-terrace, St. John's Wood, Middlesex, and Folkestone, Kent. Webb, Solicitor, 44, Bedford-row, Middlesex. Nov. 2.
- RYVES, WILLIAM CHARLES LANE, late Captain of the 13th Regiment of Bengal Native Infantry. Mead & Daubeny, Solicitors, 2, King's Bench walk, Temple, London. Sept. 1.
- SCOTT, MILNED, Spinster, 35, Assembly-row, Mile End, Middlesex. Blake, Solicitor, 22, College-hill, City. Aug. 16.
- STODHART, THOMAS, Ironmonger, 18 and 19, High-street, Camberwell, Surrey. Lilley, Solicitor, Trinity-street, Southwark. Sept. 1.
- WOOD, Mrs. ISABELLA MARY, 5, Cambridge-terrace, Dover. Percy & Goodall, Solicitors, Nottingham. Aug. 1.
- YEATES, GEORGE, Farmer, Baldersby, Yorkshire. Richardson, Solicitor, Thirsk, Yorkshire. Sept. 1.

FRIDAY, July 19, 1861.

- BEAUMONT, CHARLES, Wheelwright, Bradley-street South, [Huddersfield, Prinke, Solicitor, 39, New-street, Huddersfield. Aug. 21.
- CAMPBELL, ELIZABETH, Spinster, 61, London-road, Southwark, Surrey. Nelson & Son, Solicitors, Doctor's-commons, London. Sept. 1.
- COLLINS, ISAAC, Gent., Brearley-street, Birmingham. Tyndall & Johnson, Solicitors, 34, Waterloo-street, Birmingham. Sept. 29.
- CRUICKSHANK, Rev. AUGUSTUS, Clerk, Lansdowne-place, Brighton. Augustus S. Twyford, Solicitor, 24, New-street, Spring-gardens, Middlesex. Oct. 1.
- DENDY, STEPHEN, Esq., formerly of Leigh-place, Surrey, and late of Sandfels, near Reigate, Sadler, Solicitor, Horsham, Sussex. Sept. 13.
- FAIR, ALEXANDER, Companion of the Bath, and a General in the Honourable East India Company's Service, 5, South-crescent, Bedford-square, Middlesex. Duff, Solicitor, 5, Nicholas-lane, Lombard-street, London. Sept. 15.
- LETT, ELIZABETH, Widow, 12, Upper Hamilton-terrace, St. John's-wood,

Middlesex, and Folkstone, Kent. Webb, Solicitor, 41, Bedford-row, Middlesex. Nov. 2.
MACREADY, WILLIAM VESSEY, Merchant's Clerk, Birmingham. Ryland & Martineau, Solicitors, 7, Cannon-street, Birmingham. Aug. 19.
PETERS, JAMES, Paper Maker, Tovill, Maidstone. Stephens & Son, Solicitors, Maidstone. Sep. 15.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, July 16, 1861.

BEACH, JOSEPH, Farmer, Tanworth, Warwickshire. Wells v. Boulton v. C. Wood. Aug. 5.
BRIGGS, ARTHUR KENNIE, Gent., Lewes, Sussex. Fuller v. Wood, V.C. Stuart. Nov. 2.
LANGRIDGE, WILLIAM BALCOMBE, Gent., Lewes, Sussex. Winton v. Langridge, M. R. Nov. 2.
PLANE, WILLIAM SQUIRE, Brewer, Maidstone, Kent. Hall v. Plane, V.C. Stuart. Nov. 1.
UNIVERSAL COMMUNITY SOCIETY OF RATIONAL RELIGIONISTS. Pars v. Clegg. M. R. Nov. 5.
WELLES, RICHARD, Farmer, Hoop Merchant, and Brick and Tile Manufacturer, Capel, Surrey. Dendy v. Sadler, M. R. Aug. 5.

FRIDAY, July 19, 1861.

BOARDMAN, EDWARD, a Major-General in the Honourable East India Company's Service, Euston-place, Middlesex. Stanford v. Sandeman, M. R. Oct. 30.
DE CAULIER, WILLIAM, Gent., 3, Terrace, New Norfolk-street, Islington, Middlesex. Wetherell v. Wetherell, V. C. Stuart. Oct. 30.
DONMALL, GEORGE, Licensed Victualler, Five Bells, St. Mary Cray, Kent. Kelsey v. Donmall, V. C. Wood. Oct. 29.
EMMERTON, REBEKAH, Spinster, Barnet, South Mimms, Middlesex. Maskell v. Farrington, V. C. Kildersley. Nov. 1.

Assignments for Benefit of Creditors.

TUESDAY, July 16, 1861.

BASSETT, SAMUEL THOMAS, Builder, West Teignmouth, Devonshire. Sol. Templer, West Teignmouth. July 8.
BELL, ELLIAN (sometimes called George Ellian Bell), Fishmonger and Poulterer, 12, Regent's-place, Clifton, Bristol. Sol. Sherrard, Bristol. July 5.
GOODACRE, WILLIAM, & THOMAS COKATNE, Schoolmaster, Chilwell, Nottinghamshire. Sols. Thorpe & Thorpe, St. Peter's-gate, Nottingham. June 25.
JAMES, JOHN, & ELIZABETH JAMES, Chemists and Druggists, Truro, Cornwall (James, Brothers). Sols. Hodge, Hockin, & Marrack, Truro. July 13.
JAY, JOHN ROBSON, Stock Manufacturer, 76, Aldermanbury, London. Sol. Jones, 15, Size lane, London. July 3.

FRIDAY, July 19, 1861.

ALDAM, WILLIAM, Wheelwright & Machine Maker, Winterton, Lincolnshire. July 1. Sol. Mackrell, Barton-upon-Humber.
BUTT, DEBORAH, and HENRY HUGH BUTT, Soap Dealers & Tallow Chandlers (Butt & Sons), Gloucester. June 28. Sol. Ellis, Gloucester.
DIMOND, JOHN, Baker & Confectioner, Fore-street-hill, Exeter. June 21. Sol. Flood, 14, Castle-street, Exeter.
HANSON, JOSEPH, Ironmonger, Great Yarmouth, Norfolk. Sol. Holt, Great Yarmouth. July 3.
IVY, JOHN ROBSON, Stock Manufacturer, 76, Aldermanbury, London. Sol. Jones, 15, Size-lane, London. July 3.
MALLINSON, CHARLES, JUN., Grocer, Bath. Sols. Brittan & Sons, Albion Chambers, Bristol. June 18.
THOMAS, EDWARD, Farmer, Lodge, Broncroft, Diddlebury, Salop. Sol. Clark, Ludlow. June 19.
YORKE, CHARLES, & FREDERICK WILLIAM YORKE, Bankers, Peterborough & Oundle, Northampton. Sol. Percival, Peterborough. June 26.

Bankrupts.

TUESDAY, July 16, 1861.

BALLARD, NATHANIEL, Woolstapler, Faringdon, Berks. Com. Fane: July 27, at 11, and Aug. 30, at 12; Basinghall-street. Off. Ass. Cannan. Sol. Pimsaul, 7, South-square, Gray's-inn. Pet. July 13.
BALLS, JAMES, Grocer, Tea Dealer, and Draper, Salcot, Essex. Com. Evans: July 26, at 2, Aug. 29, at 11.30; Basinghall-street. Off. Ass. Bell. Sols. Harrison & Lewis, Old Jewry, London. Pet. June 29.
CARTER, SAMUEL, Corn Merchant, Fen Stanton, St. Ives, Huntingdonshire. Com. Evans: July 26, and Aug. 29, at 1; Basinghall-street. Off. Ass. Johnson. Sols. Lawrance, Pews, & Boyer, Old Jewry Chambers. Pet. July 12.
CASH, WILLIAM, Grocer, High-street, Portland-town, Middlesex, and Peterboro, Northamptonshire. Com. Fane: July 27, and Aug. 30, at 12.30, Basinghall-street. Off. Ass. Cannan. Sol. Treherne, 17, Gresham-street. Pet. July 15.
GLAZEBROOK, GEORGE, Number and Glazier, Birmingham. Com. Sanders: July 29, and Aug. 26, at 11; Birmingham. Off. Ass. Whitmore. Sols. Southall & Nelson, Birmingham. Pet. July 5.
MARTIN, WILLIAM, ALFRED PHILLIPS YORKE, & WILLIAM RICHARDSON ROEBUCK, Iron Manufacturers, Doncaster, Yorkshire. Com. West: Aug. 3, and 31, at 10; Sheffield. Off. Ass. Brewin. Sols. Smith & Burdakin, Sheffield. Pet. May 27.
NEWHAM, WILLIAM, Innkeeper, Blackburn, Lancashire. Com. Jemmett: July 26, and Aug. 16, at 12; Manchester. Off. Ass. Post. Sols. Sales, Worthington, Shipman, & Seddon, Manchester. Pet. July 8.
RONALD, WILLIAM, Warehouseman, Manchester. Com. Jemmett: Aug. 1 and 22, at 12; Manchester. Off. Ass. Fraser. Sols. Higson & Robinson, Cross-street, Manchester. Pet. July 11.
SCOTT, GEORGE, Engineer, Alpha Works, Cubitt Town, Isle of Dogs, Middlesex. Com. Goulburn: July 29, at 11.30, and Aug. 26, at 11; Basinghall-street. Off. Ass. Pennell. Sols. Clarke & Morrice, 29, Coleman-street, London. Pet. July 9.
WALKER, JOHN SHAW, Licensed Victualler, Hill Top, West Bromwich, Staffordshire. Com. Sanders: Aug. 2 and 23, at 11; Birmingham. Off.

Ass. Whitmore. Sol. Jackson, West Bromwich, or E. & H. Wright, Birmingham. Pet. July 13.

WINDRAM, WILLIAM JAMES, & EDWARD SQUIRE TEBBUTT, Elastic Web Manufacturers, Leicester. Com. Sanders: July 26, and Aug. 13, at 11; Nottingham. Off. Ass. Harris. Sols. Stone, Pagot, & Hillson, Leicester. Pet. July 15.

YATES, JOHN, Mustard Manufacturer and Dry Salter, 14, Berry-street, Clerkenwell, Middlesex. Com. Fane: July 27, at 12, and Aug. 23, at 1; Basinghall-street. Off. Ass. Whitmore. Sol. Redpath, 27, Walbrook. Pet. July 15.

FRIDAY, July 19, 1861.

ASHWILL, WILLIAM THOMAS, Wine & Spirit Merchant, Burslem, Stafford. Com. Sanders: July 29, and Sept. 2, at 11; Birmingham. Off. Ass. Kinnear. Sols. Twigg, Burslem; or Smith, Birmingham. Pet. July 17.

DALLARD, WILLIAM, Woolstapler & Fellmonger, Faringdon, Berks. Com. Fane: July 29, at 12; and Aug. 30, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Pimsaul, 7, South-square, Gray's-inn. Pet. July 17.

RANMISTER, SARAH, Wool Dealer, Leominster, Hereford. Com. Sanders: July 31, and Aug. 28, at 11; Birmingham. Off. Ass. Whitmore. Sol. Smith, Birmingham. Pet. July 8.

HEAD, EDWARD JOHN, & JAMES JOHN WALTER, Packing Case Manufacturers, Norway-wharf, Wapping-wall, Middlesex. Com. Fane: July 29, at 11; and Aug. 30, at 11.30; Basinghall-street. Off. Ass. Cannan. Sol. Elworthy, 14, Southampton-buildings. Pet. July 15.

MALKIN, WILLIAM, Wine & Spirit Merchant, Macclesfield, Cheshire. Com. Jemmett: Aug. 1 and 29, at 12; Manchester. Off. Ass. Hornam. Sols. Parrott, Colville, May, & Ruyard, Macclesfield. Pet. July 12.

MASON, JOHN GUANEY, Ironmonger, Ironmonger-street, Stamford, Lincolnshire. Com. Fane: July 30, at 11, and Sept. 6, at 12; Basinghall-street. Off. Ass. Cannan. Sol. Chidley, 25, Old Jewry. Pet. July 5.

MAW, EDWIN, Engineer, Birmingham. Com. Sanders: Aug. 2 & 23, at 11; Birmingham. Off. Ass. Kinnear. Sols. James & Knight, Birmingham. Pet. July 16.

PERRY, THOMAS FARMER, & JOHN EVANS WILSON, Timber Merchants & Farmers, Bridgnorth, Salop. Com. Sanders: Aug. 3, and Sept. 2, at 11; Birmingham. Off. Ass. Kinnear. Sols. Stamps & Jackson, Hull, or Hodgson & Allen, Birmingham. Pet. July 11.

SMITH, JAMES, Carman & Contractor, 19, Hope-wharf, Macclesfield-street City road, Middlesex. Com. Fane: July 29, at 1, & Aug. 30, at 1.30; Basinghall-street. Off. Ass. Cannan. Sols. Bennett & Stark, 4 Furnival's-inn. Pet. July 9.

SMITH, JAMES, Builder & Innkeeper, Guildford, Surrey. Com. Fane: July 30 & Aug. 30, at 12; Basinghall-street. Off. Ass. Whitmore. Sol. Jerwood, 17, Ely-place, Holborn. Pet. July 15.

WHELFRY, WILLIAM WALKER, late of St. John's, New Brunswick, North America, but now Iron, Timber, & Commission Merchant, London. Com. Fane: July 29, at 1.30, & Aug. 30, at 2; Basinghall-street. Off. Ass. Whitmore. Sols. Linklater & Hackwood, 7, Walbrook, or Ewer, Liverpool. Pet. July 16.

BANKRUPTCIES ANNULLED.

TUESDAY, July 16, 1861.

CROSBLEY, JOHN, JUN., Cotton Spinner, Manufacturer, and Merchant, Manchester, and Heblston-bridge, Yorkshire. July 11.

PARRES, JOSEPH, Coal and Brick Merchant, Lionel-street, Birmingham. July 13.

FRIDAY, July 19, 1861.

LORAN DE WOL, COCHRAN, Shipowner & Merchant, South Sea House, Threadneedle-street, London. July 15.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, July 16, 1861.

ALLEN, JOSEPH, Smallware Manufacturer, Irwell Foundry, Radcliffe Bridge, Lancashire. Aug. 6, at 12; Manchester.—**BRUCE, ALEXANDER, & JAMES SHUTTLEWOOD OSWIN**, Merchants and Commission Agents, Manchester. Aug. 8, at 12; Manchester.—**COLEMAN, CHARLES**, Seed Merchant and Flour Merchant, Halkaver Mills, Bodmin, Cornwall. Aug. 15, at 12; Exeter.—**DUNAY, THOMAS**, Tailor, Ottery St. Mary, Devonshire. Aug. 15, at 12; Exeter.—**DRAKE, GEORGE**, Glover and Leather Dresser, St. Thomas, Devonshire. Aug. 15, at 12; Exeter.—**ELSTON, GEORGE**, Shoe Manufacturer, Crediton, Devonshire. Aug. 6, at 12; Exeter.—**EVANS, WILLIAM NATHANIEL, & ROBERT BENCOMBE EVANS**, Tanners, Colyton, Devonshire. Aug. 15, at 12; Exeter.—**GUILLAUME, GUILLAUME**, Watch and Clock Maker, St. Leonard's-terrace, Mount Radford, St. Leonard, Devonshire. Aug. 15, at 12; Exeter.—**HARRATT, CHARLES**, Iron Merchant and Ship Owner, 2, Royal Exchange-buildings, London, and Canning Town Bay Creek, West Ham, Essex. July 30, at 11; Basinghall-street.—**HILL, EDWARD ELLIS**, Merchant and Broker, Liverpool. Aug. 7, at 12; Liverpool.—**JONES, DANIEL**, Coach Builder, Wrexham, Denbighshire. Aug. 7, at 12; Liverpool.—**KING, JAMES**, Cotton Manufacturer, Shawforth, Rochdale, Lancashire. Aug. 7, at 12; Manchester.—**NIXON, JAMES**, Painter and House Decorator, Lincoln. Aug. 7, at 12; Leeds.—**ROE, THOMAS**, Draper, 50, East Emma-place, East St Leonards, Devonshire. Aug. 12, at 12.30; Plymouth.—**SMITH, WILLIAM, & WILLIAM FRANCIS PATIENT**, Tanners and Leather Merchants, Hermondsey New road, Surrey (Smith, Patient, & Smith). July 26, at 11; Basinghall-street.—**TUCKER, NICHOLAS**, Cattle Salesman, Moorwinstow, Cornwall. Aug. 15, at 12; Exeter.—**WALKER, JOHN**, Tobaccoist, Liverpool and Rochdale, Lancashire. Aug. 7, at 11; Liverpool.—**WILLIAMS, ALFRED**, Builder, Melcombe Regis, and Weymouth, Dorsetshire. Aug. 15, at 12; Exeter.

FRIDAY, July 19, 1861.

BENNING, WILLIAM, Law Bookseller & Publisher, Fleet street. Aug. 10, at 11; Basinghall-street.—**CULLEY, SAMUEL UTTING**, Wine & General Merchant, 4, Coleman-street, London, and of 2, Priory-grove, West Brompton, Middlesex. Aug. 10, at 12; Basinghall-street.—**EVANS, GRIFITH**, Corn Merchant, Tyn-rhos, Valley, Anglesey. Aug. 15, at 11; Liverpool.—**HARLAND, JOSEPH, & RICHARD READ**, Cloth Merchants, Leeds. Aug. 9, at 11; Leeds.—**HARLAND, JOSEPH**, Cloth Merchant, Leeds. Aug. 9, at 11; Leeds.—**SHEARD, SAMUEL**, Carrier, High Town, Birstal Yorkshire. Aug. 9, at 11, Leeds.

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We cannot notice any communication unless accompanied by the name and address of the writer.

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THE SOLICITORS' JOURNAL.

LONDON, JULY 27, 1861.

CURRENT TOPICS.

As the Attorney-General in a recent speech on the Bankruptcy Bill informed the House of Commons that the Court of Chancery had too much work to do to be able to attend to appeals in bankruptcy, we have taken some pains to ascertain at the close of the legal year the actual state of business at Lincoln's-inn. The time is convenient for making such an inquiry, and as the opinion of many members of the House of Commons has, no doubt, been very much influenced by what fell from Sir William Atherton in reference to this question, it is desirable that we should without delay attempt to learn what the facts really are. We have now before us the Chancery Cause List for sittings after Trinity Term, 1861. This paper contains the name of every cause ready for decision on the 20th day of June last, not only upon original hearing, but upon further consideration, and upon appeal. The result of our inquiry is to inform us that not only every appeal ready for decision on the 20th day of June, but many others that have since come into the paper, and probably every one ready for hearing, will have been disposed of before the Court of Appeal rises for the long vacation. This does not include motions and petitions on appeal, which are not set down in the list, but are generally disposed of within two or three weeks after the appeal is presented. Every cause contained in the list to which we have referred, set down before the Master of the Rolls for hearing, was decided probably on an average of a month after it was down for hearing, and of less than a fortnight after it got into the cause list. The Vice-Chancellor Stuart rose on Thursday, having got through the whole of his list. In two branches of the Court only is there any arrears, and even in them it is by no means formidable. The number of causes set down before Vice-Chancellor Wood is usually very great, and he has yet been unable to dispose of all the causes set down before him. Vice-Chancellor Kindersley's Court is certainly not famous for speed, but suitors are aware of this, and do not resort there in any considerable numbers; so that, although he has not finished his paper, very few causes remain pending before him. It is sufficiently plain from this short statement that there is no particular pressure of business in Chancery, and that when Sir William Atherton advocated the appointment of a chief judge in Bankruptcy, upon the ground that the equity judges had already more than enough to do, and could not attend to bankruptcy appeals, he relied upon an argument which is unsupported by the facts.

Very few heads of law attain to anything like a definite or consistent form until they become the subject of a treatise, and, therefore, as we have no distinct book upon the uninteresting subject of *Interest*, the decisions comprised under this head of law are by no means satisfactory. The case of the *Attorney-General v. Kohler*, decided on Wednesday last, in the House of Lords, is a striking illustration of what we here state, and is, moreover, in itself an important authority upon the point which the case determines. The original suit was against the Crown, and was for the recovery of £7,822, which, in 1813, had been received by the Crown

from the estate of a person who had died intestate, and, as was supposed, leaving no next-of-kin. After many years, however, a bill was filed by certain parties, who proved that they were entitled in this character, and claimed not only the sum actually received by the Crown, but a further sum of £14,429 as interest. This was unsuccessfully resisted by the Crown in the Court below, the decision of which was affirmed by the House of Lords upon the principle that as the Crown had not kept the money to pay over to the next-of-kin on demand, but made use of it, the Crown ought to be held liable to pay interest like an ordinary person. One would have supposed that the point was sufficiently simple, and must have been decided before. It appears, however, that this is the first express decision upon the subject, and that the matter was considered by the Attorney-General to be doubtful enough to be carried to the House of Lords for decision. But it ought to be mentioned, that neither the Vice-Chancellor Kindersley, from whose judgment the appeal was brought, nor any of the law lords, entertained the least doubt that under the circumstances the claimants were entitled to full interest.

The Bill for establishing High Courts of Judicature in the three Presidencies of India is not unlikely to be passed this session. Unless its provisions are materially altered it will place at the disposal of the Government some valuable patronage, and will cause no little commotion in the overcrowded ranks of the bar. Each high court is to consist of a chief judge and as many judges (not exceeding fifteen) as her Majesty may appoint. The judges must be selected either from amongst barristers of not less than five years' standing, or from members of the covenanted civil service who have served as zillah judges or judges of small-cause courts, or certain pleaders of the sudder courts or of the new high courts; but there is a proviso that not less than one-third of the judges of each high court shall be barristers and not less than one-third shall be members of the covenanted civil service. Upon the passing of the Bill the present supreme and sudder courts are to be abolished. Each of the high courts is to exercise "all such civil, criminal, admiralty and vice-admiralty, ecclesiastical, intestate and matrimonial jurisdiction, original and appellate," as her Majesty by letters patent may direct; and subject and without prejudice to the legislative powers of the Governor-General of India in Council, each high court is to exercise all jurisdiction vested in any of the courts abolished in the same presidency. There is a clause enabling governors of presidencies to authorise judges to sit in any places by way of circuit or special commission; and every high court is enabled to provide for its exercise of jurisdiction either by single judges or by division courts constituted by two or more judges of the high court. At present there is in each of the presidencies a supreme court, presided over by English judges, whose jurisdiction is regulated by the common law of England and the statute law as it existed in 1726, so far as they are not controlled by the acts of the Legislative Council of India. In actions relating to inheritance and succession to lands, and involving questions of contract or account, &c., the Hindoo law applies where a Hindoo is defendant, and the Mahomedan law where a Mussulman is defendant. The following account of the number and description of courts in existence is taken from a paper read by Mr. W. H. Bennet before the Juridical Society in 1858:—

In the whole circuit of the Bengal Presidency, 523—consisting of 48 presided over by Englishmen, civil servants of the company; 55 by principal Sudder Aumeens, 30 by Sudr aumeens, and 390 by Mounsiffs—these three last classes of judges almost wholly natives. These Courts have a gradation of jurisdiction.

In the Madras Presidency, 160 Courts—29 presided over

by English judges, or subordinate judges; 11 by principal Sudder Aumeens, 20 by Sudder Aumeens, and about 100 by Mounsiffs.

In the Bombay Presidency, about 95 Courts—8 presided over by English judges, 8 by principal Sudder Aumeens, 9 by Sudder Aumeens, and about 70 by Mounsiffs—making a gross total of 780 Courts for the administration of civil justice amongst the natives.

The Courts presided over by Mounsiffs have jurisdiction to the extent of 300 rupees, or £30 sterling; the Sudder Aumeens to the extent of 1,000 rupees, or £100 sterling. Appeals lie from these to the Zillah and City Courts, whose decisions are final.

The principal Sudder Aumeen Courts have cognisance of suits whether they originate in their own courts or are referred to them by the Zillah and City Courts, with an appeal to the Sudder Court, where the matter in dispute amounts to 5,000 rupees, or £500 sterling. The Zillah and City Courts exercise a jurisdiction to an unlimited amount from 5,000 rupees upwards, with an appeal to the Sudder Court at the several Presidencies. The courts presided over by Englishmen are assisted by native pundits or moulavies, as legal officers; and, judging from the average number of appeals from the decisions of the principal courts to the Queen in Council, it cannot be asserted that justice has not been most impartially and ably dispensed to the native litigants in India under our rule and the jurisdictions of the several Courts.

We have stated that the Bill now before Parliament is for establishing *High Courts of Judicature* in India. The Act will abolish only the Supreme and Sudder Courts, and, we suppose, is not intended to interfere with the jurisdiction of the lower tribunals. Lord Ellenborough, on Thursday evening, in the House of Lords, spoke at length in opposition to the measure, and proposed several amendments. He described its principle to be the amalgamation of the Sudder Court and the Supreme Court, which, he said, on account of the very different materials of which the two courts are composed, could not be satisfactory. He was especially opposed to giving to the Crown and not to the Governor-General of India the power of appointing and removing the judges, which he considered to be inconsistent with the proper functions of the Governor-General. Lord Ellenborough, moreover, was of opinion that the present condition of the Bar of England was not favourable to the immediate development of the proposed scheme, and he thought that it would be difficult to find amongst the English, Irish, and Scotch Bars a larger number of men competent to the satisfactory discharge of high judicial duties than would be sufficient to increase the number of each of the existing courts by one or two members. "Of all qualities of the mind" (said his Lordship) "perhaps the most rare is the judicial. The Bill proposes that 35 barristers shall be appointed to act as judges in India. My lords, there are not 35, nor perhaps five men, at the whole Bar of whom any one could with safety predict that they would make good judges. Success at the Bar is no proof that a man will make a good judge. Within my recollection, I have known more than one gentleman most successful at the Bar,—good, able men, and sound lawyers, who yet made extremely indifferent judges. The fact is, that the very qualities which enable a man to attain distinction at the Bar are the very qualities which unfit him for the duties of the Bench. Do you suppose that because 35 barristers of five years' standing each may be represented to you as so many Lord Mansfields, you will find ten—ay, or five of that number, possessing judicial minds? It is a gift of Providence, and most rare."

Most of our readers will agree with the observations which we have just quoted, but we are unable to ascertain how Lord Ellenborough arrives at the conclusion that there will be 35 new appointments for the Bar; for even assuming that none of the present judges of the amalgamated tribunals are appointed, only two-third of the new judges at the outside can be barristers, and, as we understand the Bill, the utmost number of

judges that can be appointed under its provisions is forty-five. Lord Kingsdown did not oppose the principle of the Bill, although he had some doubt what the effect might be of introducing into the new High Courts persons who are not lawyers. He was of opinion that no fault could be found with the manner in which the Supreme Courts exercised their jurisdiction, and that an alteration in the Sudder Courts was all that was required. After the division upon Lord Ellenborough's amendment, which was lost, the Bill passed through committee, and is, no doubt, intended as a first step towards introducing throughout the entire of India one common system of jurisprudence and procedure, based as far as possible upon the precedents and models of this country.

A weekly contemporary recently published some severe strictures upon Lord Brougham for allowing the expenses connected with his new patent of peerage to be discharged out of the public purse. On last Thursday evening, in the House of Commons, this topic was the occasion of an animated discussion. Mr. Bernal Osborne objected to voting a sum of £512 for passing the patent under the Great Seal, upon the ground that the expense of patents of nobility conferred for distinguished services to the State are not paid for by the public, and that there was no reason why the case of Lord Brougham should be treated as exceptional. Other members of the House took the same view of the matter, and objected to the proposed vote. It appeared, however, from the statement of Mr. Gladstone, that there were precedents in favour of it. Four cases of this kind were mentioned; namely, those of Sir Henry Hardinge, Lord Fitzroy Somerset, Lord Canning, and Lord Elphinstone, the charges of whose patents of peerage were borne by the public. Lord Palmerston spoke in terms of high eulogy of the "great and eminent services" which Lord Brougham had rendered to the country; and the result of the discussion was that upon a division of the House for a reduction of the vote, there was a majority of twenty-six against the proposition.

The Wisbeach murder case forcibly raises a question of considerable interest not only so far as relates to the theory of our law, but also as regards the public sentiment. A man charged with the wilful murder of his wife pleaded guilty, and repeated the plea after the most earnest and solemn warning by Mr. Justice Wightman, the presiding judge upon the occasion. The crime as it appeared upon the depositions admitted of no reasonable doubt, and was one of savage barbarity. In consequence of the prisoner's plea of guilty, of course no evidence was adduced, and it is impossible for the public not to participate in the regret expressed by the learned judge, and by the counsel retained by the friends of the prisoner, that he should by his plea have prevented the trial. Mr. Justice Wightman expressed the general feeling when he said that in such cases the interests of public justice are best advanced by a full and open trial; and it is certainly an important question whether in every case involving capital punishment, it would not be more satisfactory even where the prisoner pleaded guilty to have the evidence for the prosecution presented to the Court, as if no such plea had been made, and to enable the friends of the prisoner to instruct counsel to watch the case. Such a proceeding would not be by way of trial of the prisoner, but only for the satisfaction of the public, and as some guarantee that the prisoner, in pleading guilty, is not the victim of any hallucination or any morbid notions about what is required of one in his position. Last year, Lord Brougham brought in a Bill to enable persons accused of crimes to obtain a trial without pleading to the arraignment, otherwise than by expressing a

desire to be tried upon the indictment. That Bill, however, did not go the length that we suggest, as it proposed still to enable prisoners to prevent the publicity of evidence by insisting upon a plea of guilty.

BARBARISM AMID CIVILIZATION.

The Northumberland-street mystery has received a natural solution. Those ardent votaries of the marvellous who hung about the Charing-cross Hospital, eager to catch the faintest murmurs of the proceedings of the court inside, have now been placed for a whole day upon a level with the entire public of the metropolis. We have, all of us, read the evidence, and probably we have all concurred in the verdict which terminated the inquiry. There ought to be a general vote of thanks to the reporters, who, in the exhausting circumstances of a crowded room, with all the windows closed to keep out the din of traffic, have described, for our information, the appearance and demeanour of the lady called Mrs. Murray, and have steadily persevered in taking notes of every word spoken both by her and by all the other important witnesses. By their means we enjoy the opportunity of learning what sort of sound is heard on the floor above when a human skull is being fractured with a pair of tongs. Perhaps one of the most curious facts proved was that the deceased, Roberts, was so much in the habit of discharging pistols in his chambers, that his upstairs neighbour had ceased to take any particular notice of the sound. We should think that even before this tragedy, the noise of pistol practice would have caused some slight sensation in the Temple or Lincoln's-inn; and it certainly does seem that Northumberland-street, Strand, where everybody confined himself to his own business, was as suitable a place as could be found in the heart of a great city for attempting to destroy life by fire-arms at noon. No doubt, many strange things are done in secluded sets of chambers. A few years ago there was a case of alleged starvation of a small servant in the Temple; but starvation, and even a good deal of cruelty besides, may be put in practice with very little noise. However, the deceased had gradually taught his neighbours to regard the sound of pistol practice with indifference; and having got so far as that it appears by no means improbable that if he had shot Major Murray dead, he might have made away with the body and removed all obvious marks of violence and blood, and might have stood as good a chance as any murderer ever did of immunity from human justice. With steadiness of aim he might have accomplished his cruel purpose undetected, although the chief station of the Metropolitan Police was almost within hearing of the shots he fired. Perhaps if another Waterloo-bridge mystery should defy solution it will not be difficult to believe that human remains might find their way into the Thames without having been carried any long distance. It was remarked at the time when that mystery occupied the police that many persons were stated to have disappeared, while traces of only one were found. The possibility of translation from broad daylight and the busy haunts of men into oblivion is proved, by what has happened to Major Murray, to be by no means visionary.

The clue to the explanation of Roberts's violence towards Major Murray was supplied by a piece of blotting paper, which showed that he had corresponded with the lady whose appearance as a witness is so carefully described by the reporters. Three letters of this lady to him and rough drafts of two of his to her were found among his papers. It appeared from the lady's letters that Roberts had sent to her a present of clothes for her baby, which had produced in her mind a transport of delight and gratitude. The principal topic in the two important letters is certainly the child and its garments; but they contain besides very warm expressions of thank-

fulness, if not of a more tender sentiment, towards Roberts. It is quite unnecessary to speculate upon the degree of meaning to be attached to the superlatives in which this lady deals. We may either accept her own account of the nature of her intercourse with Roberts, or we may imagine, if we please, that the happy days which she speaks of having spent with him were as real as in her estimation was the beauty of the "little gems of caps" and of the "pet" who was to wear them—we may suppose that she visited Roberts simply as a money-lender, or that her expressed wish to lay her head upon his shoulder was not merely a forcible way of stating that she was much obliged to him—whatever be the exact amount of credit which we give to this lady's story, there appears from it abundant reason why Roberts should have felt that Major Murray was in his way, and may have been tempted to get rid of him by violence. A lawless, ungovernable passion produced in Northumberland-street, Strand, in the nineteenth century, precisely the same effect as it has produced among people and in ages which are thought barbarous. There appears to have been formed by Roberts a deliberate design to invite Major Murray into his obscure chambers and to murder him. We can scarcely suppose that he began pistol practice twelve months before, in order to familiarise his neighbours with the sound of fire-arms; but it may have occurred to him that the habit in which he indulged so freely, might furnish the opportunity of destroying life without suspicion. If such a deed was to be done at all in such a place, it might probably be done with quite as much hope of secrecy at noon as at midnight. There would have been no reasonable pretext for drawing Major Murray into the chambers except during business hours, and perhaps neither London nor the country offered any spot so eligible for murder as this bill-discounter's office close to Charing-cross. The only person whose proximity seemed likely to prove inconvenient was a painter, who was at work close to Roberts's door,—and he was sent upon a curious errand to buy a linnen immediately before the tragedy began. It might be expected, as indeed it happened, that Major Murray would be seen walking with Roberts towards his chambers; but it was not likely that any person would know for certain that he had not again quitted them, or would attach so much importance to the impression that he was still there, as to found on it any suspicion that he had suffered violence. The calculation that Northumberland-street was a reasonably eligible place in which to commit murder, appears to rest on grounds which are solid, although not, at first sight, obvious. The experience of many offenders against the law has taught them that they are nowhere safer than under the very nose of the police. If Roberts was urged by an ungovernable passion to seek the life of Major Murray, he does not the less appear to have adopted prudent measures, both for the destruction of his rival, and for his own security. He seems to have shewn the cunning as well as the bloodthirstiness of a tiger.

There does not seem to be any reason to doubt that Major Murray spoke the truth unreservedly in his evidence. He stated that he was addressed by Roberts as a director of the Grosvenor Hotel Company on the pretext that a client of Roberts desired to advance money to that company. Roberts requested him to come to his office to talk about this business. He was conducted into the back room and left for a minute or two alone. "I thought it was the most extraordinary place I had ever seen—torn papers, letters, and pictures lying about—a most disreputable looking place." Roberts returned into the room and they discussed the terms of the proposed loan. Major Murray then asked for a card of the address of Roberts as the person proposing it. Roberts got up as if to look for his card, and presently Major Murray felt a slight touch in the back of his neck, and the report of a pistol followed. The Major dropped from his chair paralyzed, and before he could recover himself Roberts fired another pistol at his tem-

ple. Then the Major began a fierce struggle for his life, and struck or tried to strike Roberts with every thing of which he could make a weapon. A more savage combat was never fought, and probably a more terrible spectacle was never seen than this room full of dust and blood, where lay the mangled body of its occupant. Major Murray displayed in his escape a degree of strength and agility which is wonderful considering how he had been wounded. The amazement of London at this deadly strife in its very centre was unbounded, and at first it seemed almost impossible to frame any conjecture as to the origin of it. But inquiry has produced a simple and sufficient elucidation. The passions of men have been aroused in all ages by the same causes and have found vent in the same acts of violence. Certainly the theory of man's continued moral progress has undergone a shock by this convincing proof that barbarism co-exists with civilization. The result of the inquiry has proved the efficiency of the police, and the inquiry itself has proved that that efficiency is indispensable.

EVIDENCE IN CRIMINAL CASES.

A pamphlet* recently published contains all the leading arguments usually advanced in support of the present state of the law of evidence in criminal cases. The author states, for the purpose of refuting Mr. Taylor's deductions, the two fundamental axioms of evidence upon which he has mainly founded his thesis. These are as follows:—1st. "In all judicial investigations the object to be attained is the discovery of truth, and no species of evidence ought to be excluded which can materially aid in that discovery." 2nd. "The rules of evidence ought, so far as is practicable, to be the same in civil and in criminal proceedings." The author impugns these propositions, and also Mr. Taylor's application of them to the views maintained by him. Mr. Worsley appears to us to have overthrown Mr. Taylor's first redoubt, and to have shown that the burden of proof does not rest upon the advocates of the present system. It is a mere *petitio principii* to state, as he does, that the "present law of evidence in criminal cases is in direct conflict with both these axioms." The present rule of law certainly precludes garrulity on the part of the accused; but the question at issue is whether it prevents the giving of useful evidence. Mr. Worsley remarks that Mr. Taylor in his assumption, commences suit by signing judgment. The critic cites against the author of the *Treatise on Evidence* the powerful names of Lord Chief Justice Hale, Sir Michael Foster, Sir W. Blackstone, Serjeant Hawkins, and of Reeves, author of the "History of the Common Law," besides the more recent treatises of Starkie, Phillips, Russell, and Best. It is not likely that these authorities would have let the law, so strongly censured by Mr. Taylor, pass without comment, if they considered it to be in direct conflict with the discovery of truth. Mr. Worsley examines Mr. Taylor's criticism of the reasons usually urged in defence of the present system of criminal procedure. These reasons are, "first, that the admission of the testimony of defendants in criminal trials would mislead juries; next, that it would increase the crime of perjury; and, lastly, that it would expose the accused to unfair and oppressive examination." It must be admitted that the first reason has nothing in it. Indeed, it is surprising that it has ever been put forward; for, no statement from the accused is likely to have much weight against the oaths

in the witness-box. Mr. Taylor allows some force to the second reason; and, as his opponent adds, the addition of an oath would only tend to bring the ceremony into contempt, and would not make a voluntary statement more credible than at present. As to the third reason, Mr. Taylor seems to think that he evades its force by recommending merely permissive and not compulsory examinations, except that if the accused do volunteer to testify, he should then become liable to cross-examination. It is replied that it is the innocent man who is most likely to tender himself, and thus lay a foundation for a perilous cross-examination, and that those who would decline to testify would be prejudiced in the minds of the jury. Mr. Taylor suggests that as assaults, libels, and frauds may be dealt with either civilly or criminally, there is an unfair advantage given by the present law to an accuser, who proceeds criminally; just as an advantage is gained by a prosecutor in making the witnesses of the real offender co-defendants, and thus precluding them from giving evidence. Mr. Worsley adds that the defendants can, under all circumstances, make their own statements, and that such as are acquitted may then be adduced as witnesses for the others. The device, we may add, is well known, and when observed by the jury to have been acted upon in any case in order to shut out evidence, materially damages the cause of the complainant. The objection to Mr. Taylor's recommendation which we consider conclusive, is that the legal maxim *Nemo tenetur seipsum accusare* already does for the prisoner what some advocates for his interrogation mean to do for him. If the facts given in the evidence for the prosecution be consistent with the prisoner's explanation of them as given under the present system, the jury are bound to acquit him; *Reg. v. Crowhurst*, 1 C. & K. 376. The objections against the interrogation of prisoners apply with equal force to an examination of their wives. The legal and social identity of husband and wife is not, perhaps, as likely as the personal interest of the accused to lead to perjury, or to the incrimination of others. But, at all events, such interrogations are, in our opinion, liable to a peculiar objection, as they tend to undermine that social confidence which is the germ of the more extended political sympathies and patriotic feelings of mankind.

When a failure of justice occurs, as in the case of the Road murder, we are apt to look for a remedy in a change of the law. Accordingly, since that murder occurred, the question of the judicial interrogation of prisoners has received unwonted attention. Upon the theoretic merits of the proposed change we offered some general comments, *ante*, vol. 4, p. 882. We cannot but feel surprised that Mr. Taylor should, for the sake of a doubtful harmony of the rules of evidence, seek to assimilate the heterogeneous elements of civil and of criminal law and procedure. When parties to civil actions depose on oath, they are only following out what their very entry upon litigation implies—viz. that they are prepared to contradict one another. No such presumption arises as to the parties or witnesses in a criminal proceeding, unless in cases where an informant expects a reward or penalty, and no one supposes that a disinterested witness will be tempted to prop up one lie, perhaps an inadvertent one, by ten additional perjuries. Moreover, a defendant in a civil case is rarely tempted to incriminate others; a defendant in a criminal proceeding is, on the contrary, always strongly tempted to do so. We had, therefore, much rather see professional efforts directed to the appointment of a public prosecutor than to effecting a change in our ancient laws of evidence in criminal proceedings.

* "An Examination of Mr. Pitt Taylor's Thesis 'On the Expediency of passing an Act to permit Defendants in Criminal Courts and their Wives or Husbands to Testify on Oath.'" By FRANCIS WORSLEY, of the Middle Temple and Home Circuit, Barrister-at-Law. London: Butterworths. 1861.

ON THE LAW OF TRADE MARKS.

No. VIII.

(By EDWARD LLOYD, Esq., Barrister-at-law.)

Of injuries arising out of a breach of trust or confidence.

We have hitherto considered only those cases in which an injury has been suffered by a manufacturer or a trader, or by an author or publisher of a literary work, from the presentation to the public of something apparently the production of the original proprietor, but which is in fact a spurious imitation only, put forward by a rival in the market. There are also cases which we shall now proceed to examine, where the existence of a contract or agreement between the parties for the conduct of any business involving a secret process, and the consequent communication of such a secret, has introduced a somewhat different sort of consideration into the rules which the Court has laid down in restraining the breach of such an agreement, the divulging of the secret in trade, and generally the violation of the confidence reposed by one of the parties in the other.

The earliest of these cases, *Newbury v. James*, 2 Mer. 416, shows the difficulties that have been felt in dealing with questions of this sort. The plaintiff here claimed to be entitled, under the provisions of certain agreements entered into by the ancestors of himself and the defendant respectively, to the exclusive right of selling certain powders and pills well known as "James' Powders" and "Analeptic Pills," as agent to the defendants, and prayed a decree for specific performance of agreements; the pills and powders were made up by the defendants from an alleged secret recipe, and it was also sought to restrain them from communicating this recipe to any other person without the plaintiff's permission. The Court does not appear to have looked upon this secret recipe in light of property—the subject of certain agreements as to the manner of enjoyment, and as clearly liable to injury from divulcation; had this been done I cannot see that there would have been much difficulty in framing an injunction in restraint of such a contemplated injury, even though the Court might not have been able to decree the specific performance of the agreement. On this head it is observed by the Lord Chancellor that the difficulty was how to decree specific performance of the agreement. "Either it was a secret or it was none. If a secret, what means did the Court possess for enforcing its own orders? If none, there was no ground for interfering;" that "if the art and method of preparing the Analeptic Pills for which no patent had been procured were a secret, what signified an injunction, the Court possessing no means of determining on any occasion whether it had or had not been violated? The only way in which a specific performance could be effected would be by a perpetual injunction; but this would be of no avail unless a disclosure were made to enable the Court to ascertain whether it was or was not infringed;" and that it was necessary for a person coming to that court, to complain of the breach of an injunction, first to show that the injunction had been violated. The injunction was therefore dissolved.

So also in *Williams v. Williams*, 3 Mer. 157, where the Court granted a motion to dissolve an injunction, obtained *ex parte*, to restrain the communication of a similar secret. It was there said that if on a treaty with his son (the defendant) while an infant, for his becoming a partner when of age, the plaintiff had, in the confidence of a trust reposed in him, communicated to him the secret of the recipe, and given him possession of certain stock-in-trade (mentioned in the bill); and instead of acting according to his trust, the son had taken to himself the exclusive dominion over the stock-in-trade, and begun to vend various articles without permission, so far the injunction was right in compelling him either to perform or to waive the agreement. But it was said that the Court would not struggle to protect secrets in medi-

cine of that sort; that it was different in the case of a patent, because there the patentee was a purchaser from the public, and bound to communicate his secret at the expiration of the patent. The question, however, whether a contracting party was entitled to the protection of the Court in the exercise of its jurisdiction, to decree the specific performance of agreements, by restraining a party to the contract from divulging the secret he had promised to keep, was declared to be one requiring much consideration.

This point has, however, since been settled with tolerable distinctness; in *Dietrichsen v. Cabburn*, 2 Ph. 52, Lord Cottenham, whilst noticing what was in the argument, alleged to be a recent dictum of the Vice-Chancellor of England, "that the Court will not prohibit the violation of a negative term in an agreement, unless it has the power of enforcing the positive part of the same agreement," says, "I cannot but think that there has been some misapprehension of the meaning of the Vice-Chancellor, as applied in this supposed rule; for in the case of *Kimberley v. Jennings* (6 Sim. 340), his Honour, in stating that the violation of a negative term in an agreement will not be restrained in cases in which the positive part of it cannot be enforced, exemplifies it by saying that if the agreement cannot be performed in the whole, the Court cannot perform any part of it. To this proposition so explained I entirely assent." This means only that where there is such an infirmity in an agreement that it cannot be performed in all its parts, the Court will not by injunction compel a defendant to perform the one part, it being at the same time unable to compel the plaintiff to perform reciprocally the other, namely, that which was positive in the agreement, if its aid should be appealed to by the defendant in order to procure for him the benefit of the contract or agreement.

We find, however, that in *Yovatt v. Winyard*, 1 J. & W. 394, the defendant, who had been employed as the plaintiff's assistant under an agreement by which he was to have a salary, and be instructed in the general knowledge of the business, but not in the secret of manufacturing the medicines sold, was restrained from divulging those recipes to which he had surreptitiously obtained access; and from making up and selling the medicines compounded from the recipes, with certain printed instructions almost literally copied from the plaintiff's. In this case the decree proceeded on the ground of trust; as it did likewise in the case of *Green v. Folcham*, 1 S. & S. 398, where the defendant was held to be the trustee of the secret of compounding "the golden ointment," under the trusts of a certain settlement, and was ordered to account for certain mesne profits made by him by the sale of the ointment; the Court even going so far as to direct a valuation of the secret to be made for the purpose of administering the trust property.

Again, in *Tipping v. Clarke*, 2 Hare 383, a case arising out of a dispute between two merchants, in the course of which the defendant in a letter to the plaintiff, stated that he had acquired a knowledge of his books and accounts, and that he intended to make a public exhibition of them, we have a recognition of the same doctrines thus stated in the second and third grounds, which Vice-Chancellor Wigram gives in his judgment, "that of breach of contract between the parties, and that which is common to all cases, that the Court interposes to prevent a positive wrong, the consequences of which cannot be adequately measured or repaired in damages." There was no doubt the question of the property in the account-books, but looking at the case with reference to the other two heads it was clear that every clerk in a merchant's office is under an implied contract to keep the secrets of his employer's business, and that the defendant's information could only be derived from some breach of such a contract; and further, that it was probable a serious injury would arise from the publication of such accounts, which could only be relieved against by injunction. The question

was discussed only on exceptions to the defendant's answer, which were allowed, so that it must not be considered as laying down any final rule. The case, however, seemed to me worthy of notice, as lying so near on the boundary line of the subject under consideration.

Morison v. Moat, 9 Hare 241, is, I think, the latest case which we need consider under this head. It appeared that the plaintiff and defendant had for some years carried on in partnership the business of making and selling "Morison's Universal Medicine." On the dissolution of the partnership, the defendant, who must under the circumstances stated be considered to have retired from the business, set up for himself, and made and sold the original medicine under its former name as prepared by him. It appears that the plaintiff, in praying for an injunction, did not omit to put forward the ground of fraud or misuse of his labels and trade-marks by the defendant; he, however, relied on this only in aid of the principal head—that of breach of faith and contract; and it is on this ground that the decision rests. The Vice-Chancellor, noticing the cases which I have here cited, as also *Abernethy v. Hutchinson*, 3 L. J. Ch. 209, and *P. Albert v. Strange*, 1 Mac. & G. 25, to which I shall allude hereafter, says "That the Court has exercised jurisdiction in cases of this nature does not, I think, admit of any question. Different grounds have indeed been assigned for the exercise of that jurisdiction. In some cases it has been referred to property, in others to contract; and in others again it has been treated as founded on trust or confidence—meaning, as I conceive, that the Court fastens the obligation on the conscience of the party, and enforces it against him in the same manner as it enforces against a party to whom a benefit is given, the obligation of performing a promise on the faith of which the benefit has been conferred." The Vice-Chancellor here recognises the ground of property, a ground which brings all these cases under the same general head as those of trade-marks; and it is worthy of remark that while he seems to consider this as only a subsidiary ground for the decree, he limits the operation of that decree to restrain only a given use on the part of the defendant of the name and marks of the plaintiff, and from using the secret in compounding the medicine, not the general use of the name of Morison in the manufacture or sale of any medicine; nor does the injunction restrain the defendant from communicating the secret. This, I confess, seems to me very much like the recognition of the same species of compound property in the secret recipe, sold under a certain name as exists, in my opinion, in the case of the trade-marks; and I cannot but remark that there seems to be traceable in the decisions on this head, as on the other, the same progress, from a refusal to recognise any such sort of property, and a determination to found the relief granted on any other head, to the opinions and principles laid down in *Morison v. Moat*, and in *Millington v. Fox*, and *Welch v. Knott*.

The conclusion to which I have thus arrived appears to me to be confirmed by the expressions of Vice-Chancellor Knight Bruce in the case of *Prince Albert v. Strange*, 2 De G. & S. 652; and the observations of the Lord Chancellor on the same case on appeal (*vide sup.*). The former of these learned judges pursues the following train of argument:—"That it is upon the principle of protecting property that the common law, in cases not aided nor prejudiced by statute, shelters the privacy and seclusion of thoughts and sentiments committed to writing, and desired by the author to remain not generally known; that, such being the nature and foundation of the common law as to manuscript, its operation cannot of necessity be confined to literary subjects. "Wherever the produce of labour is liable to invasion in an analogous manner, there must be a title to analogous protection or redress." His Honour also quotes with approbation what was said by Mr. Justice Yates in *Millar v. Taylor*, 4 Burr. 2303, that an author's case is exactly similar to that of an inventor of a new mechanical machine, that

both original inventions stand upon the same footing in point of property; and that the immorality of pirating another man's invention is as great as that of purloining his ideas.

In order completely to understand the view which was taken by Lord Cottenham of this case, it is necessary to state the main facts involved—they were as follows:—that the defendant Strange had published a catalogue of certain etchings, the work and private property of Prince Albert and the Queen. This catalogue, descriptive of the works themselves, also advertised a public exhibition of copies surreptitiously obtained by one of the defendants, and the whole professed to be by the permission of her Majesty and the Prince Consort. His lordship, assuming that the right of the plaintiff to an injunction restraining the defendant from dealing in any manner with the etchings themselves, was clear, considered that the only question was as to the catalogue; and especially as to the representation there held out that its publication was by permission of the Queen and her Consort. This he considered to be a complete case of an intention to sell under a false representation; and that as all manufacturers are, as a matter of course, restrained from selling their goods under similar misrepresentation tending to impose upon the public, and to prejudice others, it would be singular if the like restraint should not be imposed in the case before him.

It may, no doubt, be urged that in the case of trade-marks there is no such property as this; no doubt there are many expressions in the older cases which would seem to justify such an assertion. I will admit that there is no property in a mere name or mark; but by the use of such a name or mark injuriously affecting the rights of any person who has established his claim to use it to distinguish articles of his manufacture, according to recent decisions at any rate, there is an injury done to property. Having therefore once fixed the notion of this species of property, the analogy between the cases to which I have referred above, and those of trade-marks, more properly so called, is, to my mind, no longer far-fetched or illusory.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.—LINCOLN'S-INN.

(Before the LORD CHANCELLOR.)

July 20.—*Hartlett v. Wood*.—This was an appeal from Vice-Chancellor Stuart. The suit was instituted for the administration of an estate, and also for the purpose of setting aside a sale alleged to have been improperly made by the defendant, who was a trustee under Bartlett's will. The Vice-Chancellor at the hearing of the cause, directed certain enquiries to be made respecting the sale, which resulted in the allegations of impropriety being disproved. Upon the cause, however, coming before the Court on further considerations, his Honour directed all the costs to be paid, as between solicitor and client, out of the testator's estate, which was bequeathed by the will in trust for the infant children of the testator. The question raised by the appeal was as to the practice of the Court in directing the payment of costs.

The LORD CHANCELLOR said there was no greater inducement for persons to come into the Court of Chancery with unfounded litigation than the unfortunate degree of uncertainty which existed upon the subject of costs. As a general rule, the costs ought to follow the event. In administration suits, however, it behoved the Court to attend most carefully to the subject of costs, and the rule ought, in his (the Lord Chancellor's) opinion, to be that those costs only ought to be allowed out of the estate which had been incurred in proceedings originally directed with a reasonable and proper foundation for the benefit of the estate, or which had in their result conduced to that end. In the present case he should confine his observations to the costs occasioned by the allegations in the bill in reference to the sale. Those allegations charged fraud on the part of the

trustee; but upon enquiry, all of them were disproved, and the Vice-Chancellor, through his chief clerk, certified that they were without foundation. Nine-tenths of the whole costs had been caused by those allegations, and the question of costs had now become more important than the original subject of complaint. His lordship directed that so much of the plaintiff's costs of the suit as had been incurred through the allegations of fraud in the bill should be disallowed, and that the remainder of his costs should be taxed as between party and party.

ROLLS' COURT.

(Before the MASTER OF THE ROLLS.)

July 22.—The Sutors' Fee Fund.—Upon the hearing of a cause of *Wilkinson v. Duncan* a question was raised as to the payment out of court of a sum of money upon the personal indemnity of the party receiving it. His Honour said that as the Sutors' Fee Fund would be liable to repay the amount in case the person receiving it failed to do so, it became important, after the suggested appropriation of the Sutors' Fee Fund, that the Court should be very careful in payment of moneys in these cases. He had had as many as 60 or 70 applications for payment of moneys out of the fund, and in some cases upwards of 60 years had elapsed since they had been paid in. Scarcely a petition day passed without some application being made for payment of money out of the fund.

SUMMER ASSIZES.—MIDLAND CIRCUIT.

LINCOLN.

July 20.—The Lord Chief Baron opened the commission here to-day. There were 16 causes entered for trial.

DERBY.

July 25.—The commission was opened in this town to-day by Mr. Justice Willes.

HOME CIRCUIT.

LEWES.

July 19.—The commission was opened here to-day. There were only 9 causes entered for trial.

The Right Honourable Edward Cardwell has been appointed Chancellor of the Duchy of Lancaster.

Mr. Edwin Wilkins Field, 36, Lincoln's-inn-fields, Middlesex, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Middlesex, and for the cities of London and Westminster.

Parliament and Legislation.

HOUSE OF LORDS.

Tuesday, July 23.

SALMON FISHERIES BILL.

LORD STANLEY OF ALDERLEY moved the second reading of this Bill, and explained that it was introduced in order to forbid practices which had considerably diminished, and still continued to diminish.

The Earl of MALMESBURY thought the measure a practicable one, and such as ought to become law.

After a few observations from the Earl of LONSDALE and Lord LEANOVER the Bill was read a second time.

HOUSE OF COMMONS.

Monday, July 22.

BANKRUPTCY AND INSOLVENCY BILL.

The order of the day for resuming the consideration of the Lords' amendments in this Bill having been read,

The ATTORNEY-GENERAL said, he presumed, after the deci-

sion arrived at the other night for restoring the clauses relating to the appointment of the chief judge, that the House would not now think it necessary to discuss at any length the other subsidiary amendments consequent upon that change.

Sir H. CAIRNS thought it would be useless to discuss the amendments which treated of the office of the chief judge.

The House then disagreed accordingly with the various amendments made by the Lords on the subject of the chief judge.

On clause 21, in which the Lords had increased the number of official assignees from five to eight,

The ATTORNEY-GENERAL said, as the provisional assignee of the Court for the Relief of Insolvents would, by the 26th clause, be constituted an official assignee of the Court of Bankruptcy, if the present amendment of the Lords were agreed to, and eight were substituted for five, the number of official assignees in London would, in fact, be increased to nine. That would, he thought, be entailing useless expense on the country. He therefore moved that the Lords' amendment be disagreed with.

Sir H. CAIRNS said the Government had given notice of two cardinal points on which they proposed to disagree with the Lords' amendments. The one referred to the chief judge, which had already been settled, and the other, which had still to be determined, referred to the official assignees. The present amendment had been introduced by the Lords in consequence of the general view they took with respect to the official assignees. Hitherto all bankrupt estates had been vested in the official assignees and the creditors together, who acted through one and the same solicitor in realizing the whole of the estate and dividing it among all the creditors. No doubt there had been a great deal of complaint in the commercial world on the subject of the official assignees. But the House must endeavour to see what was the origin of that complaint. It did not originate because the official assignees did not do the business properly, or collect the debts and divide the assets with rapidity among the creditors, but rather because the official assignees were entitled to take a very large percentage from the sums recovered, and thereby the amount divisible among the creditors was very much diminished. Those objections were got rid of by this Bill, because it placed the official assignees upon salaries instead of percentage, the five official assignees in London receiving £1,200 a year, reducible to £1,000, and those in the country £1,000 a year, reducible to £800. The Bill also provided that a bankrupt's estate should at first be vested in the official assignee, but that when the creditors' assignee was appointed all control of the estate should be taken from the official assignee, except that he was to collect the debts due to the bankrupt under £10, while the debts of a larger amount would be collected by the creditors' assignee. In the House of Lords exception had been taken to that arrangement, and it was urged that the consequence would be that the official assignee and the creditors' assignee would have to employ separate solicitors, of course entailing upon the estate two bills of costs. Another difficulty would arise from the proposed arrangement. The official assignee would require the bankrupt's books to enable him to collect the debts under £10, while the creditors' assignee would want them for the purpose of collecting the larger debts. That state of things would lead to inconvenience and antagonism, as well as to confusion and expense. There was an idea which was prevalent in the commercial world that if the Lords' amendments were agreed to there would be no mode by which the creditors could get rid of the official assignee if they desired to place the management of an estate in the hands of trustees selected by themselves. That, however, was a mistake, because under the arrangement clauses any body of creditors desiring to wind-up an estate without the assistance of an official assignee could do so. But he would ask whether it was judicious to have five official assignees at £1,200 a year and seven or eight at £1,000 a year solely to collect debts under £10. It might be said, on the other side, that official assignees might be chosen as trustees by the creditors; but if that were so he thought those officers should stipulate for their remuneration with those who employed them. The suggestion that they might be sometimes chosen as trustees by creditors rather militated against the assertion that official assignees were extremely distasteful to the mercantile community. He submitted, therefore, that there was much force in the opinions expressed by the House of Lords, but, looking at the period of the session, and considering that this point was not absolutely essential, he should not invite the House to divide in opposition to the Attorney-General's motion.

Mr. MURRAY believed that in the London district one official assignee to each commissioner was quite sufficient for the work to be done. He thought the time had arrived when creditors should take the management of bankrupt estates into their own hands, for the expenses incurred under the present system were far greater than any bankrupt estate ought to bear. Under the management of official assignees creditors were apt to fancy that everything was being done that ought to be done, whereas estates were very much neglected, and the interests of creditors left to suffer. On these grounds he was opposed to the Lords' amendment.

Mr. GLYN said that in the city of London the desire to prevent estates from falling into the hands of the Court of Bankruptcy was so strong that trustees had exposed themselves to the greatest possible legal difficulties in consequence.

The ATTORNEY-GENERAL said that the official assignees were brought into existence by the Act of 1831. The evils connected with the management of insolvent estates by the creditors' assignees were at that time considerable, and caused great dissatisfaction. But, in endeavouring to avoid one evil, the Legislature fell into the other extreme. The creditors' assignees, in consequence of not being subject to an audit neglected their duty. The official assignees then collected the debts, and had the management of very considerable funds, yet no proper audit of their accounts was instituted, or was in operation. A form of audit by the commissioner no doubt existed, but the commissioner had not that knowledge of the matter which was necessary to make him a satisfactory or competent auditor. A return had been made in 1858, with reference to the number of official assignees who had died or been removed, and who had been defaulters. Four of the official assignees in London, and one in the country, had defaulted, the amount of their defalcations being not less than £110,000.

Mr. BOVILL said that official assignees had been appointed because it was found that creditors' assignees did not perform their duties. This matter was fully considered on the second reading, and as various mercantile bodies had expressed a strong feeling for the clauses which passed that House, he should not oppose their restoration to the Bill, but he suggested that, instead of providing that all debts under £10 should be collected by the official assignee, it should be left to the creditors in each case to determine the amount up to which the official assignee should collect.

Mr. HENLEY observed that, as it was the wish of the House that the general question should be decided on this clause, he was disposed to agree with the Government and to disagree with the amendment of the Lords. He thought it was impossible for any one who paid attention to what passed not to know that the commercial body wished to get rid of the official assignee to a great extent, and to have greater facilities for making their arrangements, and if they thought that they could manage their affairs better than the lawyers he did not see why they should not be allowed to do so.

The Lords' amendment was then disagreed with.

In clauses 22 and 27 certain amendments of the Lords were disagreed with, and some were concurred in.

Sir F. KELLY moved that the House should disagree with so much of the new clause introduced between clauses 97 and 98 as deprived debtors whose assets did not amount to £150 of the power of petitioning for an adjudication in bankruptcy against themselves.

The ATTORNEY-GENERAL seconded the motion. The effect of the clause as it now stood would be to prevent any person who might not be able to show assets to the amount of £150 from obtaining a discharge from his debts without being within the walls of a prison and remaining there for some weeks.

Mr. MALINS and Mr. BOVILL also supported the motion, which was agreed to.

On clause 100,

The SOLICITOR-GENERAL stated that paragraph C had been inserted by the Lords with respect to debts contracted or liabilities incurred after the passing of the Act, on which considerable difference of opinion prevailed; but with a view to the passing of the Bill he was not disposed to ask the House to disturb the principle of the amendment. The Lords, however, appeared to have overlooked the fact that by the law as it now stood, if a debtor not a trader lay in prison, any execution creditor was at liberty to apply by petition to the Insolvent Debtors' Court, and obtain a vesting order, the effect of which

was to vest all the present and future estate of the debtor up to the time of his discharge, real and personal, in the assignee of the Insolvent Debtors' Court, to be administered for the benefit of creditors. He proposed after the word "trader" to insert these words:—"And not being at the time a prisoner against whom the creditors would be entitled to obtain a vesting order in insolvency if this Act had not passed." With a view to carry into effect the object of the Lords in this clause he would also add a proviso to the 164th clause to the effect that no person shall be liable by virtue of this Act to any criminal charge or penalty in respect of any matter which may have occurred before the passing of the Act to which he would not have been liable if this Act had not passed. He had had the advantage of communicating these amendments to his hon. and learned friend the member for Belfast, and he was authorised to say that he had no objection to them.

Mr. HENLEY thought the proposal of the hon. and learned gentleman quite a fair one. It left parties as they were, and that was all that was wished or contended for.

The words proposed were then inserted.

Mr. MALINS said that, as to the 101st clause of the Bill, that clause would enable a rich debtor to set his creditors at defiance, and to keep his property while his debts remained unpaid. The principle was plain, that no man had a vested right in dishonesty, and therefore he said that a non-trader, with ample property to meet his debts, ought to be made to pay them, and the law should hold out no inducement to him to remain abroad in order to evade payment. He should take the opinion of the House upon the clause, and therefore moved that the Lords' amendment be expunged.

Mr. HENLEY hoped the Government would support the clause as recommended by themselves, and that they would not, by agreeing to the proposition of the hon. member for Wallingford, endanger the passing of the Bill.

Mr. HADFIELD supported the proposal of the hon. member for Wallingford, because he thought there ought to be no distinction between the classes in respect to paying their debts.

The ATTORNEY-GENERAL declined to accede to the amendment.

Mr. WALPOLE opposed the amendment.

After a few words from Mr. MALINS,

The amendment was withdrawn, and the House agreed to the Lords' amendment.

Several other amendments of the Lords having been considered, were in some instances agreed to, and in others disagreed from.

On the motion of the SOLICITOR-GENERAL, a proviso was added to the 164th clause, to the effect that no person should be liable to be prosecuted for any offence after the passing of the Act for which he would not have been liable to be prosecuted if the Act had not passed.

On the motion of Mr. MOFFATT, the House disagreed with the Lord's amendment in clause 200, making the assent of three-fourths in number of the creditors necessary to the validity of any deed executed by a debtor, and restored the clause to its original shape by the insertion of the words "a majority in number of the creditors representing three-fourths of the value."

Similar words were, on the motion of Mr. MOFFATT, inserted in clause 208.

The remaining amendments, which were of a formal nature, having all been disposed of,

The ATTORNEY-GENERAL moved that a committee be appointed to draw up reasons for disagreeing with the Lords' amendments, and to manage a conference with the other House.

The motion was agreed to, and the committee nominated as follows:—The Attorney-General, the Solicitor-General, Sir G. C. Lewis, Sir G. Grey, Mr. Murray, and Mr. Malins.

Wednesday, July 24.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

On the order of the day for resuming the adjourned debate on the second reading of this Bill,

Sir G. C. LEWIS said that he was favourable to the measure, but in the absence of the right hon. gentleman who had charge of the Bill (Mr. Walpole) he would move that the order be postponed until next Wednesday. At the same time, he did not think it likely the Bill would pass during the present session.

LUNACY REGULATION BILL.

The ATTORNEY-GENERAL moved the second reading of this Bill, the object of which, he said, was twofold, namely, to provide for a more frequent visitation of the lunatics under the care of the Court of Chancery, and to diminish the expense of the procedure. The recommendations of the committee of 1858, who considered this subject, were in some respects adopted in the Bill, but the recommendation of the committee that the care of the Chancery lunatics should be transferred to the lunacy commissioners was not followed, as it was thought that the duties of those commissioners were at present sufficiently onerous.

Mr. HENLEY: The provision of the Bill which gave a new power of dealing with the property of lunatics under a certain amount was as important as any in the Bill. He deemed it a beneficial provision, but its advantage would be very much impaired if these unfortunate persons, scattered all over the country, were to be driven up to one of the Chancery offices in London to get the benefit of the proposed arrangement. There ought to be some machinery by which the benefit of that provision might be more easily obtainable over the length and breadth of the land. There was a clause in the Bill enabling pensions to be given to the present visitors, but he did not know on what principle they were supposed to be entitled to pensions at all; and while the Bill enacted that every lunatic should be personally visited twice at least in every year, the only machinery by which that object could be effected was cut out of the measure. After pointing out what he conceived to be other deficiencies in the Bill, he concluded by moving, by way of amendment, the postponement of the second reading for a week, in order that his right hon. friend the member for Cambridge University, who had devoted so much time and attention to the subject, might have an opportunity of urging whatever objections he entertained to the measure.

The ATTORNEY-GENERAL thought that if he undertook not to move the committee on the Bill until that day week, the object which the right hon. gentleman had in view would be answered.

Mr. HENLEY understood that his right hon. friend wished to oppose the second reading.

After a few words from Mr. CONINGHAM and Sir G. GREY,

Mr. HENLEY consented to withdraw his amendment on the understanding that his right hon. friend would not be considered as precluded from opposing the Bill on the motion that the House resolve into committee upon it.

The amendment was accordingly withdrawn, and the Bill was read a second time.

PROSECUTIONS EXPENSES BILL.

Upon the motion for the second reading of this Bill,

Mr. HENLEY observed that in 1846 the payment of expenses for prosecutions was given to the justices; but the Treasury kept a very strict hand over them, and it was even thought by many that the strictness was carried so far as to impede the administration of justice. By this Bill the Government might sanction a higher scale of fees than at present existed, but the difference of cost was to be borne by the counties. The Treasury might go on decreasing its own scale, and this still further increased the burden cast upon the rateable property of the country.

Sir G. C. LEWIS would be glad to withdraw the Bill if such a course would not be inconsistent with the engagements into which he had entered. There was a scale of allowances to witnesses, and the payments out of the Consolidated Fund were regulated according to that scale, but complaints were made in some counties that that scale was insufficient, and many representations of that nature had been made to him, especially from Yorkshire and Lancashire. It was not considered advisable to raise the scale in all the counties throughout England, because in many parts the present scale of allowances was considered sufficient, neither was it considered desirable to have different scales of allowances for different counties. It was therefore proposed to give the magistrates power to make supplemental allowances, and to charge the cost upon the county rates. That power, however, was permissive and not compulsory.

Mr. S. ESTCOURT thought that as the insufficiency of the present scale of allowances was mostly felt in Lancashire and Yorkshire, it would be better to limit the operation of this Bill to those counties.

Sir W. MILES said the dissatisfaction at the present scale of allowances was more widely extended than his right hon. friend seemed to think. The commission which inquired into this subject two years ago, and of which he was a member, suggested some alterations, but certainly nothing like the provisions of this Bill, to give the Treasury power still further to reduce the scale of allowances. In one respect, at least, he hoped the Bill would be altered. If the justices sent in a new scale, and that scale was sanctioned by the Home Secretary, it would become a permanent scale, while the charge upon the county-rate might afterwards be increased by a further reduction in the scale allowed by the Treasury.

Sir G. C. LEWIS had no objection to transfer the power from the Home Secretary to the county magistrates.

Mr. HENLEY objected to that, as it would entail all the odium upon the justices.

It being now a quarter to six o'clock the debate was adjourned.

Thursday, July 25.

COPYRIGHT OF DESIGNS BILL.

This Bill was read a second time.

Recent Decisions.

EQUITY.

SOLICITOR'S RIGHT OF LIEN ON PAPERS.

Webster v. Le Hunt, V. C. K., 9 W. R. 804.

We considered lately (p. 618) what is the solicitor's right of lien on papers where he has discharged his client, and we showed that the client is entitled in such a case to have his business conducted with as much ease and celerity and as little expense as if the connection had not been dissolved. In order to attain this object, he is entitled to have his papers delivered to his new solicitor, upon his undertaking to return them as soon as the immediate purpose of their delivery has been attained. Such is the rule where the solicitor has discharged the client, but where the client has discharged the solicitor, it might have been supposed that the rule was different. It would seem, however, that in the case now before us, this distinction has been disregarded. A solicitor had agreed, in this case, to carry on his client's suit without requiring any funds for the purpose till the hearing. A decree was made, and the client appealed from it. The solicitor declined to act in the appeal without funds, and a fresh solicitor was appointed. A motion was now made that the old solicitor might hand over the papers to the new one without prejudice to his lien; and Vice-Chancellor Kindersley made the order. He admitted that this solicitor had the right, after the original hearing, to refuse to go on without funds; but he denied that he had the right, by withholding the papers, to prevent the course of justice, "although he had a right to his lien, whatever it was." We think that this qualification, "whatever it was," is reasonable. Certainly, if the papers are to be handed over to the new solicitor for all the purposes for which they can be required, the value of the lien of the old solicitor becomes inappreciable. He has done without payment as much business as he agreed to do, and he declines to do more. Probably his only chance of payment is to be found in this lien on the papers in the cause which the present decision has annihilated. The Vice-Chancellor said expressly, "the order to change solicitors was a discharge by the client;" and he then proceeded to make the order which we should have expected him to make if he had held that there had been a discharge by the solicitor.

It must be observed that this decision of Vice-Chancellor Kindersley is, to some extent, at least, supported by the case of *Heslop v. Metcalfe*, 3 My. & Cr. 183, to which we referred in our former article on this subject. In that case, the solicitor, after acting for about fifteen months, delivered his bill of costs in the suit, shewing a balance due to him, after giving credit for certain sums advanced by the client. Shortly afterwards, the solicitor wrote a letter requesting payment of a larger balance due on his general bill of costs, and saying that if it were not paid, the client must abide the consequences. In a subsequent letter, he stated that he should proceed no further in the cause unless the request contained in his previous letter were complied with. Under these circumstances, Lord Cottenham considered that the solicitor had retired from the performance of his duty in the cause. After an examination of

the facts proved in the case, his lordship said that they amounted "to a withdrawal from the office of solicitor;" and therefore he held that the rule laid down by Lord Eldon for securing the convenience of the client became applicable. It is, however, by no means certain that Lord Cottenham would have made a similar order in such a case as that now before us. In *Heslop v. Metcalfe*, the client had paid money on account, the solicitor demanded payment not only of the balance due to him in the suit, but of a general balance, and there had been no previous stipulation as to the time beyond which the solicitor should not be expected to proceed, unless he were supplied with funds. All these circumstances distinguish *Heslop v. Metcalfe* from the case lately before Vice-Chancellor Kindersley; and besides his Honour himself distinguishes the two cases by saying that the latter was a case of discharge by the client, whereas Lord Cottenham treated the former as a case of discharge by the solicitor. We doubt, therefore, whether the Vice-Chancellor's decision is fully justified by authority, and it certainly does not seem altogether easy to reconcile it with principle.

COMMON LAW.

GUARANTEE, CONTRACT OF—PAST AND FUTURE DEBTS.

Westhead v. Sproson, Ex. 9 W. R. 695.

It is an essential ingredient in the contract of guarantee that something is to be done by the party to whom it is given. It is true that a guarantee may well be given of a debt already incurred (as was the case in *White v. Woodward*, 5 C. B. 810), but then it must be in consideration of a future advance or supply of goods to the debtor. In the present case, the guarantee was in like manner in respect of supplies on credit already made, and hereafter to be made; and the consideration was that the creditor would in future credit the debtor with such goods as he might require, and the creditor might think fit to supply; and on this promise an action, before any additional supply, was made, was brought to recover the value of the advances already made. It was, however, held that no action lay until a fresh advance was made, when both that and the past debt might be recovered from the surety. Until such advance the agreement was void for want of mutuality. For the only engagement on the part of the plaintiff was to supply if he thought fit to do so, which amounted to nothing and formed no valid consideration for the guarantee.

It may be remarked that in the 3rd vol. of Broderip & Bingham's reports (p. 211) a guarantee is mentioned somewhat in the form of that in the present case, being in respect of "the present account of A. B." and of "what she may contract from this date" to a future date. This guarantee was held to be good, although it might be argued (as in the present case) that inasmuch as there are two sides to every contract, there was no certainty of there being, as affairs turned out, any future advances. But it is to be observed that from the report of this case it does not appear whether before action brought, any fresh contract for the supply of goods had in point of fact been entered into. Indeed, the only question there argued, seems to have been whether a consideration sufficiently appeared on the face of the instrument.

STATUTE OF FRAUDS—WHAT MAY BE RECOVERED ON THE COMMON COUNT FOR WORK AND MATERIALS.

Lee v. Griffin, Q. B. 9 W. R. 702.

This was a hard case for the plaintiff, who, being a surgeon-dentist, had received an order from a patient for some artificial teeth, which he made in due course, but in the meantime the patient fell ill and died before they could be either fitted or delivered. Now the value of these teeth being more than £10, the case fell under the 17th section of the Statute of Frauds (29 Car. 2, c. 3), which does not allow a contract for the sale of goods to that price and upwards to be good unless either the buyer shall accept and actually receive a portion or shall give something in earnest to bind the bargain or in part payment, or unless some memorandum or note in writing of the bargain be made and signed by the party to be signed or his lawfully authorised agent. This provision, it is true, applied originally only to such goods as were actually made at the time of contract, and were then in a state for delivery, which would not meet the case in question, the teeth being at that time still to be manufactured by the plaintiff; but a later statute, known as Lord Tenterden's Act (9

Geo. 4, s. 14), extended the 17th section of 29 Car. 2, c. 3, to cases where the goods were not at the time of the contract of sale actually made, procured, or provided, or fit and ready for delivery. And, as in the present case, as no written agreement had been entered into (though an imperfect correspondence on the subject had passed between the parties), nor any of the alternatives above-mentioned taken place, the only resource of the plaintiff to obtain payment for what he had done on his patient's express retainer, was to charge his executor for the teeth as for work and labour done, and materials provided by him for the testator at his request. But here the Court interfered, and placed a construction on such a count (which is one of the "common counts") which was fatal to the plaintiff's success. They held that under such a count, the value of no article can be recovered which is not entirely subordinate and auxiliary to the work and labour performed therein, and that it by no means followed that it can be recovered on such count because the skill of the plaintiff made the article of value. The case which was chiefly relied upon on behalf of the plaintiff was the recent one of *Clay v. Yates* (1 H. & N. 73), in which it was held by the Court of Exchequer that the cost of supplying paper, and printing thereon the manuscript of the defendant, might be sued for as work and labour, and consequently did not come within the provisions of the statutes above referred to. And the Chief Baron intimated his opinion to be that "in the case of a work of art, whether in gold or silver, marble or plaster, where the application of skill and labour is of the highest description, and the material is of no importance as compared with the labour, the price may be recovered as work, labour, and materials." Now, according to this direction, it is certainly difficult to distinguish the position of the plaintiff in the present case; and so the Queen's Bench appears to have thought: for both Mr. Justice Crompton and Mr. Justice Blackburn, in giving their judgment for the defendant, stated that they doubted whether the law was properly laid down in *Clay v. Yates*; while the remaining judge present, Mr. Justice Hill, preferred resting his concurrence in the judgment of the court upon a distinct ground not material to the present question, viz., that by the terms of the order given in this particular instance, the teeth were not to be paid for until they were fitted, an operation which, owing to the death (as above-mentioned), never, in fact, took place.

18 & 19 VICT. C. 118, s. 2—BONA FIDE "TRAVELLERS."

Taylor v. Humphreys, C. P. 9 W. R. 705.

This case is an express affirmance of a previous decision of the same Court on the proper construction of the Sunday Trading Act (18 & 19 Vict. c. 118) s. 2. This was the case of *Atkinson v. Sellers*, of which an account was given in a preceding volume;* and in which the chief point was, the legal definition of a "traveller" within that provision. The Court then, as now, protested against the ambiguity of the term as used by the Legislature; but held that provided the persons supplied with refreshment within prohibited hours were in the course of a journey, they must be held to be travellers; and that it was immaterial, for this purpose, whether they were journeying for pleasure or on business. And in the present case a conviction was quashed on the authority of this reading of the Act, where certain persons had asked for and obtained refreshment during the hours of Divine service, at the end of a walk taken for amusement or exercise, of four or five miles from their place of residence—having, it should be observed, replied in the affirmative to the question of the innkeeper before he admitted them, as to whether they were travellers. And this suggests a difficulty which in these cases must often in the nature of things arise, as to the knowledge on the part of a person charged under the Act, with respect to the real character of the persons whom he entertains. Neither the existing Act, nor the statute on the same subject which it repeals (17 & 18 Vict. c. 79), contains any provision about the onus of proof or the amount of evidence required in these cases. And it is difficult to see the limit which may be safely drawn by the landlord, if the assertion of him who demands refreshment is not enough; and yet if it is to be held sufficient, an appeal to the veracity of a thirsty applicant seems but a slender protection for the object of the Legislature.

* Vide sup. vol. 3, p. 936.

Correspondence.

DEVISE OF REAL ESTATE.

Referring to the question put by J. N. C., in the *Solicitor's Journal* of the 13th instant, it seems clear that S. H. took a vested estate as tenant in common in fee. It is laid down in "Jarman on Wills," 3rd edit., vol. 2, pp. 143, 144, that on a devise or bequest "to A. for life, and after his decease to the children of B., the children (if any) of B. living at the death of the testator, together with those who happen to be born during the life of A., the tenant for life, are entitled," and that in cases falling within this rule, the children (if any) living at the death of the testator take an immediately vested interest in their shares, subject to the diminution of those shares, as the number of objects is augmented by future births, during the life of the tenant for life; and that, consequently, on the death of any of the children, during the life of the tenant for life, their shares (if their interest therein is transmissible) devolve to their respective representatives. That the estate of S. H. was transmissible will appear by reference to page 237 of the volume cited above, where it is stated that "it has long been settled that the words 'equally to be divided' or 'to be divided,' will create a tenancy in common." T. D.

In answer to your correspondent, J. N. C. (*ante*, p. 632), the children of H. each take a vested remainder under the will of S. (see "Jarman's Wills by Sweet," 3rd edit., pp. 289, 290). And by the Wills Act 7 Will. 4 & 1 Vict., c. 26, s. 3, it is declared that it shall be lawful for every person to devise by his will, &c., &c., and that the power thereby given shall extend "to all contingent executory or other future interests in any real or personal estate, &c." C. W. W.

Your correspondent's signed, J. N. C., in the *Journal* of the 13th instant, may, I think, be answered in the affirmative. I beg to refer him to *Sturges v. Pearson*, 4 Mad. 411, and see also 6 Mad. 250; and to sect. 3 of the Wills Act, 7 Will. 4, & 1 Vict. c. 26. C. W. W.

EQUITY OF REDEMPTION.—ELEGIT.

An equity of redemption cannot, as I understand the law, be extended under an elegit. It thus be so, that writ is a delusion, since few debtors against whom it would be put in force have unencumbered real estates. The law should surely be altered in this respect, now that registered judgments are deprived of their efficacy, and considering that there are many cases—several such have come under my notice lately—where the only source from which the creditor can hope for payment is the real estate of the debtor. Q.

IRISH ANTE-UNION STATUTES.

The object of my former remarks* was merely to direct attention to the mode in which an Irish Ante-Union Statute should be brought to the knowledge of an English Court. I made no comment on any other point in the case. I should think, however, that the evidence of an expert could not be required on the construction of the statute on which the question at Warwick arose, the general principles of law, including those relative to the interpretation of statutes, being notoriously identical in England and Ireland, and there being no specially Irish terms in the enactment in question. As to proof of the statute not having been repealed before the Union, I apprehend there is a presumption of law that any given statute is unrepealed. When the one side had proved the statute, the burden of showing its repeal was thrown on the other side.

It struck me that the course taken in the Warwick case was new; and such an innovation, if it be one, is gravely to be deprecated. F. S. R.

Lincoln's-inn, July 25.

PROBATE COURT DISTRICT REGISTRARS' NEW FEES.

If you would kindly mention in to-morrow's number of your Paper that memorials on this subject from the Liverpool, Hull, Birmingham, Yorkshire, Lincolnshire, and Gloucestershire Law Societies have been already presented to the Treasury, it might incite other law societies and solicitors in towns not having a law society to follow the good example.

Metropolitan and Provincial Law Association, July 26.

PHILIP RICKMAN, Secretary.

* *Ante* p. 632.

Foreign Tribunals and Jurisprudence.

SUPREME COURT OF BOMBAY.—CROWN SIDE.

(Before the FULL COURT.)

June 6.—*The Queen v. Jamsetjee Burjorjee*.—Mr. Anstey moved on behalf of the prisoner, Jamsetjee Burjorjee, for a rule nisi to quash the coroner's inquisition on the bodies of Byroo Sultan and four others. The inquisition was held on the 30th and 31st of last month before H. Cleveland, Esq., coroner of Bombay, on view of the bodies of Byroo Sultan and four others, who were killed by the falling on them of a portion of the earth which they had been digging at the Maneekjee Petty spinning and weaving factory; and the jury having returned a verdict of manslaughter against the prisoner, who was contractor of the work, as having feloniously and unlawfully caused the death of the deceased persons. The grounds of the motion were, firstly, that the inquisition was not perfected when the proceedings were returned to this Court by the coroner, and that only the proceedings and not the verdict of the jury had been returned; secondly, that the proceedings of the inquisition were not written on parchment, as was required by the statute law in cases of manslaughter and murder; and thirdly, that on the face of the evidence, no criminal offence or unlawful homicide had been established against the prisoner. Mr. Anstey read the depositions recorded before the coroner of two of the fellow labourers of the deceased to show that they were employed by the Muccadam, Sooryaba, whom they looked upon as their master, that they obeyed Sooryaba, who followed the instructions received from the prisoner, that the prisoner had called at the place the day before the accident had occurred, and told them to dig in a slope, and that he was present at the time of the accident. Having referred to the evidence of the engineer, Mr. Rowlands, which was scientific, given after examination of the scene of the accident, and that of the prisoner, Mr. Anstey remarked that on the body of evidence the Coroner had written a memorandum summing up the case to a jury consisting of Hindoos, who were of course ignorant of the law of England, and said he thought it necessary to refer to the affidavit of Mr. Prentis, who was present at the inquest on behalf of the prisoner, and had taken notes of the proceedings. Mr. Prentis gives the following as the summing up of the Coroner:—"These five persons have been killed and you have to inquire the cause of their deaths. There is no doubt that they were killed by the earth falling on them. You must find out the cause. It is not sufficient to say that it was the will of God that this earth should fall and kill these persons, the ground may have been dug in such a way that it might have stood all the night and part of the day and had then fallen down. If that was caused by any person, that person was responsible. Mr. Rowlands says that it had been worked in a most dangerous and improper manner, he says that a little has been dug away from the bottom at a time and then the superincumbent earth has been allowed to fall. The contractor who has agreed to do it could not have done it at a price had it been done properly. It was his interest to get the earth away as quickly as possible and as cheaply. You are bound not to spare any one, but you must say what was the cause of the accident. Mr. Rowlands says that there has been no precaution to prevent accidents. He considers that the work has been carried on without the slightest regard for the limbs or lives of the persons engaged in it. Mr. Rowlands further says that it ought to have been by three lifts at a time. Any person with common sense would see that the way in which the excavation was carried on was dangerous in the extreme. Soorya declares that he did the work as Jamsetjee directed him to do it. If you believe that Soorya was working under the direction of Jamsetjee Burjorjee I then consider that Jamsetjee Burjorjee is responsible for the deaths of these five men. If Soorya was merely the servant of Jamsetjee he would not be responsible unless it could be shewn that he was aware of the danger or bore malice." Mr. Prentis then goes on to say that the above note represents accurately, to his belief, the substance of the coroner's summing up, save that the coroner referred to a statement made to him by Jamsetjee before Mr. Prentis's arrival at the inquest, and also to Jamsetjee's deposition taken at the inquest, and told the jury that he (Jamsetjee) had not denied the case, or words to that effect. The jury (who were all Hindoos) were then left alone to deliberate on their verdict, and, after some minutes, they said that Jamsetjee had, in their opinion, been guilty of negligence and was to blame. The coroner then asked them whether they intended that as a verdict of manslaughter, upon which

they said they did. The coroner signified his approval of such verdict, made a memorandum of it in writing, and issued his warrant for the commitment of Jamsetjee for manslaughter. He was accordingly apprehended and lodged in the common gaol of Bombay on the 31st May. On the 3rd June, Mr. Prentis obtained from his lordship the Chief Justice an order for a writ of *habeas corpus* to have the body of Jamsetjee before his lordship at his house on Malabar Hill on the following day at eleven o'clock in the forenoon. The order was obtained with the object of applying, on the return of the writ, that Jamsetjee might be admitted to bail on the commitment for manslaughter. In consequence of a letter addressed to the coroner by Messrs. Acland and Prentis, that officer sent to the Chief Justice the depositions recorded by him, but they were unaccompanied by any writing or memorandum of a verdict or any inquisition. No one attended before his lordship on behalf of the prosecution, and Jamsetjee was admitted to bail and discharged from custody on the afternoon of the 4th instant. On the 3rd instant Mr. Anstey appeared before Mr. Brown, magistrate, on behalf of the prisoner, but no one attended to conduct the prosecution or to watch it, nor had the coroner's depositions been then furnished to the magistrate. On Mr. Anstey asking the magistrate to dismiss the charge he said he felt a difficulty in doing so, as the case had already been investigated by the coroner, but that he would consider whether he would or would not dismiss it. Mr. Prentis believed that, but for the verdict taken in the inquest, the magistrate would have dismissed the case. At an adjourned investigation the coroner's depositions were sent to the magistrate, but without any entry of a verdict or any memorandum. From these circumstances Mr. Prentis believed that it was not the intention of Government or of any person to proceed against the defendant on the charge of manslaughter.

Mr. Anstey submitted that on the face of all the facts adduced in the evidence, and according to the authorities he would cite to the Court, no offence whatever appeared to have been committed by the prisoner. In the case of *Reg. v. Cullie* (Ad. & Ell.) the Court set aside the inquisition on an apparent defect—viz., the want of any evidence or facts showing the crime which was manslaughter, and the reason given was two-fold—that it was bad in point of law and that the jury was not justified in coming to such a conclusion.

Mr. Justice ARNOULD.—What is your ground, Mr. Anstey? Is it that there is no personal misconduct on the part of the prisoner?

Mr. Anstey.—I am coming to that. I find no instance of conviction of manslaughter on evidence that the prisoner was accessory before the fact; and for this reason, because it is a felony committed without deliberation. In our criminal jurisprudence, in the crime of manslaughter though there may be accessories *after* the fact, there can be no accessories *before* the fact. It is of the essence of manslaughter that the act is sudden and there is no previous knowledge or intention. In strict conformity with this opinion there are two recent decisions of the Court of Criminal Cases Reserved and of the Queen's Bench. *Reg. v. William Bennett*, 7 WEEKLY REPORTER, is a very strong case, as it contained an element which does not exist here. In defiance of the statute law Bennett openly carried on the business of supplying fire works, and had a factory for the purpose, as also a quantity of combustible materials in his own house. Whilst the prisoner was out of the house an explosion took place of the combustible substances worked by his servants, the fire spread among other fireworks, a rocket shot across the street, set fire to a neighbouring house and caused the death of a person. Bennett was convicted of manslaughter, but the conviction was not justified by the facts of the case and was afterwards quashed. It was not shewn to be his misdemeanour, but that of his servants. In the case of *Reg. v. Pocock* death had occurred directly from the bad state of the road, but still the conviction of the prisoner of the crime of manslaughter was subsequently quashed.

Chief Justice SAUSSE.—There is a case, I remember, in the 5 WEEKLY REPORTER, in which death was caused by the omission of the prisoner to put the cover to a shaft in a coal pit.

Mr. Anstey.—In that case (*Reg. v. David Hughes*, 5 WEEKLY REPORTER, 753) the prisoner, who was captain of a gang working at a coal-pit, opened the mouth and went away without replacing it, as he ought to have done; owing to his neglect to put the stage on the mouth of the shaft, a truck fell into the pit and killed a man, and it was held by the Court that his omission had directly caused the death.

Chief Justice SAUSSE.—This last case shows that a party may be held liable for manslaughter, even if he was not

present at the time of the accident, and that presence is not necessary to an act of homicide.

Mr. Anstey.—I don't say that a man cannot be indicted if he is directly concerned in the act, although at the time he may be absent. In that case the prisoner's omission or neglect to cover the shaft was considered the proximate cause of death, and accordingly he was held liable for manslaughter.

Mr. Justice ARNOULD.—The question is whether there were no directions given by the Parsee.

Mr. Anstey.—There is no evidence to show that the directions given the night before the accident were such as to have caused the accident. The prisoner had given orders to the men to dig in a slope, and if they had done so no accident could have occurred, for according to the evidence of Mr. Rowlands, the earth would not have fallen down if dug in a slope. I say therefore that the principle of law is maintained by all recent decisions, and there is not a single case where for accidents of this sort the doctrine of *respondent superior* is applied to, except for holding parties liable for homicide *per infortunium*.

Mr. Westropp, *Amicus Curie*.—I know of a case, *Reg. v. Lowe*, which will assist your Lordships. In that case an engineer who was employed to manage an engine in lifting up men, left the engine in charge of a boy who said that he was incompetent to manage it, in coming up a man was killed, and the engineer was held liable for manslaughter.

Chief Justice SAUSSE.—The evidence here is that the prisoner directed the mode in which the excavation was to be made, and Soorya says he dug exactly as the prisoner showed him. Having intervened and his directions specifically carried out, the question is, whether he is to be held responsible for the consequences.

Mr. Anstey.—The workmen were not the servants of the prisoner; he was a builder and not an excavator, he contracted for the work with Soorya, who is an excavator, and paid him at a certain rate for every hundred cubic feet. The men besides obeyed the orders of Soorya, whom they regarded as their master and not the prisoner. Prisoner is too remote a cause of the accident, and too remote for damages.

Chief Justice SAUSSE.—Suppose the prisoner was present when those directions were given and if the accident occurred, would he be liable?

Mr. Anstey.—If he was on the spot and if he did not prevent the accident, and if that accident could not be traced to any other cause, he would be liable. The coroner directed the jury that somebody should be punished, that Soorya could not be, and the jury being thus placed in an awkward position found the prisoner guilty. The evidence of Mr. Rowlands is clear, he gives it as his opinion that the accident could not have taken place if the men had dug in the manner in which they say they had been directed by the prisoner to do, namely, in a sloping direction. There was no evidence that the digging was the proximate cause of the accident. This is a monstrous inquisition, for the prisoner is too remote a cause to be connected with the accident, which did not take place in consequence of any of his orders. If there had been a verdict of murder I could not have asked for quashing the inquisition, for it is held that manslaughter is *prima facie* evidence for murder. The evidence for both is the same, with this exception, that in manslaughter not only the fact of the homicide but all circumstances relating to it must be shewn, and that some evidence is not sufficient. A grievous injustice had been done the prisoner; a man of his high position was carried to jail and confined there from the 31st of May to the 4th June. His attorney says the mere fact of the jury's verdict has prevented the magistrate from dismissing the charge. He is anxious to get rid of the stigma cast upon him by this inquisition, and to take measures for redress, and unless he gets rid of the inquisition he cannot take those measures. The coroner has, I consider, exceeded his jurisdiction, and if your Lordships grant further time to the coroner to shew his authority you will call upon him to shew cause why the inquisition should not be quashed.

Cur. ad. vult.

June 11.—The CHIEF JUSTICE now delivered the judgment of the Court as follows:—Here an objection has been made to the inquest on the ground—which we regret very much to say is supported by English and Indian Acts, and by the case of *The Queen v. Birley*, 7 D. & L.—that the inquisition was on paper, and not on parchment. We feel ourselves coerced to quash the inquisition. It is very much to be regretted that the Legislature at Calcutta should not have paid more regard to the circumstances and practice existing here at least, if not also in Calcutta. Acts ought not to be passed upon these subjects

without more consideration. As to the merits of the case, if we could have gone into them, our impression would be against quashing the inquisition, for the legal question would be, was the prisoner present? He was not personally present, but was he constructively present? In p. 4 of Archbold's Criminal Pleading, the principle of constructive presence is very clearly laid down. In *The Queen v. Pocock*, 17 Q. B., Lord Campbell said that he himself tried a person who entrusted the management of a shaft to one who was incompetent, and declared himself incompetent, and he then absented himself. It was held that the absent person was responsible for the accident, and he was found guilty of manslaughter, and severely punished. In *Penton's case*, Levinz. Cr. C. 179, persons who threw down a beam and broke a scaffolding, were held guilty of manslaughter, upon the death of a person who afterwards fell down, when it does not appear that those persons were present. In the case of ——— it does not distinctly appear that the wine merchant was present when the cask fell down, for which he was found guilty of manslaughter. The cases of *The Queen v. ———*, and *The Queen v. ———*, were cases of manslaughter against captains of ships. Their liability was put upon their giving commands. If the death happened through their commands, they would be held liable. If, therefore, the objection as to the inquisition not being on parchment did not exist, we should have been bound to hold the finding as *prima facie* sufficient, and leave the party to his defence.

Inquisition quashed.

STRASBOURG.—A curious case recently came before the Tribunal of Commerce of Strasbourg. In March last, MM. Gillet, Hoffer & Co., wholesale grocers in that city, inserted in the local journals advertisements declaring that they had received from a sugar refinery a vast quantity of that article on such terms that they could sell it at a reduction of 20f. per 100 kilogrammes. Several grocers of Strasbourg brought an action against them to obtain damages, on the ground that such an advertisement was what the law calls "unfair competition," inasmuch as it was calculated to entice away their customers, and was, besides, false, the defendants not being in reality able to sell sugar at such a diminution in price. The Tribunal, however, after hearing long technical arguments, decided that the advertisement did not constitute an act of unfair competition, and that it was for the public, not the plaintiffs, to complain if the promise of a reduction in price was not kept. It therefore dismissed the action with costs.

Reviews.

A Dictionary of Dates relating to all Ages and Nations for Universal Reference, comprehending Remarkable Occurrences, Ancient and Modern; the Foundation, Laws, and Governments of Countries; their Progress in Civilization, Industry, Literature, Arts, and Science; their Achievements in Arms; and their Civil, Military, and Religious Institutions; and particularly of the British Empire. By JOSEPH HAYDN. Tenth edition. Revised and greatly enlarged. By BENJAMIN VINCENT, Assistant-Secretary and Keeper of the Library of the Royal Institution of Great Britain. Moxon & Co. 1861.

This book was written long before a host of small authors had undertaken to inform the British public of that numerous class of things which are not, but ought to be, generally known; and although Mr. Haydn never condescended to avail himself of any of those clap-trap devices common to these gentry, it has already reached its tenth edition, which is the best testimony of its value. The original idea of the work was as happy as it was novel; and, unquestionably, its execution was attended with very great difficulty, and demanded a vast amount of patient drudgery. So many facts of importance have occurred since the history of man commenced to be written, that any one attempting to make a dictionary of their dates could hardly fail to feel great embarrassment from the abundance of the materials which lay around him. Mr. Haydn's notion was to confine the category in the first place to facts of universal interest, such as those relating to the foundation, laws, and governments of countries—their progress and civilisation, industry, literature, arts, and science—their achievements in arms—and their civil, military, and religious institutions—having especial regard to whatever related to the British empire, or was likely to be interesting or useful to Englishmen. All lawyers are familiar

with the importance of dates. One of the first things to be acquired by every lawyer is the habit of attending closely to the chronology of such events as are comprised in any case under his consideration. This is equally so, whether he is reading an abstract of title, the proceedings in a chancery suit, or the depositions in a criminal charge. Attention to the order of time is not less necessary to the student who attempts to throw upon any doctrine of law the light of its history. Nothing helps one more towards the discovery of the grounds and reasons and limitations of legal principles, than the habit of reading the decisions in the order of time, and not, as is so frequently the case, as if all the judgments had been delivered contemporaneously. If these remarks are of any force, such a book as Haydn's Dictionary of Dates must be of great value to lawyers, and especially to beginners, from the tendency which frequent reference to it is calculated to produce; and its utility is especially obvious where persons labour under that peculiar defect of memory which makes it difficult to remember the times of occurrences. The habit of mind thus acquired is, however, but an indirect benefit derivable from the frequent perusal of such a work as this, and we only point to it as a consideration which is not to be forgotten in any criticism upon the book now before us. Its immediate and direct usefulness will, of course, be its chief recommendation to the great majority of persons; and upon this head we may allude to a few instances for the purpose of showing how far facts interesting to lawyers are touched upon in this dictionary. In the first place, then, it may be observed that it contains chronological lists of the judges of all the superior courts in England and Ireland, and the dates of a great number of interesting facts connected with their foundation and jurisdiction. We also have the dates of the enactment of various laws which are of more than usual interest and importance, and also of the decisions of famous cases, such, for instance, as the *Thellusson will case*. Indeed, there is a surprising amount of valuable information comprised in many of the short statements which are to be found under various legal heads. Thus under the head of Perjury, in a dozen lines, we are told something about this crime and its punishment amongst the Greeks and Romans, and under the canons of the primitive church. Then follow references to persons infamous for their perjury, amongst which we find the case of Alice Gray, who was convicted in 1856 of numerous perjuries, and then we are reminded of the Abolition of Oaths Act, 5 & 6 Will. 4, c. 60, s. 61, by which persons making a false declaration are deemed to be guilty of a misdemeanour. So under the head of penal laws affecting Roman Catholics, there is contained in less than a page of small print a very compendious account under a number of different heads of all the penal laws which were repealed by the Catholic Emancipation Act of 1829. There are also a number of heads which are indirectly of peculiar interest and utility to lawyers. Thus under the head of Parliament we have amongst other valuable information a statement of "the number and duration of Parliaments from the 27 Ed. I., 1299, to the 22nd of Vict., 1859." We refer to these special instances in different classes of topics merely by way of illustration, as we cannot pretend to enumerate all the topics in this book which are especially interesting to lawyers. We can only say that as a book of general reference for dates, it will be found extremely useful in lawyers' offices, and for the reasons we have mentioned, it should be prized by all law students.

STATUTE LAW CONSOLIDATION.

We give the following extracts from Mr. Coode's letter to Lord Palmerston on the Criminal Law Consolidation Bills now before Parliament.

What is desired and expected under the name of consolidation of the statute law is assuredly this,—that so much of the statute law as is now found dispersed through the statute-book, should be collected together and arranged in such a way that the parts that have most connexion in meaning and effect should be most closely brought together, so that they shall throw mutual light each one on the other; that every subject, so far as the statute law affects it, should be seen in its entirety in one Act, and not as now, disjointed and dispersed in many Acts.

Thus every right—say for an instance—the right to the use of a man's body, is most clearly connected with the obligations imposed on other men to respect his liberty, and alone explains and justifies these obligations; and the clear understanding of

both these, again, is indispensable for the understanding of any declaration or definition of acts diminishing his use of his body, which are wrongs, offences, or crimes, only inasmuch as they contravene those rights and obligations, and are not possibly to be conceived as wrongs, offences, or crimes, in any other way; and again, the precedent understanding of these rights, these obligations, these wrongs, is equally and absolutely indispensable for the understanding and appreciation of any appliances of the law for the protection of the right and enforcement of the obligation, whether ministerial, or preventive, or compulsive, or restitutive, or remedial, or compensatory, or penal; and of any choice of ministers, or tribunals; and of any course of procedure provided for protecting that same right or enforcing the corresponding obligations. This connexion is not merely verbal or logical, is not merely an association by resemblance; it is an actual, essential, intimate, inevitable, and indissoluble connexion, in which each part is necessary to the creation, co-existence, and intelligibility of every other. The collection from out of the chaos of the statute-book of all the provisions that affected such a right, in the order of the appropriate and subservient obligations, the prohibited wrongs, the legal protections, ministerial, civil, equitable, or penal, would be as to that particular right a perfect, self-consistent, and self-explaining consolidation of the statute law; intelligible, so far as the nature of the subject admitted of it, to every man, and affording an infallible clue to every man by which to find the statutory matter he might be in search of. The certain light, the sure test of the policy, the ready means of appreciating the usefulness of all parts of the law, which this method would afford, is what all men instinctively desire and expect who hear of a "consolidation" of the law, and this is what every good treatise on the law performs. Done by the legislature for the statute law, this work would be, so far as it went, a true consolidation—a placing together of all those parts of any subject, which make up the whole of that particular subject.

But no consolidation, in any sense of the term, is possible on the plan of these Bills—which is that of picking out the similar or identical parts from all different subjects, and stringing all those similar parts together in one Bill. Two penalties may be enacted in absolutely identical terms, but they have no connection of any kind with each other, either legal, moral, or logical, unless they protect the very same right. The penalty for assaulting a clergyman, and that for the procurement of a young woman, may, as in these Bills, be enacted in the very same words, but can have no possible connection; but the first has its proper place in immediate connection with all the other provisions of the law for the establishment and protection of religion and its ministers—the other, with all those provisions which protect the chastity and nubility of women. To pick these penalties out of their proper place is to mutilate, to destroy the integrity of the whole subjects of which they are severally the constituent legal parts. The collection of identical constituent parts must always necessarily be the destruction of the whole from which they are taken. For instance, taken and viewed apart, the spring, the balance, the dial, the hands of a watch, would be things of little significance; but seen in their mutual connection they are admirable and intelligible. A child could take off, say, the hands of hundreds of watches and could collect them into a box, but he would not by this act pretend to give these hands any connection or relationship to each other—he would not pretend to construct watches, he would be a collector of similar parts, but the destroyer of the wholes of the watches. Modellers take casts, say of the right hands of an Apollo, a Venus, a Hercules, a Gladiator, and arrange them in one place for sale, but they do not pretend that the operation of selecting and arranging similar parts is one of connecting of those parts; or that those parts so collected are so properly in place, so intelligible, or so admirable, as they were in their connection with the whole of the several figures from which they are taken. Few things are more like each other than eyes to eyes, and the eyes of one animal to those of another; but this likeness constitutes no connection of one pair of eyes with another eye or pair of eyes. Their connection is in every case with the brain behind them, and with the whole organic system of the whole animal whom they serve to warn of the proximity of objects of desire and aversion. In this connection these natural uses are understood and appreciated. But the tom-tit which plucks out the eyes of a whole aviary is unconscious of any pretensions to science or system in this selection of like parts, but obeys an instinct of undisguised destructiveness which the preparers of these Bills obey even more blindly, for they really believe that they were occupied in any constructive operation. A butcher severs shoulders of mutton as like

each other as possible, and hangs them together on one line, but he does not call his arrangement a "consolidation;" he admits that he has permanently destroyed the connection which nature had made between those parts and the organic wholes from which he separated them. An Indian's collection of scalps, an African king's mound of heads, an Oriental despot's tale of right ears, are collections of similar parts, never yet commended for constructive merits, or as "consolidations." But this is the strange pretence of these Bills, that the like dilanation of whole organic subjects in law, by cutting out their penal portions and stringing them together in the form of Bills, is something logical, or systematic, or constructive, an improvement in form or order, to be accepted as "Consolidation."

A few moments' consideration will assuredly beget the conviction that there is no consolidation possible by the aggregation of similar parts; but that the collection of similar parts is necessarily destruction and disintegration of the subjects from which those parts are taken. If so, no consolidation is possible of the so-called penal law or criminal law. Twenty-eight years of effort of commissions, or committees, of both Houses of Parliament, and sixty thousand pounds of public money expended, have been made fruitless through the folly of attempting a consolidation which must be necessarily a disintegration. It is to be hoped that the evil will end here, in a mere loss of time and money, and a mere disappointment of hopes absurdly entertained, and that what is thus far no more than an idle folly, will not be converted into a permanent active mischief by carrying these Bills into law.

As Bills these things are only costly and harmless follies; but as laws they must work incalculable evil. These Bills, if passed, will be an absolute hindrance to the consolidation of all branches of the law.

They all consist exclusively of clauses, wholly unconnected the one with the other, and only brought together by the single fact that they are, every one of them, connected with a penalty. Every one of them is the penal fragment torn from its organic connection with the rights and duties, and with the other vindications with which it is legally, systematically, and logically connected. Yet although this incident of a penalty being enacted alone brings these heterogeneous provisions together—it is the almost incredible fact that the one incident which is apparent in every clause and the assumed ground for uniting them together, is itself as a whole omitted. All the provisions of the law, regulating penalties in their imposition and enforcement, are wholly left out from this series of Bills—a series of six Bills pretending to consolidate the penal law, with its one sole pervading element, penalty, in all its specific and general applications, omitted.

But if one mode of vindicating rights and enforcing duties may be thus taken out of the body of the law and made the pretence of bringing together provisions relating to every specific right and duty, there will remain no other consistent way to consolidate the fragments which will still remain, but to take all these very same rights and duties once again in connection with every other mode of vindicating them. We must have them all brought together again with the preventive vindications, again with the compulsive vindications, again with the reparatory vindications, again with the compensatory vindications, and to be consistent with this specimen of "Consolidation," we must in the Bills for the prevention of wrongs leave out the one characteristic of all the clauses, the general provisions relating to prevention, and in every other series in the same way, the one incident which alone is to act as a pretext for stringing them together.

This is, however, an assumption that the process of "Consolidation" is to be carried out consistently with this specimen, and it is certainly quite possible that it may not be carried out consistently. But this also is still more certain, that if these Bills become law, they will have mutilated and reduced to a fragment the body of law which remains relating to every subject from which its penal provisions have been dislocated into these Bills. Every subject touched by these Bills is reduced to a fragment of the subject, maimed or truncated of its penal element. Sir Fitzroy Kelly, speaking as one of the commission who prepared these Bills, assured the House of Commons that they had prepared 83 (?) other consolidating Bills. Now it is certain that every one of these other Bills relating to any matter enforced in any respect by any penalty, must have been either maimed or lopped of its penal element, and so have been only a fragment of a subject, or it must have contained these penal provisions over again—a strange operation of "Consolidation." It might, if this could be doubted, be worth your lordship's while to examine some of these other "Con-

solidations," when their maimed and dismembered appearance would assuredly show the injury inflicted on the whole of them by the dislocation of their penal members into these Bills.

But this effect is more easily to be seen in the operation these Bills have on various Acts recently passed at the instance of yourself and your present colleagues in the Government, who will be well able to judge of the usefulness of the operation. In the seventh Bill of the series, the "Criminal Statutes Repeal," this effect can be seen at a glance. Thus the 16 & 17 Vict. c. 23, contains forty-two perfectly well-connected sections for redeeming and commuting South Sea and other Annuities, for creating new annuities, and issuing Exchequer Bonds, with all necessary incidental provisions for giving course, value and trustworthiness to these instruments,—amongst others, one penal clause, the 41st, making the forgery of them a felony, quite in its proper place and connection, where its use and effect can be most easily seen and judged of. But these Bills take out this 41st section, placing it in a Bill with all other heterogeneous forgeries, and leaving the original Act a mutilated fragment of forty-one clauses. The 16 & 17 Vict. c. 99, is an Act to substitute other punishments in lieu of transportation. It consists of sixteen clauses, all of which relate exclusively to penal matters, and would seem to have been proper to include wholly in a series of Bills exclusively penal. But these Bills only take out and repeal the 12th section, leaving the remainder of the Act a lopped fragment of fifteen clauses. The Act 16 & 17 Vict. c. 132, extending the provisions of cap. 23, is maimed in the like manner of two well-connected sections, quite in their natural place—being left a fragment of nine sections. The 17 & 18 Vict. c. 33, places public statues in the metropolis under the control of the Commissioners of Works, and section six makes the damaging of such statues a misdemeanor. This section is taken away from its well-connected place, and the Act is left a fragment of six remaining sections.

JUDICIAL STATISTICS, 1860.

We are indebted to Mr. W. B. Roberts, solicitor, of Usk, for the following tabular statement, which has recently been compiled by him, for the most part, out of the last official returns on Civil and Criminal Statistics.

Total number of prisoners for debt and under civil process (including 639 women)	11,707
County court prisoners	6,955
Writs of arrest issued by plaintiffs in the Superior Courts	8,679
Imprisoned under writs of the Superior Courts	4,752
Of these last, there presented petitions of insolvency	2,820

The business of the Superior Courts is shown as follows:—

	Queen's Bench.	Common Pleas.	Exchequer.	Total.
Writs of summons	30,778	25,370	41,420	97,568
Appearances	8,423	7,350	9,809	25,582
Entered for trial	743	609	717	2,069
— and defended	344	331	318	993
Rules nisi granted	103	75	96	274
— absolute granted	65	22	76	163
— discharged	36	28	102	166
Executions on goods	5,205	3,657	7,606	16,468
Writs of arrest	2,832	2,153	3,694	8,679
Total executions	8,261	5,942	11,572	25,775
Total amount of money for which verdicts were given in the Courts				£142,412
Fees received by officers of the Courts				£64,612
Causes entered for trial on the circuits				1,207
— tried on the circuits				965
— " " and verdicts for plaintiffs				621
— " " " for defendants				128
Appeals from the Court in Banco				66
Notices and writs of error				27
Causes tried for £50 and above £20	163	168		1,056
On circuit	74	69		402
Queen's Bench	86	61		378
Common Pleas	89	45		393
Exchequer	412	343		2,229

The number of writs of summons in 1859, was 86,277

The Court of Chancery return shows:—

Causes, &c., for hearing at the commencement of 1850-60	442
Set down during the year	2,269
Heard during the year	2,001
Remanet at the end of the year	485

There were only 415 witnesses examined in the Examiner's office. The fees paid in Examiner's office were £245.

Bills and informations filed in the year were	2,209
Claims and special cases	48
Administration summonses filed (p. 157)	412
Other summonses	362

Total of the above 3,031

The fees collected by the Clerk of the Records were £25,107

The total amount of the taxed bills of costs was £785,262

And the fees paid in the taxing office were . . . £23,873

As many as 7,065 bills were taxed.

In the Accountant's office the total number of accounts are 22,757, and the fees paid in the office were £684. The receipts in accounts passed, in lunacy of committees and receivers, amounted to £331,594, and disbursements and allowances to £287,497. Certificates of payment of money and transfer of stock, &c., in court were for £169,333.

The amount of cash, securities, and other effects paid and transferred into the office of the Accountant-General in Chancery, in the year ending October, 1860, amounted to £14,707,912; and the amount of cash and securities paid and transferred out of court to £14,487,632. The total number of cheques signed was 40,046.

The number of accounts passed (others than receivers' accounts) was 1,138; the receipts therein, £6,705,593, and the disbursements and allowances £6,212,661.

The number of receivers' accounts was 476; the receipts therein, £1,035,106; and the disbursements and allowances therein, £858,701.

The sum of £1,598,157 was realised on the sale of estates, under the orders of the Court.

In the Probate Court the total number of probates granted was 8,542, and of letters of administration 5,473. The fees are estimated at £1,868. The total amount of taxed costs was £15,557.

In the District Probate Courts the number of probates was 14,005, and of letters of administration 6,160. The total amount of fees received in the forty probate districts was £56,007, and amount of duty for stamps £480,256.

The number of persons declared bankrupts in the year was 1,430, of these 1,028 passed their last examination; the total amount of their debts, on their balance sheets, was £4,478,037, of which £1,249,962 was realised by the Court. The solicitors, assignees, brokers, &c., charges amounted to £316,347, or £33 11s. 2d. per cent. The average of the dividend in the Manchester Bankrupt Court was £47 7s. 5d., and at Bristol £12 1s. 11d.

In the year 1860, 2,820 petitions of insolvency were filed by imprisoned debtors, of which 820 were within the exclusive jurisdiction of the Court of London. The dividends on the estates averaged £5 11s. per cent. The number of petitions for protection filed in 1860 was 3,081, and of these 1,055 were in the London jurisdiction. The number of such petitions in 1859 was 2,820. The amount of scheduled debts in the Insolvent Court cases was £365,766, and in County Court cases £169,846. Under the Protection Acts the debts in the London district were £51,737, and in the County Court districts £176,116.

The business of the County Courts in 1859 and 1860 is thus shown:—

	1859.	1860.
Number of plaints entered	714,562	782,384
Sued for	£1,754,971	£1,882,047
Judgments entered for	£851,732	£902,739
Costs exclusive of fees	£37,628	£38,302
Fees	£215,623	£226,738
Fees (1855) before reduction	£228,720	
Judgments for plaintiffs	285,984	296,719
— for defendants	9,089	9,175
Juries	988	894
Nonsuits	8,861	8,867
Writs of certiorari	135	126

There were 8,911 plaints entered for sums above £20, and judgments entered in 3,655 of such cases.

The number of judgment summonses issued was 112,313; heard, 50,838; warrants of committal issued, 22,399; and actual imprisonments, 6,955.

The warrants issued in 1858 were, 30,756; and of committals, 10,748.

The number of executions against the goods in 1860 was 109,366; and of actual sales, 3,973.

There were 17 appeals to the Superior Courts; charitable trust orders, 133; protection orders to wives registered, 611.

	Plaints.	Sued for fees above £50	Causes
Bristol Tolzey Court . .	448	£12,844	£246 11
Liverpool Passage Court . .	3,340	56,667	1,723 245
London Sheriffs' Court . .	9,970	42,911	4,265 58*
Manchester Record Court	3,881	51,050	1,705 247*
Derby Borough Court . .	103	1,667	1,116 8*
Salford Court of Record. .	2,218	25,307	958 164*

* Above £20 and under £50.

The fees of the Derby Borough Court are represented to be not far short of the amount of the debts sued for. As it has survived nearly all similar courts it is perhaps, at Derby, a popular court, and is apparently well sustained.

On circuit 24, there were 17,418 plaints, and 255 above £20. The total amount of money sued for was £48,285. Protection cases, 57.

On circuit 30 there were 20,430 plaints entered and £49,481 sued for. The number of causes above £20 was 289. Protection cases, 47.

There were nine orders for the protection of wives registered on circuit 24, and four orders registered on circuit 30.

Public Companies.

BILLS IN PARLIAMENT

FOR THE FORMATION OF NEW LINES OF RAILWAY IN ENGLAND AND WALES.

The following Bills have been read a third time and passed in the House of Lords:—

BRECON AND MERTHYR TYDVIL JUNCTION.
COLNE VALLEY AND HALSTEAD.
STOURBRIDGE (Extension to Smethwick).
SWANSEA AND NEATH.

The following Bill has passed through committee in the House of Lords:—

PETERSFIELD EXTENSION.

REPORTS AND MEETINGS.

COLCHESTER, STOUR VALLEY, AND SUDBURY RAILWAY.

The directors of this company recommend that a dividend of £1 12s. 6d. per cent. per annum for the last half-year be declared at the ensuing half-yearly meeting.

ELECTRIC AND INTERNATIONAL TELEGRAPH COMPANY.

At the next half-yearly meeting of this company, to be held on the 1st of August, a dividend of 3½ per cent. for the last half-year will be recommended.

LONDON, BRIGHTON, AND SOUTH COAST RAILWAY.

The directors of this company, by their report recently issued, recommend the payment of a dividend of 2½ per cent. for the past half-year, leaving a balance of £1,156 to be carried forward.

MANCHESTER, SHEFFIELD, AND LINCOLNSHIRE RAILWAY.

At the half-yearly general meeting of this company, held on the 24th inst., after the declaration of the various guaranteed dividends, a dividend at the rate of 15s. per cent. per annum was declared on the original stock.

TESTIMONIAL TO MR. FREDERICK WEST, SOLICITOR.—

At the 21st anniversary dinner of the Stationers and Paper Makers Provident Society, held at the Albion Tavern on the 17th inst., a handsome testimonial was presented to Mr. Frederick West, of No. 3, Charlotte-row, Mansion House, Solicitor, the honorary secretary of the society. In the course of the evening Mr. George Chater (the treasurer of the society), addressing Mr. West, said he felt a pleasure in presenting, in the name of their friends, a small token of their esteem of his private worth and valuable aid during the period he had fulfilled the duties of hon. secretary. He could bear witness to his kindness of manners, and untiring zeal in the cause. He trusted the present would be accepted only as a sincere token of their esteem. The testimonial consisted of a handsome silver centre-piece, the design of which was as follows:—A tripod panelled vase enriched with vine leaves and grapes, supporting three frosted figures representing "Wisdom," "Liberalism," and "Religion." The stem of twisted vine, with canopy of vine and grapes overhanging the figures, surmounted by a trellis-basket holding a cut-glass bowl. One side of the vase contained the arms of Mr. West, another side the arms of the Stationers' Company, while a third bore the following inscription:—"Presented with two epergnes, on the 17th July, 1861, to Frederick West, Esq., by several friends, as a token of their high esteem for his private worth, and to mark their sense of his urbanity and kindness, as well as his untiring zeal and ability with which he has discharged the duties of Honorary Secretary for a period of ten years to the Stationers and Paper Manufacturers' Provident Society.—John Dickenson, Esq., F.R.S., President; George Chater, Esq., Treasurer." Mr. West returned thanks in a feeling speech. The two silver epergnes corresponded with the centre-piece, the whole forming an extremely handsome testimonial.

At a meeting of the town council of Canterbury, held on the 24th instant, Mr. Herbert Tritton Sankey, of this city, solicitor, was unanimously elected clerk of the peace for the city and borough, in the room of Mr. John Nutt, who had resigned.

Marriage and Deaths.

MARRIAGE.

ADAM—BELL—On July 23, at Edinburgh, James Adam, Esq., Advocate, to Catharine Beatson, daughter of John Beatson Bell, Esq., Writer to the Signet.

DEATHS.

CARTWRIGHT—On May 30, at Cachar, Bengal, aged 17, John Barrow Bascome, son of Henry Cartwright, Esq., of the Middle Temple, formerly Special Justice and Crown Commissioner at the Bahama and Turks Islands.

DEWAR—On July 19, James William Dewar, Major 97th Regiment, son of the late Sir James Dewar, Chief Justice, Bombay, aged 33.

PEARSON—On July 19, at Edinburgh, Andrew Adam Pearson, Esq., of Luce, son of the late Alexander Pearson, Esq., Writer to the Signet.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

MACKENZIE, GEORGE, Gent., Jamaica, £354 10s. 10d. Consols.—Claimed by SUSANNA LOWE, wife of the Hon. Francis Lowe, of Chapelton, Jamaica, the administratrix of the said George Mackenzie.

THOMPSON, JOHN, Tallow Chandler, Waltham Abbey, £50 New Three per Cents.—Claimed by SAMUEL THOMPSON, the acting executor of John Thompson, who was the sole executor of the above-named John Thompson.

London Gazettes.

Windings-up of Joint Stock Companies.

TUESDAY, July 23, 1861.

UNLIMITED IN CHANCERY.

LIFE ASSURANCE TREASURY.—Petition for winding-up, presented July 19, will be heard before V.C. Wood on Aug. 2. Gibbs & Tucker, 17, Clement's-lane, Solicitors for the petitioner.

RISCA COAL AND IRON COMPANY.—The Master of the Rolls will proceed, on July 30, at 11, to make a call of £75 per share on all contributories settled on the list.

FRIDAY, July 26, 1861.

LIMITED IN BANKRUPTCY.

DISTRICT SAVINGS BANK (LIMITED).—Petition for winding up, presented July 24, will be heard before Commissioner Fane, Basinghall-street, Aug. 10.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, July 23, 1861.

BAKER, AMY, Widow, Sevenoaks, Kent. Holcroft, Solicitor, Sevenoaks. Sept. 7.

BAKER, RAYNER, Plumber and Glazier, Sevenoaks, Kent. Holcroft, Solicitor, Sevenoaks. Sept. 7.

BLAKE, PHILIP, Merchant, Lymington, Hampshire. Moore & St. Barbe, Solicitors, Lymington. Oct. 1.

GOUGH, WILLIAM HENRY, Chemist, Yoxford, Suffolk. Cavell & Son, Solicitors, Barmundham, Suffolk. Aug. 12.
HATWELL, JOSEPH, Retired Brewer, 18, Lonsdale-road, Ledbury-road, Notting-hill, Middlesex. Bargoyne, Milnes, & Bargoyne, Solicitors, 160, Oxford-street, London, W. Sept. 8
STUBBS, JOHN, Farmer, Saltfleetby, Lincolnshire. Allison & Sons, Solicitors, Louth. Oct. 8.
THWAITES, MARY BOWE, Widow, formerly of Appleby, Westmoreland, afterwards, of Penrith, Cumberland, afterwards of Wolsingham, Durham, and late of Preston, Lancashire. Weyman, Solicitor, Appleby. Aug. 21.

FRIDAY, July 26, 1861.

BAKER, MARGARET (widow of the late Lieutenant Samuel Baker, R.N., of St. Helier's, Jersey), 52, Winchester-street, Fimlico, Middlesex. Kempster, Solicitor, 1, Portsmouth-place, Lower Kennington-lane, Lambeth, Surrey. Sep. 1.
BLAKE, PHILIP, Merchant, Lymington, Southampton. Moore & St. Barbe, Solicitors, Lymington. Oct. 1.
BURROUGHS, SOPHIA, Spinster, 25, Wellington-terrace, St. John's Wood, St. Marylebone, Middlesex. Robinson, Solicitor, 17, Ironmonger-lane, Cheapside. Nov. 1.
DOWNHAM, JOSEPH, otherwise **JOSEPH DOWNHAM HAYES**, Farmer, Chrishall, Essex. Thurnall & Nash, Solicitors, Royston, Hert. Oct. 10.
LOWRY, JANE, Widow, Crescent, Carlisle. Hough, Solicitor, Carlisle. Sep. 7.
MELSAAC, SARAH, late of 10, Inkerman-terrace, Kensington, and formerly of Clondesley-terrace, Clondesley-square, Islington, Middlesex. T. Hatch, Esq., Conford, near Colchester, Essex, and C. Bull, Gent., 24, Bedford-row, Middlesex, Executors. Sep. 1.
POLAK, SAMUEL, Outfitter, formerly of Newport, Monmouthshire, but late of Brompton-crescent, Brompton, Middlesex. Lumley & Lumley, Solicitors, 2, Clifford-street, Bond-street; July 22.
WALL, ANNE, Spinster, Harcourt Villa, Malvern Wells, Hanley Castle, Worcestershire. Humfrys, Solicitor, Herefordshire. Sep. 26.

Creditors under Estates in Chancery.

Last Day of Proof.

THURSDAY, July 23, 1861.

CROWE, SAMUEL MARSH, Hosiery Manufacturer, Tewkesbury, Gloucestershire. Lewis & Crowe, V.C. Stuart. Nov. 1.

FRIDAY, July 26, 1861.

BARKER, FIELD DOWN, Wine Merchant, Cambridge. Marsh & Shallow, M.R. Nov. 2.
BARRETT, AARON, Builder, Tonbridge Wells, Kent. Barrett & Barrett, M.R. Nov. 2.
BARRETT, CHARLOTTE, Widow, Tonbridge Wells, Kent. Barrett & Barrett, M.R. Nov. 2.
SLOANE, THOMAS COPLAND, Master Mariner, Bishopswearmouth, Durham. Sloane & Sloane, V.C. Kindersley. Nov. 4.
WYNN, JAMES, Boot and Shoe Maker, Duke-street, Tooley-street, Surrey. Aldham & Wynn, V.C. Stuart. Aug. 6.

Assignments for Benefit of Creditors

TUESDAY, July 16, 1861.

BREWSTER, RICHARD LAWRENCE, Bookseller and Tobacconist, 162, Fenchurch-street, London. Sol. Burr, 12, Paternoster-row, London. July 3.
BURRIN, THOMAS WILLIAMS, Wine Merchant, 5, Martin's-lane, Cannon-street, London. Sol. Ingle & Goudy, 37, King William street, London-bridge. July 19.
CLARK, WILLIAM THOMAS, Draper, Colthall, Norfolk. Sol. Fox, Norwich. July 9.
EVANS, SAMUEL, Grocer, Catherine-street, Devonport. Sol. Greenway, Plymouth. July 20.
FLINT, GEORGE, Draper, 40, Cheapside, London. Sol. Turner, 68, Aldermanbury. June 21.
HUGH, WILLIAM BLACKETT, Engineer, Hill-street, Oldham, Lancashire. Sol. Ponsbury, Clegg-street, Oldham. July 13.
HALL, RALPH NEWHAM, Grocer, 29, Bank-parade, Chapel-street, Salford. Sol. Horner, 60, King-street, Manchester. July 8.
HOLMES, WILLIAM STEWART, Grocer, Manchester. Sol. Horner, 60, King-street, Manchester. July 13.
JOHNSON, WILLIAM, Sail Maker, Dover. Sol. Drake & Son, 28, Walbrook. June 21.
MACDUFF, JOHN CAMERON, Draper, 5, Victoria-street, Bristol. Sol. Hobbs, Bank of England-chambers, Broad-street, Bristol. June 24.

FRIDAY, July 26, 1861.

DAVIES, WILLIAM, Grocer, Bronfreis, Llanerchavon, Cardigan, and late of Llwyngroes, Garthell. Sol. Lloyd, Lampeter, Cardigan. June 29.
JOSLIN, WILLIAM, Boot and Shoe Maker, Kelvedon, Essex. Sol. Gepp & Vasey, Chelmsford. July 4.
LEETE, CHARLES WILLIAM, Furniture Dealer and Appraiser, Liverpool. Sol. Cotton, 48, Castle-street, Liverpool. July 1.
LOYD, EDWIN, Joiner and Builder, Ffynnon Yswallt, Whitford, Flint. Sol. Williamson, Holywell, Flint. June 26.
PLANT, RALPH, SEN., **JAMES PLANT**, **RALPH PLANT, JUN.**, and **ABRAHAM TAYLOR**, Earthenware Manufacturers, Sneyd-green, Burslem, Staffordshire. Sol. Udall, Newcastle-under-Lyme. June 28.

Bankrupts.

TUESDAY, July 23, 1861.

GIBB, WILLIAM, Fishmonger, 2, Above Bar, and 33, Oxford-street, Southampton (Thomas & William Gibb). Com. Fane: Aug. 2, at 12.30, and Sept. 6, at 1; Basinghall-street. Off. Ass. Whitmore. Sol. Messrs. Field, 40, Ely-place, Holborn. Pet. July 19.
HILL, GEORGE, Grocer and Tea Dealer, South Milford, Yorkshire. Com. West: Aug. 2 and 30, at 11; Leeds. Off. Ass. Young. Sol. Naylor, Leeds. Pet. July 11.
PROCTOR, WILLIAM, Joiner and Builder, New Wortley, Leeds. Com. West: Aug. 2 and 30, at 11; Leeds. Off. Ass. Young. Sol. Smith, Bank-street, Leeds. Pet. July 20.
SIDDALL, JOSEPH, Auctioneer, Wath-upon-Dearne, Yorkshire. Com. West: Aug. 3 and 31, at 10; Sheffield. Off. Ass. Brewin. Sol. Smith & Atkinson, Doncaster, or Bond & Barwick, Leeds. Pet. July 19.
TURNER, GEORGE, Brewer and Malster, New Radford, Nottinghamshire. Com. Sanders: Aug. 8 and 23, at 11; Nottingham. Off. Ass. Harris. Sol. Campbell, Burton, & Browne, Nottingham. Pet. July 19.
WALTON, WILLIAM PORTER, Corn and Seed Merchant, Kingston-upon-Hull. Com. Ayrton: Aug. 14, and Sept. 11, at 12; Kingston-upon-Hull. Off. Ass. Carrick. Sol. Wells & Smith, Hull. Pet. July 15.

WILKINS, THOMAS, Stone Mason and Builder, New Wortley, Leeds. Com. Ayrton: Aug. 5, and Sept. 2, at 11; Leeds. Off. Ass. Hope. Sol. Smith, Leeds. Pet. July 20.

WISE, JOHN, Victualler, Stourbridge, Worcestershire. Com. Sanders: Aug. 2 and 23, at 11; Birmingham. Off. Ass. Whitmore. Sol. Prescott, Stourbridge, or Smith, Birmingham. Pet. July 18.

FRIDAY, July 26, 1861.

APPLEYARD, DAVID, THOMAS WIGGLESWORTH, JOHN EGERTON, & EISENBERG CLEGG, Machine Makers, Leeds (Appleyard, Wigglesworth, Egerton, & Co.) Com. West: Aug. 13 & Sept. 20, at 11; Leeds. Off. Ass. Young. Sol. Ferns & Rooks, Leeds. Pet. July 23.
ARNOLD, ALBERT, Drysalter & Colourman, 3, Tudor-street, Blackfriars, London. Com. Fane: Aug. 5, at 11.30, & Sept. 13, at 1; Basinghall-street. Off. Ass. Whitmore. Sol. Abrahams, 17, Gresham-street. Pet. July 15.

ASTILL, HENRY, Ale & Porter Merchant, Oil & Colour Man, & Brush Dealer, Loughborough, Leicestershire. Com. Sanders: Aug. 6 & Sept. 3, at 11.30; Nottingham. Off. Ass. Harris. Sol. Giles, Loughborough. Pet. July 2.

BOUSFIELD, WALTER STANTON, Engineer, Alpha Works, Isle of Dogs, Middlesex, and late of Grove-lane, Dulwich, Surrey. Com. Fane: Aug. 5, at 12, & Sept. 6, at 11.30; Basinghall-street. Off. Ass. Cannan. Sol. Linklaters & Hackwood, 7, Walbrook. Pet. July 20.

BRUCE, DAVID, Bookseller & Publisher, 3, Amen-corner, Paternoster-row, London. Com. Fane: Aug. 5, at 11, & Sept. 6, at 12.30; Basinghall-street. Off. Ass. Whitmore. Sol. Terrell & Chamberlain, 30, Basinghall-street. Pet. July 22.

CAUDWELL, JAMES, Coal & Coke Merchant, Southwell, Nottinghamshire. Com. Sanders: Aug. 8 & Sept. 3, at 11; Nottingham. Off. Ass. Harris. Sol. Shillow, Birmingham. Pet. July 23.

COCKMAN, HENRY, late Gilman, 32, Aldersgate-street, but now Shopkeeper, 1, Dashwood-place, Bexley New Town, Kent. Com. Fane: Aug. 6, at 12, & Sept. 13, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sol. Lofty, Potter, & Son, 36, King-street, Cheapside. Pet. July 24.

GOURLAY, THOMAS, Draper, Bradford. Com. West: Aug. 15 & Sept. 20, at 11; Leeds. Off. Ass. Young. Sol. Terry & Watson, Bradford, or Bond & Barwick, Leeds. Pet. July 24.

HARRISON, RICHARD, & JOHN SHERRATT, Builders & Timber Merchants, St. Helens, Lancashire. Com. Perry: Aug. 7 & Sept. 3, at 11; Liverpool. Off. Ass. Morgan. Sol. Ansdell, St. Helens, or Evans, Son, & Sandy, Commerce-court, Lord-street, Liverpool. Pet. July 8.

HUDSON, THOMAS, Surgeon & Apothecary, Brigstock, Northamptonshire. Com. Fane: Aug. 6, at 12.30, & Sept. 13, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Tarrant, Bond-court, Walbrook, or Whitehead & French, Cambridge. Pet. July 25.

ISBUTT, JAMES, Builder, Somersham, Huntingdonshire. Com. Fane: Aug. 9, at 12.30, & Sept. 13, at 12; Basinghall-street. Off. Ass. Whitmore. Sol. J. & C. Cole, 36, Essex-street, Strand. Pet. July 20.

LARGE, JOHN, Cattle & Sheep Salesman, Uffon, Berks. Com. Fane: Aug. 5, at 1, & Sept. 6, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sol. Lovell & Co., Gray's-inn, or Henderson, Reading, Berks. Pet. July 23.

LOWELL, CHARLES, Glass Merchant, 20, Great Marlborough-street, Regent-street, Middlesex. Com. Fane: Aug. 6, at 1, & Sept. 13, at 12.30; Basinghall-street. Off. Ass. Whitmore. Sol. Porter, 51, Skinner-street, Snow-hill. Pet. July 25.

PILGRIM, ABEL, Builder & Contractor, Stanley-road, St. Thomas's-square, Hackney, Middlesex. Com. Fane: Aug. 5 & Sept. 6, at 2; Basinghall-street. Off. Ass. Whitmore. Sol. Pearpoint, 50, Leicester-square. Pet. July 24.

RHODES, JOHN, Dealer in Coal, Birkenhead, Cheshire. Com. Perry: Aug. 8 & Sept. 3, at 11; Liverpool. Off. Ass. Bird. Sol. Quinne, Liverpool. Pet. July 22.

RUSSELL, FRANCIS JEFFRIES, Linen Draper, Salisbury, Wilts. Com. Fane: Aug. 5, at 12, & Sept. 13, at 3; Basinghall-street. Off. Ass. Whitmore. Sol. Venning, Naylor, & Robins, 9, Tokenhouse-yard, or Cobb & Smith, Salisbury. Pet. July 25.

STEVENS, JAMES, Jeweller and Silversmith, Derby. Com. Sanders: Aug. 8, and Sept. 3, at 11.30; Nottingham. Off. Ass. Harris. Sol. Gamble & Leech, Full-street, Derby. Pet. July 25.

TITCHMARSH, JOHN, Miller and Seed Merchant, Royston, Kneesworth, Basingbourne, Cambridgeshire. Com. Fane: Aug. 6, and Sept. 6, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Doyle, 2, Verulam-buildings, Gray's-inn; or Thurnall & Nash, Royston; or Foster, Hertford. Pet. July 8.

WHITEHEAD, JOHN, Joiner and Builder, Sheffield. Com. West: Aug. 17, and Sept. 21, at 10; Sheffield. Off. Ass. Brewin. Sol. Unwin, Sheffield. Pet. July 20.

WRIGHT, JOHN, Grocer, Butcher, and Timber Dealer, Redditch, Worcestershire. Com. Sanders: Aug. 9, and Sept. 6, at 11; Birmingham. Off. Ass. Whitmore. Sol. Richards, Redditch; or James & Knight, Birmingham. Pet. July 23.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, July 23, 1861.

BOTTING, EDWIN, Grocer, Brighton. Aug. 15, at 11.30; Basinghall-street.
 — **EDGE, THOMAS**, Gas Meter Manufacturer, 39, Great Peter-street, and 39, Vincent-square, Westminster. Aug. 5, at 1; Basinghall-street.
 — **JOSEPH, CHARLES HENRY**, (otherwise called and known by the name of Charles Henry Josiffe) Hotel and Eating House Keeper, 74 & 75, Strand, Middlesex. Aug. 3, at 11.30; Basinghall-street.—**MOORE, JOHN**, Ironmonger, 86, Charlton-street, Euston-road, Middlesex. Aug. 6, at 12; Basinghall-street.—**PONTEY, JAMES**, Licensed Victualler, Chester-road, Hulme, Manchester. Aug. 14, at 12; Manchester.—**PORTER, JOSEPH, JOSEPH WALMSLEY PORTER, THOMAS WALMSLEY PORTER, & ROBERT ROGERS**, Screw Bolt Manufacturers, Salford, Lancashire (Porters & Co.) Sept. 3, at 12; Manchester.—**PRICE, EDWARD**, Grocer and Provision Factor, Warminster, Wilts. Aug. 13, at 12.30; Basinghall-street.—**TAYLOR, JAMES THOMAS**, Grocer, 72, New Church-street, Marylebone, Middlesex, previously Grocer and Cheesemonger, 261, High-street, Poplar. Aug. 14, at 1; Basinghall-street.

FRIDAY, July 26, 1861.

CLARK, WILLIAM, JUN., Timber Merchant, 1, Southwark-bridge-road, Southwark, and 13, Rotherhithe-row, New Kent-road, Surrey. Aug. 7, at 12; Basinghall-street.—**COPELAND, ELIZABETH**, Widow, Grocer and Druggist, March, Cambridgeshire. Aug. 6, at 1.30; Basinghall-street.—**THOMAS, ROBERT**, and **JAMES INNES**, Drysalter and Oil and Colour Men, Manchester. Aug. 20, at 12; Manchester.

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best portraits of Lord Palmerston and other celebrities. Album or visiting card likenesses taken at 5s.; copies 1s., or 10 for 10s. Stereoscopes, 7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children photographed by instantaneous process.—Adv.

THE CHILDREN'S PHOTOGRAPHER.—Mr. Chappuis, 69, Fleet-street, is now working with his new instrument purposely constructed for taking instantaneous portraits of children, &c. N.B. Previous appointment necessary.—Adv.

AN INDISPUTABLE LIFE POLICY IS ALTOGETHER DIFFERENT FROM AN ORDINARY LIFE POLICY.

It is different in meaning, construction, and effect, being really a LIFE-DEBENTURE, as shown by the Opinions of the Attorney-General, and the Lord Advocate of Scotland, copies of which, and Prospectuses, forwarded to applicants.

INDISPUTABLE LIFE ASSURANCE COMPANY OF SCOTLAND.

EDINBURGH—13, QUEEN STREET.

ALEX. ROBERTSON, Esq., Manager.

LONDON—54, CHANCERY LANE.

JAS. BENNETT, F.S.S., Resident Secretary.

AGENTS WANTED in Places where the Company is not already represented.

WINEs for the NOBILITY and GENTRY.
WINEs for the ARMY and NAVY.

WINEs for the CLERICAL, LEGAL, and MEDICAL PROFESSIONS.

WINEs for PRIVATE FAMILIES.

PURE and UNADULTERATED GRAPE WINEs from the SOUTH of FRANCE.

VENDED by the PROPRIETORS of the VINEYARDS.

THE FRENCH VINEYARD ASSOCIATION

have taken extensive cellars at the West-end of London, for the purpose of introducing FRENCH WINEs only to the British public at FRENCH TRADE PRICES; and the members of that Association being proprietors of the most esteemed growths in France, the Nobility, Gentry, and Families patronising such WINEs, will be assured of their genuineness.

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THE SOLICITORS' JOURNAL.

LONDON, AUGUST 3, 1861.

CURRENT TOPICS.

We are not in the habit of making any boastful parade of the eulogies, which, from time to time, have fallen from the Bench, as to the character and value of the reports contained in the *Weekly Reporter*. So many expressions of approval, not only of the speed with which cases are reported there, but also of their accuracy, have been heard, both from the Bench and at the Bar, that these reports are now received with favour in all the Common Law and Equity Courts of this country, and also of our various colonies. Last week, this journal contained, under the heading of "Foreign Tribunals," a report of an important criminal appeal which was argued by Mr. Chisholm Anstey before the Supreme Court of Bombay, and it will be seen there that the argument proceeded mainly upon cases cited from our publication, and that the Chief Justice referred for an authority to one of our volumes, in a manner which showed that he held it in high regard, and was in the habit of reading the cases reported in it. In the present number of the *Weekly Reporter*, the Master of the Rolls, referring to the report of a case recently decided by him, and which appeared some months ago in the columns of the *Weekly Reporter*, was pleased to express himself as follows:—"I have been referred to a case of *Lewis v. Duncombe*, reported in the 9th volume of the *Weekly Reporter*, 446, and which I have found, in common with other cases which have come under my observation, very accurately reported in the *Weekly Reporter*." We think it due to the gentleman to whom we are indebted for the reports of cases in his Honour's Court, to mention the high commendation which he has thus received from the learned judge presiding there. From the establishment of the *Weekly Reporter*, its aim has been to produce not only speedy but reliable reports, and so to supersede on the one hand the dilatory and very expensive publications of the official reporters, and on the other, the almost equally slow and most unsatisfactory productions of the legal journals—which were too frequently little else than uncorrected prints of the transcripts of the short-hand writers' notes. The very large circulation and judicial sanction which our reports have received, combine to give the profession the best testimony of the extent of our success; and the manner in which they are accepted by judges of the superior courts is the best authority that a country practitioner need desire in citing them before local tribunals.

The Bankruptcy and Insolvency Bill, minus the excrescence of a Chief Judge and New Appeal Court, has at length got through all its difficulties, and in a few days will be part of our statute book. We shall, with as little delay as possible, bring out an edition of the new statute, for which we have already engaged the services of a competent editor, who is now employed upon the work. We shall also publish an edition of the several Criminal Law Consolidation Acts. The object of the latter work will be not to encroach upon the proper province, or to appropriate the labours, of such authors as Roscoe and Archbold, but to make their existing works readily available for reference under the new Criminal Code. As the new Acts will in fact be little more than a mere consolidation of existing enactments, our edition will of course point out the sources from which the new statutes have been derived.

Where any alterations have been made they will be noted and their effect shown; and all the important recent cases will be cited under the heads to which they properly belong. We have been fortunate in obtaining for this arduous and important undertaking the services of three members of the Bar, whose names will be a sufficient guarantee for the character of the proposed work, of which we shall give a more detailed account as soon as the editors have made a little more progress in it.

Before another week elapses all our courts will have risen for the long vacation, and we shall of necessity be very soon deprived of the opportunity of offering any comments upon their decisions in recent cases. We intend, however, to offer our readers by way of supplement to our series of papers upon the recent decisions of the courts of common law and equity, a commentary upon some of the more important judgments of the House of Lords, during the session which is now drawing to a close. Questions of law solemnly argued before that supreme tribunal, and expressly settled by it, have something like the force of Parliamentary enactment, and definitely decide what the law is until it is altered by Act of Parliament, or until the House of Lords itself declares the law to be otherwise, if, indeed, it has power to do so—a point which our readers are aware remains after much mooted not free from doubt.

The number of important cases which have been decided by the House of Lords during the present session is not very great; but a few of them are of considerable practical interest, and these we shall discuss at some length in this series.

The most important judgment of the House of Lords during this session was in the case of *Bristow v. Whitmore*, 9 W. R. 621. The question there was whether the master of a ship who while he was abroad entered into certain charter-parties with the Admiralty, for the conveyance to England of troops at a specified rate—he undertaking to supply provisions, &c.—was entitled as against the mortgagees to be recouped out of monies paid into court by the Admiralty the sums expended by him in furnishing provisions, &c., according to the charter-parties. In this case the decree of Vice-Chancellor Wood was overturned by Lord Chancellor Chelmsford, but re-established in the House of Lords; and the case itself is one of great importance as regarding the position and rights of captains or masters of ships, and the distinction between acts done by a master as agent for the owner of the vessel and acts done by the master in his capacity of master. Upon this topic we shall have some observations to offer.

Another important decision was in the case of *Thompson v. Webster* (9 W. R. 641). The case related to an alleged voluntary settlement, and raised the question whether it was void as against creditors, under the provisions of 13 Eliz. c. 5. The decision was that the Court must decide in each particular case whether, under all the circumstances, the intention of the settlor was to delay, hinder, or defraud his creditors.

Lord Braybrooke v. The Attorney-General (9 W. R. 601) affects the construction of a clause in the Succession Duty Act, and raises a discussion upon the technical force of the words "disposition" and "devolution" contained in the Act.

Hindmarsh v. Charlton (9 W. R. 521) was heard upon an appeal from the Probate Court, and is important in reference to the execution of wills and their attestation and the subscription of witnesses to them.

These cases, and one or two others, will form the subject of remark in our proposed commentary, which we shall commence forthwith.

The case of *Bartley v. Hodges*, which was decided in the Court of Queen's Bench on the 4th of June last, and reported 9 W. R. 693, is one of considerable

interest to persons connected with our colonies. The decision has already called forth the following observations from a Canadian law contemporary:—

It is not often that we find decisions of English courts of justice of especial interest to the colonies. When any such present themselves we endeavour to make them known through the pages of the *Upper Canada Law Journal*.

The decision of the English Court of Queen's Bench, in the case of *Anderson*, is the latest case of the kind to which we have hitherto found it necessary to refer.

One of less exciting interest, but not of less direct effect upon colonial interests, is *Bartley v. Hodges* (9 W. R. 693). In it the Court held that a discharge to an insolvent or bankrupt, under a colonial statute, is not binding upon his English creditors not resident or domiciled in the colony.

The proposition, though startling, is not without some show of reason to support it. It is not, however, for us at present to argue the reasonableness or unreasonableness of the decision, but to announce the fact of the decision.

When we consider that colonial merchants are in general more or less indebted to English houses, the importance of the decision cannot be over-rated. The effect of it may be to render necessary an imperial bankruptcy or insolvency law.

The aim of every good system of bankruptcy or insolvency is to relieve the honest debtor from all his past liabilities. No colonial act can, according to the decision mentioned, have that effect as against English creditors resident and domiciled out of Canada.

It is well that this point of law has been at the present time determined. There is among us a strong desire for some effective system of bankruptcy and insolvency law; and the question at once arises, whether, under existing circumstances, we should be content with one enacted by our own Legislature merely.

In connexion with the case reported we may mention that it has, we believe, been held in our Court of Chancery that a bankruptcy vesting order, granted by a subordinate judicial officer in Scotland, under an imperial statute, is effectual in Canada, so as to pass real estate, &c., situate in Canada, to an assignee appointed by such officer.

This state of the law is really vexatious. It is unjust that a sheriff or sheriff's deputy in Scotland, or any foreign dominion, should have power materially to affect the interests of a great body of creditors in this colony in a matter where they are not consulted, and where it would be next to impossible to tender advice or offer opposition if deemed necessary, upon notice of the intended proceedings.

In *Bartley v. Hodges*, the question arose upon a bill of exchange which was accepted by the defendant in England previously to his going out to Victoria. He there submitted to the statute of that colony which was passed for the relief of insolvent debtors, according to which it appears a sequestration by the Colonial Court carries all the insolvent's property in whatever country situate; and it was, therefore, argued that his creditors, wherever they might be resident, or wherever the debts might have been contracted, would be bound by the certificate of the Colonial Court. There have been some decisions of our courts that where the discharge of a bankrupt or insolvent has taken place under colonial law, it has bound the creditors in this country; but in these cases, as was pointed out by Mr. Justice Wightman in *Bartley v. Hodges*, the law giving the discharge was in fact the enactment of the imperial legislature; and not that of the legislature of a colony. There has been no such decision under any Act passed by a Colonial Parliament; and the question now arises, whether the consent of the English Parliament ought not to be obtained for all such colonial statutes as those relating to bankruptcy, and enactments of a similar kind, to which it is desirable to give effect throughout the empire.

The claims of the poor Military Knights of Windsor have at length received some attention from the Legislature. The hardship of their case induced the House of Commons to agree to an address to the Crown, which resulted in the filing of an *ex officio* information by the Attorney-General against the Dean and Canons of Wind-

sor. Upon the hearing of the case, Sir J. Romilly, M.R., held that the whole of the improved rents of the foundation, amounting now to £14,000 a year, belonged to the Dean and Canons, whilst the Poor Knights were entitled to receive out of the fund only the sums fixed by the original grant. This decision was affirmed by the House of Lords in June last year; see *The Attorney-General v. The Dean and Canons of Windsor*, 8 W.R. 477. To remedy in some degree the practical injustice caused by this state of the law, a Bill now before Parliament provides that the proceeds of one of the eight suspended canonries are henceforth to be received by the dean and chapter and applied by them for the benefit of the knights as the Crown shall direct. An attempt was made by the Earl of Chichester on the part of the Ecclesiastical Commissioners, when the Bill was in committee in the House of Lords, on Thursday, to have the costs of the Dean and Chapter in the litigation paid out of some State fund, but the suggestion was opposed by the Lord Chancellor, and negatived.

THE DOMICIL BILLS.

The Law of Domicil has sustained two assaults of no ordinary force in the present session of Parliament. The enormous expense and protracted litigation which the difficulty of ascertaining, first, the fact of domicil, and, secondly, the law applicable to such a place, as illustrated by *Lord v. Colvin*, 7 W. R. 251, and *Bremerv. Freeman*, ante, p. 467, has imperatively demanded that a legislative effort should be made to lighten the inconveniences attendant upon British subjects who make their wills abroad. The Foreign Law Ascertainment Act has been intended to render the proof of foreign laws and customs more easy, certain, and cheap than it is at present, and to remove one of the difficulties inherent in the present Law of Domicil. The object of Lord Kingsdown's Bill, of which we gave a detailed account, ante, p. 467, and which is now in committee in the Commons, after having been passed by the Lords, is to supersede the necessity of a resort to the Law of Domicil in very many cases. The merits and defects of this Bill we shall endeavour to recapitulate briefly. It assimilates the English Law of Domicil and the code of continental Europe, in allowing the *lex loci*, as well as the *lex domicilii*, to govern the forms of the execution of wills, so that a conformity to either of such codes will render a will valid; and this is the present international law of Europe; and it is still further indulgent to testators in suffering them to execute their wills abroad, according to the laws of England or of Scotland. That Bill, however, is defective, inasmuch as it applies only to the forms of execution, and not to the interpretation of wills, and has no respect to cases of intestacy. These are left, as hitherto, to the operation of the Law of Domicil. An objection has been urged with copious, but inconclusive arguments in the *Saturday Review* of June 28, against this Bill, on the ground that it involves a breach of the comity of nations. We showed, however, ante, p. 467, that the Law of Domicil, so far as it has any specific operation of its own, involves a sacrifice of territorial law to private right and convenience, assuming, as it does, that testators are more likely to be acquainted with the laws of their domicil than with the laws of any particular country where they may happen for the moment to sojourn, or to have had commercial transactions or debts due to them. Conventions are often necessary for states, as regards public international law; but, except as regards legacy or other fiscal duties, questions relating to domicil seldom admit of grounds for international jealousy. The Lord Chancellor's Bill, however, which is now before Parliament, proceeds on the assumption that conventions with foreign states are necessary to alter the international Law of Domicil. It takes up the question where Lord Kingsdown's Bill left it, and endeavours to secure a definition of domicil

that may be resorted to in all cases of the intestacy of British subjects resident abroad.

The first section of Lord Westbury's Bill provides that no British subject who shall die in a foreign country is to be deemed to have acquired a domicile in such country unless he shall have had a permanent residence there for one year immediately preceding his or her decease, and shall also have deposited in a public office in such foreign country a declaration in writing of his or her intention to become domiciled in such foreign country; otherwise, he or she is to "be deemed for all purposes of testate or intestate succession as to moveables, to retain the domicile he or she possessed at the time of his or her going to reside in such foreign country." This and the subsequent provisions, however, are not to have any operation, except as regards those States with which her Majesty shall have entered into a convention for these purposes. The result of the convention is to be declared by an order in council, which is also to specify the office in the foreign country in which the declaration as to domicile is to be lodged.—The Attorney-General stated in the debate on this Bill, that the phrase "permanent residence for one year" was commented upon as involving a solecism. Although we profess to be merely juridical, and not linguistic, critics, and have no desire to usurp the province of quarterly reviewers, yet, we must say that the phrase is in our opinion hardly exceptionable. The second section is the converse of the first, and provides that no subject of a foreign State with which a convention of the nature before-mentioned shall have been entered into, who dies in the United Kingdom, shall be deemed to have acquired a British or Irish domicile unless he shall have been a resident in the British Isles for one year previously, and have lodged a declaration such as is described in the first section. The third section exempts from the operation of the Act foreigners who have obtained letters of naturalization in any part of her Majesty's dominions. The obtaining of such letters appears to be regarded in this Bill as tantamount to the acquisition of a British domicile. The domicile of these persons may, however, if the Bill become law, be as uncertain as ever. Like droits of admiralty expense may be incurred in the ascertainment of their position, whether it be above the high or low water mark of that ever-fluctuating state of facts of which the Law of Domicil takes cognizance. The last section of the Bill directs that, after a convention has been concluded and an order in council issued, such as are described in the first section, if the subject of any foreign State which shall have been party to such convention, shall die within her Majesty's dominions, and there shall be no person present at the time of such death who shall be rightfully entitled to administer to the estate of such deceased person, the consuls of such foreign States may obtain "administration of the effects of such deceased person, limited in such manner and for such time as to such Court shall seem fit." This limitation appears to us to be altogether unnecessary; and, moreover, to prohibit the Court of Probate from giving the consuls any but a limited administration even of the effects left by such deceased person within British dominions, although such evidently could not have been the intention of the framer of the Bill. We may illustrate our meaning by the Act regarding illusory appointments. It was intended to render such appointments valid when made; but it did more; it renders them necessary to be made, notwithstanding that the interests allotted by them may be of the most trivial value. It may, of course, be contended in behalf of this section that it is merely a disclaimer of a foreign jurisdiction in our courts, which are thus empowered to give administration of the effects of deceased persons to the consuls of foreign states. But such a disclaimer is wholly unnecessary; and as the words of the Bill must receive some meaning and force, they appear to us to authorise only a limited administra-

tion of the effects left by deceased foreigners within her Majesty's dominions. The passage, also, as to there being "no person present at the time of such death who shall be rightfully entitled to administer" sounds strangely as a specimen of legislative draftsmanship. We agree, therefore, with Mr. Rolt that the Bill is ill-drawn, though we cannot consider it as useless as he does.

Lord Kingsdown's and Lord Westbury's Bills are intimately connected in meaning, as the preceding account shows. The object of both Bills is to remove the difficulties that are at present attendant upon all questions of domicile. Lord Kingsdown's Bill renders a will independent of the domicile of the testator, and, moreover, confers other boons upon British subjects making their wills abroad. That measure is, therefore, most valuable. If a testator is in all cases deemed by the law as *inops consilii*; a testator who is making his will in a distant or a foreign land is *a fortiori* entitled to consideration. We have already commented so fully upon this Bill that we need add nothing more here. Although connected in principle with the Lord Chancellor's Bill, it need not be laid aside, if the latter be rejected. The object of Lord Westbury's Bill is to facilitate the proof of domicile in all administration cases in which such proof shall become necessary, that is, in all cases of the intestacy of persons who may be alleged to have had a foreign domicile. The former Bill excludes the Law of Domicil altogether as the standard for the execution of wills. Lord Westbury, on the other hand, intends to render the hitherto complicated law easy of proof, whenever it must be taken into consideration, as in cases of intestacy. Both Bills, therefore, cover the whole domain of successions to persons dying abroad, the former as to testacy, the latter as to intestacy. The latter Bill makes even a greater change in the Law of Domicil than the former. Lord Kingsdown's Bill does not affect the course of the devolution of property; Lord Westbury's Bill does. By altering the Law of Domicil as to the distribution of the estates of intestates, it may often disappoint the intention of such persons. Lord Kingsdown's Bill is based upon the true principles of testamentary law; it never can defeat the intention of a testator, and the only objection of weight that has been urged against it is, that it gives testators too much latitude—a view that appears to us to be wholly untenable. The objections brought against it by the *Saturday Review*, on the ground that it does not sufficiently respect the law of nations, having been already answered by us need not be repeated with the answers here. The Lord Chancellor's Bill, however, appears to attribute some force to such objections, and is, indeed, sufficiently secured against them.

The chief defect in Lord Westbury's Bill is the complicated machinery of conventions, upon a resort to which the operation of the Bill is made to depend. The Foreign Law Ascertainment Act, upon which we commented *ante*, p. 521, authorises a resort to conventions; but it has grounds for such adjuncts, which the present Bill has not. That statute is virtually retroactive in its operation. If, for instance, a case, such as *Bremer v. Freeman*, should occur hereafter, the convention could be entered into, and the case remitted to the foreign court for advice almost simultaneously. But, unless a convention should have been entered into with the foreign State in which a British subject shall die to whom the succession is disputed, prior to his death, it cannot be entered into afterwards, so as to affect the law applicable to such a case. Are conventions, then, to be entered into prospectively with every State on the face of the globe? Indeed, we may ask, what probability is there that any, or, at all events, that many such conventions will ever be made? Another objection to the Bill is, that persons sojourning abroad who would be so attentive to the question of their domicile, would be more likely to make or re-publish their wills, than lodge the declaration specified in this Bill, and so they would

come within the provisions of Lord Kingsdown's Bill. If, however, they should, with nomadic *insouciance*, which is not unlikely, omit to lodge the declaration, they would continue to be under the operation of the law of domicile. Besides presuming the concurrence of foreign powers and the observance of the prescribed formality, the Lord Chancellor's Bill may, if it become law, avoid wills that would be good at present. Its restrictive operation in this respect, however, will, if it together with Lord Kingsdown's Bill become law, be confined to wills which do not comply with the requirements either of the *lex loci* or of the law of England or of Scotland. If a testator be so completely heedless, legislation will do him but little service. Viewed as a matter of fact, and apart from possible, but very unlikely, contingencies, a will made by a British subject abroad, if ordinary care has been bestowed upon it, is sure to conform either to the requirements of the law of England or Scotland, or of the *lex loci*, as the wills of such are usually drawn either by the testators themselves or by practitioners of the locality where they are executed. Such wills are rendered secure by Lord Kingsdown's Bill, and, therefore, will remain valid, even though they receive no benefit from Lord Westbury's. Although the two Bills relate to the same subject matter, they are distinct, and nowise dependant on each other for an effective operation. The Lord Chancellor's Bill, although it certainly grapples with the whole Law of Domicil, is so cumbrous in its mechanism of conventions, as not likely to become law this session. We should, however, willingly see it enacted, after its phraseology shall have been somewhat amended. Together with Lord Kingsdown's Bill, it will afford ample protection to the successors of British testators and intestates who shall have been resident abroad. But Lord Kingsdown's Bill is certainly the measure of paramount importance. It will confer an additional value on the Bill of the Lord Chancellor if it shall become law, and even if it be rejected this session, it is to be hoped that at all events Lord Kingsdown's measure may even yet be carried.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF CHANCERY.

(Before the LORD CHANCELLOR.)

July 25.—*The Registrars' Office.*—Mr. Bevir applied to his lordship on behalf of several firms of solicitors under the following circumstances:—The applicants had deposited at the office of the registrars various orders, to which the proper stamps were attached, but a junior clerk in the registrar's office had removed the stamps for the purpose of disposing of them for his own private use. Upon application at the office, the solicitors had been refused permission to take away the orders until fresh stamps had been affixed. The applicants asked that the loss occasioned by the defaulting clerk might be borne by the fee fund.

The LORD CHANCELLOR said the proper course would be to direct an enquiry to be made into the circumstances of the case, and as the solicitors were not to blame in the matter, he should hold them harmless, if he possessed the power and could satisfy himself out of what fund to order the loss to be paid.

Inquiry directed accordingly.

COURT FOR DIVORCE AND MATRIMONIAL CAUSES.

July 27.—*Business of the Court.*—The Court rose to-day for the vacation. The following summary will show the amount of business which has been transacted since the last vacation. From the sitting of the Court at the beginning of the last Michaelmas Term until its rising to-day, the Judge-Ordinary has dissolved 164 marriages, has pronounced ten decrees of judicial separation, and two declarations of nullity, and has dismissed 25 petitions. He has thus tried and determined 201 divorce suits; 59 probate causes and two legitimacy

declaration causes have been disposed of within the same period. One of the former, *Talbot v. Traherne*, occupied 11, and one of the latter, *Miss Shedden's case*, occupied 14 days. These figures do not, of course, include the numerous interlocutory applications which are heard every Wednesday.

At the beginning of Trinity Term the divorce list contained 153 causes, of which the Court has disposed of 76 sitting alone, and of 33 with the assistance of juries. Several of the others have been postponed or withdrawn by the parties, and the actual arrears are therefore not above 30, and about 40 new cases have been set down for trial next term.

The Act of last session, giving the Judge Ordinary power to try cases over which the full Court alone had jurisdiction before it was passed, has thus, it will be seen, already cleared off almost all the arrears; and the fact that in some of the cases lately decided, the petitions were not filed until December, 1860, shows that it has also removed all ground of complaint on account of delay in the trial of causes after they are ready for hearing.

SUMMER ASSIZES.

HOME CIRCUIT.—MAIDSTONE.

July 24.—The commission was opened in this town to-day, by Mr. Justice Williams, and Mr. Justice Blackburn. There were twenty-seven causes entered for trial, none of which were special jury cases.

CROYDON.

July 31.—The commission for the county of Surrey was opened in this town to-day. There were eighty causes entered for trial, thirteen of which were special jury cases.

MIDLAND CIRCUIT.—WARWICK.

July 30.—The Lord Chief Baron opened the commission here to-day. There were fourteen causes entered for trial, and only three marked for special juries.

NORTHERN CIRCUIT.—DURHAM.

July 24.—Mr. Baron Wilde opened the commission in this city to-day. There were sixteen causes entered for trial, six being marked for special juries.

NEWCASTLE.

July 29.—Mr. Baron Martin and Mr. Baron Wilde opened the commission in this town to-day. Six causes were entered for trial.

NORFOLK CIRCUIT.—NORWICH.

July 24.—Mr. Justice Wightman opened the commission in this city to-day. There were only eight causes entered for trial.

IPSWICH.

July 30.—Mr. Justice Wightman opened the commission here to-day. Only one special and three common jury causes were entered for trial.

OXFORD CIRCUIT.—SHREWSBURY.

July 27.—Mr. Justice Hill and Mr. Justice Keating opened the commission in this town to-day. Only eight causes were entered for trial.

HEREFORD.

July 31.—Mr. Justice Hill and Mr. Justice Keating opened the commission here this day. The cause list contained an entry of seven causes.

SOUTH WALES.—BRECON.

July 29.—Mr. Justice Crompton opened the commission here to-day. There were five causes entered for trial, one being marked for a special jury.

WESTERN CIRCUIT.—EXETER.

July 25.—Mr. Justice Byles opened the commission in this city to-day. There were 18 causes set down for trial, 10 of which were marked for special juries.

Henry Pering Pellew Crease, Esq., barrister, of the Middle Temple, has been appointed Attorney-General of British Columbia.

Thomas Colborne, Esq., Newport, Monmouthshire, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Monmouth.

Robert Manning Davy, Esq., Fordingbridge, Hants, has been

appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Hants, also in and for the county of Wilts.

Samuel Searley Long, Esq., of Portsea, Hants, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Hants.

Charles Whitehall Davies Watson, Esq., of Stourport, Worcester, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Worcester.

John Williams, Esq., of Denbigh, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Robert Edward Williams, Esq., of Rhyl, Flint, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Henry Woodforde, Esq., of Clevedon, Somerset, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Somerset.

Parliament and Legislation.

HOUSE OF LORDS.

Friday, July 26.

BANKRUPTCY AND INSOLVENCY BILL.

The LORD CHANCELLOR, on rising to address the House on this Bill, contrasted the public discussion which the Bill had received in the House of Commons with the private consideration given it by the Select Committee of the House of Lords. He then adverted to the inconsistent conduct of the Conservatives in the Lower House, who supported the measure, with that of the Conservative party in the House of Lords, who had pursued an opposite course of action, and begged that the decision to be pronounced on that Bill might be founded, not on party motives, but on the intrinsic merits or demerits of the measure. He denied that the appointment of a chief judge could be termed "a job," but declared himself solely responsible for such a job, if job it were. He then briefly showed the defects of the present system, explained what changes were necessary, and defended the means by which such changes were proposed to be made. The appointment of a chief judge would remedy the present confusion of administrative and judicial duties, by introducing an officer to superintend the administrative part of the business, and at the same time to exercise a jurisdiction partly appellate and partly original. By such an appointment, also, justice would be rendered more quickly and more cheaply, and the bandying of suitors from one court to another would be avoided. To render, however, these reforms complete and the Court of Bankruptcy self-sufficient, he contended that the Court should be one of appeal, and pointed out the fallaciousness of the arguments that the number of appeals in bankruptcy being comparatively few, therefore, no judge of appeal was necessary. Certificates, as tests of character, would be made of some value if a judge were appointed, as they would be distinguished by a uniformity of decision. In conclusion, he objected to the appeals in bankruptcy being referred to the Lords Justices of Appeal, as those functionaries had quite as much as they could do without being saddled with additional burdens, and he begged their lordships to agree with the House of Commons in their rejection of their lordships' amendments.

Lord CRANWORTH said he did not object to the series of abstract propositions stated by the Lord Chancellor, but would have preferred to have heard it proved that the officer proposed to be appointed was necessary. His lordship then explained the mode of proceeding in bankruptcy, and contended that the present commissioners were in every way qualified to act as judges, and protested against the appointment of an unnecessary judge for the purpose of hearing appeals. The Bill was almost silent as to the jurisdiction of the chief judge, and dwelt far too much in generalities and not enough in particulars. He believed the appointment of a chief judge was not necessary, and was therefore objectionable.

Lord CHELMSFORD replied to the insinuations of the Lord Chancellor against the "Select Committee," and vindicated the decisions of that committee as frank and entirely removed from party motives, and stated his opinion that the appoint-

ment of a chief judge was unnecessary, as the duties which he would have to do were efficiently performed by those to whom they were now entrusted. He refuted the assertion that the Lords Justices of Appeal were overburdened with work by quoting the number of appeal cases heard by the Lords Justices, and denied that the proposed changes would be less expensive than the system now in use, for he believed that they would tend to increased cost by augmenting the number of appeals. His lordship then showed that the original jurisdiction which the Bill pretended to confer on the chief judge was nothing but a pretence for making an appointment, and he therefore hoped the House would adhere to its amendments, and spare the public the expense of a most unnecessary appointment.

Lord WENSLEYDALE agreed with the opinions expressed by Lords Cranworth and Chelmsford.

The LORD CHANCELLOR having replied to the objections of Lords Cranworth and Chelmsford,

The House divided on the question that this House do insist on its amendments as far as relates to the office, power, and duties of the chief judge, when the numbers were:—

Contents	80
Not-contents	46
Majority	—34

Their lordships' amendment was therefore adhered to.

A discussion then ensued as to whether their lordships should insist upon their amendment with respect to the creditors' assignees. On the question being put the "Not-contents" were declared to have it; so that the Commons' amendment on this point was agreed to. After further discussion the other amendments of the Commons were agreed to, and a committee was appointed to prepare a statement of the reasons why their lordships had insisted on their own amendments.

COPYRIGHT DESIGNS BILL.

This Bill passed through committee.

CROWN SUITS LIMITATIONS BILL.

This Bill also passed through committee.

Monday, July 29.

SALMON FISHERIES BILL.

The amendments in this Bill were reported and agreed to.

Tuesday, July 30.

ACCESSORIES AND ABETTORS BILL.

CRIMINAL STATUTES REPEAL BILL.

LARCENY BILL.

MALICIOUS INJURY TO PROPERTY BILL.

FORGERY BILL.

COINAGE OFFENCES BILL.

OFFENCES AGAINST THE PERSON BILL.

These Bills were severally read a second time.

CRIMINAL PROCEEDINGS OATH BILL.

This Bill was read a third time and passed.

SALMON FISHERIES BILL.

This Bill was read a third time and passed.

Thursday, August 1.

CRIMINAL RELIEF OATHS BILL.

The royal assent was given to this Bill.

CONSOLIDATION OF THE STATUTES.

The Accessories and Abettors, Criminal Statutes Repeal, Larceny, &c., Malicious Injuries to Property, Forgery, Coinage Offences, and Offences against the Person Bills, severally passed through committee, and were reported, without amendments, to the House.

WINDSOR SUSPENDED CANONRIES BILL.

The House went into committee on this Bill.

The Earl of CHICHESTER said the Bill would accomplish two very desirable objects,—it would increase the inadequate stipends of the Military Knights of Windsor, and augment two livings in the town of Windsor. With regard to the first object, the claim of the knights was resisted by the Dean and Chapter, and the decision of the Master of the Rolls in favour of the Dean and Chapter, was, on appeal, confirmed by their lordships. Several thousand pounds had been expended by the Dean and Chapter in costs, and he thought some provision ought to be inserted in the Bill by which they might be reimbursed that outlay.

Lord KINGSDown said that although on the question of law

the Dean and Chapter of Windsor were right, there never was a case of greater hardship than that of the Military Knights of Windsor.

The LORD CHANCELLOR said that to provide for the costs of the Dean and Chapter would be to override the decision of the Master of the Rolls and of their Lordships' House.

The Bill was reported without amendments.

Friday, August 2.

CONSOLIDATION OF THE STATUTE LAWS.

The LORD CHANCELLOR laid on the table a Bill for further consolidating the statute laws. He did not do so with the idea of proceeding with the measure this session, but merely that it might be read a first time, in order to receive the consideration of their lordships previous to the next meeting of Parliament. The bill dealt with the Acts from the earliest dates, and continued down to those passed in the reign of Edward III.; in short, it dealt with all the Acts mentioned in the first folio volume published by the Record Commission. The effect of the Bill would be to reduce the volume to about one-fifth of its present size.

The Bill was read a first time.

HOUSE OF COMMONS.

Friday, July 26.

COURTS OF JUSTICE BUILDING (MONEY) BILL.

The order of the day for proceeding with this Bill was discharged. This Bill, therefore, will not be further proceeded with this session.

Monday, July 29.

LAW OF DOMICILE.

WILLS OF PERSONALTY OF BRITISH SUBJECTS ABROAD BILL.

The ATTORNEY-GENERAL, in moving that the House go into committee on the Wills and Domicile of British Subjects Abroad Bill, said, the few observations he had to make on this Bill he would extend to the next order (Wills of Personality Bill) as the measures had a good deal in common. Having stated the object of the first Bill, he said that the Bill which stood next on the paper to the measure before the House, and which had come down from the Lords (the Wills and Personality of British Subjects Abroad Bill) had for its object to put an end to the law that the validity of the will should depend on the law of the domicile of the testator. If, however, the first Bill should pass, it would very much mitigate the evil that might result from the doubt and difficulty of defining what constituted domicile, because there would then be an authoritative declaration of domicile ratified by convention with foreign Governments. The Bill from the Lords would, he thought, introduce mischief and danger greater than that which it was intended to remedy. He then proceeded to shew the probable effect of that Bill, and suggested to the hon. and learned gentleman who had charge of the Bill (Sir F. Kelly) that as the Bill now before the House was admitted on all hands to make an advantageous change in the law, and as it facilitated future legislation, the hon. and learned gentleman should consent to postpone to another session the Wills and Personality of British Subjects Abroad Bill. He then moved that the House go into committee on the Bill.

Sir F. KELLY said that the Bill which his learned friend asked him to withdraw had been proposed in the other House by Lord Kingsdown; referred there to a select committee, by whom it was subjected to a searching consideration; was in the end unanimously approved, and passed the House of Lords with the entire approbation of the ministers in that House. He then stated the grievances arising from the present state of the law. The Bill proposed by the Attorney-General was a measure enacting that a treaty or convention should be entered into between this country and other nations providing that no one should acquire a domicile in a foreign country except by a residence for one year immediately before his death, and by the registration of his intention in some public office. The object of the Bill which had been introduced by Lord Kingsdown was, on the other hand, plain and clear. It proposed to make wills valid which were framed according to the laws of England or of Scotland, in accordance with the law of the country in which they were made, or in conformity with the law of the country in which the testator had his domicile. So far, however, as the Bill of the late Attorney-General was concerned, he ventured to contend that its advantages, if it were found to confer any, would be contingent. He should not, however, object to going into committee upon it if the House were disposed to do so.

Sir G. BOWYER strongly objected to the Attorney-General's Bill, which he said was not founded upon any principle that could be understood by any legal mind. He moved to defer the committee for three months.

The SOLICITOR-GENERAL observed that there was nothing in either of the Bills which conflicted with the other, and pointed out the advantages that would result from passing the Attorney-General's Bill, if foreign nations would co-operate with us, and there was no reason, he said, to doubt that they would do so. The passing of the other Bill would leave untouched many of the evils under the existing state of the law.

Objections were urged by Mr. Rolt, Mr. Malins, and Sir H. Cairns, to the Bill immediately before the House, and after a short reply by the Attorney-General, the amendment was withdrawn, the House went into committee upon the Bill, and afterwards upon the Lords' Bill, both of which passed the committee.

PROSECUTIONS EXPENSES BILL.

On the order of the day for resuming the adjourned debate on the second reading of this Bill,

Sir G. C. LEWIS said he had brought in this Bill to satisfy some of the northern counties. As, however, it did not appear to have given satisfaction, he should best discharge his duty by withdrawing it.

The order of the day was then discharged and the Bill withdrawn.

Tuesday, July 30.

STATUTE LAW REVISION BILL.

This Bill passed through committee.

Wednesday, July 31.

INDICTABLE OFFENCES (METROPOLITAN DISTRICT) BILL.

This Bill was withdrawn.

LUNACY REGULATION BILL.

Colonel FRENCH moved that this Bill should be read that day three months.

Mr. BOVILL seconded the motion.

The House was cleared for a division, but no member of the Government having spoken in opposition to the motion when the question was put a second time, it was carried, and the further progress of the Bill arrested.

BANKRUPTCY AND INSOLVENCY BILL.

The ATTORNEY-GENERAL moved the consideration of the Lords' reasons for insisting on certain of their amendments to this Bill, to which the Commons had disagreed.

The clerk at the table then read the reasons as follows:—

"The lords insist upon such parts of their amendments in the preamble to clause 1, and in clauses 2, 3, 4, 13, 14, 18, 22, 23, 33, 37, 39, 43, 52, 55, 56, 57, 59, 60, 61, 63, 67, 68, 71, 74, 75, 76, 77, 78, 83, 99, 111, 112, 129, 142, 164, 169, 178, 202, 212, 213, 230, 243, and 246, and in the schedule of repealed parts of statutes, as relate to the subject of a Chief Judge in Bankruptcy and matters consequential thereon, and also to clause (A) added by their lordships to the Bill, and which have been disagreed to by the Commons, for the following reasons:—Because they consider the appointment of a chief judge as the head of the Court of Bankruptcy in London to be unnecessary; the original jurisdiction which it is proposed to confer does not, in their opinion, require a judge of high attainments and authority, but would be equally well exercised by the London Commissioners, and the creation of a new judge to be the judge of appeals seems not to be called for by any necessity, because the appeals in bankruptcy at present occupy the time of the lords justices acting as the Court of Appeal for only a few days in each year, and there is no reason to expect that the passing of the Bill will occasion such an increase in the appeal business as to prevent its being satisfactorily disposed of by the same appellate tribunal; because the proposal to confer original jurisdiction on the chief judge is not at all calculated to secure consistency in the administration of the bankrupt law, inasmuch as this jurisdiction would be confined to the metropolitan district, and no provision would be made by it for securing uniformity of decision among the commissioners of the district courts and the county court judges sitting in bankruptcy, and if this consistency in the administration of the bankrupt law is to be obtained by means of a central and controlling authority, it is unnecessary to create a new judge of appeals for the purpose, as the object is already secured by the existing Court of Appeal; because if it is a principal object of the Bill gradually to supersede the commissioners by means of the establishment of the Chief Judge, so great a change in the present system ought not to take place in

this manner, but should be made only by the express authority of Parliament. With the preceding exceptions, the Lords do not insist upon any of their amendments to the said Bill to which the Commons disagree, and agree to the amendments made by the Commons to their lordships' amendments and also to the original Bill."

The ATTORNEY-GENERAL moved that the House do not insist in their disagreement to the amendments made by the Lords. They were well aware, and the reasons just read made it very apparent, that the amendments to this Bill as it originally passed the House, and on which the other House of Parliament insisted, were those which related to the appointment, duties, and salary of the Chief Judge in Bankruptcy. If the House were to persist in the view they had taken when the Bill was last before them, the consequence would naturally be that the Bill would be lost; and, under those circumstances, it had become the duty of the Government to consider what course they should advise the House to pursue; and, although her Majesty's Government retained the opinion expressed by its members in the discussions on the various stages of the Bill in favour of the appointment of the Chief Judge, for the reasons adopted by that House and transmitted to the other House of Parliament, and although they still considered that the provisions of the Bill were greatly impaired, and its chances of working well at the outset were very much diminished indeed by the omission of that portion relating to the Chief Judge, they considered that even without that part of the Bill there was an amount of good in it which was capable of working, although defectively, which ought to induce the Government to take the Bill mutilated and shorn, as he admitted it to be, rather than not have the measure at all. Under these circumstances the Government had come to the conclusion to advise the House—of course it was for the House to consider whether they should adopt that advice—not to insist further in their disagreement to the amendments made by the Lords, but practically to accept the Bill as amended by the other House. He should, however, have to propose certain verbal amendments, to which he was sure no objection would be made, which were rendered necessary for the purpose of enabling those by whom the general orders were to be made to make them in proper time, in the absence of the Lords Justices. He now begged to move that the House do not insist in their disagreement with the amendments made by the Lords.

The motion was then agreed to.

Recent Decisions.

COMMON LAW.

COSTS IN FRIVOLOUS ACTIONS—3 & 4 VICT. C. 24, s. 2; 23 & 24 VICT. C. 126, s. 34.

Saunders v. Kirwan, C. P., 9 W. R. 706.

The point raised in this case was as to the proper manner of framing a certificate under the Common Law Procedure Act of last year (s. 34), which shall have the effect of giving the plaintiff the costs of an action for a wrong from the defendant, although the sum recovered by the verdict therein is under £5. This provision was passed for the further discouragement of frivolous actions. The previous Act on the subject (3 & 4 Vict. c. 24, s. 2), which does not appear to have been repealed by the provision just mentioned, applies only to cases where the amount recovered by the verdict is under forty shillings, and for that and other reasons was considered to be insufficient for the desired object. In the former Act the burden of obtaining a certificate is thrown by the Legislature on the plaintiff—i. e. if notwithstanding the smallness of the amount recovered by the verdict he seeks for costs, he must procure from the judge a certificate to the effect that the action was brought to try a right besides the mere right to recover the damages sought, or was brought in respect of a wilful and malicious trespass or grievance. Such a certificate is, of course, framed affirmatively; but in the statute just passed the certificate is in the negative—that is, it is required to state three several things, 1, that the action was not brought to try a right; 2, that the trespass or grievance was not wilful and malicious; and 3, that the action was not fit to be brought. And this form is rendered necessary by another change made in the later Act, namely, to throw the onus of obtaining a certificate (where one is sought under its provisions) on the defendant instead of the plaintiff—for as the law now stands a plaintiff who recovers above 40s. and under £5 will be entitled to his costs, if the defendant fails to apply for and

obtain a certificate (always supposing the question as to whether the action ought to have been brought in the county court not to arise under the circumstances of the case) to the effect above-mentioned. The present case, however, shows that provided one of the three things negatived in the certificate, be the *malice* of the defendant, the very words of the Act need not be so closely followed as to render it essential also to negative the existence of *wilfulness*. That is to say, if the judge will certify that the trespass or grievance sued for was not malicious, it will be sufficient to deprive the plaintiff of his costs, although it does not further proceed to state that neither was it wilful.

CRIMINAL LAW.

FORM OF CASE STATED UNDER 11 & 12 VICT. C. 78.

Reg. v. Sleep, C. C. R., 9 W. R. 709.

This is an instructive case for those who are concerned with cases stated for the consideration of the Court for Crown Cases Reserved. This is a tribunal for the solution of doubtful questions of criminal law, which was provided for the first time by 11 & 12 Vict. c. 78; an Act which enables any court of oyer and terminer, or gaol delivery, or any court of quarter sessions, (whether for the county or for a borough) upon the conviction of any person before them, to reserve any question of law which shall have arisen at the trial for the consideration of the justices of either bench and the barons of the exchequer; and to respite the execution of or postpone the judgment on such conviction until such question shall have been considered and decided. The Act further proceeds to direct that in such emergencies a case shall be stated and signed by the Court before which the trial was held, setting forth the question or questions of law reserved, with the special circumstances upon which the same shall have arisen. No more definite instructions for the preparation of the case than these are given in the Act itself; but this deficiency has been, to a certain extent, supplied by Rules of Court bearing date June 1, 1850,—by which it is, among other things, ordered that every case transmitted for the consideration of the Court "shall briefly state the question or questions of law reserved, and such facts only as raise the question or questions submitted."

Even, however, as so supplemented, the directions as to the framing of the case are sufficiently vague to leave a good deal to the discretion and ability of the respective judges by whom they are drawn up; and accordingly, considerable difference may be observed in them. Some bear the impress of the skilful and practised pens of our most eminent judges, while others disclose the uncertainty and want of arrangement which not unfrequently characterise the literary efforts of a bench of magistrates, even when under the superintendence of their chairman.

In the present instance the case was undoubtedly ill-drawn, but the fault appears to have arisen from the over-caution rather than the unskilfulness of the recorder by whom it was submitted—who has, indeed, the well-deserved reputation of being an able lawyer. But he appears, nevertheless, to have much excited the irritability of certain members of the court, and particularly to have drawn down upon himself the censure of the Chief Baron.

The prisoner was indicted for having *been found in possession* of naval stores, and evidence was given of his having consigned to a carrier for conveyance elsewhere a cask of metal, some of which was marked with the broad arrow; and no evidence on his side was tendered to account for such being in his possession; but, on the other hand, no direct evidence was given on the part of the Crown to show that the prisoner was aware that any portion of the metal in the cask bore the mark of the broad arrow. After setting forth the above facts the case proceeded to state that these questions were severally put by the Court to the jury—1. Whether the prisoner was found in possession of copper marked with the broad arrow, to which they replied "Yes." 2. Whether the prisoner knew that the copper or any part of it was marked, to which they replied, "We have not sufficient evidence before us to show that he knew it;" and 3, Whether the prisoner had reasonable means of knowing that it was so marked, to which they answered "He had." Upon this finding (proceeded the case) a verdict of guilty was recorded.

To the case so stated, the court of appeal raised several objections. In the first place they observed that according to the evidence the copper was not in the possession of the prisoner at all, but of the carrier; but that question was not reserved, and the question put by the recorder to the jury was, indeed, inconsistent with the fact. In the next place they re-

marked that as the case was framed it appeared that the jury had expressly negatived the fact that the prisoner knew of the metal being marked; and (notwithstanding certain cases which were pressed upon them) the Court held that where the *mens rea* was expressly disproved, no criminal offence could be committed. On the other hand, the Court held that on the above evidence there was ample ground for the jury to have come to the conclusion that the prisoner was aware of the metal while in his possession having been marked; and that the proper course for the recorder to have adopted would have been to have told the jury that if they found so and so was the case they ought to find the man guilty; and in case they should have so found should then have asked the court of appeal whether in point of law his direction was right. But instead of this the jury were instructed to find a species of special verdict and not a verdict of "guilty;" upon which alone the court of error could act by way of affirmance. "Every case," added the Court, "ought to contain a distinct statement that by the verdict of the jury the man has been found guilty, and should then reserve for us the point of law which may have arisen."

Correspondence.

MORTGAGES.—DAYS FOR PAYMENT OF INTEREST.

Perhaps some of your numerous correspondents will favour me with their opinions upon the following suggestion.

It has frequently occurred to me that it would be a great practical convenience if, instead of the present practice of inserting for the day of redemption in mortgage deeds a day six months from the date of the deed, the 1st of January or 1st of July were always inserted, with a covenant for future payment of interest on those days in case of default.

Is there any practical or theoretical objection to this departure from long and universal custom?

Where parties have several sums lent on mortgage it is inconvenient that their incomes should be received at several different and not particularly accustomed periods; or where trustees have various sums to collect and pay over; or a solicitor has a number of clients for whom he receives the interest on various mortgages, the collection would be much facilitated if all, like rent, dividends, &c., were paid on some day usually adopted, and therefore easily remembered, on both sides.

The only inconvenience on the other hand which occurs to me would be that, of course, the first payment of interest would have to be rather more or less than the usual half-yearly interest, according as the period of redemption was made to fall. But this would be a trifling matter of arrangement, and not a recurring inconvenience.

A SOLICITOR.

July 30.

RECENT DECISIONS.

In the last number of the *Solicitors' Journal*, page 669, under the head of "Recent Decisions," some remarks are made on the case of *Heslop v. Metcalfe*, reported in 3 My. & Cr. 183, in confirmation of the ground of that decision, which was that the solicitor had discharged the client. I have not the report of that case by me at the time of writing this, but I have a most clear recollection that the solicitor in that case actually arrested his client for the amount of his bill of costs, and that that fact was adduced in evidence on the motion before Lord Cottenham. My contention was that the arrest was tantamount to a discharge, and so the Court held.

W. H. GREEN.

[This letter amounts to this—that the effect of *Heslop v. Metcalfe* is correctly stated in the passage referred to by Mr. Green.—Ed. S. J.]

The Provinces.

TAMWORTH.—At a meeting of the Council of Tamworth, on the 1st instant, Mr. Thomas Argyle, solicitor, of that borough, was unanimously elected to the office of town clerk, rendered vacant by the resignation of Francis Willington, Esq., who had held the appointment for upwards of a quarter of a century. The thanks of the council were cordially voted to Mr. Willington, for his long and able performance of the duties of the office.

Review.

A Letter to the Right Hon. the Viscount Palmerston, on his Bills for the Disintegration of the Statute Law. By GEORGE COODE. Second Edition. London: Ridgway; Sweet.

This pamphlet has made its appearance most opportunely. The Bills, to which it refers, have passed the third reading in the Upper House, and have received a certain degree of commendation from the *Times*. The article, however, in which the rapid action of the Commons has been praised by our contemporary, expresses thankfulness rather for the title than for the substance of these Bills. The *Times* has remarked that consolidations must be taken upon trust, and that Tribonian, probably, was never interrogated as to the details of his compilation under Justinian. The author of this pamphlet, however, alleges that these Bills are not entitled to be regarded as consolidations of the criminal law except in name. In order to prove the soundness of his criticism, he first states fairly the conditions to which every process of consolidation should conform. We consider his observations on this head to be entitled to unqualified praise; but we think that the Bills which he so severely censures conform in very many respects, though not entirely, to the canons upon which he bases his criticism.

The writer lays down, as the first rule to which every consolidation of the statute law should conform, that those portions of it which are at present dispersed throughout the statute book, "should be collected together and arranged in such a way that the parts that have most connection in meaning and effect should be most closely brought together; so that they shall throw mutual light each one on the other;" and that every subject should be thus wholly comprised in a single enactment. This is a description of consolidation from which, we think, few will dissent. He again, in a logical way, defines consolidation to be "a placing together of all those parts of any subject which make up the whole of that particular subject." The author then contrasts with this description and definition of consolidation the principles which the Bills now before Parliament profess to realize. He considers that these Bills are the very reverse of what a true consolidation should be; instead of associating the *disjecta membra*, the Bills, as he alleges, still further dis sever them, and so are entitled by him "Bills for the disintegration of the Statute Law." The principle of them, according to his view, is, "that of picking out the similar or identical parts from all different subjects, and stringing all those similar parts together in one Bill." We do not think that the Bills now before the Upper House, after having passed their ordeal in the Commons, are open to this sweeping objection. These Bills are six in number, and relate, respectively, to offences against the person, malicious injuries to property, larceny, forgery, coining, and to accessories and abettors. There is no confusion in the boundaries of these subjects, but each in its integrity is disposed of by a single Bill. The penalty, indeed, for assaulting a clergyman while exercising his functions, to use the example put by Mr. Coode, and that imposed on any other offence, *viz.* libel, may be enacted in the very same terms; and the first, we admit, has its proper place in ecclesiastical law, while the other should be connected with those legislative provisions which regulate the necessary license of discussion. To classify together these and other dissimilar cases, would doubtless be to effect a nominal consolidation only. A child, as the author puts it, could sort the hands of hundreds of watches, but this process would afford no insight into their mechanism. Neither, we may add, could it even assist the memory, the only utility which any such proceeding could be alleged to subserve. "*Ordo jureat memoriam*," says Lord Bacon; and, certainly, the practitioner is more likely to remember the details of a particular penalty, and the procedure necessary to enforce it, when he remembers it in connection with the other branches of the subject to which it relates, than as an abstract number in a statute containing perhaps a thousand similar insipidly monotonous provisions. The author observes, "that there is no consolidation possible by the aggregation of similar parts." This proposition follows necessarily from the preceding maxims stated by him. He adds, however, an observation which pushes his theory too far, or, rather, which is not warranted by it. He considers that no consolidation of the criminal law is possible. This is a statement which we would never have expected to find in this pamphlet, the principles of which are sufficiently sound, sensible, and philosophic. But we agree with him to this extent, that an isolated collection of all

penal provisions, unconnected with definitions of the offences to which they are attached, would be an unnecessary and unwarranted attempt at consolidation. Rights, wrongs, and remedies, in their criminal aspect, however, admit of as ready a consolidation as any other branch of law. It is true that remedies are partly preventive and partly remedial. But there is an essential distinction between both classes;—since the former relate exclusively to disputed rights to property. The executive and police are, indeed, preventive remedies as regards personal injuries. But, if we are to make a classification of heads of law upon such abstract, or rather transcendental principles, all laws *ipso facto* are preventive. We regret, therefore, that Mr. Coode committed himself to the statement that a consolidation of the criminal law is impossible. We think, on the contrary, that it is quite possible, and that he has himself enunciated with great clearness the principles upon which such a consolidation may be easily effected.

The writer observes that the Consolidation Bills now before Parliament are not simply useless, but that they are likewise obstructive, as regards the consolidation of the remaining fragments of the statutes dismembered by them. This remark is of the utmost importance. If the principle upon which these Bills proceed be unsound, and we certainly should wish to see them more logical than they are, they must, if passed into law, be wholly ignored in any subsequent scheme of consolidation that will adopt a different system; or else legislators will encounter difficulties similar to those experienced by bad reasoners, who arrange the subjects of their thesis in illogical cross divisions. The Bills criticised by Mr. Coode, notwithstanding their ambitious comprehensiveness, wholly omit the provisions of the law regulating penalties in their imposition and enforcement. This omission of the part of Hamlet shows clearly the inaccuracy of result which is sure to attend all attempts to classify voluminous details without a close regard to their mutual logical relations. Some other of the eighty-three Consolidation Bills promised by Sir Fitzroy Kelly, who was one of the commission who prepared these Bills, may provide for this. A sound and logical, as distinct from a nominal, consolidation of every branch of law, is, without any doubt, possible enough; and criminal law is certainly a branch of jurisprudence sufficiently definite and succinct to admit of consolidation. Though differing thus from Mr. Coode we recommend his pamphlet to the attention of all who feel an interest in the subject of the reformation of our law. He states his data with great distinctness and with considerable felicity of illustration; and though we consider that he pushes his views to an extreme point as regards the question of the consolidation of the criminal law generally, yet we think that his essay discloses facts and arguments that go far to show that the Bills which he criticises are likely to disappoint the expectations of their authors. They do not, however, mix together heterogeneous subjects. Their purview is confined each to a single class of offences; but they are certainly deficient as regards definitions and completeness.

Births, Marriage, and Deaths.

BIRTHS.

- CHAMNEY—On July 29, in Dublin, the wife of William G. Chamney, Esq., Barrister-at-Law, of a son, still-born.
LEWIS—On July 31, at Clifton, the wife of Lewis Fry, Esq., Solicitor, of a daughter.
HARGREAVE—On July 25, at Dublin, the wife of Judge Hargreave, of a daughter, still-born.
MCINTYRE—On July 24, the wife of Aeneas John McIntyre, Esq., Barrister-at-Law, of a son.
RENDALL—On July 26, the wife of John Rendall, Esq., of the Inner Temple, Barrister-at-Law, of a son.

MARRIAGE.

- SHARPE—DAVIS—On June 27, at Grenada, West Indies, Henry Sharpe, Esq., Provost Marshal, son of the Hon. Henry Edward Sharpe, Chief Justice of St. Vincent, to Frances Elizabeth, daughter of the Hon. William Darnell Davis, Chief Justice of Grenada.

DEATHS.

- DALBY—On July 21, at West Bromwich, in the 6th year of his age, Francis, son of — Dalby, Esq., Solicitor.
GROVER—On July 30, John Thomas Grover, Esq., of Bedford-row, Solicitor, aged 56.
KENNY—On July 29, at Dalkey, George Kenny, Esq., Solicitor, aged 57.

- PONCIA—On July 22, aged 6 months, Arthur Henry, son of T. F. Poncia, Esq., Solicitor, of Birmingham.
WILDE—On May 30, at St. Helena, Harriet, the wife of W. Wilde, Esq., Chief Justice of the colony.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

- AUBER, JAMES, Gent., Union-street, Whitechapel, Rev. JOSEPH WALLIS, Stebon-terrace, Stepney, and SUSANNAH AUBER, Widow, Union-street, Whitechapel, £126 10s. 6d. Reduced Three per Cents.—Claimed by JAMES AUBER, the survivor.
COTTERELL, THOMAS, THOMAS SHARP, and THOMAS BEALE, Farmers, all of Ruscombe, Berks, £50 Consols.—Claimed by GEORGE BARKER, Esq., Stanlake-park, Ruscombe, Berks, and JOHN GARRAWAY, Farmer, Ruscombe, Berks, pursuant to an Order of the County Court of Berkshire, dated 12th September, 1860, in the matter of Lady Eyre's Charity in Ruscombe, &c.
LAYBURN, JOHN FISH, Gent., Watney-street, Commercial-road, £9,400 Consols.—Claimed by EDWARD DEWGUARD, the surviving executor.
LEWIS, JANE, Widow, Hartlebury, Worcestershire, £2,789 8s. 5d. Consols.—Claimed by the said JANE LEWIS.
MARTIN, ANN, Spinster, Tyson-street, Bethnal-green, £56 New Three per Cents, and £144 12s. 6d. Reduced Three per Cents. MARTIN, ANN, Widow, Tyson-street, Bethnal-green, £485 New Three per Cents.—Claimed by the Accountant-General of the Court of Chancery, the person named in the said order.

Next of Kin.

- KEY, MARY, late of Hastings, in the county of Sussex, Spinster, who died on the 16th April, 1861.—Next of Kin to apply to the Solicitor to the Treasury, Whitehall, S.W.

Estates Gazette.

RECENT SALES.—SALE OF THE WROXHALL ABBEY ESTATE, WARWICKSHIRE.—This important property, comprising the very interesting old abbey, with the mansion and nearly 2,000 acres of land, was submitted to public competition on Thursday last by Messrs. Chinnock and Galsworthy, and, as is usual with estates of this magnitude, the sale excited considerable interest, and attracted a large attendance of gentlemen from the midland counties and elsewhere. The first offer made was £80,000; the biddings soon reached £90,000, and finally £93,000, at which price the hammer fell, and the property was declared sold. The fortunate possessor of the estate is now James Dugdale, Esq., of Hart-hill, Manchester, and it is gratifying to find the new owner is of an old Warwickshire family, whose name has long been associated with the abbey of Wroxhall through the celebrated work on Warwickshire, &c., known as "Dugdale's Monasticon," which gives a minute historical description of this venerable abbey; from which it appears that the priory of Wroxhall was founded by Hugh de Hutton, in the reign of Stephen, about 1143. Henry VIII., in 1544, granted the abbey and lands to Robert Burgoyne, in whose family it remained until 1713, when it passed to Sir Christopher Wren, whose imperishable fame will ever give an interest to the place, and whose descendants have been in possession up to the present time.

AT THE MART.

By Messrs. CHINNOCK & GALSWORTHY.

- Freehold Estates, near Kingston, Surrey; comprising 163½ acres, and known as Norbiton Park Farm.—Sold for £15,000, exclusive of timber.
Leasehold House and Shop, No. 152, Regent-street; let at £250; ground rent £93 10s 0d; term, 58 years.—Sold for £2,660.
Leasehold Private House, No. 2, Chester-place, Regent's-park; annual value, £95; ground rent, £35; term, 62 years.—Sold for £650.
Private House, known as Ivy Bank, Notting-hill; let at £55; held for 999 years, at a peppercorn.—Sold for £900.
A Plot of Freehold Building Ground, containing 1a. 1r. 27p., situate at Wimbledon.—Sold for £630.
A Plot of Freehold Building Ground, containing about 2a. 3r. 0p., at Wimbledon.—Sold for £1,900.
A Plot of Freehold Building Ground, containing 2a. 2r. 7p., at Wimbledon.—Sold for £1,450.
A Plot of Freehold Building Ground, containing one acre, at Wimbledon.—Sold for £400.
A Plot of Freehold Building Ground adjoining, and containing 1a. 0r. 20p.—Sold for £450.
A Corner Plot of Freehold Building Ground adjoining, and containing 0a. 3r. 28p.—Sold for £120.
A Plot of Freehold Building Ground, containing 1a. 0r. 34p.—Sold for £525.
A Plot of Freehold Building Ground, containing 1a. 2r. 2p., adjoining.—Sold for £650.
The Clump Plot, a Freehold Building site, containing 1a. 2r. 12p.—Sold for £660.
Freehold Building Plot, containing 1a. 3r. 24p., adjoining.—Sold for £360.
A Freehold Building Plot, having a frontage of 120ft. by 220ft. to the Avenue-road, Wimbledon.—Sold for £270.
A Plot of Freehold Land, situate in the interior of Wimbledon-park, containing 11a. 1r. 20p.—Sold for £5,707.
In each case the timber was taken at a valuation.

London Gazettes.

Windings-up of Joint Stock Companies.

TUESDAY, July 30, 1861.

LIMITED IN BANKRUPTCY.

CARDIFF AND CAERPHILLY IRON COMPANY (Limited).—Commissioner Fonblanque will sit on Aug. 20, at 1.30, at Basinghall-street, to make a dividend of the estate and effects of this company.

FRIDAY, Aug. 3, 1861.

UNLIMITED IN CHANCERY.

ELECTRIC TELEGRAPH COMPANY OF IRELAND.—The Master of the Rolls purposes on Aug. 9, at 1, to proceed to make a call on all the contributors of this company, settled on the list of contributories for fifteen shillings per share.

MEAKIN'S JOINT STOCK BREWERY COMPANY.—The Master of the Rolls has appointed Mr. Turquand, 16, Tokenhouse-yard, London, Accountant, Interim Manager of this company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, July 30, 1861.

DYSON, ELIZABETH, Spinster, Kendal, Westmoreland. Harrison & Son, Solicitors, Kendal. Sep. 1.
 HOYWOOD, ALICE, Spinster, Highfield-within-Blackburn, Lancashire. L. & W. Wilkinson, Solicitors, 73, Ainsworth-street, Blackburn. Aug. 28.
 HOWES, WILLIAM HENRY, Wine Broker, Anerley-road, Norwood, Surrey, and Mincing-lane, London. Wilson & Jeanneret, Solicitors, 11, New-lan, Strand, W.C. Aug. 31.
 KINNEBROOK, WILLIAM, Gent., Norwich. William Aldis Kinnebrook, Executor, 36, Wyndham-street, Bryanston-square, London. Aug. 30.
 OSBORNE, THOMAS, Engraver, 40, Thurlow-square, Brumpton, and 15, Sherborne-lane, London. Elizabeth Osborne, Executrix, 15, Sherborne-lane, London. Sep. 12.
 SQUIRE, ELIZABETH, Widow, 16, Bayham-terrace, Camden-town, Middlesex. S. Heath, Jun., 10, Basinghall-street, E.C. Sep. 10.
 TRIMNEY, JOHN, Publican, 14, Craven-buildings, Drury-lane, Middlesex, and late of the Duke's Head Public-house, Putney, Surrey, Licensed Victualler. Tanqueray, Guillaume, & Hanbury, Solicitors, 34, New Broad-street, London. Aug. 31.
 WARD, THOMAS FRANCIS, Gent., Spring Wood House, Burnley, Lancashire. Ward, Solicitor, Conington, Cheshire. Aug. 31.
 WOOD, THOMAS, Innkeeper, West Bromwich, Staffordshire. Best & Harton, Solicitors, Newhall-street, Birmingham, and Caddick, Solicitors, New-street, West. Bromwich. Sep. 1.

FRIDAY, Aug. 2, 1861.

BREAREY, ROWLAND, Auctioneer, Derby. Simpson & Taylor, Solicitors, Derby. Sep. 21.
 DOWNHAM, JOSEPH, otherwise JOSEPH DOWNHAM HAYES, Farmer, Chishall, Essex. Thurnell & Nash, Solicitors, Royston, Herts. Oct. 10.
 GRAVES, HARRY MEOS, a Major-General in Her Majesty's Indian Army, Gloucester. J. H. & H. R. Henderson, Solicitors, 31, Bloomsbury-square, London. Oct. 1.
 MOOREHOUSE, ELIJAH, Coachbuilder, Leeds. Bewley, Solicitor, 9, Park-row, Leeds. Sept. 16.
 NORMAN, EDWARD, Licensed Victualler, formerly of the King's Arms, Windmill-street, Finsbury, Middlesex, afterwards of the Half Moon, Holloway, Middlesex, and late of Park-road, Holloway, Middlesex, Janson, Cobb, & Pearson, Solicitors, 4, Basinghall-street, London. Aug. 31.
 PALEY, JOHN GREEN, Esq., Outlands, near Harrogate, Yorkshire. Taylor, Jeffery, & Little, Solicitors, 5, Piccadilly, Bradford. Sept. 1.
 PEACE, GEORGE JOSEPH, otherwise JOSEPH BARRY PEACE, Commercial Traveller, Bradford, Yorkshire. Taylor, Jeffery, & Little, Solicitors, 5, Piccadilly, Bradford. Sept. 1.
 TERRY, WILLIAM, Gent., Dudley Hill, Bradford, Yorkshire. Taylor, Jeffery, & Little, Solicitors, 5, Piccadilly, Bradford. Sept. 1.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, July 30, 1861.

BEGGIE & Co., Rangoon, Burmah. Frith & Gladstone, V.C. Wood. Dec. 2.
 DAMPIER, EMMA, Widow, 44, Manchester-street, Manchester-square, Middlesex. Dampier & Humsey, M.R. Nov. 4.
 LACK, GEORGE, Brickmaker, Isleworth, Middlesex. Lack & Lack, V.C. Kindersley. Nov. 2.
 MACRAE, BEGGIE, & Co., Moulmein, East Indies. Frith & Gladstone, V.C. Wood. Dec. 2.
 SALTMARSH, WILLIAM, Gent., formerly of Coleman-street, London, but late of James-street, Old-street, Middlesex. Saltmarsh & Barrett, M.R. Nov. 7.
 VICKERY, GEORGE, Sheriff's Officer, Bristol. Lawrence & Vickery, V.C. Stuart. Nov. 1.
 WHAPLATE, THOMAS, Farmer, Scotterthorpe, Scotter, Lincolnshire. Whaplate & Whaplate, V.C. Kindersley. Nov. 6.

FRIDAY, Aug. 2, 1861.

BUNTLIFFE, JAMES, Shopkeeper, Trafalgar, near Halifax, Yorkshire, Spencer & Higg, V.C. Stuart. Nov. 2.
 CUBITT, BENJAMIN, Lessingham, Norfolk. Nickels & Wilkinson, V.C. Stuart. Nov. 2.
 FRANKLYN, BETSY, Widow, Innkeeper, Fore-street, Devonport. Franklyn & Franklyn, V.C. Stuart. Nov. 11.
 HIGHAM, GEORGE, Gent., Brighouse, Yorkshire. Higham & Higham, V.C. Stuart. Nov. 8.
 NICKELS, JOHN CUBITT, Lessingham, Norfolk. Nickels & Wilkinson, V.C. Stuart. Nov. 2.
 RICHARDSON, ROBERT, Gent., Bishopwearmouth, Durham. Richardson & Wright, V.C. Kindersley. Nov. 4.
 SAWELL, WILLIAM, Farrier, formerly of Gough-square, London, but late

of the London-road, Southwark, Surrey. Sewell & Sewell, M. R. Oct. 29.
 SHARMAN, JOHN, Gent., Norwich. Rushbrook & Miller, V. C. Wood. Nov. 2.
 SIMMONS, THOMAS, Smith, Basildon, Berkshire. Simmons & Simmons, V. C. Stuart. Nov. 4.
 SIMPSON, HENRY ADAMS, Ironmonger, 11, Lower Marsh, Lambeth, Surrey. Hawkes & Phillips, V. C. Stuart. Nov. 2.
 SPRUNT, JAMES, Gent., Devonshire-place, Old Kent-road, Surrey. Sprunt & Sprunt, M. R. Nov. 4.
 WALKER, JOHN, Innkeeper, Rochdale, Lancashire. Benson & Walker, M. R. Oct. 30.

Assignments for Benefit of Creditors.

TUESDAY, July 30, 1861.

BROWN, JOHN, Draper, Taunton. Sol. Walter, Paul-street, Taunton. July 20.
 DAVIES, HENRY, Rope Manufacturer, Tailor, and Dealer in Ready-made Clothes, Bull-ring, Ludlow. Sols. G. & R. Anderson, Ludlow. July 9.
 ELPHKE, HENRY, & MORITZ ORENSTEIN, Jewellers, 25, Jewry-street, Aldgate, London. Sol. Armstrong, 33, Old Jewry, London. July 23.
 FLETCHER, ROBERT, Grocer, Devonport. Sol. W. Chapman, Devonport. July 21.
 GRICE, JAMES, Farmer, Morley Hall, Barrow, Cheshire. Sols. Harrison & Ashton, Frodsham. July 15.
 ODELL, SUSANNA, Widow, Saddler, Woburn, Bedfordshire. Sol. Wright, 8, New-lan, Strand, Middlesex. July 17.
 PRINGLE, WILLIAM STANLEY, Ironmonger, 63, Goswell-road, Middlesex. Sols. Boulton & Sons, 21A, Northampton-square, Middlesex. July 23.
 STAMPER, WILLIAM MASON, Chemist and Druggist, King-street, Cliverdon, Lancashire. Sol. S. H. Jackson, Ulverston. July 10.
 WALSH, JAMES, & JOHN HIGGINS, Tobacco Manufacturers, Bradford. Sols. Terry & Watson, Market-street, Bradford. July 12.

FRIDAY, Aug. 2, 1861.

BARROW, JAMES, Maltster, Abridge, Essex. July 10. Sols. Croxley & Burn, 34, Lombard-street.
 FISH, THOMAS, & NICHOLAS FISH, Manufacturers, Farnworth, Lancaster. July 30. Sol. Needham, 3, York-street, Fountain-square, Manchester.
 FOSTER, HENRY, Baker & Innkeeper, Bridgwater, Somerset. July 4. Sols. Carnlake & Harham, Bridgwater.
 HARDMAN, MARIA, Tailor & Woollen Draper, St. Mary's Gate, Manchester. July 29. Sols. Cooper & Sons, 44, Pall-mall, Manchester.
 HOLT, PHILIP, Builder, Great Malvern, Worcester. July 29. Sol. Cawley, Great Malvern.
 MOSES, HENRY, Picture Dealer, 7, St. Augustine's-parade, Bristol. July 11. Sol. Hippisley, 7, Nicholas-street, Bristol.
 PATRICK, ALFRED, Leather Seller, Guildford, Surrey. July 11. Sols. Robinson, Nicholls, & Leatherdale, 14, Old Jewry Chambers.
 SCRIVENER, GEORGE, Provision Dealer, Wigan, Lancashire. Sol. Marshall, 4, King-street, Wigan. July 22.
 SLAUGHTER, CART, Farmer, and Boarding House Keeper, Fawke House, Seal, Kent. Sol. G. Stenning, Tonbridge, Kent. July 13.
 WILSON, THOMAS, Labourer and Innkeeper, Crook, Durham. Sols. Hepple & Proud, Bishop Auckland, Durham. July 4.

Bankrupts.

TUESDAY, July 30, 1861.

BACHE, THOMAS, Timber Dealer, Bridgnorth, Salop. Com. Sanders: Aug. 9, and Sep. 6, at 11; Birmingham. Off. Ass. Whitmore. Sol. Phillips, Shifnal, or Hodgson & Co., Birmingham. Pet. July 27.
 BANNISTER, THOMAS, Builder, Hereford. Com. Sanders: Aug. 12, and Sep. 2, at 11; Birmingham. Off. Ass. Kinnear. Sols. Bodenham & James, Hereford, or Hodgson & Allen, Birmingham. Pet. July 20.
 CHAMBERLAIN, ABRAHAM, Butcher and Cattle Dealer, 245, High-street, Exeter, and of Stoke Canon, Devonshire. Com. Andrews: Aug. 9, and Sep. 11, at 12; Exeter. Off. Ass. Hirtzel. Sol. Floud, Exeter. Pet. July 27.
 HUGHES, ARTHUR, Saddler, and Collar and Harness Maker, Walton-street, Aylesbury, and Ivinghoe, Buckinghamshire. Com. Fane: Aug. 10, at 11, and Sep. 13, at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Harrison & Lewis, 6, Old Jewry, or Shepherd, Luton. Pet. July 30.
 SELMAN, JAMES, Tailor, 20, Upper Baker-street, Portman-square, Middlesex. Com. Fane: Aug. 9, at 11, and Sep. 13, at 11.30; Basinghall-street. Off. Ass. Cannan. Sol. Lindus, 95, Bedford-row. Pet. July 26.
 SHIPWAY, JAMES, & HENRY MANDER, Surveyors, Great Malvern, Worcestershire. Com. Sanders: Aug. 9, and Sep. 6, at 11; Birmingham. Off. Ass. Kinnear. Sols. Southall & Nelson, Birmingham. Pet. July 23.
 SIVTER, HENRY, Grocer and Tea Dealer, 7 and 8, Woodall-place, Brixton-road, Surrey. Com. Fane: Aug. 10, and Sep. 13, at 11; Basinghall-street. Off. Ass. Whitmore. Sols. Miller & Horn, 9, George-yard, Lombard-street. Pet. July 27.
 WAUSTAFFE, THOMAS, Cattle Saleman, Manor Grange Farm, Sheffield. Com. West: Aug. 17, and Sep. 21, at 10; Sheffield. Off. Ass. Brewin. Sols. Chambers & Waterhouse, 14, Bank-street, Sheffield. Pet. July 24.

FRIDAY, Aug. 2, 1861.

ARMITAGE, JAMES, Cheesemonger & Buttermonger, 29, Richard-street, Woolwich, Kent. Com. Fane: Aug. 12, at 11.30, and Sep. 20, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Mote, 33, Bucklersbury. Pet. July 30.
 BALDOCK, EDWARD CHARLES, Chemist & Druggist, 30, Aylesbury-street, Clerkenwell, Middlesex. Com. Fane: Aug. 12, at 11; and Sep. 20, at 1; Basinghall-street. Off. Ass. Cannan. Sol. Kitch, 8, Lancaster-place, Strand. Pet. July 29.
 EARNSHAW, JOHN, & GEORGE EARNSHAW, Dyers, Halifax, Yorkshire. Com. Ayton: Aug. 19, and Sep. 16, at 11; Leeds. Off. Ass. Hope. Sols. Wavell, Philbrick, & Foster, Halifax; or Bond & Harwick, Leeds. Pet. July 29.
 FISHER, JOSEPH, Cheesemonger, 105, Lupus-street, & 93, Charlwood-street, Mimico, Middlesex, and 27, Cheap-side, London, Licensed Victualler. Com. Fane: Aug. 12, & Sep. 20, at 12.30; Basinghall-street. Off. Ass. Cannan. Sol. Nicholson, 43, Lime street. Pet. July 27.
 HOLLINGSHEAD, EMMANUEL PARACELUS, Tailor & Draper, Cheltenham, Gloucestershire. Com. Hill: Aug. 13, and Sep. 10, at 11; Bristol.

Off. Ass. Miller. Sols. Winterbotham, Bell, & Co., Cheltenham; Ches-
hyre, Cheltenham; or to Abbot, Lucas, & Leonard, Bristol. *Pet.* July 25.
JONES, EUSEBIA PRICK, Housier, 9, Crawley-street, Oakley-square, Saint
Pancras, Middlesex. Com. Fane: Aug. 13, at 11, and Sep. 20, at 12;
Basinghall-street. *Off. Ass. Cannan.* Sols. Lepard & Gammon, 9,
Cloak-lane. *Pet.* July 24.
KERR, WILLIAM, Housier & Haberdasher, 3, Southgate-street, Bath. Com.
Hill: Aug. 13, and Sep. 9, at 11; Bristol. *Off. Ass. Acraman.* Sols.
Smith, 1, Frederick's-place, Old Jewry, London; or Edwards & Nalder,
Bristol. *Pet.* July 25.
LEVY, JOSEPH, General Dealer, 8, Finsbury Pavement, London. Com.
Goulburn: Aug. 13, and Sep. 9, at 11; Basinghall-street. *Off. Ass.*
Pennell. Sols. Spyer & Son, 8, Broad-street-buildings, London. *Pet.*
Aug. 1.
MANTUA, JOSEPH, Jeweller, Cutler, and General Dealer, Market-place,
Luton, Bedfordshire. Com. Fonblanque: Aug. 12, at 1, and Sept. 11,
at 12; Basinghall-street. *Off. Ass. Stansfeld.* Sols. Simey, 4, Ser-
jeant's-inn, Fleet-street, London, and Bailly, Luton. *Pet.* Aug. 1.
SMEETON, GEORGE, Rag Merchant, Batley, Yorkshire. Com. Ayrton: Aug.
20, and Sept. 10, at 11; Leeds. *Off. Ass. Hope.* Sols. G. A. & W.
Emsley, Leeds. *Pet.* Aug. 1.

BANKRUPTCY ANNULLED.

FRIDAY, Aug. 26, 1861.

OATES, JOHN, & BROOKS OATES, Woollen Manufacturers, Dewsbury, York-
shire. July 29.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, July 30, 1861.

AXFORD, JOHN, & CHARLES GREENSLADE, Timber and Slate Merchants,
Bridgewater, Somersetshire. Aug. 26, at 11; Exeter.—*BOWDITCH,*
GEORGE, Nurseryman and Seedsman, Taunton, Somersetshire. Aug.
26, at 11; Exeter.—*BRIDGES, CHARLES, Builder, Haslemere, Surrey, and*
Liphook, Hants, Coal Merchant. Aug. 21, at 1.30; Basinghall-street.
BROAD, JAMES, Coach Ironmonger, 149, and 150, Drury-lane, Middlesex.
Aug. 21, at 5; Basinghall-street.—*FLOOD, THOMAS, Hardwareman and*
General Dealer, Honiton, Devonshire. Aug. 27, at 11; Exeter.—*GOD-*
DARD, JAMES, Draper, Earl Soham, near Framlingham, Suffolk. Aug.
20, at 11.30; Basinghall-street.—*GROSS, NICHOLAS MALE, Wine and*
Spirit Merchant, Wadebridge, Cornwall. Aug. 26, at 11; Exeter.—
HANNAFORD, PETER ALLAN, Bookseller and Stationer, High-street, Exe-
ter. Aug. 26, at 11; Exeter.—*HARRIS, JOSHUA, Coal Merchant, High*
Week, Devonshire. Aug. 26, at 11; Exeter.—*HARVEY, JOHN, Printer,*
Bookseller, and Stationer, Sidmouth, Devonshire. Aug. 26, at 11; Exe-
ter.—*HICKES, GEORGE, Cotton Manufacturer, Portwood, Stockport,*
Cheshire. Aug. 29, at 12; Manchester.—*HOWE, CHARLES, Draper, Ply-*
mouth. Sep. 2, at 12.30; Plymouth.—*JONES, JOHN, Draper, Wrexham,*
Denbighshire. Aug. 12, at 12.30; Liverpool.—*KNOTT, JOHN, Draper,*
Maidstone, Kent. Aug. 20, at 12; Basinghall-street.—*LANCEY, JOHN,*
Linon Draper, Barnstaple, Devonshire. Aug. 26, at 11; Exeter.—
MACHIN, JESSE, & WILLIAM CATLING, Shipping and Commission Agent,
7, Skinner's-place, Sise-lane, London. Aug. 20, at 12.30; Basinghall-
street. Same time, separate estate of William Catling.—*MURKELL,*
THOMAS ROBERT, Farmer, Hedenham, Norfolk. Aug. 21, at 11; Basing-
hall-street.—*NICKOLL, JAMES, & ROBERT FRAZER NORTH, Tallow Bro-*
kers, 27, Bishopgate-street Within, London (Nickoll & North). Aug.
21, at 11; Basinghall-street. Same time, separate estate of James
Nickoll. Same time, separate estate of Robert Frazer North.—*OSMOND,*
CHARLES, Buyer and Letter of Threshing Machines for Hire, and Corn
Thresher, Hemlington, Northamptonshire. Aug. 20, at 11; Basinghall-
street.—*PAYNTER, FRANCIS, Attorney and Money Scrivener, Penzance,*
Cornwall. Aug. 27, at 11; Exeter.—*PEARSON, THOMAS, Merchant,*
Cann-house, Plympton-St. Mary, Devonshire. Sep. 2, at 12.30; Ply-
mouth.—*PETTER, EDWARD, & WILLIAM ARUNDEL OATEY, Ironfounders,*
Barnstaple, Devonshire. Aug. 27, at 11; Exeter. Same time, separate
estate of Edward Petter.—*POWING, TRISTRAM, Grocer and Tea Dealer,*
Truro, Cornwall. Aug. 27, at 11; Exeter.—*SHIPLEY, JOHN GEORGE,*
Saddler and Harness Maker, also joint Proprietor of the Sporting Life
and Eclipse Newspapers, and Sole Proprietor of the Court Circular, 179 &
181, Regent street, Middlesex. Aug. 21, at 2.30; Basinghall-street.—
SHOTTER, GEORGE, Sheep and Cattle Dealer, Midhurst, Sussex. Aug.
21, at 12.30; Basinghall-street.—*TALBOT, HUGH, & HUGH POPHAM TAL-*
BOT, Druggists, Sidmouth, Devonshire. Aug. 27, at 11; Exeter.—*THOM-*
SON, JAMES, JOHN THOMSON, & SAMUEL WOODHOUSE, Manchester and
Scotch Warehousemen, Birmingham. Sep. 6, at 11; Birmingham.

FRIDAY, Aug. 2, 1861.

ADDIS, HENRY, WILLIAM ONIONS, & EDMUND LLOYD, Vinegar Manufac-
urers, Island, Gloucester. (Addis, Onions, & Co.) Sept. 29, at 11; Bristol.
—*ANDREWS, EDWARD RICHARD, Cattle Dealer, Littleton-upon-Severn,*
Gloucester. Sept. 26, at 11; Bristol.—*BRYNOK, LEVI, Tailor & Draper,*
North-street, Bristol. Sept. 19, at 11; Bristol.—*BURN, DAVID LAING,*
Merchant, formerly of Kensington Palace-Gardens, now residing at 36,
Saint James's-place, Middlesex, and St. Michael's-house, Cornhill,
London. Aug. 26, at 12.30; Basinghall-street. *COLE, JOSEPH*
WINDLE, Merchant, 6, Great Winchester-street, London. Aug. 26, at
11.30; Basinghall-street.—*COLLIER, CHARLES, Cabinet Maker and*
Upholsterer, Rwindon, Wilts. Sept. 19, at 11; Bristol.—*GILBERT,*
JAMES, Ironfounder, St. Luke's, Middlesex. Aug. 26, at 1.30;
Basinghall-street.—*HEALE, WILLIAM, Jun., Nursery and Seedsman,*
Potterne-road, St. James, Bishops Canning, Wilts. Sept. 20, at 11; Bris-
tol.—*NICHOLSON, JOHN, Currier and Leather Dealer, Liverpool.* Aug.
12, at 11; Liverpool.—*NICKOLL, JAMES, and ROBERT FRAZER NORTH,*
Tallow Brokers, 27, Bishopgate-street Within, London (Nickoll &
North). Aug. 14, at 1.30; Basinghall-street.—*PENROSE, GEORGE,*
Eagles Bush and Ekyn Collieries, near Neath, Glamorganshire, and of
the Maesymarehag and Ynisarwad Collieries, Vale of Neath, Glam-
organshire, Coal and Coke Merchant. Sept. 19, at 11; Bristol.—
POWELL, CHARLES, and EDWARD COOKE, Mining Share Dealers, 8,
Hercules-chambers, Old Broad-street, London. Aug. 26, at 11;
Basinghall-street; separate estate of Charles Powell, separate estate of
Edward Cooke, same time.—*SMITH, JOHN PARRAM, Tea Dealer, 1,*
Coventry-street, Haymarket, Middlesex. Aug. 26, at 11; Basinghall-
street.—*STANDING, ALEXANDER PETRAIE, and CHARLES PETRAIE STAND-*
ING, Iron and Brass Founders, Rochdale. Sept. 3, at 12; Manchester.
—*SWAN, JOHN, Merchant, 150, Leadenhall-street, London.* Aug. 26, at
12; Basinghall-street.

LIFE-LIKE PORTRAITS for the album or the stereoscope, are taken daily, by
Mr. Chappuis, 69, Fleet-street, photographer and publisher of the best
portraits of Lord Palmerston and other celebrities. Album or visiting
card likenesses taken at 5s; copies 1s., or 10 for 10s. Stereoscopes,
7s. 6d.; copies, 2s. N.B. Previous appointment necessary. Children
photographed by instantaneous process.—Adv.

THE CHILDREN'S PHOTOGRAPHER.—Mr. Chappuis, 69, Fleet-street, is now
working with his new instrument purposely constructed for taking instan-
taneous portraits of children, &c. N.B. Previous appointment necessary
—Adv.

WHY BURN GAS IN DAYTIME? Use Chappuis' reflectors; they diffuse day-
light in dark places. The patentee and manufacturer is Mr. Chappuis,
69, Fleet-street.—Adv.

Valuable and important Estate, containing about 325 acres, at Hednes-
ford and Leacroft, in the parish of Cannock, Staffordshire; including
the celebrated Hotel, the "Cross Keys" at Hednesford, Houses, and
other buildings, in the village; and Lands immediately in connection
with and adjoining to the Hednesford New Colliery, the Cannock Mine-
ral Railway, and the Canal Wharf and Tramway now in course of for-
mation by the Birmingham Canal Company.

TO BE SOLD BY AUCTION, by E. & C. ROBINS,
on WEDNESDAY, the 21st day of AUGUST next, at the SWAN
HOTEL, WOLVERHAMPTON, at Four o'clock in the afternoon—the
Valuable Estate, called "The Cross Keys," at Hednesford, the principal
part whereof is Freehold, and a small portion Copyhold; containing about
225 Acres, including the hotel, training stables, farm and other buildings,
occupied by Mr. John Wilkins and others; also various houses, training
stables, other buildings and lands in and about the village, and extending
from the Cross Keys Hotel and Mr. Pigott's Hednesford New Colliery, to
the line of the Cannock Mineral Railway.

The high road from Cannock to Rugeley passes through the estate.

The recently constructed railways and canals have already advanced the
neighbourhood, and occasioned an extensive application of land for villa
and general building purposes. Public works in contemplation will con-
fer still further benefits.

The large quantity of coal raised on Cannock Chase, and particularly at
Mr. Pigott's Hednesford New Colliery, adjoining this property, clearly in-
dicates the existence of mines in the estate, and experienced practical
miners have reported them of unquestionable quality and great value.

The enclosure of the wastes now in progress will, as in the case of other
parishes that have already been enclosed most materially alter and im-
prove the character and value of the district.

The Estate will be first offered in one lot, but if not sold, will be imme-
diately put up in about nine lots.

Particulars, with plans and conditions of sale, will speedily be prepared,
and may be procured from Messrs. BARKER, BOWKER, & PEAKE, Soli-
citors, 1, Gray's-inn-square, London; Mr. PEAKE, Land Agent, Chartley
Manor House, near Stafford; Mr. BAILEY, Mineral Agent, The Pleck,
near Walsall; at the Cross Keys at Hednesford; the Swan Hotel, Wolver-
hampton; and from E. & C. ROBINS, Surveyors and Auctioneers, New-
street, Birmingham.

TO BE SOLD, pursuant to a Decree of the High

Court of Chancery, made in the causes of EMERSON v. MASON,
and EMERSON v. PEARCE, with the approbation of the Vice Chancellor
Sir William Page Wood, the Judge to whose Court these causes are
attached, in Eight Lots, by Messrs. DRIVER, the persons appointed by
the said Judge, at the AUCTION MART, London, on WEDNESDAY, the
21st day of AUGUST, 1861, at ONE o'clock precisely, the following
FREEHOLD and COPYHOLD ESTATES, situate at St. Albans, in the
county of Herts; Peldon and Barking Side, both in the county of Essex;
Arlington and Hellingly, and Hailsham, both in the county of Sussex;
the whole containing about 526 acres, and producing a rental of about
£470 per annum.

Lot 1. A Freehold Estate called Tittenhanger Farm (with a small part
copyhold); containing about 203 acres of arable and pasture land, in the
parishes of St. Peter and St. Stephen, in the liberty of St. Albans, and
close to the village of London Colney, with residence and homestead and
a cottage. The lot is of the estimated rental value of £200 per annum,
possession of which may be had on completion of the purchase.

Lot 2. A Copyhold Estate, called Pete Tye Farm, containing about 109
acres of arable and pasture land, in the parish of Peldon, near Colchester,
with farm house and suitable buildings, in the occupation of Mr. Benja-
min Clark, at the rent of £100 per annum.

Lot 3. A Freehold Estate, called Perryman's Farm, containing about
28 acres of accommodation land, with house and out-buildings, situate
near Bunting's-bridge, in the parish of Barking, Essex, and in the occu-
pation of Mrs. Young, at the rent of £60 per annum.

Lot 4. A Freehold Estate, called Bowlers and Hagley Farm (with small
part copyhold), containing about 137 acres of arable and pasture land, in
the parishes of Arlington and Hellingly, Sussex, with farm house and suit-
able buildings, together with five small tenements, let to and in the occu-
pation of Mr. Robert Wright, at the rent of £70 per annum.

Lot 5. A Parcel of Freehold Grazing Marsh Land, containing 14 acres,
in the parish and near the town of Hailsham, in the occupation of Mr.
Robert Wright, at the rent of £29 per annum.

Lot 6. A Parcel of like Marsh Land, containing about 12½ acres, situate
in the parish and near the town of Hailsham, in the occupation of Mrs.
Walker, at the rent of £23 per annum.

Lot 7. A Parcel of like Marsh Land, containing about 13 acres, and ad-
joining the last lot, in the occupation of Mr. Akers, at £35 17s. 6d. per
annum.

Lot 8. A parcel of similar Marsh Land, containing about 8½ acres, ad-
joining the last lot, and in the occupation of Mr. W. Hilde, at £18 10s. per
annum.

Printed particulars, with plans annexed, may be had on application of
Mr. W. H. WITHALL, Solicitor, 7, Parliament-street, London, S.W.; of
Mr. JOHN CHAPPLE, Solicitor, No. 19, Great Carter-lane, Doctors'-
commons, London; of Mr. T. SMITH, Solicitor, No. 15, Furnival's-inn,
London; of Messrs. TAYLOR & HOARE, Solicitors, No. 23, Great James-
street, Bedford-row, London; Mr. H. DAIN, Solicitor, 12, Parliament-
street, London, S.W.; of Mr. H. MASON, at Robinson's Estate Office,
Richmond, Surrey; and No. 17, Lincoln's-inn-fields, London; at the
principal inns in the neighbourhood of the properties; at the Mart, near
the Bank of England; and of Messrs. DRIVER, Surveyors, Land Agents,
and Auctioneers, 5, Whitehall, London, S.W.

NORTH WALES, nearly opposite BARMOUTH.

Valuable and beautiful property called the Arthog Hill Estate.

TO BE SOLD BY AUCTION, by Messrs. CHURTON,
at the GORS-Y-GE-DOL ARMS HOTEL, in the County of Merioneth, on SATURDAY, the 24th day of AUGUST, 1861, at TWO o'clock in the afternoon, the above desirable FREEHOLD ESTATE, containing 340a. 3r. 26p. of land, or thereabouts. In One Lot (including the several farms mentioned underneath), but if not so sold the estate will be offered in the following or such other lots as may be agreed on at the time of sale, and subject to conditions to be then produced.

Lot 1. The Arthog Hill Mansion, with the gardens, lodges, stables, coach-house, farm buildings, private chapel, quay woods, arable and pasture land, sheep walks, labourers' cottages, and appurtenances, and four farms, respectively called Buarth-will, Tyn-y-graig, Plas-y-Bugall, and Bwlch-yr-pendre, with a water corn mill, containing together 250a. 0r. 21p. or thereabouts.

Lot 2. Two Farms called Creigennan and Llanwydd, with several closes of land and sheep walks, called Frydd-y-gyd and Frydd-y-chiw-las, held therewith, containing together 64a. 2r. 10p. or thereabouts.

Lot 3. Two small farms, called Pantre-y-erw and Trawsdir, with the respective lands thereto, containing together 23a. 1r. 8p. or thereabouts.

Lot 4. An excellent and roomy messuage or dwelling-house, pleasantly situate, with coach house, stable, shippon, and walled garden, containing 3r. 4p.

The Mansion, built in the castellated style of architecture, stands on the side of a hill overlooking the estuary of the river Mawddach, two miles from Barmouth, and six from Dolgelly; commands a charming view of the finest scenery in the principality, and is approached by two beautiful drives from the Dolgelly and Towyn turnpike road, which intersects the estate. It has a good entrance hall, with entertaining rooms, suitable domestic offices, and eleven bed rooms. The gardens and grounds are tastefully arranged and planted, the land occupied with the mansion drained, and the cottages well tenanted. The woods are of fine ornamental larch and oak timber; and a trout stream bounds the property, forming a ravine and waterfalls, noted for their romantic beauty. The farms are well tenanted. A railway connected with the main lines will shortly be completed to Machynlleth, twenty miles distant. The Mid-Wales Railway is projected to come near the estate, and the Aberystwith and Welsh Coast line to pass through part of the land, with a station near thereto.

Lithographic plans, with particulars, may be had at the principal hotels in North Wales, fourteen days before the sale, and with further information, from Mr. FOWDEN, Solicitor, Altrincham, Cheshire; Mr. JOHN WORTHINGTON, Solicitor, Cheshire, near Manchester; Messrs. BOWER, SON, & COTTON, 46, Chancery-lane, London; or from Messrs. CHURTON, Auctioneers, Chester and Whitechurch.

HANTS, near PETERSFIELD.

MESSRS. BROOKS & BEAL are instructed to **SELL**, by Private Contract, a desirable FREEHOLD ESTATE; comprising a noble mansion, having three reception rooms, 10 bed rooms, all offices; double coach-house, six and three stall stables, and surrounded by pleasure grounds, garden, shrubberies, and an American garden of rhododendrons; a good kitchen garden walled in, and about 120 acres of prime meadow and other land.

For price, &c., apply to **BROOKS & BEAL**, Land Agents, 209, Piccadilly.

FIRST-CLASS INVESTMENT.—FREEHOLD DOMAIN, ADVOWSON, AND MANORS.

MESSRS. BROOKS & BEAL are instructed to **SELL** a splendid MANORIAL ESTATE and noble MANSION, seated in one of the best western counties. The whole estate comprises about 6,000 acres, with excellent farm residences and home-steads, houses and cottages. The property is most compact and valuable, hill and valley, wood and river. Let to highly respectable and responsible tenants at moderate rents; is in a fair state of cultivation; uniting in the possessor considerable county and borough, Parliamentary, and local influence, and yielding an ample income.

Estate and Auction Offices, 209, Piccadilly, W.

FINCHLEY.

MESSRS. BROOKS & BEAL have for **SALE**, the **LEASE** of an elegant VILLA, at a ground rent of £70 per annum. The grounds (three lawns) and gardens are beautifully laid out.

For detailed particulars of accommodation apply at their offices, 209, Piccadilly, W. (Fo. 281 R.)

HERTS.

MESSRS. BROOKS & BEAL have to **SELL** a **FREEHOLD ESTATE**; comprising a modern-built residence, of handsome elevation, surrounded by 40 acres of land, laid out in pleasure grounds, kitchen garden, orchard, arable and grass fields; it is adapted for immediate occupation, and within two hours' journey from London. It has coach-houses and stables, and farm buildings; the whole in good order. Purchase £1,500.

Estate and Auction Offices, No. 209, Piccadilly, W. (Fo. 260, R 3).

INVESTMENTS.

MESSRS. BROOKS & BEAL have for **SALE**, together or separately, **FIFTEEN FREEHOLD (or Leasehold) COTTAGE VILLAS**, at Wandsworth, on the borders of Wimbledon-park; each let at £30 per annum.

To treat, apply at their offices, 209, Piccadilly, W.

CAVENDISH-PLACE, CAVENDISH-SQUARE.

TO BE LET, unfurnished, or the Lease to be Sold, of an excellent **RESIDENCE**, in thorough repair, very light and airy, not overlooked in front or rear. It contains four good reception rooms and five bed rooms, convenient offices, well-placed closets.

BROOKS & BEAL, Estate Agents and Auctioneers, 209, Piccadilly, W. (Fo. 228).

HANTS.

TO BE SOLD, a desirable FREEHOLD land-tax redeemed **PROPERTY**, most pleasantly situate, and surrounded by very tasteful pleasure grounds, with ornamental water and well-timbered grass paddocks and capital walled kitchen gardens, elegant conservatory and vineery. House contains hall, two spacious drawing rooms, and dining room, library, and boudoir, two staircases, 13 bed and dressing rooms, and prospect room, capital offices, coach-house, and stables, and other out-buildings. It is one mile from a station, Direct Portsmouth and South Coast Railway, half a mile from church and private sea bathing. Purchase Moderate.

BROOKS & BEAL, Estate Agents and Auctioneers, 209, Piccadilly, W. (Fo. 196.)

THOSE WHO ARE ABOUT TO FURNISH

should visit **G. I. THOMPSON'S** extensive Stock of Furnishing Ironmongery, Electro-Silver Plate, Fenders, Fire-Irons, Japan and Paper Maché Trays, Baths, Toilette Furniture, Gas Chandeliers, Moderator Lamps. All articles marked in plain figures.

THOMPSON'S Electro Silver Spoons, 36s.; Forks, 34s. dozen.

THOMPSON'S Ivory Balance Table Knives, 16s., 22s., 28s. dozen.

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Carriage paid to Railway Stations. Send for a Furnishing List.

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PICTURE FRAMES.—Cheap and Good Gilt Frames

for Oil Paintings 24 by 24, 4 inches wide, 20s. Ornamental Frames for Drawings, 14 by 10, 4s. each. The Art Union Prints, framed in a superior style, at the lowest prices. Neat gilt frames, for the Illustrated Portraits, 1s. 6d. each. Gilt Room Bordering at 4s. per yard. Oil paintings cleaned, lined, and restored; old frames re-gilt equal to new. The trade and country dealers supplied with gilt and fancy wood mouldings, print, &c. German Prints 3s. per dozen. Neat gilt Frames, 17 by 13, with glass complete, 1s. 6d. each. **CHARLES REES**, Carver, Gilder, Mount Maker, and Print Seller, 36, Holborn, opposite Chancery-lane.

AS GOOD AS GOLD

WATCH CHAINS and every kind of Jewellery double coated, with pure gold, and impossible to be told from solid gold Jewellery, though only one-tenth the cost. Made in the newest patterns by workmen used to solid gold work. Unequalled for wear. Illustrated circulars post free for a stamp.

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ALBION SNELL, Watchmaker and Jeweller, has removed to his New Premises, 114, High Holborn, seven doors east of King-street, where he respectfully solicits an inspection of his new and well-selected stock.

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OCULAR FIELD or **OPERA GLASS** sent carriage free, on receipt of post-office order, to any part of the United Kingdom. The extraordinary power of this instrument renders it adapted to answer the combined purposes of telescope and opera glass. It will define objects distinctly at ten miles distance; is suitable for the theatre, race course, sportsmen, tourists, and general out-door observations. Only to be obtained of **KEYZOR and BENDON** (successors to Harris and Sons), Opticians, 50, High Holborn, London, W.C.

Illustrated Price List of Optical and Mathematical Instruments free, on receipt of two stamps.

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MODELS of SHIPS or BOATS made to Scale

or Order. Blocks, dendereys, anchors, cannon, flags, figure-heads, &c., and every article used in fitting up models of ships, cutter and schooner yachts, screw and paddle boats. Models cleaned and repaired. Models of any description made for evidence in actions at law. Ensigns, burses, and signal flags made to order.

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GOOD DOUBLE GLOUCESTER CHEESE.

7d. and 7½d. per lb.

FINE LARGE CHEESE, weighing 1 cwt. each, 8d. per lb.

RIPE STILTON, 10d. and 1s. per lb. The Connoisseur's Delight, 15d.

SMALL BREAKFAST TONGUES, 3s. 6d. the half-dozen.

SMOKED OX TONGUES, 2s. 3d. each, or three for 6s. 6d.

FINE HAMS, 7½d. and 8d. per lb.

OSBORNE'S **FEAT-SMOKED BREAKFAST BACON** is now in excellent cure.

BUTTER in perfection, at reasonable rates.

A saving of 15 per cent. is effected by the purchaser at this establishment on all first-class provisions. Packages gratis.

OSBORNE'S CHEESE WAREHOUSE.

OSBORNE HOUSE, 30, LUDGATE-HILL,
Near St. Paul's, E.C.

We cannot notice any communication unless accompanied by the name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher*

THE SOLICITORS' JOURNAL.

LONDON, AUGUST 10, 1861.

CURRENT TOPICS.

At the approaching meeting of the National Association for the Promotion of Social Science, which will be held at Dublin on the 14th to the 21st, the following papers will be read in the department of jurisprudence:—

JAMES WHELAN.—Jurisprudence and the amendment of the law.

EDWARD WEBSTER.—Adaptation of the law to social change in the matter of liberty of opinion, in connection with the 13 Eliz. c. 12, and the 13 & 14 Charles 2, c. 4, commonly called the Act of Uniformity.

J. NAPIER HIGGINS.—The machinery of legislation.

Right Hon. JAMES WHITESIDE, M.P.—Criminal law amendment.

ARTHUR SYMONDS.—On the appropriate and adequate constitution of judicial tribunals, and the institution of the judiciary over them.

Baron HOLTZENDORF.—On public prosecutions in Prussia.

ISAAC J. MURPHY.—Suggestions for the improvement of the working of the grand jury system in Ireland, and its extension to England.

Right Honourable JAMES WHITESIDE, M.P.—The Landed Estates Court Act.

EDWARD WEBSTER.—On the establishment in the metropolis primarily, and afterwards in the provinces, of a land registration court for the voluntary registration of titles to freehold land in England and Wales, for the purposes of sale and mortgage.

DAVID M'CUBBIN.—Ought the management of bankrupts' estates to be placed in the hands of official assignees appointed by the Government, or assignees or trustees nominated by the creditors?

DAVID SMITH.—The necessity for a law to compel every trader to make an annual balance under pain of imprisonment.

J. C. SMITH.—The Scotch Marriage law.

DR. WADDILOVE.—The Law of Marriage and Divorce as at present existing in England, Ireland, and Scotland.

W. H. MORRIS.—The Marriage Law of the Empire.

LEGISLATION OF THE SESSION.

The Session of Parliament which came to a close last Tuesday, is in one respect, and that a very disagreeable one, the most instructive in the history of English legislation. It commenced at a time remarkable for the freedom of Parliament from all external pressure, and the absence of almost every topic of exciting interest. It was heralded as the Session *par excellence* of domestic improvement, and in particular of law amendment. Measures affecting the administration of our law in various departments, some of them of great importance, were stated to have been prepared with the utmost care and labour by the law advisers of the Crown; and sensible people throughout the country were rejoiced by the prospects of considerable legal reform during the general subsidence of political agitation. The mercantile classes were promised great things in the way of a new bankruptcy code and tribunal, and also a less extensive but somewhat important measure for the protection of manufacturers against the dishonest use of their trade-marks. The expectations of country

gentlemen were excited by the pledge of Ministers to introduce again the Bill for the better management of Highways, and to save it from the fate which formerly attended it. Artists, literary men, and publishers, received an early promise of a measure for the protection of artistic copyright. They were told that before the Exhibition of 1862, they would be placed upon as good a footing as foreigners, and that it should no longer be said, with truth, that there was no adequate law in this country for the protection of copyright in works of fine art. The general public not less than lawyers were delighted by glowing pictures of a new Palace of Justice, all the arrangements for which it was said had been well considered, and were fully completed. The Criminal Law Consolidation Bills, which had figured in so many ministerial programmes, of course, were not forgotten; nor was the well-sounding phrase of Statute Law Revision left uninvoked. We say nothing of the grand scheme of registration for facilitating land transfer, about which so many notices have figured from time to time, for some sessions past, and which the late Attorney-General promised to explain to the House, at all events before last Easter. Neither do we now refer to many other less important Bills, which were either promised by the Government and never produced, or if produced have not been enacted; nor to such Bills as Mr. M'Mahon's County Courts Code, Mr. Hodgkinson's Fictitious Defences Bill, or, indeed, any of those to which we are, or were to have been, indebted to independent members of Parliament. Our object in thus contrasting the promises and performances of Ministers, is in order to call attention to the unfitness of the present machinery for legislation in this country. Whatever doubts might have existed upon this subject, must be by this time expelled from the minds of sceptics.

In the first place, notwithstanding reams of print in blue books about the drawing of Parliamentary Bills, insuring uniformity in their arrangement and form, and general revision of our statute book, the Bankruptcy Bill of the past session was admitted on all hands to be a rare specimen of awkward drawing—abounding in unskilful and loose phraseology, unscientific in its plan, and having little regard to the existing state of the statute book. It had, moreover, the radical defect of effecting extensive repeals of former Acts of Parliament in a fragmentary manner, and by way of reference or implication. For instance, it repeals expressly a number of clauses in the Bankruptcy Consolidation Act, (12 & 13 Vict. c. 106), and also "such other parts of the said Act as may be inconsistent with the present Act." This Bill was brought forward by the Attorney-General in the House of Commons, and a few days afterwards the Lord Chancellor, in the House of Lords, when introducing the Statute Law Revision Bill, attributed the wretched confusion which now disgraces our statute book to the "vicious mode" of repealing statutes, "not expressly, but by simply enacting that all statutes inconsistent with the particular Act should be repealed." "The difficulty," said his lordship, "was to decide what statutes were inconsistent with it." Accordingly, as might have been expected, a very unseemly discussion took place in the House of Lords, when the Bill was last under consideration there, between Lord Westbury its avowed author and Lord Cranworth, who flatly contradicted one another as to the effect which the Act would have on the jurisdiction in bankruptcy of the Lords Justices, a point intimately involved in the question of implied repeal. Are we not justified, then, in saying that even Government Bills are prepared without any regard to uniformity or scientific arrangement? We have already said so much in this Journal, on this subject, that we need not further advert to it here. More than twenty years ago, Mr. Arthur Symonds, and more recently, Mr. Coode, so clearly pointed out the defects in our system of Parliamentary drawing, and gave such

practical suggestions for its reform, that the law advisers of the Crown are absolutely without excuse for their persistence in the present haphazard and unmethodical procedure.

But the defects of our machinery of legislation are by no means confined to the manner of preparing Bills. Every session the passing of any Law Bill, however useful its provisions may be, and however little opposition it may have to encounter, is becoming more and more uncertain. The recent Trade Marks Bill is a monstrous instance in point. Parliament had assembled only a day or two when the President of the Board of Trade promised that the Bill would shortly be presented to Parliament; and so it was. It passed the House of Lords early in March, and by the 15th of April had reached a second reading in the House of Commons. The 22nd was fixed for going into committee upon it. This, however, was never accomplished, although the Bill was in the paper for this purpose not less than 18 times during the months of April, May, June, and July. The Bill was originally prepared at the entreaty of numerous chambers of commerce, and other important bodies; and this is the second session in which there has been a failure in passing it, owing to the obstructiveness of the House of Commons, or rather to the inefficiency of its machinery for dealing with such measures. The Government Highways Bill also belongs to this class. Having at the commencement of the last two sessions bid fair for success, it found itself at the conclusion of each in the limbo of the waste-paper office. Is it not possible to induce the House of Commons to devote a reasonable share of its time to the business of legislation, and to give up for this purpose its nauseous privilege of unlimited speech-making? One hour any night might have disposed of the Trade Marks Bill; and yet this could not be obtained in a session remarkable beyond most others for the small amount of work actually accomplished, although on more than one of the nights on which the Bill was down for committee, some spouter counted out the House.

The Bills providing for the erection of new courts and offices present the existing system of bungling in yet another and somewhat novel light. These Bills emanated from the Government itself, and resulted from elaborate and careful enquiries instituted by a Royal Commission appointed for the purpose. They were announced as being of scarcely less importance than the Bankruptcy Bill itself, and the "Site Bill" was pressed through the House of Commons with as much force as Mr. Cowper could bring to the task. At the last moment, however—so late as the 16th of July, after the select committee of the House of Commons had closed its sittings, and made its report—the Lords of the Treasury issued a "minute," the professed object of which was to apprise Parliament and the public of the extent of liability to which the public revenues might be subject, if the Government scheme should be carried into effect. The result of the Treasury calculations goes to show that in the opinion of the Treasury the new palace of justice will cost half a million more than the sum estimated by the Royal Commissioners, on whose report the Government itself framed its Bills. We may say in passing that the figures contained in the Treasury minute are purely conjectural, and that this document has been ably dealt with in some remarks of the Incorporated Law Society, which we hope to publish next week. We now advert to the subject only as another illustration of the manner in which important measures deeply affecting the administration of justice in this country are launched by the Government.

It may be said, however, that the past session has at all events produced a Criminal Code, or a set of Consolidation Acts which, taken together, may almost be entitled to the dignity of that appellation. No doubt, several important Bills for the consolidation of the

criminal law have been passed; but, in truth, the history of these productions furnishes no room for boasting as to the manner in which such work is accomplished in this country. It is now many years since to Mr. Lonsdale was committed the task of preparing a series of Bills which, if taken together, might be accepted as a consolidation of the criminal law of England. Unhappily, however, the work was commenced and carried on, and has been completed with the least possible regard to well-considered principles, or to method. The Bills which originally came from the hands of Mr. Lonsdale and his colleagues, were submitted to the revision of the late Chief Justice Jervis, Mr. Greaves, and others, and in 1856 were introduced into the House of Lords by Lord Cranworth. Every succeeding set of law officers of the Crown have seized upon these same Bills as an important item of political capital, and Mr. Bellenden Ker and his nominees preyed upon them for years. We need not be afraid of stating that they have been made the excuse for a very large and useless waste of public money, and did great injury to the cause of statute law reformation by keeping alive that organised hypocrisy—the late Statute Law Commission. Such have been the indirect disadvantages resulting from these criminal law Bills. Any account of the defects inherent in the Bills themselves, in the manner of their preparation, and the want of method characterising them from their inception to the time of their becoming law, would be necessarily too large an undertaking for us at present. We may mention, however, that at the close of the session of 1857, these same Bills after having passed through the hands of Sir John Jervis and Mr. Greaves, and subsequently of the Statute Law Commission, were hurried through the House of Lords with a speed that caused universal surprise, as soon as it was discovered in the House of Commons that the Bills were far from being a mere consolidation of existing law—as was represented in the Upper House—and were moreover disfigured by not a few startling blunders. For instance, although the Bills appointed punishments for offences, they failed to repeal existing enactments against them. A similar fate befel these Bills in the two succeeding sessions, being brought in at the close of each only for the sake of appearances, and not with the view to actual legislation. It was felt that they could not be proposed to Parliament as measures of pure and simple consolidation, and that so far as they pretended to be amendments of the law, their accuracy or their authority could not be relied upon. But early in the session of 1860, after a considerably increased expenditure of money upon these belaboured productions, and much retouching, they were again brought forward with the further pretensions of an assimilation of the criminal law of Ireland to that of England, and also of some substantial improvements in both. The former blunder was moreover attempted to be remedied by a repealing Act which at the time we showed to have been by no means free from mistakes. We also pointed out some puzzling and unmeaning alterations in the existing law, which caused great doubt in the minds of lawyers, and also in the mind of Parliament, about accepting the Bills without going through the whole of them clause by clause, which was obviously impossible. After much and very reasonable reluctance, however, and finally amid great haste and pressure, they have been admitted upon the statute book—an event, let us hope, which may prove to be for the best. But so far from these Bills being the subject of gratulation, we must insist that they afford the strongest possible proof of the necessity, if not of a department of justice, at least of some suitable agency for the accomplishment of such work.

The foregoing observations relate only to such Bills as specially affect the administration of justice and are introduced to Parliament by responsible advisers of the Crown. It is, of course, very desirable that every statute should conform to well-considered rules, as to

the arrangement of its subject matter, its mode of expression, and its relation to existing law. But it were obviously premature to expect this so long as important Government Bills, which are intended to create new jurisdictions, and to lay down explicit rules for their direction, or to make serious alterations in the principles of our system of jurisprudence, are, both in their conception and progress, characterised by such defects and misfortunes as we have mentioned. The first step towards improvement, therefore, must be in the case of Government Bills; and the time has certainly come when it ought to be no longer possible for the Attorney-General to present a Bill to the House of Commons, framed in a manner which comes within the severest reprobation of the Lord Chancellor in the House of Lords—as in the case of the recent Bankruptcy Bill. If ever there is to be anything like science in the composition of our statute-book ought it not to commence now that we are attempting its revision and reformation? Of what use is consolidation if we proceed to accumulate fresh heaps of lumber which will speedily call for assortment or removal? But while the same law officers who deplore the “vicious system” of repeal by implication, and make it the apology for asking Parliament to accept upon trust an Act to repeal expressly a multitude of enactments already impliedly repealed, introduce an important Bill tainted with the self-same vice, what hope is there of any consistent effort at improvement in the manner of legislation?

Various measures have been proposed for the remedy of some of the evils to which we have referred. Amongst others it has been suggested that an officer and staff should be appointed by both Houses of Parliament for the revision of all public Bills; and that it should be the duty of such official to “advise on the legal effect of every Bill; and, in particular, on the existing state of the law affected by a proposed Bill, its language and structure,” &c. Mr. Coode, in his evidence before the select committee of 1857, was of opinion that a “mere revising clerk” would be sufficient for this purpose. Suggestions have also been thrown out for the formation of a Parliamentary board, whose special duty it would be to attend to the process of law making. There has been no lack of propositions which are to be found at length in numerous blue books, to which we must be content to refer our readers for further information. All that we now have to say is that it is unfortunately too clear that the utmost need exists for the adoption of some plan which will save our statute book from utter confusion, and facilitate the passing of such law Bills as are admitted on all hands to be useful, and which are now prevented from becoming law by the unsuitableness of the machinery of Parliament for the existing exigencies of legislation.

The Courts, Appointments, Promotions, Vacancies, &c.

SUMMER ASSIZES.

CHESTER CIRCUIT.—CHESTER.

Aug. 3.—Mr. Justice Crompton opened the commission in this city to day. The cause list contained an entry of thirteen causes, two of which were marked for special juries.

NORTHERN CIRCUIT.—CARLISLE.

Aug. 2.—The commission was opened in this city to-day. The cause list contained an entry of 6 causes.

NORTH WALES CIRCUIT.—MOLD.

Aug. 1.—Mr. Baron Bramwell opened the commission in this town this morning.

OXFORD CIRCUIT.—MONMOUTH.

Aug. 3.—Mr. Justice Hill and Mr. Justice Keating opened the commission in this town to-day. The cause list contained an entry of four causes.

Mr. Robert Taylor Campion, of Exeter, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women in and for the county of Devon, also in and for the city and county of the city of Exeter.

Parliament and Legislation.

HOUSE OF LORDS.

Tuesday, August 6.

THE PROROGATION.

Parliament was this day prorogued by royal commission.

The following Bills received the royal assent:—

- COPYRIGHT OF DESIGNS BILL.
- EAST INDIA (HIGH COURTS OF JUDICATURE) BILL.
- SALMON FISHERIES BILL.
- WILLS OF PERSONALTY OF BRITISH SUBJECTS BILL.
- STATUTE LAW REVISION BILL.
- BANKRUPTCY AND INSOLVENCY BILL.
- ACCESSORIES AND ABETTERS BILL.
- CRIMINAL STATUTES REPEAL BILL.
- LARCENY, &c., BILL.
- COINAGE OFFENCES BILL.
- OFFENCES AGAINST THE PERSON BILL.
- STAMP DUTIES ON PROBATES, &c., BILL.
- WILLS AND Domicil OF BRITISH SUBJECTS ABROAD BILL.
- VOLUNTEERS' TOLL EXEMPTION BILL.

Recent Decisions.

COMMON LAW.

STATUTE OF FRAUDS, SECT. 17—WHAT CONSTITUTES ACCEPTANCE AND RECEIPT OF GOODS.

Cusack v. Robinson, Q. B., 9 W. R. 735.

This is a case of some interest to the commercial world, affording as it does, a fresh and practical reading on one of the clauses of that much vexed Act, the Statute of Frauds. One of its provisions (29 Car. 2, c. 3, s. 17) requires that on a sale of goods for the price of £10 and upwards, there must be, in order to bind the buyer, an acceptance by him of part of the goods, and an actual receiving of the same; and all those cases in which there is no earnest given, nor any part payment made, nor any such note or memorandum in writing of the bargain as the statute specifies. Now, a good deal of the litigation arising on this Act has turned upon the question of what constitutes such an acceptance of the goods sold as will satisfy the statute, as to which it is to be observed primarily, that it is clear that every acceptance supposes a previous delivery in law, though (as shown by the present case) not necessarily a previous receipt in fact by the purchaser. The dispute for the most part arises where the delivery has been to a third party, as to a carrier or wharfinger. Here the acceptance and receipt by the purchaser will depend, first, on whether such third party was or was not his agent for the purpose; and secondly on whether he had an opportunity before delivery of inspecting the goods. Thus in the present case, the defendant had verbally bought certain specific casks of butter, at Liverpool, and had written on a card, with his name and address thereon, that that number of casks were to be delivered at a certain wharf in London, which had been used by the defendant as a temporary warehouse for many years. But afterwards not approving of the butter delivered, he repudiated the bargain, and relied upon the defence that there was no receipt and acceptance by him under the circumstances, nor was there any memorandum note or memorandum of the contract in writing as required by the statute. The dispute was ultimately determined by the Court against him, on the ground, chiefly, that he had had an opportunity of inspecting, and did in fact select, the casks delivered, and that consequently he was not entitled for the first time to inspect them after they had been delivered, and then, if he pleased, to refuse acceptance. It was true that the wharfinger, though named by him as the party to whom the goods were to be delivered, might not have had his authority to accept the

goode, but under the circumstances of the case the "acceptance" rendered requisite by the statute had in fact taken place when the casks were selected and bought by him at Liverpool. For there may well be, said the Court, an acceptance *before* receipt; neither is it necessary, under the statute, that the former should follow, or be contemporaneous with the latter. It may be remarked that this selection of the specific casks intended to be bought by the defendant distinguishes his position very materially from that of the defendant, in another case, somewhat similar to the present, which has been recently published in the Queen's Bench reports. The case referred to is that of *Nicholson v. Bower* (Ell. & Ell. p. 172), in which the defendant was held not to have "accepted" some wheat which, having bought by a written order to a country house, he had directed to be, and which was in fact, delivered at a certain warehouse in London for him, not having before had an opportunity of seeing the goods purchased, he was held entitled to inspect them previously to his accepting them; and until he had done so, or waived the right, no binding contract between himself and the owner arose.

LAW OF INSOLVENCY—INACCURACY IN SCHEDULE—WHEN NOT MENTIONED.

Romilio v. Halahan, Q. B., 9 W. R. 737.

The law requires that an insolvent who would be relieved from his liability in respect of any debt, must truly and properly describe it in his schedule. But the only object of this is, that his creditors should have due notice of his application; and therefore the true question in cases of a misdescription in the schedule, either of the insolvent himself or of the debt, always is, whether the schedule contains a description sufficient to have excited the attention of the creditor if he had read it, or whether it is intended or calculated to mislead him. Hence mistakes which could not have such effect, or which clearly did not originate in such intention, have been uniformly held immaterial; and in the case on which the present one was decided (*Nias v. Nicholson*, 2 C. & P. 120), where the insolvent was sued on a bill of exchange which he had accepted, and which was drawn by one M., and who had inserted in his schedule that he owed the plaintiff a bill to the same amount which he had drawn, and which had been accepted by M., Lord Tenterden left it to the jury to say whether the bill described in the schedule was meant to designate the one on which the action was brought, and if so, whether the misdescription was or was not intended to deceive; and as they answered the first question in the affirmative and the second in the negative, the verdict was entered for the defendant. No attempt appears to have been afterwards made to disturb this verdict in the court in banc, and therefore this ruling, until the present case, has depended only on the opinion of a single judge; but it has now been expressly recognised and approved by the Court of Queen's Bench. The very same mistake appears, singularly enough, to have been made by the insolvent; and the Court held it to be immaterial, on the authority of *Nias v. Nicholson*, which the Chief Justice remarked, "has always been considered by the profession to be sound law."

LIABILITY OF AGENT—MONEY PAID BY MISTAKE.

Holland v. Russell, Q. B., 9 W. R. 737.

There are some nice questions on the law of agency with reference to the personal liability of an agent for money paid to him, by mistake, for the use of his principal. The general, and obviously just, rule as laid down in *Car v. Prentice*, (3 M. & S. 344), is that he can not be sued if he has before notice of the adverse claim, paid over the money to his principal, provided always that the payment were made to the agent that the money might be paid over by him, and that such payment was legal; for it may be that the agent is in the position of a stakeholder, or an auctioneer (see *Burrough v. Skinner*, 5 Burr. 2639), or he may have received the money wrongfully, as did the defendant in *Snowden v. Davis*, (1 Taunt. 359), where being a bailiff who had received money in excess of his authority, he was held not to have exonerated himself by a payment over to the sheriff. In the present case a sum of money had been paid to the defendant as agent for a foreign company, by way of contribution to a ship insurance, which, at the time of insurance, had been wrecked to the knowledge of the defendant, though not of the plaintiff. This concealment, however, was decided by a jury not to be fraudulent on the part of the defendant, though it vitiated the policy; and, therefore, as before, the sum paid in mistake had been re-demanded by the insurer, he had paid it over to his principal, he was held not to be personally liable for its amount, and an action brought against him to recover it failed.

It must be admitted with regard to this case that it does not clearly appear on what grounds the jury negatived the evidence of fraud. It may be presumed, however, that they came to that conclusion, thinking that the defendant *bond-fide* imagined his duty to his employers to be paramount to that of announcing the fact of the loss of the vessel to the owners, even though he knew that such loss at the time vitiated the policy; and not only this, but also thought it right on the same principle afterwards to receive the money paid to him in respect of such void policy. It certainly requires some further explanation of the circumstances of the case, before the conclusion of the jury appears a reasonable one; but no doubt such conclusion, however arrived at, put the plaintiff out of court.

Correspondence.

ATTESTATION OF WILLS.

I think it would be well for your readers to pause before adopting the form of attestation to a will given in your number for the 20th July. The form now generally in use satisfies the registrars, without an affidavit of due execution. I doubt whether the suggested form would, and for this reason,

I formerly used the following form:—"Signed by the said C. F., the testator, as and for his last will and testament, in the presence of us both, present at the same time, and who, before leaving his presence, or the presence of each other, have subscribed our names as witnesses thereto." But lately, on presenting a will so attested for probate, the district registrar required the usual affidavit of due execution, on the ground that the attestation clause did not contain the words of the statute. I contended that the clause comprised something more than the requirements of the Act; and that either it was untrue, or the will was duly executed; but the registrar adhering to his requirement, I had no alternative than to furnish the affidavit, and return to the old form of attestation.

Now there does not seem to be any substantial difference between the words "before leaving his presence," &c., and the "without quitting," &c., of the suggested form. R. G. F.

IRISH ANTE-UNION STATUTES.

Mr. Reilly's observations are correct enough; a statute is presumed to continue in force, unless the contrary be proved. But, if the opposite party had not appeared in the case at Warwick Sessions, it is doubtful whether the magistrates would have been satisfied with the production of the Irish statute 19 Geo. 2, c. 13, without further evidence of the present state of the Irish law of mixed marriages. M.

JUDGMENT DEBT—INTEREST.

I shall be glad if any of your numerous readers can inform me if a judgment on a bill of exchange or promissory note carries interest at £5 per cent.

By 76th Practice Rule of Hilary Term, 1853, every writ of execution may be endorsed to levy interest on the amount due at the rate of £4 per cent. per annum, "provided that in cases where there is an agreement between the parties that more than four per cent. interest shall be secured by the judgment, the endorsement may be accordingly to levy the amount of interest so agreed."

Would a bill of exchange which carries interest at £5 per cent. be considered an agreement contemplated by the rule?

I understand that it is the practice to endorse writs of execution issued on a judgment on a bill of exchange or promissory note to levy interest at £5 per cent.; but is there any precedent for doing so? G. B. W.

Review.

A Practical Treatise of Powers. Eighth edition. By EDWARD SUGDEN (now Lord St. LEONARDS). London: H. Sweet, 3, Chancery-lane; Hodges, Smith & Co., Grafton-street, Dublin. 1861.

Prior to the publication of the first edition of Sugden on Powers, in 1808, that branch of law did not form the subject of any special treatise, if we except Mr. Powell's essay. The latter work, however, did not profess to treat discursively of the wide domain of real property law over which the subject of powers is spread. On the other hand, it some-

what resembles a colloquial narrative, containing, as Lord St. Leonards has observed, voluminous statements of facts, occupying many pages, "which serve only to confound the attention, when the precise point decided might have been expressed in as many lines." But we think that similar defects are to be found in the treatise before us. The author has described it as "a text-book, in which an attempt was made to deduce the rules from the decided cases." We consider, however, that it would have accomplished its object more effectually if it had been constructed with more regard to first principles and with less confidence in the practicability of reducing the *rudis indigestaque moles* of cases to a symmetrical harmony. On the other hand, as we shall presently show, there sometimes occur in Lord St. Leonards' treatise unnecessary dissertations upon the most recondite principles of feudal law. It appears to us to be very far from having exhausted the subject of Powers, notwithstanding Mr. Butler's commendation of it; note to Co Litt. viii., 3. We would bow with deference to Mr. Butler's opinion on the Berkeley Peerage Case, or on any of those fundamental crotchets which, at intervals of great periodic magnitude, become the subjects of actual litigation. But we cannot consider his authority conclusive as to the practical merits of a treatise, even though it should treat exclusively of real property law. When the first edition of Sugden on "Powers" appeared, there existed no legal periodical to review such a work, and Mr. Butler's opinion thus passed without correction. But this treatise appears to us to possess inferior practical merits to that of Mr. Chance, even though he made some blunders as regards first principles. His work, however, contains such a copious supply of important matter carefully winnowed of the less important elements of cases, (while it is widely different from a mere equity index,) that it will, we think, be still found more useful in daily practice than the work before us, although this is, as its noble and learned author intimates, enriched with all the legislative and judicial donations conferred upon the domain of powers since the publication of the seventh edition in 1845.

Lord St. Leonards states, cap. 1, p. 2, that powers were invalid at common law, and take their effect at law by force of the Statute of Uses. Mr. Preston, 3 Con. 265; and 3 Ab. 270; and Powell, on "Powers," pp. 1, 155, make the same statement, which, we think, is beyond all cavil. Mr. Chance, however, impugns this proposition, and, in support of his view, cites certain kinds of limitations resembling powers that have been always valid at law. He likewise alleges that the objects of a modern marriage settlement might be attained independently of the Statute of Uses. This class of limitations, however, is *sui generis*, and is devoid of the essential characteristic of powers, which is to divest an estate; although, by means of a technical circumlocution and a resort to the use of contingent remainders, their actual, though not their legal, result may be the same, as if powers had been limited for the same purposes. Thus, a remainder limited to a person whom the tenant for life, or any other should nominate (to cite the case put by Mr. Chance), is a good contingent remainder, and, in point of fact, though not in point of law, is tantamount to the limitation of a power to the tenant for life, or such other person, to appoint the estate over. An appointment is the discretionary limitation of a use. Suppose such a limitation to have been good if found in the primary instrument, it is equally good in the derivative one. If invalid in the former, then it is, in all cases, except as regards a question of perpetuity in respect to general powers, invalid also in the latter. Lord St. Leonards, therefore, has very judiciously prefixed in the introduction to the former editions of his treatise, a compendious essay on the nature of uses, which he has embodied in the first chapter of the present edition. But in his love of technicality he illustrates the perverse tendencies of metaphysical lawyers, while Mr. Chance, although he certainly caters with care for the requirements of practice, is not sufficiently mindful of theory, and just principles.

"*Incidit in Scyllam, qui vult vitare Charybdem.*"

Perhaps an eclectic writer may yet combine in a single work the respective merits of both authors.

The principles which should govern the arrangement of the parts of a treatise on so intricate a branch of law as powers, should mainly regard their incidents from a chronological point of view, both as to their historical origin, and also as to the instruments by which they may be created, transferred, suspended, extinguished, or exercised. The author of such a treatise might be expected to view them in their first rise, prior to the Statute of Uses, and to distinguish them carefully from licences and common law authorities, as regards the

feudal theory of our law of real property, and in the next place to examine them as affected by the Statute of Uses, 27 Hen. 8, c. 10. He should then proceed to consider their legal effect at the present day, observing the order in which they may be expected most frequently to occur in practice, or in the history of a single transaction. According to this method, our supposed author would next describe the instruments by which they may be created, then classify their different kinds as general or special, appendant or in gross, &c., and also point out the person by whom, and in favour of whom, they may be executed. Next, both in point of logic and chronology, the questions appertaining to their suspension and merger would appear proper to be treated of, before he approached the conclusion of his work. This should naturally end with a detailed account of the nature of appointments general and special, &c., their relationship to the original deed, to the appointor and the appointee, the rule of perpetuity, and equitable relief. Neither of the extant treatises on powers appears to have been mapped out with a close regard to theory or to convenience. Thus, after the preliminary chapters on uses and powers, Lord St. Leonards gives, in the third chapter, an outline "of the modes by which powers may be suspended, extinguished, or merged;" while the fourth and sixth chapters treat respectively of the creation and transfer of powers. But these are circumstances attendant upon powers *in se* prior to their being exercised, and should naturally precede any comments relating to their suspension or merger. Chapter nine mixes up the discussion of the creation of powers with that of their execution. He also places the chapter on "limitations in default of appointment" after six chapters which treat of the execution of powers. This violates both the rule of progression and harmony to which we have referred. The place of the last five chapters is also very faulty, inasmuch as these treat respectively of powers to appoint to relations or to children, powers to jointure, to lease, sell, and appoint new trustees. Powers, no doubt, are operative only when exercised in appointments, as causes are manifested only by their effects; and it may therefore be alleged that these chapters, though nominally relating to powers, are, virtually, commentaries on certain classes of appointments. We can only say, then, that these chapters ought to be so entitled, and should not be designated in a manner that is calculated to perplex the student; as the author re-enters in them upon the consideration of powers after their classification, and even the modes of their execution had been fully detailed. But there is no doubt that this defect is one of place and not of title, and that they should be considered in that portion of the treatise which relates to the classification of powers. Mr. Chance, with a like disregard of order and conciseness of arrangement, passes directly from the question of the creation and construction of powers, to that of appointments. He also returns back in the chapters at the close of his work to treat of powers of jointure, portion, lease, &c.; while the last chapter treats of the suspension of powers.

Lord St. Leonards appears to us to have erred both in excess and in defect, for while his treatise will not always be found to supply the information most needed in practice, he has, on the other hand, devoted a considerable space to extraneous topics, such as election, while in the former editions he has revelled with delight in the idealistic labyrinths of the *scintilla juris*. We willingly bear with the exclusion of any lengthened comments upon the doctrine of election from Mr. Chance's treatise, since we find in it no metaphysical speculations, nor any discussion of the *scintilla juris*. Lord St. Leonards, not content with his previous investigations as to the nature of this *scintilla*, finally had it altogether abolished by the statute 23 & 24 Vict. c. 38, s. 7. This enactment appears to us to have been altogether unnecessary. Contingent uses were sufficiently protected prior to that Act. The mode in which that protection was carried out by the rules of law, was a much vexed juridical question. But a lawyer would as soon think of questioning the security of a contingent use prior to the passing of the 23 & 24 Vict. c. 38, as he would of impugning the soundness of the decision in *Smith v. Dormer v. Packhurst*, 3 Atk. 135. Lord St. Leonards, however, with scholastic trepidation, came finally to regard the object of his speculation as something in itself real, which required an actual demolition at the hands of Parliament. Thirty-four pages of the former edition of Powers were devoted to the discussion of this scholastic question. Yet in that very edition Lord St. Leonards says, p. 44, "No inquiry is ever made to meet the difficulties which arise from this doctrine"—and again, p. 45, "No case ever occurred in practice in which the point fairly arose." All were agreed that the Statute of Uses could not be construed so as

to destroy *proprio vigore* contingent uses. On the contrary, it gave them the legal estate. Any trust good before the statute would after it necessarily be good as a legal use. How this was effected none but antiquaries asked. Was there an estate in the feoffees or a possibility of seisin, or a *scintilla juris*? It was immaterial in practice to ascertain the *modus operandi* when the contingent use was admittedly safe. Even Fearn, p. 301, ed. 1844, who was sufficiently attentive to the technical harmony of our real property system, pronounced against the doctrine. "The whole current of decisions since the publication of that celebrated treatise has so studiously treated contingent uses as contingent remainders, that few speculations could be more unnecessary than an inquiry into the nature of what confessedly did not exist, and few enactments more abundant of caution than the statute which overthrows *Scintilla Juris*. We cannot perceive any distinction except a verbal one between the phrases *in nubibus*, *ingremio legis*, or "by relation to the original seisin." The most logical view, it would appear, would have been to consider contingent uses as preserved by the equity of the statute from being defeated by any Act or omission of the feoffees or releasees; while inconvenience may possibly be the result of the recent Act which defines the *modus operandi* to be in one particular way only.

Although Mr. Chance does not ascend to such sublime heights of juristical contemplation as Lord St. Leonards, nevertheless, he traces the minute but important details of the intricate subject of Powers with an expertness and felicity of arrangement, which, to the practitioner, is of paramount importance. As an authority for moot points, his treatise is certainly inferior to that of Lord St. Leonards', from its comparative inattention to remote principles; but the good sense of the former author, in his application of the views which he adopts, is so abundantly manifest throughout the work, as to compensate for the want of a perfect harmony in its theoretical principles—a defect, from which, as we have shown, Lord St. Leonards' treatise is sufficiently clear. The difference in point of theory and method between the two authors is indicated by their respective comments on the question of the suspension and extinguishment of powers appendant. Lord St. Leonards disapproves of the decision in *Ren d. Hall v. Bulkeley*, 1 Doug. 291, which was a case relating to the extinguishment of powers appendant—a doctrine, the operation of which Lord St. Leonards appears nowise anxious to limit; although, as a general rule, it is clearly iniquitable, and defeats the intention of the donor as well as of the donee. The reasoning of Lord St. Leonards on this head is very inconclusive and technical. "As a charge," says his lordship, "on the estate, to which the power is appendant, suspends the power during the interest granted; it follows, therefore, on the same principle, that a total alienation of the estate must operate as an *extinguishment* of the power." The only inference warranted by the premise is, that the power should be suspended during the continuance of the grant. Mr. Chance, in his book, vol. 2, p. 598, shows this very clearly; and his views are supported by the decision of *Long v. Rankin*, decided by the House of Lords, Sug. Appx. 676, 4th ed. This is a phase of the operation of powers which has not received much illustration from recent cases. In a recent case (*Walmesley v. Jowett*), the suspension of the power was treated simply as a question of intention. The difference between the views of the two authors is further indicated by their respective comments on the question of the validity of general power in deeds that operate as bargains and sales, or as covenants to stand seised. This question is one of very great importance. For, although conveyances are never intended to operate in those forms, yet, if they cannot otherwise have any effect, they will, *ut res magis valeat*, be so construed. Thus, if prior to the Act, 4 & 5 Vict. c. 21, the lease for a year had been omitted, the conveyance, nevertheless, might be supported as a bargain and sale, if money had passed between the parties, or as a covenant to stand seised, if it were the case of a marriage settlement. Mr. Chance is of opinion that general powers in both classes of instruments are valid. Lord St. Leonards, on the contrary, considers them to be wholly invalid, even though the actual appointees should render a consideration, or happen to be relations of the donee. Our opinion coincides with neither of those views. We consider that general powers in instruments operating as covenants to stand seised, are bad, because kindred is not a consideration which can be held to extend to any person that is unascertained. If the power be one of revocation simply, without any reference to a new appointment, it should, on principle, be held good; as the covenantor, by revoking the uses of the instrument containing

such a power, merely stands seised to his own use. But general powers in deeds of bargain and sale stand on a wholly different footing. A consideration can be advanced in behalf of anyone, whether he be *in esse* or unborn. Lord St. Leonards admits this, provided a valuable consideration moved from the appointee or on his behalf, at the time of the execution of the deed. But the cases of *Parsons v. Mills*, 2 Ro. Abr. 786 M., and Mo. 547, cited in support of this view, also prove the validity of such powers in general. Mr. Cruise (Dig.) considers that general powers to lease are good in these classes of instruments, inasmuch as the best rent is generally required to be reserved; but if the deed be a covenant to stand seised, such a consideration is inapplicable to support a use; while, if it be a bargain and sale, it appears to us to be immaterial whether the lessee pay any rent or not, as the original consideration should be deemed to extend to him. Both Lord St. Leonards and Mr. Chance consider that powers in the nature of a trust such as was the power in the case of *Harding v. Glyn*, 2 W. & T. Lead. Cas., p. 789, cannot be easily discriminated from gifts by implication in default of appointment, such as was the case of *The Duke of Marlborough v. Godolphin*, 2 Ves. 61. Both these classes of cases have, indeed, the same effect as regards the beneficiaries.

Modern legislation has done little for powers. The Act relating to illusory appointments, 1 Will. 4. c. 46, which was prepared by Lord St. Leonards, has not gone to the root of the evil intended to be obviated by it; inasmuch as an exclusive appointment not authorised by the power is invalid, even since the passing of that enactment. The author considers that the meaning of the Act 20 & 21 Vict. c. 57, which has extended the powers of married women in respect of personal estate, is open to much doubt. He does not, however, state any reasons for this opinion. He gives an abridgment of the provisions of Lord Cranworth's Act, which confers on trustees, mortgagees, and others, the powers usually contained at present in settlements, wills, &c., in a manner that indicates his approbation of that enactment, the merits of which have become the subject of so much debate. The arrangement of the chapters is the same as was observed in the preceding edition. Both are pretty nearly of the same size; the loss of the disquisition upon the *scintilla juris* being compensated for by the accounts of recent decisions. The present work, however, is not prefixed with so voluminous a table of contents, as is contained in the edition of 1845. Such a syllabus appears to us an unnecessary incumbrance to a book having an adequate index arranged alphabetically, which alone is ever used for reference. We have canvassed the merits of the treatise before us freely, but we hope, fairly. It has long enjoyed the very highest rank in the estimation of the profession, and has been considered to have done for the subject of which it treats, what Mr. Fearn had done for contingent remainders, and what, more recently, Mr. Jarman has accomplished for the law of wills, and Mr. Lewis for the more definite question of perpetuity. Thus endued with authority, it was necessary to show that it did not indicate such a perception of the harmony of first principles on the part of its author as has been considered, and also that it has by no means excluded all necessity of resort to the unpretending, but perhaps more useful, treatise of Mr. Chance.

REGULATIONS FOR THE EXAMINATION OF ARTICLED CLERKS.

The following are the rules and regulations for conducting the examinations under the Attorneys' and Solicitors' Act of 1860 (23 & 24 Vict. c. 127).

As to Examinations in General Knowledge.

In pursuance of the Act passed in the session of Parliament holden in the 23rd and 24th years of the reign of her present Majesty, intituled "An Act to amend the Laws relating to Attorneys, Solicitors, Proctors, and Certificated Conveyancers:" We, the Right Honorable Sir Alexander James Edmund Cockburn, Lord Chief Justice of the Court of Queen's Bench; the Right Honorable Sir John Romilly, Master of the Rolls; the Right Honorable Sir William Erle, Lord Chief Justice of the Court of Common Pleas; and the Right Honorable Sir Frederic Pollock, Lord Chief Baron of the Court of Exchequer, do hereby, for the purpose of carrying the said Act into effect, order and direct as follows:—

I. In order to carry into effect the 5th section of the said Act, we do hereby order and direct:

That from and after the 1st day of Hilary Term, 1862, every person who before entering into articles of clerkship shall pro-

duce to the Registrar of Attorneys a certificate that he has successfully passed the first public examination before Moderators at Oxford, or the *previous* examination at Cambridge, or the examination in arts for the second year at Durham, or the *matriculation* examination at the Universities of Dublin or London, and has been placed in the first division on such Matriculation examination, shall be entitled to the benefit of the 5th section of the Attorneys Act, 23 & 24 Vict. c. 127.

II. And in order to carry into effect the enactment in the 8th section of the said Act, we do hereby further order and direct:

That from and after the 1st day of Hilary Term, 1862, every person proposing to enter into articles of clerkship, not having been called to the degree of Utter Barrister in England, or not having taken a degree, or passed the examination prescribed under the 5th section of the Act, shall produce to the Registrar of Attorneys a certificate that he has successfully passed an examination by special examiners, appointed by us, and that such last-mentioned examination be held at such times and places as the examiners shall from time to time appoint, and consist of two parts.

PART I.

1. Reading aloud a passage from some English author.
2. Writing from dictation.
3. English grammar.
4. Writing a short English composition.
5. Arithmetic.—A competent knowledge of the first four rules, simple and compound.
6. Geography of Europe and of the British Isles.
7. History.—Questions on English history.
8. Latin.—Elementary knowledge of Latin.

PART II.

Each candidate shall offer himself for examination in one of the following subjects:

1. Latin. 2. Greek, modern or ancient. 3. French.
4. German. 5. Spanish. 6. Italian.

If the examiners conducting such examinations under Part I. be satisfied with the proficiency shown by the candidate, they will sign a certificate to the following effect:

"We certify that A. B. has been examined in general knowledge by us (or under our direction in case the examination shall be conducted in the country), as required by the rules and regulations of the Lord Chief Justice of the Court of Queen's Bench, the Master of the Rolls, the Lord Chief Justice of the Court of Common Pleas, and the Lord Chief Baron of the Court of Exchequer, and we certify that he has passed a satisfactory examination."

If the examiners conducting the examination under Part II. be satisfied with the proficiency shown by the candidate in the language in which he has been examined, they will sign a certificate to the following effect:—

"We certify that A B has been examined by us in the language (as the case may be), and we certify that he has passed a satisfactory examination."

With respect to candidates residing in the country, their examination may be conducted by the transmission by the examiners of papers to some person or persons to be appointed by them for that purpose, in certain towns to be selected, in England and Wales, who shall call the candidates before them at convenient times, to be fixed by the examiners, and require them to give written answers in the presence of the persons so appointed, who shall then seal up and send to the examiners in London the answers so written. [This direction of course does not apply to reading aloud, as to the proficiency in which of each candidate, the person or persons selected must give a certificate.]

The persons so appointed to be remunerated out of the fees to be paid on receiving their certificates by the candidates examined in the country. [The fees of the examiners will be hereafter fixed, according to the number of candidates.]

Each person examined in London on receiving his certificate to pay the fee of £1, and each person examined in the country on receiving his certificate to pay the fee of £2, to the council of the Incorporated Law Society.

As to Intermediate Examination.

III. And in order to carry the enactment in the 9th section of the said Act into effect, we do hereby further order and direct:

1. That all persons under articles of clerkship executed after the first day of January, 1861, shall be examined, either in one of the two terms next before, or one of the two terms next after, one half of his term of service, in such elementary

works on the laws of England as may be appointed by the examiners, and in book-keeping: and that the names of the books selected for examination in each year may be obtained from the secretary of the examiners in the month of July in the previous year.

2. That such intermediate examination shall be conducted in each term, by the examiners appointed under the 6 & 7 Vict. c. 73, the orders of the Master of the Rolls of 13th January, 1844, and the rules of the Common Law Courts of Hilary Term, 1853, at such times and places as the examiners shall from time to time appoint.

3. That the applicant for such examination shall give to the secretary of the examiners one month's notice in writing, and leave with him the articles and assignment (if any) duly stamped and registered, under which the applicant is serving his clerkship, with answers to the questions as to his due service and conduct up to that time.

4. That upon compliance with such regulations, if the major part of the examiners present at and conducting such examination shall be satisfied with the answers of the person so applying in the subjects wherein he shall be so examined, the examiners, or the major part of them, shall certify the same under their hands in the following form:—

"In pursuance of the rules and regulations made by the Lords Chief Justices of the Courts of Queen's Bench and Common Pleas, and the Lord Chief Baron of the Court of Exchequer, jointly with the Master of the Rolls, we, being the major part of the examiners conducting the 'intermediate' examination of A B of _____ do hereby certify that we have examined him as required by the said rules and regulations. And we do certify that his answers to the questions are satisfactory.

"Dated the _____ day of _____."

5. That in case the applicant should fail to pass such intermediate examination to the satisfaction of the examiners, he may attend the examination in the next or any subsequent term; but if he should not have passed such intermediate examination before the expiration of the second term next after one half of his term of service, his examination at the expiration of the term of service under his articles shall be postponed for such length of time, or so many terms, as may intervene between such last-mentioned term and his successfully passing such intermediate examination, or for such shorter time as the examiners shall in each case direct.

6. That each person, on giving the notice and complying with the requisitions in clause 3, shall pay a fee of 5s. and on receiving his certificate for such intermediate examination, shall pay a fee of 15s. to the council of the Incorporated Law Society.

Dated the 26th day of July, 1861.

A. E. COCKBURN, C. J. Q. B.
JOHN ROMILLY, M. R.
W. ERLE, C. J. C. P.
FRED. POLLOCK, C.B. Exch.

Public Companies.

REPORTS AND MEETINGS.

BELFAST AND NORTHERN COUNTIES RAILWAY.

At the half-yearly meeting of this company held on the 5th inst., a dividend at the rate of 4½ per cent. per annum was declared for the past eight months ending 30th June.

COCKERMOUTH AND WOKINGTON RAILWAY.

At the half-yearly meeting of this company held on the 31st ult., a dividend at the rate of £5 per cent. per annum was declared for the last half-year.

COLCHESTER, STOUR VALLEY, AND SUDBURY RAILWAY.

At the half-yearly meeting of this company, held on the 31st ult., a dividend was declared of £1 12s. 6d. for the past half-year, free of income-tax, leaving a balance in hand of about £58.

GREAT WESTERN AND BRENTFORD RAILWAY.

At the half-yearly meeting of this company held on the 7th inst., dividends of 5 per cent. on the preference shares, and of 2 per cent. on the ordinary shares of the company were declared.

HULL AND HOLDERNESS RAILWAY.

At the half-yearly meeting of this company held on the 7th inst., a dividend of 35s. per cent. was declared for the past half-year.

LLANIDLOES AND NEWTOWN RAILWAY.

At the half-yearly meeting of this company, held on the 5th inst., a dividend at the rate of 5 per cent. per annum was declared for the past half-year.

LLANELLY RAILWAY.

At the half-yearly meeting of this company, held on the 31st ult., a dividend of 10s. per share was declared.

LONDON, BRIGHTON, AND SOUTH COAST RAILWAY.

At the half-yearly meeting of this company, held on the 26th ult., a dividend at the rate of £2 10s. per cent. for the last half-year was declared, and made payable on the 12th inst. A resolution authorising the consolidation of the paid-up 4½ per cent. preference shares (1861) into 4½ per cent. preference stock of the company was carried at this meeting.

MANCHESTER, BUXTON, MATLOCK, AND MIDLAND JUNCTION.

At the half-yearly meeting of this company, held on the 7th inst., a dividend of 1s. 4d. per share was declared and made payable on the 17th inst.

NORTH EASTERN RAILWAY.

At the half-yearly meeting of this company held on the 8th inst., the following dividends were declared—namely, on the Berwick stock at the rate of 5½ per cent. per annum; on the York stock at the rate of 4½ per cent. per annum; and on the Leeds stock at the rate of £2 17s. 6d. per cent. per annum.

RHYMNEY RAILWAY.

At a special meeting of this company, held on the 7th inst., a resolution authorising the directors to raise £75,000 by the creation of 7,500 new shares of £10 each to be entitled to a dividend of 6 per cent. per annum in perpetuity, was unanimously carried.

Births, Marriages, and Deaths.

BIRTHS.

- CONOLLY—On Aug. 3, the wife of Edward T. Conolly, Esq., Barrister-at-Law, of a daughter.
HEATH—On Aug. 6, the wife of Samuel Heath, jun., Esq., of Houghton-place, Amptmill-square, Solicitor, prematurely, of a son, who survived his birth but a short time.
SMITH—On Aug. 7, at Somersfield, Reigate, the wife of Charles J. Smith, Esq., Solicitor, of a daughter.
SMITH—On July 30, at Dublin, the wife of H. Westenra Smith, Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

- BEDFORD—BROUGHTON—On Aug. 6, Charles St. Clare Bedford, Esq., of Dean's-yard, Westminster, to Harriet Emma, daughter of the late Robert Edward Broughton, Esq., F.R.S., one of the Metropolitan Police Magistrates.
BOWLBY—RIMINGTON—On Aug. 1, Edward Salvin Bowlby, Esq., of the Inner Temple, Barrister-at-Law, to Maria, daughter of the late James Rimington, Esq., of Broomhead Hall, Yorkshire.
LEECH—JONES—On Aug. 1, William Bell Leech, Esq., Solicitor, of Glasgow, to Emma Gwyther, daughter of the Rev. J. Jones, of Rowsley.
MACAULAY—COX—On Aug. 1, William Henry Macaulay, Esq., of Leicester, Solicitor, to Sabina, daughter of Charles Cox, Esq., of Basford.
SMITH—BOCKETT—On Aug. 1, Bruce Neilson Smith, Esq., H.M.'s Indian Army, to Anna Amelia, daughter of Daniel Smith Bockett, Esq., of Lincoln's-inn-fields.
SWANSTON—ROMILLY—On Aug. 1, Clement T. Swanston, jun., Esq., son of Clement T. Swanston, Esq., Q.C., to Anne, daughter of Sir John Romilly, Master of the Rolls.

DEATHS.

- ABBOTT—On June 13, at sea, in the Bay of Bengal, on board the steamer Colombo, Annie Blanche, wife of William Henry Abbott, Jun., Esq., Solicitor, Supreme Court of Calcutta.
DAY—On July 30, at Eaton, near Norwich, aged 62, Caroline Elizabeth, the beloved wife of Peter Day, Esq., Solicitor.
HINDE—On March 30, on board the Lady Melville, Henry Pelly Hinde, Esq., of the Inner Temple and Calcutta Bar.
MATTHEWS—On July 30, at Paris, Emma, widow of the late Henry Matthews, Esq., Puisne Justice of the Supreme Court of Ceylon.
PAYNE—On Aug. 3, aged 37, Matilda, wife of Edward Turner Payne, Esq., of Bath, Solicitor.

London Gazette.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

FRIDAY, Aug. 9, 1861.

- ISLE OF WIGHT (AFFULDERCOMBE PARK) HOTEL COMPANY (LIMITED).—Petition for winding-up presented August 3, will be heard before Com. Fonblanque, August 31, at 11. Taylor and Jaquet, Solicitors, 15, South-street, Finsbury.
LANDED INVESTMENT COMPANY (LIMITED). Com. Fane order to wind up, July 31. Kimber, Solicitor, 1, Lancaster-place, Strand.
PATENT DERRICK COMPANY (LIMITED). Com. Fonblanque will sit on August 30, at 12.30, Basinghall-street, to make a dividend.
UNION DISCOUNT COMPANY (LIMITED), a call of twelve shillings and sixpence per share upon all contributories, to be paid on August 31, at 11, to the official liquidator, at 3 Coleman-street buildings, London.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Aug. 6, 1861.

- AUBIN, FREDERIC GEORGE, Gent., Weston-hill, Norwood, Surrey. Aubin, Solicitor, 38, Moorgate-street, City. Aug. 10.
BOTT, WILLIAM, Tailor, Davyholme, Barton-upon-Irwell, Eccles. Radcliffe, Solicitor, 10, St. George's-crescent, Castle-street, Liverpool. Sept. 13.
DISMORE, JOHN, Gent., Upper Harley-street, Cavendish-square, London, but late of 2, Albert-terrace, Russell-terrace, Reading, Berks. Whatley & Dryland, Solicitors, Reading. Sept. 30.
DUFFETT, JAMES, Gent., Brougham-villa, Hampton Park, Bristol. King & Plummer, Solicitors, 5, Exchange-buildings East, Bristol. Sept. 26.
FARMER, SARAH, Spinster, Windsor Castle, Windsor, Berks. Soames & Cooke, Solicitors, Wokingham, Berks. Aug. 17.
GRANT, WILLIAM, formerly Butler, Calcot-park, Berks, but late Farmer, Stratfieldsaye, Berks and Hants. Mary Grant, Widow, Executrix, 7, Eaton-place, Reading, Berks. Oct. 3.
HAINES, SAMUEL, Gent., Edgbaston, near Birmingham. Anster, Solicitor, 4, Temple-row West, Birmingham. Sept. 29.
HEATON, FRANCIS, Gent., Shillbank-house, Mirfield, Yorkshire. Chadwick, Solicitor, Dewsbury, Yorkshire. Oct. 1.
LEE, JOSEPH, Gent., Shillbank-house, Mirfield, Yorkshire. Chadwick, Solicitor, Dewsbury, Yorkshire. Oct. 1.
MANLEY, SAMUEL, Gent., Somerset Cottages, Bedminster, Bristol. King & Plummer, Solicitors, 5, Exchange-buildings East, Bristol. Sept. 26.
SCARBATT, JAMES, Button and Trimming Seller, Milk-street, Cheapside, London. Lawrance, Plews, & Boyer, Solicitors, 14, Old Jewry-chambers. Aug. 15.
SCOTT, MARTHA, Spinster, formerly of Mile End, Landport, but late of 353, Commercial-road, Landport, Portsea, Hants. Holmes, Solicitor, 7, Staple Inn, Holborn, Middlesex. Oct. 1.
TINKER, ABEL, Gent., formerly of Hepworth, near Holmfirth, but late of Spring-gardens, near Huddersfield, Yorkshire. Clough, Solicitor, Huddersfield, or Kidd & Jessop, Solicitors, Holmfirth. Nov. 25.
TYSON, JOHN, Cooper, Liverpool. Dodge & Wynne, 7, Union-court, Liverpool. Oct. 1.
WILSON, JOHN GRANT, Surgeon, 17, Richmond-terrace, Clifton, and Bridge-street, Bristol. King & Plummer, 5, Exchange-buildings East, Bristol. Sept. 26.
WYATT, WILLIAM, formerly Oilman, King-street, Soho, Middlesex, afterwards of Rickmansworth, Herts, and late of Pinner, Middlesex. Lawrence, Plews, & Boyer, Solicitors, 14, Old Jewry-chambers, or Barlow & Longden, Solicitors, 1, Bennet's-hill, Doctor's-commons. Aug. 15.

FRIDAY, Aug. 9, 1861.

- COLEPEPER, JOHN SPENCER, Gent., formerly of Kundy, in the Island of Ceylon, but late of 4, Darnley-road, Hackney, Middlesex. Futrore, Sawtell, & Lightfoot, Solicitors, 23, John-street, Bedford-row. Sept. 29.
EARL, ABRAHAM, Architect and Surveyor, Billericay, Essex. Woodward, Solicitor, 106, Fenchurch-street, London, and Billericay, Essex. Sept. 29.
ERNES, JOHN, Monkton Hadley, Middlesex. Schmidt, Tailor and Draper, High-street, Chipping Barnet, Herts, Executor. Oct. 10.
GASH, JANE, Widow, 1, Grosvenor-place, Upper Holloway, Middlesex. Bailey, Shaw, Smith, & Bailey, Solicitors, 5, Berners-street, Oxford-street, Middlesex. Sept. 2.
HELT, MICHAEL, Coachmaker, 27, Nutford-place, Edgeware-road, Middlesex. Bailey, Shaw, Smith, & Bailey, Solicitors, 5, Berners-street, Oxford-street, Middlesex. Sept. 5.
HODGKINSON, APOLONIA, Spinster, 38, Margaret-street, Cavendish-square, Middlesex. Lewin & Co., Solicitors, 32, Southampton-street, Strand, Middlesex. Sept. 14.
KEENE, THOMAS, Esq., 3, Stanhope-terrace, Gloucester-gate, Regent's-park, Middlesex. Bailey, Shaw, Smith, & Bailey, Solicitors, 5, Berners-street, Oxford-street, Middlesex. September 2.
MERRY, WILLIAM HENRY, Doctor of Medicine, Broadcliff, Devon. Sanders and Birch, Solicitors, Exeter. October 1.
MOREL, THOMAS ANNET LEWIS, Wine Merchant and Italian Warehouseman, late of 210 & 211, Piccadilly, and 20, Ladbroke-villia, Bayswater, Middlesex. Surman, Solicitor, 11, New-square, Lincoln's-inn. November 24.
PIPER, STEPHEN, Printer, Ipswich. Jackman & Son, Solicitors, Ipswich. Sep. 10.
SAWYER, HARRIET, Widow, Sheffield. Webster, Solicitor, 14, St. James's-row, Sheffield. Sep. 1.
TAYLOR, CHARLES, Beer-house Keeper, Stratford-upon-Avon. Hobbs & Slater, Solicitors, Stratford-upon-Avon. Sep. 29.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Aug. 6, 1861.

- BEAN, EDWARD DARRHILL, Victualler and Veterinary Surgeon, Bear Inn, West Malling, Kent. Bean v. Bean, M. R. Nov. 4.
BOYES, JOHN, Yeoman, Hensting, Owslebury, Hants. Boyes v. Veay, V.C. Stuart. Nov. 15.
CLARKE, CHARLES, Solicitor, Grove-road, St. John's-wood, and 20, Lincoln's-inn-fields, Middlesex. Clarke v. Justice, V.C. Stuart. Nov. 13.
CORNWELL, FRANCES, Widow, Saffron Walden, Essex, in the matter of the estate of Frances Cornwell, V.C. Wood. Oct. 30.
HARRISON, GEORGE, 169, High-street, Southwark, Surrey. Howell v. Harrison, M. R. Nov. 1.

HART, MAURICE, Gent., 77, Gloucester-place, Hyde-park, Middlesex. Hart v. Montefiore, M. R. Nov. 2.
 HUTCHINGS, JOHN ATTWOOD, Gent., Dorset-street, Portman-square, Middlesex. Hutchings v. Hutchings, V.C. Wood. Oct. 30.
 JACKSON, JOHN REID, Tailor, Cork-street, Burlington-gardens, Middlesex. Jackson v. Harvey, V.C. Stuart. Nov. 7.
 D'ARCY, The Most Noble FRANCIS GODOLPHIN, Duke of Leeds, Hornby Castle, Yorkshire. Lovat v. The Duchess of Leeds, V.C. Kindersley. Nov. 7.
 MOSTYN, The Honourable THOMAS EDWARD MOSTYN LLOYD, M.P., Glad-daeth, Carnarvonshire. Mostyn v. Mostyn, V.C. Wood. Nov. 10.
 NATHAN, ALEXANDER, Merchant, sometime of Liverpool, but late of Burton-house, Hants. Thwaites v. McIntyre, M.R. Oct. 29.
 PEDDER, EDWARD, Esq., Ashton-park, Lancashire. Price v. Pedder, M. R. Oct. 29.
 PHILLIPS, WILLIAM, China Clay Merchant and Manufacturer, Lee Moor Works, near Plympton, Devonshire. Phillips v. Phillips, M. R. Oct. 29.
 SAVILL, MARIA, Widow, late of 40, Observatory-street, Oxford. Woodman v. Zealey, M. R. Oct. 29.
 SMITH, JOHN, Grocer, Sittingbourne, Kent. Bryson v. Gibbons, V.C. Stuart. Nov. 15.
 WALMSLEY, THOMAS, Corn Merchant, Failsworth, near Manchester. Renshaw v. Walmsley, V.C. Wood. Nov. 8.

FRIDAY, Aug. 9, 1861.

BYGRAVE, JOHN, Sutton, Norfolk. Chapman v. Bygrave, V.C. Stuart. Nov. 20.
 COLWELL, THOMAS, Scale Board and Splint Cutter, Hercules Hall, Hercules-buildings, Lambeth, Surrey. Colwell v. Colwell, M. R. Nov. 5.
 HALL, MARY ANN, 8, Bryan-terrace, Copenhagen-street, Middlesex. Holdstock v. Bird, M. R. Nov. 2.
 HARE, FRANCIS GEORGE, Baker-street, Portman-square, Middlesex. Hare v. Hare, and Paul v. Hare, M. R. Nov. 2.
 HOOPER, WILLIAM, Miller, Aspsdulle, Dudley. Elhott v. Hooper, V.C. Wood. Nov. 5.
 PREBBLE, RICHARD, Wine Merchant, Tunbridge Wells, Kent. Prebble v. Trustram, M. R. Nov. 1.
 SHIPMAN, GEORGE, Innkeeper, Whitwell, Derbyshire. Shipman v. Chaloner, M. R. Nov. 2.
 VAN DE WALL, PHILIP, Chapel-street, Curtain-road, Shoreditch, Middlesex. Van De Wall v. Wadson, V.C. Stuart. Nov. 4.
 WAUD, EDWARD, Worsted Spinner & Stuff Manufacturer, Bradford, and of Richmond House, Horton, Bradford, Yorkshire. Waud v. Waud, M.R. Nov. 11.

Assignments for Benefit of Creditors

TUESDAY, Aug. 6, 1861.

ARNOTT, SAMUEL, Hoder, 86, Goswell-street, Middlesex. Sols. Langford, & Marsden, 59, Friday-street, Cheapside, London. Aug. 2.
 BARROW, JAMES, Malster, Abridge, Essex. Sols. Croaley & Burn, 34, Lombard-street, E.C. July 10.
 BAGSHAW, THOMAS, Grocer, Devonshire-street, Sheffield. Sol. Fretson, Sheffield. July 30.
 BENNETT, EDWARD COLSTON, Stationer, 9, Skinner-street, Snow-hill, London. Sol. Mount, 17A, Stae-lane, London. July 27.
 BENTLEY, WILLIAM, Linen Draper, 78, West-street, Leeds. Sol. Simpson, Leeds. June 24.
 COOLEY, WILLIAM, Hostler and Laceman, Wolverhampton, Staffordshire. Sol. Jagger, Cannon-street, Birmingham. July 8.
 DAVIS, GIDSON THOMAS, Upholsterer and Cabinet Maker, Canterbury. Sols. Sankey & Son, Canterbury. July 26.
 ENTWISTLE, THOMAS, & THOMAS MERCER, Dyers, Radcliffe, Lancashire. Sols. Cooper & Sons, 44, Pall Mall, Manchester. July 30.
 EVANS, JOHN, Builder and Hackney Carriage Proprietor, Wellington-road, Rhyll, Flintshire. Sol. Edwards, Denbigh. July 9.
 FAIRBROTHER, WILLIAM, Draper, Banbury, Oxfordshire. Sol. Aplin, Banbury. July 5.
 HAIGH, DANIEL, & GEORGE CASTLE, Coal Dealers, Huddersfield, Yorkshire. Sol. Drake, Huddersfield. July 17.
 HILL, HENRY, Accountant, 14, York-street, Westminster, Middlesex. Sol. Mardon, 99, Newgate-street, London. July 11.
 HUNT, GEORGE, Grocer, Chester-road, Hulme, Manchester. Sol. Dearden, Fulham-place, Great Clowes-street, Higher Broughton, Salford, and 34, Cooper-street, Manchester. July 31.
 POTTES, RICHARD CRAWLEY, Coal Merchant, Bacton, Suffolk. Sol. Nash, Ipswich. July 30.

FRIDAY, Aug. 9, 1861.

COOPER, JAMES, Miller, Wooton-bridge, Isle of Wight. Sols. Hearn & Mew, Newport, Isle of Wight. July 15.
 EVANS, EMOCH, Baker, 1, Howard-road, Stoke Newington, Middlesex. Sol. Heritage, 1, Wardrobe-place, Doctor's-commons, London. July 23.
 EVANS, FREDERICK JOHN, Cabinet Maker, Totnes, Devon. Sols. Messrs. Kellock, Totnes. July 11.
 GELDART, ROBERT, Shopkeeper, Hope Mansell, Hereford. Sols. Carter & Gould, Newnham. Aug. 2.
 KIDNEY, RICHARD, Tallow Chandler, Bridgwater, Somersetshire. Sol. Reed, Bridgwater. July 10.
 LYDDON, CHARLES, Colliery Proprietor, Taunton, Somersetshire, and Britton Ferry, Glamorganshire. Sols. Trenchard & Harrison, Taunton. July 16.
 MACKLIN, MARTIN, Builder, Staple Garden-lane, Winchester. Sol. Godwin, 4, Essex-court, Temple, London. Aug. 2.
 MARSHALL, JOHN, Draper, Cardiff, Glamorganshire. Sol. Paul, 1, Stae-lane, London. July 20.
 SPARK, CHARLES WILLIAM, JOHN STOREY, WILLIAM THEODORE STOREY, and JOSEPH SAMUEL STOREY, Merchants, Newcastle-upon-Tyne. Sols. Hodge & Harle, Wellington-pl. Pilgrim-st. Newcastle-upon-Tyne. July 24.
 WHITEHALL, EDWIN, Watchmaker, Newport, Monmouthshire. Sol. Cathcart, Duck-street, Newport. July 19.

Bankrupts.

TUESDAY, Aug. 6, 1861.

BENNETT, THOMAS HALE, & JOSEPH HALE BENNETT, Builders and House Decorators, Leekhampton, Gloucestershire. Com. Hill: Aug. 19, and Sept. 23, at 11; Bristol. Off. Ass. Miller. Sol. Williams, Cheltenham. Pet. Aug. 3.
 COATES, THOMAS, Publican and Wine and Spirit Merchant, Sunderland. Com. Ellison: Aug. 15, and Sept. 18, at 11; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Ranson & Son, and W. J. Young, Sanderland. Pet. Aug. 1.

ELIAM, WILLIAM, & JAMES FRANCIS WALLACE, East India Merchants, 89, Gresham-house, Old Broad-street, London. Com. Fane: Aug. 19, at 1, and Sept. 17, at 11; Basinghall-street. Off. Ass. Pennell. Sols. Mason, Sturt, & Mason, 7, Gresham-street, London. Pet. Aug. 2.
 GIBBS, CHARLES, Baker, Grocer, and Provision Dealer, Droitwich, Worcestershire. Com. Sanders: Aug. 19, and Sept. 9, at 11; Birmingham. Off. Ass. Kinnear. Sol. Holyoake, Droitwich, or James & Knight, Birmingham. Pet. July 30.
 LYON, EDWARD, & JOSEPH GREENWOOD, Builders, Huyton Quarry, Lancashire. Com. Perry: Aug. 15, and Sept. 9, at 11; Liverpool. Off. Ass. Turner. Sols. Evans, Son, & Sandys, Liverpool. Pet. July 31.
 MOSE, JOSEPH, Wholesale Clothier, 149, Houndsditch, London. Com. Fane: Aug. 18, at 12.30, and Sept. 20, at 1.30; Basinghall-street. Off. Ass. Whitmore. Sols. Sole, Turner, & Turner, 68, Aldermanbury. Pet. Aug. 2.
 PEARCE, JAMES, Chemist, Kidderminster, Worcestershire. Com. Sanders: Aug. 19, and Sept. 9, at 11; Birmingham. Off. Ass. Whitmore. Sols. Saunders & Son, Kidderminster, or James & Knight, Birmingham. Pet. Aug. 2.
 PORTER, JAMES, Boot and Shoe Maker, Moor-street, Birmingham. Com. Sanders: Aug. 16, and Sept. 6, at 11; Birmingham. Off. Ass. Kinnear. Sol. Mole, Birmingham. Pet. Aug. 2.
 SOUTHARD, CHARLES MATTHEW, Plumber and Painter, Exeter. Com. Andrews: Aug. 17, at 11, and Sept. 25, at 12; Exeter. Off. Ass. Hirtzel. Sol. Fryer, St. Thomas's, Exeter. Pet. Aug. 2.
 WILSON, GEORGE, & JOHN WILSON, Carpet Manufacturers, Heckmondwike, Yorkshire. Com. Ayrton: Aug. 19, and Sept. 16, at 11; Leeds. Off. Ass. Hope. Sol. Iveson, Heckmondwike, or Bond & Barwick, Leeds. Pet. July 26.

FRIDAY, Aug. 9, 1861.

BARNETT, GEORGE, Butcher, 21, Felix-ter., Liverpool-rd., Islington, Middlesex. Com. Fonblanque: Aug. 23, at 1.30, and Sept. 11, at 1; Basinghall-street. Off. Ass. Graham. Sols. Depree & Austen, 23, Lawrence-lane, Cheapside, London. Pet. Aug. 5.
 ELIAM, WILLIAM, & JAMES FRANCIS WALLACE, East India Merchants, 89, Gresham House, Old Broad-street, London. Com. Goulburn: Aug. 19, at 1, and Sept. 17, at 11; Basinghall-street. Off. Ass. Pennell. Sols. Mason, Sturt, & Mason, 7, Gresham-street, London. Pet. Aug. 2.
 FITT, FREDERICK WARNE, Machinist, Seiborne, near Alton, Hants. Com. Fonblanque: Aug. 21, and Sept. 11, at 2; Basinghall-street. Off. Ass. Stanfield. Sols. Pownall, Son, & Cross, Staple-inn, London, and Edgecumbe & Cole, Portsea. Pet. Aug. 8.
 FOX, FREDERICK FRANCIS, Tailor, 131, Fenchurch-street, London. Com. Fane: Aug. 23, at 1, and Sept. 20, at 11.30; Basinghall-street. Off. Ass. Cannon. Sol. Few & Cole, 40, Wellington-street, Southwark. Pet. Aug. 8.
 GANTON, JAMES, & DANIEL BROWN, Hardware & Fancy Goods Dealers, Manchester. Aug. 23, and Sept. 13, at 13; Manchester. Off. Ass. Fraser. Sols. G. & R. W. Marsland, Manchester. Pet. July 31.
 HAIGH, JOHN, Common Brewer, Wakefield, Yorkshire. Com. West: Aug. 20, and Sept. 20, at 11; Leeds. Off. Ass. Young. Sols. Brown, Wakefield; or Carlin, Leeds. Pet. Aug. 3.
 HARTLEY, RICHARD HENRY, Merchant, Halifax. Com. West: Aug. 20, and Sept. 20, at 11; Leeds. Off. Ass. Young. Sols. Stocks & Franklin, Halifax; or Bond & Barwick, Leeds. Pet. Aug. 3.
 JOSEPH, NATHAN AARON, Importer of Foreign Goods, 19, Vine-street, Minorities, London (N. A. Joseph & Co.) Com. Fonblanque: Aug. 21, at 1; and Sept. 11, at 1.30; Basinghall-street. Off. Ass. Stanfield. Sols. Spyer & Son, 8, Broad-street-buildings, London. Pet. Aug. 6.
 LEX, GEORGE KELLEY, Linen and Woollen Draper, Sunderland. Com. Ellison: Aug. 21, and Sept. 18, at 12; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. J. J. & G. W. Wright, Sunderland. Pet. Aug. 1.
 NICKS, THOMAS JOHN, Provision Merchant, 86, Tower hill, London. Com. Evans: Aug. 23, at 11.30, and Sept. 12, at 1; Basinghall-street. Off. Ass. Bell. Sol. Peddell, Cheapside. Pet. Aug. 7.
 PAINLEY, WILLIAM, Builder & Cabinet Maker, Martock, Somersetshire. Com. Andrews: Aug. 19, at 11, and Sept. 11, at 12; Exeter. Off. Ass. Hirtzel. Sol. Flood, Exeter. Pet. Aug. 8.
 RAGLAN, THOMAS, Stationer, 5 & 7, Milgate-street, Wigan, Lancashire. Aug. 21, and Sept. 11, at 12; Manchester. Off. Ass. Fraser. Sol. Darlington, Wigan. Pet. Aug. 3.
 WILKINSON, GEORGE, Butcher, Swinton, Wath-upon-Deane, Yorkshire. Com. West: Aug. 24, and Sept. 28, at 10; Sheffield. Off. Ass. Brewin. Sols. Smith & Burdekin, Sheffield. Pet. Aug. 7.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Aug. 6, 1861.

BAGSHAW, JOHN, Lodging-house Keeper, Dovercourt, near Harwich, Essex. Aug. 27, at 12; Basinghall-street.—BATEMAN, BENJAMIN, Tea Dealer and Grocer, Norwich (Bateman & Co.) Aug. 28, at 11.30; Basinghall-street.—CUNNEEN, JOHN, Cotton Waste Dealer, Hanover-street, Manchester. Aug. 27, at 12; Manchester.—DAWES, CATHERINE, & CHARLES FIDDIAN, jun., Coffin Furniture and Malleable Nail Manufacturers, Birmingham. Sept. 2, at 11; Birmingham.—FOSTER, DAVID GEORGE, Ironmonger and Metal Dealer, St. John's-square, Clerkenwell, Middlesex. Aug. 27, at 2; Basinghall-street.—HAMMOND, WILLIAM PARKER, Ship Owner and East India Agent, Scott's-yard, Bush-lane, London. Aug. 27, at 1.30; Basinghall-street.—HILLIAR, WILLIAM, Hotel Keeper, Eastham, Cheshire. Sept. 3, at 11; Liverpool.—MELLOR, WILLIAM, Butcher and Cattle Dealer, Alderley, Cheshire. Aug. 30, at 12; Manchester.—MOORE, JOHN, Ironmonger, 86, Chalton-street, Euston-road, Middlesex. Aug. 28, at 10.30; Basinghall-street.—MOTT, THOMAS, Cabinet Maker and Upholsterer, Salisbury, Wilts. Aug. 28, at 12; Basinghall-street.—PRACOCK, RICHARD, Licensed Victualler, Sportsman Tavern, Southwark Bridge-road, Surrey. Aug. 28, at 11; Basinghall-street.—ROTHWELL, JAMES, Manufacturer, Ridge Mill, Ramsbottom, Lancashire. Aug. 30, at 12; Manchester.—ROYLE, GEORGE, Flint Glass Manufacturer, Sutton, near St. Helen's, Lancashire. Sept. 3, at 11; Liverpool.—SIMCOX, GEORGE PRICE, Carpet Manufacturer, Hendham Vale, Collyhurst, Manchester. Aug. 30, at 12; Manchester.—STEWART, JOHN, Ironfounder and Boiler Maker, Preston, Lancashire. Aug. 27, at 12; Manchester.—SYMONS, THOMAS, Leather Seller and Boot Maker, 9, Princes-terrace, Caledonian road, Islington, and 36, St. John-street, Clerkenwell, Middlesex. Aug. 29, at 11; Basinghall-street.—TURNER, JOHN, jun., Licensed Victualler, 8, Little Ormond-street, Middlesex. Aug. 16, at 1; Basinghall-street.—WEBSTER, WILLIAM HUCKS, Corn Merchant and Baker, Chipping Ongar, Essex. Aug. 27, at 1; Basinghall-street.

FRIDAY, AUG. 9, 1861.

BAKER, JOHN, Tanner and Farmer, Heathfield, Sussex. Aug. 31, at 11; Basinghall-st.—**BEARD, ROBERT**, Wheelwright, Snow's-fields, Bermondsey, Surrey. Aug. 31, at 12.30; Basinghall-st.—**COPLAND, JAMES BENJAMIN**, Wine & Spirit Merchant, Manchester. Sept. 3, at 12; Manchester.—**DAWES, CATHERINE**, and **CHARLES FIDDIAM, JUN.**, Coffin Furniture and Malleable Nail Manufacturers, Birmingham. Sept. 2, at 11; Birmingham.—**EATON, CHARLES, JUN.**, Leather Factor, South King-street, Manchester. Sept. 3, at 12; Manchester.—**GASKELL, HENRY BROADBENT**, Broker, Liverpool. Sept. 3, at 11; Liverpool.—**JAMES, ABRAHAM HENRY**, and **THOMAS ROBERTS**, Builders, Newport, Monmouthshire. Oct. 7, at 11; Bristol.—**LAIDLER, WILLIAM**, Boot and Shoe Manufacturer, Sunderland. Aug. 21, at 12; Newcastle-upon-Tyne.—**NZECH, JOHN**, Miller & Coal Merchant, Aylsham, Norfolk. Sept. 5, at 11; Basinghall-st.—**PENNELL, SPENCER PERCIVAL**, Commission Merchant, Liverpool. Aug. 30, at 11; Liverpool.—**SHANLEY, PATRICK**, Boot and Shoe Maker, Manchester. Aug. 30, at 12; Manchester.—**VICKERS, ARCHIBALD**, Cotton Spinner, Disley, Cheshire. Aug. 30, at 12; Manchester.—**WISEMAN, JOHN**, Printer, Bookseller, & Stationer, Luton, Bedfordshire. Aug. 31, at 11.30; Basinghall-street.

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THE SOLICITORS' JOURNAL.

LONDON, AUGUST 17, 1861.

CURRENT TOPICS.

The Fifth Congress of the Social Science Association was opened at Dublin on Wednesday last. Lord Brougham delivered the inaugural address as President, in the evening of the same day, to a vast assemblage of persons. After a rapid historical review of the progress of the natural sciences, introduced for the purpose of showing that they were all subject to the law of gradual advance and slow development—the noble lord proceeded to point out that the science of social life must be controlled by the same conditions. The different outlines of the subject-matters about to be discussed were then indicated and commented upon successively, in the following order—jurisprudence, education, health, reformation of criminals, temperance, and female employment. Jurisprudence, as being the most important of the departments, was taken first; and in reviewing what had taken place last year, his lordship observed that the suggestions made by the society as to the Patent Law and the reports on Private Bill Legislation had, as yet, produced no fruit. But he was enabled to state that the propositions made by Vice-Chancellor Sir W. P. Wood on the subject of charitable trusts had been to a great extent adopted by the Charity Commissioners under the Duke of Newcastle. These proposals, as our readers will recollect, were discussed by the Law Amendment Society in January last, and this approval on the part of the Commissioners may be considered a decisive step in the direction of a future amendment of the law of mortmain. After alluding to the new Bankruptcy Act, the President devoted much consideration to the history of the question of consolidation, congratulating the Association on the passing of five Acts, containing a digest of the main body of the criminal law. This result he attributed mainly to the exertions of the society, associating with those exertions the names of Messrs. Bellenden Ker, Starkie, Greaves, and Lonsdale; and to the labours of Sir Fitzroy Kelly. Lord Kingsdown's Act for amending the law as to the wills of British subjects abroad, and Mr. Villiers's Irremovable Poor Act, next came under review; and with a recommendation of the Marquis of Clanricarde's proposal for extending to Ireland the same system of collecting judicial statistics as that which prevails in England, his Lordship passed to another department. Legal questions were thenceforth more sparingly touched upon. It may be added, however, that the examination of Captain Crofton's system of dealing with criminals, as exhibited in Ireland, was made a leading feature of the programme. "Here," says Lord Brougham, speaking of Ireland, "the problem has been solved how to deal with convicts, and send them forth cured, instead of subject to relapse, infecting others—criminals and the teachers of crime." The international questions which were likely to engage the society's attention were alluded to. Lord Brougham referred to the system of promotion of judges which prevailed in France, and added, "In England there is no law against such promotions, but they are universally discountenanced, and very rarely take place. In seventy years that I have known our courts, I only remember two instances of a puisne being made a chief; for the case of Sir V. Gibbs was that of an Attorney-General promoted, after being, from accidental circumstances, a puisne judge. Parliament would at once interfere were such advancements ever made, except in very peculiar cir-

cumstances." We do not observe throughout the address any strong indication of further proposed changes in any important branch of jurisprudence. It was, perhaps, felt by the speaker that the recommendation of practical measures of legal reform was not his appropriate task, and that generally to record and pass approbation on what had been done was all that required of the President of the Association, on the occasion of an opening address. Lord Brougham's reception was most enthusiastic. At the close of his address, he was congratulated in eloquent terms by the Lord Lieutenant, the Right Hon. Mr. Fitzgerald, and the Duke of Wellington. The business of the session commenced on the following day. Abstracts of some of the more important papers on juridical subjects we hope to be able to lay before our readers.

It is not often that the tranquil flow of judicial administration is disturbed by such an incident as that which occurred in the Court of Bankruptcy on Monday. An announcement by Mr. Commissioner Fane not only took the members of the bar who were present by surprise, but afforded no little astonishment to the rest of the profession remaining in London, who found, in the Tuesday-morning papers an invitation to Basinghall-street to hear the judge read a letter which he had addressed to Lord Palmerston, "expressing his feelings as to the manner in which the commissioners had been treated by the new Bankruptcy Bill, now to become law." They were relieved from suspense on the following day, by finding that the commissioner had yielded to the arguments of a gentleman, in whose judgment he placed confidence, and upon his recommendation had resolved to postpone reading the letter until the re-assembly of the legal world after the holidays. The commissioner is reported to have expressed regret at the disappointment he had occasioned, which would not, however, be of long duration, for that, after the vacation, he should certainly read the letter. Whereupon, amidst much laughter, we are informed, the assembly dispersed. We sincerely trust that the learned commissioner will be dissuaded from carrying out his resolution; and that the arguments of the gentleman on whose judgment he relies will be employed to show that if it be unwise to read the letter when the legal world is out of town, it will be no less indiscreet to do so upon its return. We are not surprised that this escapade of the learned commissioner has struck the public mind with a strong sense of its impropriety. A letter addressed in a formal manner to Lord Palmerston, merely as a vehicle for expressing the writer's opinions, and published in the usual way, would have been harmless enough; and we cannot suppose that a representation made to one of the numerous critics of the Bankruptcy Bill during its progress through Parliament would have been neglected. We believe the views of Mr. Commissioner Fane would have met with the attention which is due to his experience and known ability. Indeed, we remember, some three years since, the publication of suggestions by the learned commissioner on this very subject, which were extensively circulated, and one, at least, of which—the abolition of the distinction between bankruptcy and insolvency—has been carried out. The strong objections which, if we recollect right, he there expressed to the system of private arrangements with creditors have been obviated, in a great measure, by the provisions in the new Act for the registration of deeds of composition. But as the address on Monday last seems to point to the personal grievances of the commissioners, we can only guess that Mr. Commissioner Fane's grounds of dissatisfaction with the measure are private rather than public, and conclude that the letter to the Premier is not in very flattering terms. Under any circumstances in the unfortunate demonstration which has been threatened and all but made, we can see nothing

but accumulated breach of decorum, if not of duty. That a judge should write a complaint of part of the law which he is bound to administer, after it has passed through Parliament; that he should address himself, not to either branch of the Legislature, not to the Attorney-General, or the Lord Chancellor, who had charge of the Bill, but to the Premier during the recess; and that he should select his own court as the place in which to state his objections, and invite the legal profession to attend and hear him, is a combination of errors, which we should have thought it impossible that any judicial officer of the Crown could have dreamt of committing. The Master of the Rolls is opposed to the Courts of Justice Building Bill, but he has not thought fit to denounce the measure from his seat in the Rolls House. He has been content, with no loss of dignity, and we doubt not with adequate effect, to petition the House of Lords against the removal of his Court. Even the messengers of the Bankruptcy Court took time by the forelock, and did not wait till the Bill had become law before they raised their cry for compensation and sinecures. And why Lord Palmerston should be held answerable any more than any other member of the Legislature for the wrongs inflicted by Parliament, it is difficult to understand. We are glad to know that the indiscretion is at present only half committed; there is still left a *locus penitentiae*, and the dignity of the bench need not wholly be sacrificed. The outcry of indignation and ridicule that has been raised by the press must warn the learned commissioner that a violation of judicial gravity is keenly felt by the public, and is resented with prompt instinct. We, on behalf of the legal profession, must equally protest against so injurious an error. Exhibitions of want of dignity on the bench though rare, have been endured for the sake of compensating merits; but that the authority of the judgment seat should be employed in assailing the Legislature, on behalf of the private grievance of a judge, is a thing which no community in this country will ever tolerate.

The Bishop of Salisbury, in a recent charge, has announced the commencement of a prosecution against the Rev. Dr. Rowland Williams, vicar of Broad Chalk, Wilts, on account of the article on "Bunsen's Biblical Researches," contributed to "Essays and Reviews." The articles are fifteen in number. They set forth certain passages from the essay, and charge that they express opinions which are antagonistic to certain of the Articles of Religion. They also article and object that in certain specified passages the defendant had advisedly maintained and affirmed certain doctrines, positions, or opinions, which they proceed to describe in other words, and declare that the same are contrary to certain of the Articles of Religion, to one of the Creeds, and to the teaching of the Church. They further article and object that in certain passages the writer has advisedly maintained and affirmed that certain canonical books of the Old Testament are not authentic, and have no authority binding on the Church, and charge that the doctrine thus maintained is contrary to the Articles of Religion, and the teaching of the Church, as shown in the form and manner of making deacons; and after an enumeration of other charges, they are summarized in the following terms by the seventeenth article:—"And we further article and, object to you, the said Rev. Rowland Williams, that the manifest tendency, scope, object, and design of the whole Essay is to inculcate a disbelief in the Divine inspiration and authority of the Holy Scriptures contained in the Old and New Testament, to reduce the said Holy Scriptures to the level of a mere human composition, such as the writings of Luther and of Milton; to deny that the Old Testament contains prophecies or predictions of our Saviour and other persons and events; to deny that the prophets, speaking under the special inspiration of the

Holy Spirit, foretold human events; to deny altogether, or greatly discredit the truth and genuineness of the historical portions of the Old Testament, and the truth and genuineness of certain parts of the New Testament, and the truth and reality of the miracles recorded as facts in the Old and New Testament; to deny or interpret by a meaning at variance with that of the Church the doctrines of original sin, of infant baptism, of justification by faith, atonement and propitiation by the death of our Saviour, and of the incarnation of our Saviour." The cause is so far progressed that it will probably be ready for hearing next term.

It is announced that the opening of the New Library at the Middle Temple by the Prince of Wales, will take place shortly before the beginning of next Michaelmas Term. It is proposed that a body of members of the Society, being also volunteers of the Inns of Court regiment, should form a guard of honour on the occasion; and those who desire to be of the number are requested to forward their names to the orderly room, Lincoln's Inn.

Mr. Charles Pearson, the city solicitor, who has for some time been very seriously indisposed, is now considered out of danger; and it is probable that in the course of a few weeks he will be able to resume his professional duties.

PARLIAMENTARY PAPERS OF THE SESSION RELATING TO THE LAW AND LAWYERS.

I.

The means of forming an independent opinion on the legislative measures of the day are neither abundant nor accessible in proportion to the growth of journalism. Advocacy of particular interests or views is sufficiently plentiful. If, for instance, a Bankruptcy Bill be pending, all kinds of articles, official, commercial, territorial, and critical, are daily and weekly poured out through a score of newspapers. The tactics followed add variety to the arguments. *Suppressio veri, suggestio falsi*, *argumentum ad hominem*, or *ad verecundiam*, or *ad vim*, become recognised divisions of the labour of periodical literature. But will not the truth be brought out at last? Is not the public the ultimate judge to detect, by the aid of unlimited licence of advocacy, the weak and strong points of every one of the parties before it? Doubtless the public might exercise judicial faculties, if it had the advantage of hearing both sides and every side of the question. In one sense, indeed, all sides are heard: divide the public into sections, and every section hears its advocate. Every section may, if it will, be waited upon, flattered, goaded, fooled, or frenzied to the top of its bent. Pinning his faith on leading articles many a man has the editorial finger for the centre of his orbit. Under this reproach lawyers lie less than any other class. Their peculiar experience teaches them that it is better to go to the fountain head than to follow devious and tainted streams. We have thought it well, therefore, to bring before our readers, in an orderly manner, and within a short compass, a view of the papers relating to the law and lawyers; which in some cases have served Parliament as a ground for measures during the past session, in others may probably furnish materials or motives for future measures, and in others again are intended to show the working of past legislation. The papers may be classed under the following heads:—1. Papers relating to legislation itself. 2. To the Crown, courts, and superior and other judges in respect of the administration of the law. 3. The Police and the execution of the criminal law. 4. The public expenditure. 5. Land and conveyancing. 6. Miscellaneous matters. Of these papers the greatest part are returns made to one House or the other on the motion of members. Some are returns made pursuant to Acts of Parliament. Some are papers presented to the Houses

by the Queen's command. As one object which we have in view is to give to our readers such information of all the papers which are likely to be especially interesting to the profession as will, at least, acquaint them with the existence of, and enable them to identify every such paper, we shall mention all, with the distinctive numbers of such as are numbered. Our collective notice of the contents of the papers must necessarily be limited.

1. LEGISLATION.

The Report from the Select Committee on Expiring Laws (H. C. 304) shows what temporary laws of a public and general nature are now in force, and what laws of the like nature have expired since the last report upon the subject; and also what laws of the like nature are about to expire at particular periods, or in consequence of any contingent public events; and contains observations of the committee thereupon. The last preceding report was made on the 11th of June, 1860. The present contains a register of the temporary laws now in force; an index of temporary laws under two classes—1, where the duration is certain; 2, where it is uncertain; an index to laws expired since the last report; and an index of the subject matter of the Acts reported. Among the first of the two classes may be mentioned the Episcopal and Capitular Estates Management, Copyhold Inclosure and Tithe Commissions, Turnpike (G. B.), Divorce Court, Ecclesiastical Jurisdiction, Poor Law and Incumbered Estates (West Indies) Acts. Among those of the second class, the Extradition, Bank of England, and East India Company's Dividend Acts. This report must not be connected with the Statute Law Revision Act passed last session, which is a measure not dealing with expired or spent Acts, but confined to Acts virtually although not specifically repealed. But for other purposes of consolidation or rather of reduction of the statute book, a comparison of each with its successor of these reports made from year to year will be a valuable index of expired Acts. In the matter of actual consolidation, if Mr. Coode will allow the word on the present occasion, the thirty who, including the principal lawyers in the Commons, were selected to consider the Criminal Law Bills, have reported their proceedings in detail (H. C. 240). The committee sat eight times, the Solicitor-General in the chair, two sittings being deliberative of the course of proceeding, and three devoted to the Offences against the Person Bill. Four of the Bills were disposed of at one and the last sitting. Out of the thirty the names of four, six, or seven only appear in many of the divisions of the committee.

2. ADMINISTRATION.

The papers respecting the international action of the Government hold the first rank. The case of the fugitive slave Anderson, and the United States blockade, have each furnished a correspondence presented by the Queen's command. The Anderson paper has fifty-one pages, containing twenty letters with numerous enclosures. General Cass makes his application to our *chargé d'affaires* at Washington, who communicates with the Foreign Secretary, who communicates with the Colonial Secretary, who communicates with the Governor of Canada, instructing him to take such measures as are warranted by the law of Canada to deliver up the fugitive. The Colonial Minister, having afterwards received a copy of the Toronto judgments, writes to the governor that the case "is one of the gravest possible importance, and her Majesty's Government are not satisfied that the decision of the court at Toronto is in conformity with the view of the treaty which has hitherto guided the authorities in this country." The governor is to abstain in any case from completing the extradition. He writes for instructions that he may be prepared on the decision of the appeal. The *habeas corpus* having issued here, the Foreign Minister thinks

the only thing now necessary is for the governors to facilitate the action of the Queen's Bench at Westminster. This writ and the local Common Pleas writ are at Toronto at the same time, racing to Brantford. Mr. Dallas sends home from the legation at London slips of leading articles in the *Globe* and *Times*, and of Mr. Denman's and Mr. Fowell Buxton's letters in the *Times*, and remarks in his own letter on "the professional astuteness" invoked to defeat the treaty, on "the pungent and uncompromising hostility to social bondage which prevails throughout this country," and on the "surprising celerity" with which the Lord Chief Justice granted the *habeas corpus*.

The correspondence respecting the blockade is a shorter affair, running only to thirteen pages, and containing four letters with their inclosures. Our *chargé d'affaires* is careful to receive the communication of the President's proclamation as an announcement of an intention only. When he presses Mr. Seward for information as to the mode in which the blockade is to be carried into effect, and draws attention to the vagueness of the information given, as compared with the European custom, the reply is that the United States notifies the blockade individually to each vessel approaching the port, inscribing a memorandum on the ship's papers; and further, that there will be an effective blockade of 3,000 miles of coast from Chesapeake Bay to the Rio Grande. Mr. Seward promises a copy of the instructions issued to the blockade officers, and an equitable consideration of any case of a British vessel. A notification is published of the effective blockade of the ports of Virginia and North Carolina. Mr. Seward now finds no precedent for communicating the instructions to foreign governments. The proclamation, he says, is mere notice of an intention. 1. The blockade will be on recognised principles. 2. Armed neutral vessels will have the right to enter and depart. 3. Merchant vessels in port at the time of the blockade will have a reasonable time to depart. Permission is asked to send British vessels in ballast from New York to bring away stores and timber bought, and, in some cases, paid for, by British subjects, and lying at the port of Norfolk in Virginia. Mr. Seward refuses, the like rule having been enforced against Americans having cotton at Norfolk. British vessels arrived in ballast for cargo are blockaded. The consuls at Richmond and Baltimore write for advice and instructions. 4. Neutral vessels in ports for cargo are to be allowed fifteen days from April 27 for lading and clearing out. 5. The date of the commencement of the blockade in each locality will be fixed by the issue of a notice to the blockade officer; but, as appears, will not be officially communicated to neutral nations.

By a letter of June last (H. C. 300) to the Lords of the Admiralty, the Foreign Minister, for the purpose of observing the strictest neutrality between the United States and the "so-styled Confederate States," has proposed to interdict the armed ships and privateers of both parties from carrying prizes into the ports or waters of the United Kingdom, or of the Queen's colonies or possessions.

Taking next in order the House of Lords in its judicial capacity, a paper (H. L. 62) has been furnished, which, by the side of the Divorce Court return to be presently noticed, will afford means for a comparison. The paper specifies the petitions for Divorce Bills, and the introduction of such Bills from 1800 to 1860, distinguishing the Ecclesiastical Court where the earlier proceedings were had, and stating whether the Bill became law. In recent years, the petitions and Bills were in 1850, seven; 1851, five; since, from two to four only in each year. All the Bills in 1850 passed; two failed in the next year; and two out of three in the next. The greatest number of Bills was in 1830—nine, of which eight passed. In many years there were not more than two Bills.

Respecting the Courts, the papers which relate to or

bear upon the design of giving to the superior courts in general a local habitation claim the first notice. The return (H. C. 84) respecting the Suitors' Fund, under section 63 of the Act of the 5th of the Queen for making further provisions for the administration of justice, gives a balance on the 1st of October last of stock £4,119,155 1s. 1d., and cash, £20,054 17s. 8d. The total payment thereby for the preceding year to retired and present chancery officers, and for expenses and costs, was £61,338 13s.; and, under the 15 & 16 Vict. c. 87, surplus interest, amounting to £51,162 9s. 3d., was carried to the Suitors' Fee Fund Account, making together £112,501 2s. 3d. as the total charge on the income of the Suitors' Fund. The Suitors' Fee Fund Account shows an income from various sources for the year ending November last of £158,213 7s. 10d. to meet payments of certain other chancery salaries and expenses, also salaries and expenses under the Lunacy Regulation Act, and of the Taxing Office, amounting altogether to £156,991 14s. In the Fee Fund there was also a balance of cash at that date of £83,537 13s. 8d., and stock placed out, £201,028 2s. 3d. The account of the superior courts of common law (fee fund), (H. C. 443), under the 15 & 16 Vict. c. 73, exhibits at the end of 1860 a sum of £99,740 10s. 5d. to the credit of the fund, the increase of the annual sum having been for each of the last two years about £11,000.

The Treasury Minute of July, of which a return was made to the House of Commons (440), estimates the cost of the new law courts at £2,000,000; the portion of the Suitors' Fund, the stock of the Suitors' Fee Fund, and the accumulation of surplus common law fees (£88,254), which were recommended by the Courts and Offices Commission as available for building the new courts, the minute estimates as of the value of £1,400,000. But the income of the first two funds being, as we have just seen, nearly absorbed by the charges on it, a deficiency estimated at £45,000 a year would arise to be provided for out of the Consolidated Fund; against which deficiency the commissioners proposed to appropriate annual surplus fees of the Common Law, Probate, and Admiralty Courts, £22,000 a-year; but, since in the last two courts the surplus fees are carried to the Exchequer, the deficiency would, in truth, fall upon the general revenue. The accumulated surplus common law fees also are payable into the Exchequer, while Parliament votes the salaries of the common law establishments; therefore, the minute does not admit the argument that the surplus income arising from this fund is disposable for special purposes. So that, instead of £1,400,000, only £1,311,000 (from the Suitors' Funds) would be available, leaving upon £2,000,000 £689,000 as the probable deficiency to be voted by Parliament, and an annual charge of £45,000 also to be voted to meet the deficiency of the income of the Suitors' Funds. The annual charge will abate as life compensations fall in, and is valued at £410,000, making with the £689,000 a total to which the public will be liable, of £1,099,000 (stated at £1,052,000 in the minute.)

The minutes of evidence on the Courts Building Act (Money) Bill (H. C. 441) contain the testimony of Mr. H. R. Abraham (the architect), Mr. Harvey Gem, Mr. J. Young, The Master of the Rolls, Mr. T. Hardy, Mr. C. Roberts, and Mr. J. J. Johnson. The exact site, extending west only as far as Yeates' and Horseshoe-courts, so as not to interfere with Clement's Inn, is 565 feet on the Strand side, 595 in Bell-yard, 735 in Carey-street and further west, and 375 on the remaining side. It is remarkable as having no public building or factory in so large an area. Twenty-one courts are thought necessary by the Lord Chancellor. There is provision also for 710 rooms, and a depository of wills, occupying in all, together with the passages, 617,500 superficial feet. The difference of level (sixteen feet and a half) between Carey-street and the Strand offers advantages in a building with a frontage seventy feet high in the Strand.

A bridge over Fleet-street is not contemplated, as the height of vans would render forty steps necessary.

Among the papers relating to the particular courts is a copy (H. C. 92) of the appointment of the commission to inquire into the constitution of the Accountant-General's department of the Court of Chancery, the forms, business, and the custody and management of the funds. The commissioners are the Duke of Argyll, Lord Kingsdown, Sir George Grey, Mr. R. W. Crawford, Mr. P. W. Rogers, Mr. W. G. Anderson, Mr. W. S. Cookson, and Mr. E. W. Field.

Bankruptcy Court Finance for 1860 occupies two returns (H. C. 80, pursuant to 12 & 13 Vict. c. 108, and H. C. 106). The accounts are kept under four heads. 1. The general account of bankrupts' estates, in which there were paid in by the official assignees and others £868,323 6s. 9d., and by sale of stock from the Bankruptcy Fund Account, £79,643 15s.; paid out by orders, £383,752 1s. 7d.; and as dividend, £560,312 14s. 4d. 2. The Bankruptcy Fund Account, the net balance of which, on the 1st of January, was £1,436,241 6s. 2d. Stock. 3. The Unclaimed Dividend Account. 4. The Chief Registrar's Account. This account states the year's revenue (including £42,510 18s. 9d. interest on the 2nd, 3rd, and 4th accounts) at £90,322 5s. 5d., and the year's charge (including £20,443 18s. 9d. for compensations and retiring annuities) at £81,030 3s. 6d. The total amounts received and paid by the Bank of England, on account of the Accountant in Bankruptcy in 1860, were £1,038,894 4s. 10d., and £1,026,215 1s. 5d. The names of all persons holding office in the Bankruptcy and Insolvency Courts of England and Wales, with the dates of their appointments, and the modes and amounts of their annual payments on an average of seven years, have been also returned (H. C. 124). In London there are five bankruptcy commissioners with £2,000 a-year a-piece; six registrars, £1,000 each; chief registrar and six clerks, £2,500; accountant and nineteen clerks, £7,040; taxing master and two clerks, £2,000; nine official assignees, per centages from £2,681 to £900; five messengers, fees and profit from copying, from £1,500 to £1,054; two under officers, five ushers, six brokers, £427 to £350; the registrar of meetings, and five persons in charge of the buildings. In the country are eight commissioners, £1,800 each; eleven registrars, £800 each; seventeen official assignees, from £1,846 to £746; eleven messengers, £950 to £435; ten ushers and eleven brokers. The total and net remunerations received by the official assignees in 1860 may also be found in a separate return (H. C. 40), with the number of adjudication and other petitions allotted to each. Selecting the highest net remuneration, £2,487 4s. 9d., the adjudication petitions were fifty-eight, and the others, six. A return (H. C. 78) from the messengers of the London and district courts, shows the charges and fees received by them for 1860, their payments thereout and the number of meetings held under each commissioner. The sittings in 1860 (H. C. 76), were, public, 3,812 in bankruptcy and 67 under the Joint Stock Winding-up Acts; private, 2,155 and 13 respectively. The number of appeals to the Vice-Chancellor and Lords Justices, since the abolition of the Court of Review, has been 646, occupying 215 days; in addition the Vice-Chancellor disposed of 470 original petitions (H. L. 96). The report of the law lords and other peers constituting the select committee of twenty-one on the Bill (H. C. 320) gives account of seven sittings, of divided opinion on the retrospective action and the powers to the creditors' assignees, but of unanimous rejection of the chief judge. The quick and pleasant way in which matters were managed in the Divorce Court suggested the propriety of a return of the number of petitions, with the dates of the acts of adultery or other acts which were the foundation of them, the number of undefended cases, and the decrees. In this paper (H. C. 69) we find one dissolution petition in which the alleged adultery was in 1823; 59 in which it took place in 1856—the year before

the Act passed; and 85 in which it was in 1858. The total number of dissolution petitions to the 21st August, 1860, was 604. There is also a summary of separation and other petitions, giving the totals—separation, 195; restitution of conjugal rights, 32; nullity, 13; protection of property, 85. The dissolutions decreed are set down at 239; refused, 19; of which 212 were undefended cases.

The salaries of the judges, registrars, and others of the London and Dublin Probate Courts form the subject of a return pursuant to the Probate Court Acts (H. C. 133), with an account of fees and monies received in 1860; fees received by the English and Irish district registrars, and the disbursements; also the compensations. The salaries in London amount to £36,780; the fees in the London Court to £54,636 10s. 6d. For both parts of the kingdom the compensations to proctors and officers amount to £115,987 1s. 6d. in the year, with £9,699 composition for annual sums under £10: the Rev. Robert Moore figures for £7,990 2s. 5d. a year; the Chester registrar for £3,498 8s. 4d.; the joint York registrars for £2,008 2s. 8d.; the Lincoln registrar for £530 2s. 11d.; the Dublin registrar, £2,579 4s.; six proctors for above £1,000 a year each, two of them, apparently a firm, for £2,519 3s. together. In all, there are fifteen columns of English and Irish compensationists, at about fifty to the column, or a total of some 750. The stamp duty paid in 1860 on probates and letters of administration (H. C. 209) is £708,333 for London; for Wakefield, which is the highest of the 40 district registries (English), £46,792.

Passing from the overpaid to the Great Unpaid, among whom the shepherds of the Church are not conspicuous for tenderness to the sheep brought before them, it appears (H. C. 198) that in the counties of England, exclusive of Somersetshire, which made no return, there are or were 1,183 magistrates in holy orders. Some are mentioned as since dead, and others as not acting, including the Archbishops of Canterbury and York and the Bishop of London, who all are both Middlesex and Suffolk magistrates. The clerical magistrates of Wales number 174, giving a total of 1,357.

Lastly, the working of the County Courts is illustrated by a paper (H. C. 335), which states that in the Liverpool Court, during the year ending April, 1861, the fewest number of days between ordinary summons and hearing was seventeen, the number of cases so heard being 150; forty-seven was the greatest number of days, in one case only; the average interval was twenty-seven days; number of unserved summonses, 2,131; proportion of served to unserved, ten to one. In judgment summonses the least and greatest intervals were fourteen and thirty-five days, and the cases for those intervals, thirty-two and twenty-five; unserved summonses, 1,270; proportion of served to unserved, about two to one. A like return for Manchester gives an average interval for ordinary summonses at twenty-one days; unserved summonses, 1,597; proportion about eleven to one; judgment summonses, least and greatest intervals, twenty-one and forty-nine days; unserved summonses, 1,427; proportion, about the same as Liverpool.

The Courts, Appointments, Promotions, Vacancies, &c.

SUMMER ASSIZES.

WESTERN CIRCUIT.—BRISTOL.

Aug. 10.—The commission was opened in this city to-day. There were twenty-one causes entered, five of which were marked for special juries.

NORTHERN CIRCUIT.—LIVERPOOL.

Aug. 10.—The commission was opened in this town to-day.

The Queen has conferred the honour of Knighthood upon Roundell Palmer, Esq., her Majesty's Solicitor-General.

Recent Decisions.

EQUITY.

EQUITABLE MERGER.

Brandon v. Brandon, V.C. K., 9 W. R. 825.

This case involved a very difficult question of equitable merger. A. and B. were owners in fee as tenants in common, of certain freehold and leasehold property, whereof A. granted several building leases, containing the usual covenants. In 1807 (B. being then dead), A. and B.'s devisees in trust granted another building lease at a pepper-corn rent to C., which he subsequently assigned to A. only. In 1808, the trustees of B. agreed to grant A. a lease of another portion of the lands of which they and B. were joint owners in fee. But it was not until 1819 that the lease was granted, A. having meantime, in 1816, granted a building lease of the same lands to another party. In 1819 (A. being then dead), his trustees and the trustees of B. granted a lease of some portion of the freeholds not comprised in the lease of 1807 to a party who afterwards assigned it to A.'s trustees. In a suit then instituted to administer the estate of A., it was held that he died intestate as to one-ninth of the fee simple estate, which descended on his heir. From 1788 to 1846, the legal estate in the whole property was outstanding in a mortgagee. In 1785, the owners in fee of the lands held on lease by A. and B. granted what was called a manor building lease to the mortgagee for ninety-nine years. In 1787, he and the owners in fee granted a lease to A. In 1788, the mortgagee assigned all his interest in the lease of 1787 to A. and B. In 1790, the owners in fee, together with A. and B., granted three building leases of three other portions to the lessee of 1807, who, in 1806, also assigned his interest in those three leases to A. and B., to whom a renewal of the manor lease was granted. Upon this state of facts the questions were, first, whether the assignment by the lessee of 1807 operated as a merger of the interest in the lease in A.'s fee simple estate in reversion; secondly, whether there was a merger by reason of the assignment by the lessee of 1819 to A.'s trustees; and thirdly, as a consequence of the other questions, whether A.'s heir-at-law took a portion of the fee simple in possession, or in reversion expectant on the determination of the lease. There was also a question whether the merger, if such took place, were legal or equitable. Mr. Christie, one of the conveyancing counsel before whom the title was laid preliminary to a sale, raised the question of a merger. Kindersley, V.C., held that the parties having always acted upon the assumption that there was no merger, could not now contend that there was, as such a claim would be clearly inequitable.

Although equity, as regards the doctrine of merger, will follow the law in applying that doctrine, and will hold that if the circumstances of any particular case would have caused a merger at law if the interests were legal, then that a merger takes place of the similar equitable interests in equity, yet the Court will not apply this doctrine, if any other circumstance in the case would render such a construction inequitable. The Court also deals, as the Vice-Chancellor observed in this case, with a legal merger on equitable grounds. It has been considered that a court of law would, *e converso*, deal with a question of merger in some cases upon equitable grounds. We are strongly disposed, however, to impugn the soundness of this opinion, unless the inequitable circumstances connected with the legal merger would have amounted to fraud at law. In the present case the Vice-Chancellor seems to have considered that the complication of rights to which the application of the doctrine would give rise, was sufficient to preclude the assumption of its applicability. The facts certainly are very complicated, as are also the legal questions which they occasioned. No point of pure law, however, existed in the case as the legal estate had been outstanding from 1788 to 1846. If there was a merger of the equitable interest in the leases of 1807 and of 1809, upon their assignment to A. and to A.'s trustees, a question would arise as to the performance of the covenants. If those leases were of the freehold property, the effect of holding that there was a merger would be that there would be a merger only of A.'s undivided moiety, there being a rent reserved, one moiety of which belonged to B.'s trustees. There must be thus a division of the rent, and of the covenants. B.'s trustees might, therefore, have a right of action against A. The Vice-Chancellor supported his view of the case by a reference to the complications that would be introduced by the various manor and building leases, if a merger were to be deemed to have occurred. It may,

however, be doubted whether complications as to rights can be allowed to control a general doctrine of equity. Why should the claim of B.'s trustees against A. for a moiety of the rent be deemed sufficient to prevent a merger, and why should complications, however numerous, as they were not necessarily present to the minds of the parties to the assignment, be deemed to have altered the character of the transaction? If, indeed, B.'s trustees would be injuriously affected, (and this was the Vice-Chancellor's opinion), by holding that a merger took place, the lease could be deemed not to have been merged as regards them, but to have been merged as regards A.'s heir-at-law, and the beneficiaries under his will; *Danby v. Danby*, Finch 220; *Charlton v. Low*, 3 P. W. 325. The equity of the former cannot be held to apply as between the latter. As to the acquiescence of all parties in the assumption that a merger had not taken place, it is doubtless a material incident in the case, and tends to support the decision of the Vice-Chancellor, although it was not the ground upon which he mainly rested his decision. On the whole, the effect of the Vice-Chancellor's decision is to limit the application of the doctrine of merger whenever it would defeat the intention of the parties, as indicated either by their conduct at the time or subsequently. It appears to us, however, doubtful whether acquiescence in the assumption of a merger, if such did not occur in point of law, does not afford ground rather for a new equity than for holding that a merger actually occurred, so as to alter the rights of the heir at law and of the devisees of one of the parties.

COMMON LAW.

LAW OF BANKS—RULE AS TO FORWARDING CHEQUES.

Hare v. Henty, C. P., 9 W. R. 738.

The proper course of practice with regard to the transmission of a cheque paid into a bank by one of its customers to the bank on which it is drawn was laid down by Lord Ellenborough in the case of *Rickford v. Ridge* (2 Camp. 537). The rule, as there established, is that the cheque must be sent off the next day after it is received, but that there is no obligation to send it the same day; and that, consequently, if the bank on which it was drawn should have happened to have stopped payment before the cheque arrived there, although, had it been forwarded the same day that the customer paid it in, it would have been honoured, the loss, as between the bankers and the customer, falls on the latter. This is a matter of general convenience which has been since always recognised and acted on; but, it is apprehended, that the practice applies only where the transmission is to be to a bank in a town other than that in which the bank into which the cheque is paid in by the customer is situate. The present case was decided upon the rule as above defined. A customer of a bank at Worthing paid in there on a Friday a cheque on a bank at Lewes. The Worthing bank sent up the cheque on Saturday to London, to be presented at the Lewes bank clearing house, where, on being presented on the Monday, it was refused payment. It was contended that a legal obligation existed on the Worthing bank to have sent it to Lewes direct on the Friday, in which case, arriving on the Saturday, it would have been paid. But the Court, on the authority of Lord Ellenborough's ruling in the above case, denied the existence of such a duty, and gave judgment for the bank, which had been sued by their customer for the money he lost by the dishonoured cheque.

PARTIES TO ACTION—CONSIDERATION MUST MOVE FROM THE PLAINTIFF.

Tweedle v. Atkinson, Q. B., 9 W. R. 781.

The fundamental principle which governs the proper party to sue on a contract is that he must be the person from whom the consideration moved. It is not enough that the promise was in fact made to him, nor even that it was to be performed for his benefit; for the promise, to whomsoever made, follows the consideration, and enures, for the purpose of action, to the party who had the legal interest therein; for with him the contract is, in contemplation of law, deemed to have been made. These considerations make it essential to determine, first, what was the consideration for any contract, the breach of which is complained of, and then in whom was the legal interest therein vested, for the answer to these questions will enable us to determine who shall be the plaintiff. Now at an earlier period of the law the nature of the consideration of natural love and affection was not clearly settled. It was thought that such a consideration would support a promise not

under seal, and accordingly in *Dutton v. Poole* (1 Ventr. 318, 382; 2 Sev. 210), a leading case on this subject, it was held that a daughter who had waived her moral claim to support from her father, in exchange for a promise to her father from her brother to pay her a sum of money, might support an action for such sum, on the ground that the consideration moved from her, though the promise had been made to her father. It has, however, been here determined that such consideration as above mentioned is no support to the action at all; and, therefore, in modern times, the plaintiff in *Dutton v. Poole* would have failed. The present case was decided against the plaintiff on similar grounds. The action was brought by A. against the executors of B., who had promised A.'s father to pay to A. a certain sum in consideration of his having married B.'s daughter. But this suit was held not to be maintainable, both because there was no privity between A. and B., and also because (as the law is now settled) there was no valid consideration to support the promise made by B. to A.'s father.

WHEN DELIVERY IS REQUIRED IN GIFTS INTER VIVOS.

Winter v. Winter, Q. B., 9 W. R. 747.

This case points out a distinction which exists between a *donatio mortis causa* (on which species of gift we recently made some observations) and an ordinary gift *inter vivos*. In the former, there must, it may be remembered, be an actual delivery of the chattel itself, or, if it be a *chose in action* merely, then of the instrument by which it is secured; but this is so because it constitutes some security against fraud, a protection which is not required when the donor does not die. Hence, on the principle that *cessante ratione cesset et ipsa lex*, in a gift *inter vivos* there need be no delivery, actual or constructive. All that is requisite is that the conduct of the parties should show that the ownership has changed. In the present case, the subject of the gift was a barge, which the donee formerly worked as the servant of the donor, and there being evidence that the donor had said he had presented the donee with the barge, and that the latter had subsequently worked it as owner, this was held sufficient to substantiate his claim.

NEW LAW COURTS.

The council of the Incorporated Law Society has issued a paper containing the following remarks on the Treasury Minute of the 16th July, 1861, relating to the provision of funds for the new law courts, with reference to the two Bills lately before Parliament:—

It is much to be regretted that this minute was not issued at an earlier period. The facts and figures on which it purports to be founded have been for many months in the possession of the Treasury. They were well known, or were readily accessible, before authority was given by the Treasury for the preparation and deposit, at the public expense, of the plans and books of reference relative to the proposed site, and the giving of the notices required by the standing orders of Parliament. They were well known while the "Site Bill" was passing, as a Government measure, through the two Houses, and while the Money Bill was under the consideration of the select committee of the House of Commons. And yet it was not until that committee had closed its sittings, and made its report, and until all opportunity of inquiry and explanation might be supposed to have passed away, that a minute is issued under Treasury authority, which if its statements and reasoning be well founded, stultifies the report of a royal commission, and utterly defeats a Government measure professing to be founded thereon. The professed object of the minute is, "that Parliament and the public should be fully apprized of the amount of charge which will be incurred, and the extent of liability for the same to which the public revenues may be subject," if the full scheme recommended by the Royal Commissioners be carried into effect. With this view, the minute proceeds to show, that whilst, on the one hand, the cost of acquiring the site recommended by the Royal Commissioners and of erecting thereon the buildings proposed by them, will exceed their estimate by no less a sum than £500,000; on the other hand, the funds pointed out by the Commissioners as available for the object will fall short of their estimate by not less than £189,000,—the two sums together amounting to £689,000, which the minute represents as the "probable deficiency to be provided by vote of Parliament."

1. With regard to the costs of the site and buildings.

The difference between the two estimates arises as follows:—

COMMISSIONERS' REPORT.

Cost of site	£675,000
Ditto of buildings	675,000
Contingencies	150,000
	<hr/>
	£1,500,000

TREASURY MINUTE.

Cost of site	£750,000
Ditto of buildings	750,000
Contingencies	500,000
	<hr/>
	£2,000,000

The excess of the latter over the former being thus made up as follows:—

Site	£75,000
Buildings	75,000
Allowance for contingencies	350,000
	<hr/>
	£500,000

Now it is to be observed, that the report of the commissioners was founded upon evidence given before them, the accuracy of which has since been confirmed by an eminent architect and surveyor, who was examined before the Select Committee of the House of Commons, to which the Money Bill, now before Parliament, was referred. The Parliamentary plans and notices for the Site Bill were prepared under the immediate personal direction of that gentleman, who has made a minute and careful estimate of every property included therein, house by house. He estimates the value of the whole, including costs of purchase and compensation, at £678,044. He also confirms the estimate that the cost of erecting all the buildings necessary for carrying into effect the entire scheme recommended by the Royal Commissioners, including an ample allowance for contingencies, will not exceed the sum named in their report. On the other hand, the figures set forth in the Treasury Minute are "conjectural" only. The sums there named as the probable cost of the site and buildings are expressly stated to be founded on the "conjectures" of the officers of the Board of Works, while the sum set down for "contingencies" seems to be nothing more than a guess of the Lords of the Treasury themselves, who consider that "it would not be safe to put down the item of contingencies at less than one third of the conjectural estimate, or £500,000." No actual reports or estimates are produced or referred to in support of these "conjectures," and there appears to be no good reason why any other set of figures, of even larger amount, might not with equal propriety have been put forward. The question seems to be, whether reliance is to be placed on mere "conjectures," unsupported by evidence, or on carefully prepared estimates made by competent persons, and which have been open to examination and inquiry? And it may well be asked whether, in a matter admitted to be of the highest public utility and importance, mere "conjectures" are to be allowed to defeat a scheme recommended by commissioners, who were appointed by the Crown under the advice of one set of ministers, and whose report has been adopted and acted upon by their successors in office.

2. With regard to the provision of funds for the proposed new courts.

The Commissioners recommended the appropriation of two funds, one consisting of stock, amounting to £1,492,657 (or in round figures £1,500,000), and the other of cash amounting to £88,254. At the date of their report, the price of Consols was rather more than 93, and the Commissioners estimated the value of the aggregate fund, both stock and cash, at, in round figures, £1,500,000. In making this calculation, they undoubtedly overlooked the fact, that a part of the stock (less, however, than a moiety) consisted of Reduced £3 per Cents, which are of somewhat less value than Consols. The price of Government stock, moreover, has since fallen about £3 per cent., and making due allowance for this depreciation, the produce of the aggregate fund, if the whole of the stock were now sold, would probably not much exceed £1,400,000, as stated in the "Minute." On the other hand, it must be recollected that the scheme does not contemplate or involve an immediate sale of the whole stock. The sales would be made gradually, and from time to time, as the works proceeded, and would probably be spread over a period of from five to seven years; and as it is impossible to say that, during this interval

the funds might not again advance in price, so there might thus be a considerable increase in the ultimate produce of the fund. The "Minute," however, alleges that the portion of the fund which consists of cash (being that referred to in the report as Fund E, and which, it seems, has since the date thereof increased to £105,773) is not properly available for the intended purpose, and must therefore be deducted. So deducted, and taking the present prices of Government stock as the basis of calculation, the amount actually available would be reduced to £1,311,000, and this is the only sum which the "Minute" assumes to be now at the disposal of Parliament. The ground on which Fund E is thus proposed to be struck out of the account is this,—that it has arisen from surplus fees of the common law courts,—that these surplus fees are by the Nisi Prius Act (15 & 16 Vict. c. 73) directed to be carried to the Consolidated Fund,—and consequently, that Fund E, which represents the past accumulation of such surplus, belongs by law to the exchequer, and constitutes a portion of the general public revenue.

The Minute states that "for some reason, which is not explained, a former Board of Treasury directed the surplus fees of the common law courts to be retained in the hands of the paymaster-general, and hence the accumulation of the sum described in the report as Fund E." The explanation of the fact here referred to can be very readily supplied. When it was found that the fees taken in the common law courts were far more than sufficient to defray the expenses for which they were avowedly levied, and that there was a considerable surplus, application for their reduction was made to the proper authorities by the Incorporated Law Society, (on behalf of the general body of the profession practising in those Courts). It was represented that, admitting it to be right to exact fees from suitors to meet the expenses, or a part of the expenses, of carrying on the business of the Courts, it was a violation of every sound principle to tax them for the ordinary purposes of the State,—in other words, that the administration of justice was not a legitimate subject of general taxation. The Treasury of that day admitted the justice of these representations, and while they declined to reduce the fees, until it had been ascertained whether, upon an average of years, they were adequate in amount to cover current expenses, they directed the ascertained surplus to be treated as in the nature of a suspense account, and to remain in the hands of the paymaster-general until its ultimate appropriation should be determined on. The accumulation of the surplus thus went on from year to year, until it reached the amount referred to in the report of the commissioners, who were *unanimously* of opinion that there could not be "a more legitimate application thereof than towards the completion of a scheme from which the suitors at common law will derive the most essential advantage." The argument of the "Minute," that the Fees of Common Law Courts cannot be considered as a "fund properly applicable to providing buildings for the Court of Chancery, or the Court of Probate," is utterly unsound and fallacious, and is completely at variance with the whole tenor of the report. If it were true, it would follow that, by parity of reasoning, the fees of the Court of Chancery could not properly be applied to providing buildings for the courts of law; and in that case, no part of funds B and D,—which have arisen exclusively, the former from the profitable use of the money of suitors in chancery, the latter from fees paid by them,—would be available for the purposes of the proposed scheme. But such a conclusion would strike at the very root of the commissioners' report, and if admitted, would prove, not that the fund is inadequate, but that there is no fund at all. And if this be so, then the report of the commissioners is a farce,—the act of the Government in bringing in the two Bills now before Parliament, which purport on their very face to be founded on that report, was a mockery and a delusion, and the cost incurred in their preparation a waste of the public money.

Assuming, then, that the present accumulation of the fees in question (£105,773) may properly be dealt with for the purposes of the scheme, and adding that sum to the value of the stock, there would be an aggregate fund of more than £1,400,000 immediately available for the proposed object, and the deficiency would be reduced from £500,000 to less than £100,000. Considering the primary importance of the object,—the provision of suitable courts for the administration of justice to all the subjects of the realm—it might have been thought that even the larger of these sums would, after all, have been no more than a reasonable contribution from the funds of the state; more especially as, by the execution of the proposed scheme, a very large sum, which must otherwise be expended in the erection of proper buildings at Doctors' Commons for

the Courts of Probate and Divorce, including a fire-proof depository for wills, will be entirely saved. But there are other resources, indicated in the report of the commissioners, although not included in their calculations, which will more than cover the apprehended deficiency, and effectually protect the public revenue from the risk of loss. If the full scheme of the commissioners should be carried into effect (and this is the theory on which the "Treasury Minute" is founded), "large and valuable blocks of buildings" (to borrow the language of the commissioners in the 107th paragraph of their report) belonging to the public, and now used for the purposes of the equity courts and offices, would be set free, and might be brought to sale. The value of these buildings and their sites has been carefully estimated, and it amounts to no less a sum than £265,000, without including the Courts of Bankruptcy and Insolvency, which may or may not be comprehended in the proposed scheme. But further, in addition to the buildings referred to, the freehold of which is vested in the public, other buildings are hired for the use of the different courts and their officers, for which rents are paid to the amount of £5,341 15s. per annum. If the proposed scheme be carried into effect, the whole of these rents will be saved, and the capitalised value of the rental thus saved has been estimated by competent authority at £145,000.

If these sums be added together the result will be as follows:—

Saving in respect of courts and offices in Doctors' Commons, no longer necessary (say)	£100,000
Value of land and buildings set free	265,000
Value of rents saved	145,000
	<hr/> £510,000

There remains to be noticed one additional item of large amount which the "Minute" assumes will form a charge on the public, and which arises in the following manner:

The funds B and D, with which the report proposes to deal for the purposes of the scheme, say £1,500,000 stock, now produce an annual income of £45,000. At the date of the report this income was subject, to its full amount, to annual payments in the shape of compensation annuities,—such charge, however, diminishing at the estimated rate of £2,000 per annum by the gradual falling in of the annuities. If the capital of the stock were taken for the purposes of the scheme, it would follow that the income now derived therefrom would cease, and the commissioners recommended that the public should make good the loss thereby occasioned, by an annual charge on the consolidated fund, subject to a gradual abatement as the life compensations charged on the fund fell in. For the purpose of showing the actual burthen which this arrangement would entail on the public, the "Treasury Minute" treats the charge as an annuity of £45,000 per annum, decreasing by £2,000 a year until it is extinguished in 22½ years, and it estimates the value of such annuity at £410,000. Adding this sum to the deficiency of £689,000 above referred to, the total charge for which the public would become liable is shown to be £1,099,000, or in round figures £1,100,000. The whole statement, however, on which this calculation is based may be shown to be entirely fallacious: for, in the first place, it assumes that the whole amount of stock would be sold at once, and thus that there would be an immediate loss of income, and a consequent charge upon the public of £45,000 per annum, at starting. But the fact is, that the sales of stock would be gradually made as the work proceeded, and would be spread over a period of from five to seven years, during the whole of which time the dropping in of the lives of annuitants would year by year diminish the amount of the charge. But, in the next place, there is no just ground for the assumption that, even if the whole stock were sold at once, the demand on the public would be £45,000 per annum, even for a single year. One year only has elapsed since the date of the commissioners' report, and in that year not £2,000, but £5,000, has been saved to the income of the fund by the falling in of compensation annuities,—thus reducing the charge to £40,000 per annum, being the same sum as that assumed by the commissioners, on grounds somewhat different, but the validity of which, the results being the same, we need not stop to discuss. From this sum of £40,000 the commissioners proposed to deduct the surplus fees received in the courts of common law, the Court of Probate, and the High Court of Admiralty, amounting together to £24,000 per annum, and which, as they were received by the public, they conceived might be fairly and properly set off against the new charge thrown on the

public by means of the proposed scheme, and which would thereby be reduced to £16,000 per annum. The propriety of this deduction is challenged by the Treasury Minute on grounds, the validity of which has already been discussed in a former part of this paper, when dealing with the question of the applicability of fund E to the objects of this scheme. There are those who contend that no taxes or fees should be taken from suitors upon any pretext, or for any purposes; and this was the opinion expressed by the Master of the Rolls not many days since, in his evidence before the Select Committee of the House of Commons on the pending Bill. His Honour on that occasion referred to "the very celebrated pamphlet of Mr. Jeremy Bentham on Law Taxes, which produced so great a sensation, and put an end to making the courts of law a source of revenue to the public;" and his Honour added, that the reasoning of the pamphlet "applied precisely to the taxes now levied, though essential to the maintenance of the courts as at present established." Without adopting this opinion to its full extent, and admitting that fees may properly be levied on suitors, in order to aid in maintaining the courts whose aid they invoke, it is conceived that no one can be found at this time of day to assert that suitors, as such, should be taxed, whether by fees or otherwise, for the general purposes of the State. And yet this would be the obvious result if the propositions put forward in the minute were to be carried into practical effect. If, then, the surplus fees, hereafter to be received in the courts of law and of probate are brought in aid of the scheme, the result to the public will be as follows:—It appears from the Treasury minute that the surplus for the last year was—

From courts of law	£17,519
From Probate Court	29,000
	<hr/> £46,519

There is no reason to anticipate any falling off from either source, the probability being the other way. But, assuming that the fees remain stationary, it is manifest that there would be no demand on the public, even on the hypothesis that the whole stock, constituting funds B and D, were immediately sold, and the whole income of £45,000 per annum now arising therefrom were at once to cease.

The *Times*, in a clever article in favour of the proposed scheme, thus observes upon the recent "Treasury Minute."

"My Lords' of the Treasury, who had been watching the fortunes of the fight from a serene eminence, descended, like the Homeric gods, not indeed to give victory to either side, but to appropriate to themselves all the prizes and spoils of battle. Nothing could be more skillful than the selection of the time for their intervention. There had been a 'Site Bill' and a corresponding 'Money Bill' before Parliament, a commission and a committee had reported in favour of this application of the funds, two governments had virtually committed themselves to it, and public opinion had emphatically recognised its legitimacy, when 'my lords' struck in with a Treasury Minute, warning the nation that the cost of building would be £500,000 more than had been represented, the available funds nearly £200,000 less, the 'probable deficiency to be provided by vote of Parliament £689,000,' besides an annual charge of £45,000, subject to gradual abatement, and the whole principle of the two Government Bills highly questionable.

"The 'Council of the Incorporated Law Society' have commented in terms which we cannot think too severe on the document. They show that the Treasury figures, so far as they relate to the cost of the site and buildings, are quite conjectural and arbitrary. They analyze in detail the arguments whereby it is sought to show that the two main funds upon which the commissioners rely 'are not free to be dealt with for the object in view,' pointing out that the alternative proposed would amount to a diversion of suitors' fees from objects cognate with those for which they were levied to the purposes of general taxation. They reduce the alleged charge of £45,000 on the Consolidated Fund by a series of set offs to nothing at all, and combat successfully the exquisitely pedantic objections that the surplus fees of the common law courts 'belong by law to the Exchequer,' and that, at all events, they 'cannot be considered as a fund properly applicable to providing buildings for the Court of Chancery or the Court of Probate.' It is difficult to conceive anything more perverse or vexatious than this Minute. Whatever may be said as to the merits of the locality—upon which, of course, it does not touch at all—the financial consequences of the scheme had been thoroughly sifted, and the data for the red-tape ex-

ceptions now taken by the Treasury had been in their possession for months. Had the case been as bad as is here made out, the public would cheerfully incur, for the sake of an object of supreme value, a liability incalculably smaller than it has to bear for undertakings the most wasteful and the most useless. But the Law Society has done good service in showing that we may enter on the work with prudence and a good conscience, and that no scruples, except those connected with the convenience and healthiness of the site, need delay its execution."

Births, Marriages, and Deaths.

BIRTHS.

- APPACH**—On Aug. 13, at 7, Sussex-terrace, Hyde-park, the wife of Francis Hobson Appach, Esq., Barrister-at-Law, of a daughter.
- CHRISTIAN**—On Aug. 13, at Monkstown, the wife of the Hon. Mr. Justice Christian, of a son.
- CRAWFORD**—On Aug. 11, at Leeds, the wife of William Crawford, Esq., Barrister-at-Law, of a daughter.
- FROOM**—On Aug. 15, the wife of Charles P. Froom, Esq., of 29, Orsett-terrace, Hyde-park, of a son.
- HAZELAND**—On June 25, at Hongkong, the wife of F. J. Hazeland, Esq., Crown Solicitor, of a son.
- HODGKINSON**—On Aug. 13, the wife of Edward Hodgkinson, Esq., Solicitor, 17, Little Tower-street, E.C., of a daughter.
- MORRISON**—On Aug. 14, at Reigate, the wife of G. Carter Morrison, Esq., Solicitor, of a son.
- PULLEY**—On Aug. 10, at Birkenhead, the wife of William Pulley, Esq., Barrister-at-Law, of a son.

MARRIAGES.

- ATTREE—CALHOUN**—On Aug. 14, T. M. Attree, Esq., of 2, New-inn, Solicitor, to Jane, daughter of the late W. H. Calhoun, Esq., of Arundel, Solicitor.
- BROWNE—REEVES**—On Aug. 8, at Monkstown, county Dublin, Charles Orde Browne, Esq., Royal Horse Artillery, to Wilhelmina Frances, daughter of Richard Reeves, Esq., of Dublin, Barrister-at-Law.
- DYMOND—FOX**—On Aug. 13, William Philip Dymond, Esq., of Lincoln's-inn, Barrister-at-Law, to Florence Amelia, daughter to Francis Ker Fox, Esq., M.D., of Brislington House, near Bristol.
- JOHNSTON—PETERSON**—On Aug. 10, Charles Johnston, Captain Royal Artillery, to Annie Augusta, only child of A. T. T. Peterson, Esq., Barrister-at-Law, Calcutta.
- PIERCE—MILWARD**—On Aug. 7, John Timbrell Pierce, Esq., of Gray's-inn, to Mary, daughter of Henry Milward, Esq., of Redditch.
- SMITH—JONES**—On Aug. 6, Harry Smith, Esq., Advocate, Edinburgh, to Julia Medina, daughter of the late Colonel Rice Jones, K.H., Royal Engineers.
- WALLER—HONE**—On Aug. 13, the Rev. Stephen R. Waller, M.A., to Albinia, surviving daughter of the late Joseph Terry Hone, Esq., Barrister-at-Law.

DEATHS.

- GRAY**—On Aug. 3, David Gray, Esq., of 20, Lincoln's-inn-fields, Solicitor.
- MILLINGTON**—On Aug. 5, at Bristol, suddenly, Henry Millington, Esq., Solicitor, aged 70.
- SCHOALES**—On Aug. 11, at Ballynoe, county Carlow, Katherine Brabazon, daughter of the late John Schoales, Esq., Q.C., Dublin.

Next of Kin.

- PEMBERTON, HARRIETTE**, deceased, widow of the late Rev. John Butler Pemberton, deceased, formerly of St. Kitt's, West Indies. Heir-at-law to apply to the Hon. Sholto T. Pemberton, Chief justice of Dominica, West Indies; or to W. England & Co., 5, Great Winchester-street, London, E.C.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Name will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

- FELL, JANE**, Spinster, Tavistock-street, Covent-garden, £69 Long Annuities.—Claimed by JOHN FELL, the surviving executor.

WHY BURN GAS IN DAYTIME? Use Chappuis' reflectors; they diffuse day light in dark places. The patentee and manufacturer is Mr. Chappuis 69, Fleet-street.—ADV.

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, Aug. 13, 1861.

MARLAND, GEORGE, & J. BROUGHTON EDGE, Attorneys, Solicitors, and Conveyancers, Bolton-le-Moors and Manchester; by mutual consent. May 31.

POOLE, HENRY DAVIS, HENRY JOHNSON, & CHARLES HENRY KIRCAID, Attorneys and Solicitors, 9 & 10, New-square, Lincoln's inn, Middlesex; by mutual consent. Aug. 9.

Windings-up of Joint Stock Companies.

TUESDAY, Aug. 13, 1861.

UNLIMITED IN CHANCERY.

HEREFORD AND MERTHYR TYDVIL JUNCTION RAILWAY COMPANY.—V.C. Stuart has ordered a call of £12 10s. per share on all the contributories; to be paid on Aug. 31, at 12, at 4, Sambrook-court, Basinghall-street.

LIFE ASSURANCE TREASURY.—V.C. Wood: order to wind up, made Aug. 2; Robert Palmer Harding, 3, Bank-buildings, London, appointed interim manager.

RISCA COAL AND IRON COMPANY.—Master of the Rolls: call of £75 per share on all contributories on the list, to be paid on Aug. 24, at 11, to James Edward Coleman, the official liquidator, 16, Tokenhouse-yard, London.

LIMITED IN BANKRUPTCY.

LANDED INVESTMENT COMPANY (LIMITED).—Mr. Com. Fomblanque will, on Aug. 30, at 12, proceed to settle the list of contributories of this company.

FRIDAY, Aug. 16, 1861.

UNLIMITED IN CHANCERY.

LIFE ASSURANCE TREASURY.—Creditors to prove their debts before V.C. Wood forthwith.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Aug. 13, 1861.

BOYLE, WILLIAM, Jeweller, 28, Cheapside, London. P. Boyle, 8, Well-court, Queen-street, Cheapside, executor. Sept. 1.

BRYAN, ELIZABETH, Spinster, 14, Lonsdale-terrace, Lower Barnes, Surrey. Schultz, Solicitor, 4, Dyer's-buildings, Holborn, E.C. Sept. 20.

CLARK, MARY, Spinster, 25, Hosier-street, Reading, Berks. Sommes & Cooke, Solicitors, Wokingham, Berks. Aug. 31.

COMMERELL, ELISA CHRISTINA, Spinster, formerly of 5, Lower Berkeley-street, Manchester-square, afterwards 9, Chapel-place, Cavendish-square, and late 18, Acacia-road, St. John's-wood, Middlesex. Sadler, Solicitor and Acting Executor, 28, Golden-square, London. Sept. 10.

DUNCAN, LEONARD, Miller and Maltster, Kidderminster, Worcestershire. Saunders, & Son, Solicitors, Kidderminster. Sept. 20.

GRIFFITHS, THOMAS, Glove Manufacturer, 3, Foster-lane, Cheapside, London, and afterwards of 61, London-road, Croydon, Surrey. Clarke, Solicitor, Saddler's-hall, Cheapside. Nov. 20.

HALE, WILLIAM, Gent., Bristol. Strickland, Solicitor, 3, All Saint's-court, Bristol. Oct. 19.

HALL, Sir JOHN, Knight Commander of the Royal Guelphic Order of Hanover, formerly of the St. Katherine Dock House, East Smithfield, London, and afterwards and late of 6, Lansdown-crescent, Kensington-park, Middlesex. Nixon, Son, & Anton, Solicitors, 38, Cannon-street, London, E.C. Sept. 1.

LOAD, FANNY MARIA, Spinster, 3, Jamaica-street, Bristol. Schultz, Solicitor, 4, Dyer's-buildings, Holborn. Sept. 20.

WOOLCOCK, Rev. CLOBERY SALLY, Clerk, Charlestown, St. Austell, Cornwall. Carlyon, Solicitor, St. Austell. Oct. 1.

FRIDAY, Aug. 16, 1861.

ARMSTRONG, ISAAC, Saddler's Ironmonger, 35 and 36, King-street, Snow-hill, London. Fisher, Solicitor, Merchant Taylors' Hall, London. Oct. 20.

ATLEN, WILLIAM, Bonnet Manufacturer, 2 and 3, New-road, Brighton, Attree, Clarke, & Howlett, Solicitors, 8, Ship-street, Brighton. Sept. 29.

BATEMAN, COLTHURST, Esq., Bertholey-house, near Usk, Monmouthshire, and of Stanley-villa, Weston-park, Bath, Somersetshire. White, Solicitor, 7, Southampton-street, Bloomsbury. Nov. 1.

BAYNTON, CHARLES, Esq., a Major in her Majesty's Army, Clayton, Sussex. Attree, Clarke, & Howlett, Solicitors, 8, Ship-street, Brighton. Sept. 29.

BECKWITH, AUGUSTUS ADOLPHUS HAMILTON, Solicitor, St. Martin-al-Palace, Norwich. Hartcup, Solicitor, Bungay, Suffolk. Nov. 21.

BENNETT, JAMES GEORGE, Licensed Victualer, Wick Inn, Hove, Sussex. Attree, Clarke, & Howlett, Solicitors, 8, Ship-street, Brighton. Sept. 10.

BIRD, JOSEPH, Auctioneer and Maltster, Ledbury, Hereford. Moore, Solicitor, Hereford. Sept. 12.

BLANTER, THOMAS, Farmer, late of Meason, Salop. Pallin, Shrewsbury, Solicitor. Sept. 14.

BRETT, THOMAS, St. Dunstan's, Canterbury. Fielding, Solicitor, Bridge-street, Canterbury. Oct. 11.

DICKIN, GEORGE, Wine Merchant, 47, Finsbury-circus, and 29, Queen-street, Cheapside, London. Williamson, Hill, & Williamson, Solicitors, 10, Great James-street, Bedford-row, Middlesex. Oct. 1.

ESDAILE, GEORGE, Gent., Lothian-terrace, Coal Harbour-lane, Camberwell Surrey. Solicitors, M'Leod, Stenning, & Watney, 16, London-street, Fenchurch-street, London. Sept. 17.

FORSTER, JOSEPH, Wholesale and Retail Grocer & Tea Dealer, Brompton Cumberland. Solicitors, Carrick, Lee, & Foster, Brompton. Aug. 30.

GOOD, WILLIAM, Builder, 14, Terminus-road, Brighton. Solicitors, Attree, Clarke, & Howlett, 8, Ship-street, Brighton. Sept. 29.

HILLS, JOHN, Farmer, Earl's Colne, Essex. Turner & Deane, Solicitors, Colchester. Oct. 1.

HOMFRAY, MARGARET, Widow, Cannon Vale, Kingsland, Shrewsbury, Salop. Pallin, Solicitor, Shrewsbury. Sept. 14.

JONES, JOHN, Flannel Manufacturer and Farmer, Llangollen, Denbigh, and of Tanygrraig, Llangollen, Denbigh. T. & C. Minshall, Solicitors, Oswestry. Nov. 1.

PEDDER, SIR JOHN LEWIS, Knight, 8, Bedford-square, Brighton, Sussex. Attree, Clarke, & Howlett, Solicitors, 8, Ship-street, Brighton. Sept. 29.
SMALL, MARTHA, Canterbury. Fielding, Solicitor, Bridge-street, Canterbury. Oct. 11.
WICKENS, WILLIAM, Gentleman's Servant, formerly of Horsham, Sussex, and late of 12, Essex-street, Brighton, same county. Attree, Clarke, & Howlett, Solicitors, 8, Ship-street, Brighton. Sep. 10.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Aug. 13, 1861.

BROWN, CHARLES, Builder, 8, High-street, Hampstead, Middlesex. Brown & Grey, M. R. Nov. 16.
EWBANK HENRY, Gent., Titefield-terrace, Middlesex, late of Bermondsey, Surrey, Manufacturer of Metallic Casks, but formerly of Rotherhithe, Surrey, Rice Merchant, Franks & Ewbank, V.C. Wood. Nov. 1.
GRAVE, LOYD, Widow, Chelmsford, Essex. Jocelyne & Wade, M. R. Nov. 20.
MINSHULL, GEORGE ROWLAND, Esq., Aston Clinton, Buckinghamshire, and Bentinck-street, Cavendish-square, Middlesex. Tuvilliers & Dawson, V.C. Kindersley. Nov. 4.
NEWBERRY, RICHARD NICHOLAS, late a Cornet in the Honourable the East India Company's Service at Numarabad, Bombay. Weeding & Newberry, V.C. Stuart. Nov. 3.
SMITH, THOMAS, Farmer & Dealer, St. Whites, Clonderford, East Dean, Gloucestershire. Smith & Hartland, V.C. Stuart. Nov. 1.
THOMAS, JAMES, House Agent, formerly of 88, Paul-street, St. Leonard, Shoreditch, Middlesex, and late of 19, Bath-street, Tabernacle-square, Middlesex, and of Acacia Lodge, Leyton, Essex. Searl & Thomas, M. R. Nov. 25.

FRIDAY, Aug. 16, 1861.

BAGOTT, ROBERT, Esq., Liverpool. Dobson & Faithwaite, M. R. Nov. 7.
DENNE, RICHARD, Gentleman, Rodmersham, Kent. Solly & Solly, M. R. Nov. 23.
GOODRENER, GEORGE, Ships' Ironmonger, Wellclose-square, and Albert-road, Dalston, Middlesex. M. R. Nov. 2.
IRVING, MARGARET, Widow, Workington, Cumberland. Hales & Graham, M. R. Nov. 1.
TURNER, GEORGE SNAPE, Cowkeeper & Milkman, Brunswick-place, Brompton, Middlesex. Rook & Attorney-General, M. R. Nov. 1.
UBANK, JOSEPH, Yeoman, Rosagill, Ship, Westmoreland. Hindson & Ubank, M. R. Nov. 1.

Assignments for Benefit of Creditors

TUESDAY, Aug. 13, 1861.

ASHWORTH, EMANUEL, JOHN MOORE BOWEN, & JOHN CATTOW, Manufacturers, Marple, Cheshire (Aqueduct Mill Co.). Sol. Fox & Marland, Manchester. July 16.
HEADWORTH, JOHN WORSALL, Millwright & Machine Maker, West Milton, Yorkshire. Sol. Shepherd, Barnsley. July 30.
GERARD, CHARLES, Printer, Stationer, & Newspaper Publisher, Warrington, Lancashire. Sol. Nicholson, Warrington, Lancashire. Aug. 6.
HARWOOD, WILLIAM NORMAN, Linen Draper, West-street, Great Marlow, Buckinghamshire. Sol. Honey, Humphreys, & Honey, 14, Ironmonger-lane, London. July 18.
MARSHALL, JOHN, Butcher, Horncastle, Lincolnshire. Sol. Clitherow & Dee, Horncastle. July 30.
SPENCER, RALPH, Ironmonger, Whittlesey, Isle of Ely, Cambridgeshire. Sol. Wilders, Whittlesey. Aug. 8.
TAYLOR, THOMAS, Tailor, White Rock-place, Hastings, Sussex. Sol. Spyer & Son, 8, Broad-street-buildings, City, E.C. July 13.

FRIDAY, Aug. 16, 1861.

COOPER, JAMES, Rag & Waste Merchant, Manchester. Sol. Heath, 41, Swan-street, Manchester. July 29.
CROWHURST, WALTER, Milliner & Lace-maker, 6, Union-street, Plymouth, Devon. Sol. Beer, Devonport. August 13.
DUMMETT, ROBERT, Shopkeeper & Maltster, Braunton, Devon. Sol. Ben-craft, Barnstaple, Devon. August 5.
FOULD, HENRY, Butcher, Wokingham, Berks. Sol. Roberts, Wokingham. July 25.
MENKES, JAMES, Draper, Kingston-upon-Hull. Sol. Vollans, 3, Osborne-street, Kingston-upon-Hull. July 19.
PARSONS, JOSEPH SAMUEL, Leather Seller, Uxbridge, Middlesex. Sol. Burr, 12, Paternoster-row, London. July 16.
PEPPER, JOHN, Grocer & Flour Dealer, Sheffield, Yorkshire. Sol. Broad-bent, Sheffield. Aug. 2.
WOODS, WILLIAM, Cheesemonger, 37, St. John's-road, Hoxton, Middlesex. Sol. Turner, 69, Aldermanbury, London. July 27.
WRIGHT, ROBERT FREDERICK, Grocer and Provision Dealer, Wath-upon-Deane, Yorkshire. Sol. Saunders, Wath-upon-Deane. July 29.

Bankrupts.

TUESDAY, Aug. 13, 1861.

COGSWELL, EDWARD HENRY, & GEORGE DAY, Builders, Peterborough, Northamptonshire (Cogswell & Day). Com. Fane: Aug. 22, at 12.30; and Sept. 20, at 2; Basinghall-street. Off. Ass. Whitmore. Sol. Kingsford & Dorman, 23, Essex-street, Strand. Pet. July 31.
HOSWELL, SAMUEL, Draper & Grocer, Padstow, Cornwall. Com. Andrews: Aug. 27 and Sept. 25, at 12; Exeter. Off. Ass. Hirtzell. Sol. Mason, Sturt, & Mason, 7, Gresham-street, London; or Turner & Hirtzell, Exeter. Pet. July 29.
HUMPHREY, CHARLES, & CHARLES HUMPHREY, jun., Oil Refiners & Candle Manufacturers, 18, Suffolk-grove, Great Suffolk-street, Southwark, Surrey. Com. Fane: Aug. 24 and Sept. 27, at 12; Basinghall-street. Off. Ass. Cannan. Sol. Combs, 25, Bucklersbury. Pet. Aug. 12.
MOODY, CHARLES, Edge Tool Manufacturer & Cutler, Queen-street, Portsmouth, Southamptonshire. Com. Evans: Aug. 27, at 1; and Sept. 19, at 12; Basinghall-street. Off. Ass. Johnson. Sol. Pownall & Co., Staple Inn; or Edgcomb & Cole, Portsea, Hants. Pet. Aug. 10.
ROBINSON, CHARLES FORBES, Boarding-house Keeper, 16, Sussex-street, Warwick-square, Piccadilly, Middlesex. Com. Fonblanque: Aug. 22, at 10.30; and Sept. 11, at 12.30; Basinghall-street. Off. Ass. Graham. Sol. Smith, 30, Denbigh-street, Piccadilly. Pet. Aug. 13.
WILLS, THOMAS, Licensed Brewer & Beer-shop Keeper, Newtown, Alver-

stoke, Southampton. Com. Fane: Aug. 24, at 11.30; and Sept. 27, at 11; Basinghall-street. Off. Ass. Cannan. Sol. Godwin, 4, Essex-court, Temple; or Clark, Bishops Waltham. Pet. July 26.

FRIDAY, Aug. 16, 1861.

BELL, THOMAS, and JOHN WISEMAN, Grocers and Provision Merchants, Sunderland (Bell and Wiseman). Com. Ellison: Aug. 22, at 11.30; and Oct. 4, at 12.30; Newcastle-upon-Tyne. Off. Ass. Baker. Sol. Harle & Co., 20, Southampton-buildings, Chancery-lane, London, and 2, Butcher-bank, Newcastle-upon-Tyne. Pet. Aug. 12.
BRITTAIN, CHARLES, Builder and Brick Maker, Dacre-hill, Bebbington, Chester. Com. Perry: Aug. 26, and Sept. 16, at 11; Liverpool. Off. Ass. Turner. Sol. Etty, Cable-street, Liverpool. Pet. Aug. 13.
ELFORD, JOHN EDWARD, Grocer, 1, Cumberland-place, Bayswater, Paddington, Middlesex. Com. Fonblanque: Aug. 26, at 12.30; and Sept. 18, at 1; Basinghall-street. Off. Ass. Stansfeld. Sol. Prall & Nickinson, 19, Essex-street, Strand. Pet. Aug. 14.
EFFS, WILLIAM JAMES, Nursery and Seedman, and Hotel Keeper, Maidstone. Com. Fonblanque: Aug. 28, at 11; and Sept. 18, at 2; Basinghall-street. Off. Ass. Stansfeld. Sol. Tayloe, 4, Scott's-yard, London. Pet. Aug. 14.
GRIFFITHS, ROBERT, Innkeeper, Llantrissant, Glamorganshire. Com. Hill: Aug. 27, and Sept. 24, at 11; Bristol. Off. Ass. Acraman. Sol. Kent, Mitre-court chambers, Temple, London, or D. H. Gooden, Bristol. Pet. Aug. 5.
HAMERTON, JOSEPH, Worsted Manufacturers, Dam Head Mill, Shibden, Yorkshire. Com. West: Aug. 30, and Sept. 20, at 11; Leeds. Off. Ass. Young. Sol. Wavell, Philbrick, & Foster, Halifax, or Bond & Barwick, Leeds. Pet. Aug. 12.
HOPE, HENRY AUGUSTUS, Hay and Straw Salesman, 25, West Smithfield, London, and of 13, Oxford-road, Downham-road, Islington, Middlesex. Com. Fonblanque: Aug. 26, and Sept. 18, at 1.30; Basinghall-street. Off. Ass. Stansfeld. Sol. Sydney, 46, Finsbury-circus. Pet. Aug. 16.
MILNICH, JOHN, THOMAS WROE, BENJAMIN TAYLOR, & JOHN HOPKIN, Cotton Spinners, Oldham, Lancashire (Milnich, Wroe, & Co.). Sept. 3, and Oct. 15, at 12; Manchester. Off. Ass. Fraser. Sol. Richardson & Hinnell, Bolton and Manchester. Pet. Aug. 7.
SCIVENER, GEORGE, Provision Dealer, Wigan. Aug. 26, and Sept. 17, at 12; Manchester. Off. Ass. Herniman. Sol. Heywood, Manchester. Pet. Aug. 1.
SIMONS, EDWARD, Lamp Dealer & Italian Warehouseman, 115, Newgate-street, London, and 36, Bull-street, Birmingham, Warwickshire. Com. Fonblanque: Aug. 27, at 12.30; and Sept. 11, at 2.30; Basinghall-street. Off. Ass. Graham. Sol. Linklaters & Hackwood, 7, Walbrook, London. Pet. Aug. 12.
SPARKE, EDWIN HENRY, Wholesale Jeweller, formerly of 17, Houndsditch, London, but now of 10, Great Cornam-street, Russell-square, Middlesex. Com. Evans: Aug. 29, and Sept. 24, at 11.30; Basinghall-street. Off. Ass. Johnson. Sol. Reed, 1, Guildhall-chambers, London. Pet. Aug. 15.
TERRY, DANIEL, Engineer, Queen-street, Dover, Kent. Com. Holroyd: Sept. 2, at 12; and Oct. 1, at 2; Basinghall-street. Off. Ass. Edwards. Sol. Murrugh, 18, Warwick-court, Gray's Inn, London. Pet. July 30.
WELLL, EDWARD, Broker, Commission & Insurance Agents, Talbot-chambers, 1, Fenwick-street, Liverpool. Com. Perry: Aug. 26, and Sept. 16, at 11; Off. Ass. Morgan. Sol. Mason, 30, Castle-street, Liverpool. Pet. Aug. 12.
WILD, JOHN CHRISTIAN BENJAMIN, Licensed Victualler, 55, St. Mary Axe, London. Com. Fonblanque: Aug. 28, at 11.30; and Sept. 18, at 1.30; Basinghall-street. Off. Ass. Graham. Sol. Begbie, 33, Essex-street, Strand, London. Pet. Aug. 12.

FRIDAY, Aug. 16, 1861.

WALTON, WILLIAM PORTER, Corn and Seed Merchant, Kingston-upon-Hull. Aug. 12.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Aug. 13, 1861.

ABBOTT, GEORGE, Machinist, Constitution-hill, Birmingham. Sept. 26, at 11; Birmingham.—**BALLANTYNE, ROBERT**, Merchant, Liverpool. Sept. 2, at 11; Liverpool.—**BELEY, GEORGE**, Innkeeper, Highbridge, Somersetshire. Sept. 23, at 11; Bristol.—**BRITTAIN, JOHN**, Timber & Coal Dealer, Pendleton, Manchester. Sept. 8, at 12; Manchester.—**CALCOVORRESE, ANTONIO**, Merchant, Manchester. Sept. 5, at 12; Manchester.—**COLEMAN, EDWARD, & THOMAS SWINDLELLS**, Brokers, Manchester (Brown, Conliffe, & Co.) Sept. 5, at 12; Manchester.—**FOSTER, WILLIAM**, Cloth Cap Manufacturer, Manchester. Sept. 5, at 12; Manchester.—**GREENHALGH, SAMUEL**, Confectioner, Bury, Lancashire. Sept. 4, at 12; Manchester.—**KELLAND, GEORGE, jun.**, Grocer & Tea Dealer, Lancaster. Sept. 4, at 12; Manchester.—**M'CLURE, JAMES, jun.**, Warehouseman, Manchester. Sept. 3, at 12; Manchester.—**SILLAR, DAVID, & JOHN CHARLES SILLAR**, Merchants, Liverpool, and Shanghai, China. Sept. 3, at 11; Liverpool.

FRIDAY, Aug. 16, 1861.

ARONST, JOHN, Innkeeper, Rainbow Tavern, Fleet-street. Sept. 7, at 12; Basinghall-street.—**ASHWORTH, HANDEL**, Machine Broker & Cotton Manufacturer, Dukinfield, Chester. Sept. 10, at 12; Manchester.—**BLAKE, HENRY**, Corn Merchant & Maltster, Shide, near Newport, Isle of Wight, and Brewer, Portsea, Hants. Sept. 7, at 12; Basinghall-st.—**BREW, WILLIAM**, Tailor & Draper, 11, Tarlton-street, Liverpool, Lancaster. Sept. 9, at 11; Liverpool.—**CHALELEY, WILLIAM SEABROOK**, Ship Owner and Coal Merchant, Liverpool. Sept. 9, at 11; Liverpool.—**DUMPREY, JOHN**, Grocer & Flour Dealer, Hockley-hill, Audenshaw, Lancashire. Sept. 11, at 12; Liverpool.—**FOWLER, WILLIAM, and THOMAS SANDERSON**, Insurance Brokers for the Sale of Ships, and Forwarding Agents, Liverpool (Fowler & Sanderson). Sept. 9, at 11; Liverpool.—**LEWIS, THOMAS**, Draper, Nantwich, Cheshire. September 24, at 11; Liverpool.—**M'NULTY, JAMES, and JOHN M'NULTY**, Joiners and Builders, Ashton-under-Lyne, Lancashire. September 11, at 12.—**SHORT, STEPHEN SAM**, Boot & Shoe Manufacturer, 33, Shoreditch, Middlesex. Sept. 9, at 12.30; Basinghall-street.—**PARIS, GEORGE JAMES, and PARIS, WILLIAM HENRY THOMAS**, Provision Merchants, Liverpool (Paris, Brothers). Sept. 9, at 11; Basinghall-street.—**SHERBEN, EDWARD RICHARDS**, Builder, 6, Richmond-villas, Westbourne-grove North, Bayswater, Middlesex. Sept. 9, at 12.30; Basinghall-street.—**STEVENS, GEORGE**, Merchant, 16, Great St. Helens, London. Sept. 9, at 12; Basinghall-street.—**STUART, JOHN**, Draper, High-street, Portsmouth, Southampton. Sept. 9, at 12; Basinghall-street.—**THOMAS, WILLIAM**, Tailor & Outfitter, Newcastle-upon-Tyne. Aug. 30, at 12; Newcastle-upon-Tyne.

We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher

ERRATUM.—In the article entitled "*Evidence in Criminal Cases*," ante, p. 664, in reference to Mr. Worsley's pamphlet on that subject, an error occurs in the fifth sentence. The phrase "The author impugns these propositions, and also Mr. Taylor's application of them," should have been, "The author impugns Mr. Taylor's application of these propositions."

THE SOLICITORS' JOURNAL.

LONDON, AUGUST 24, 1861.

CURRENT TOPICS.

The annual meeting of the Metropolitan and Provincial Law Association is announced to take place on Tuesday, the 8th, and Wednesday, the 9th, of October next, at Worcester. The programme consists of a meeting at eleven o'clock on Tuesday at the lecture room of the Worcestershire Natural History Society, in Foregate-street; a dinner at the Guildhall at six o'clock on the same day, at which Mr. Torr, the president of the association will preside; and a further meeting in the Natural History Society's room, on the following day at eleven o'clock. The Worcester and Worcestershire Law Society have appointed Mr. Marcy as president, and Mr. John Stallard as secretary of the local committee. It is requested that intimations on the part of members proposing to attend the meetings and join the dinner will be sent to the latter gentleman. The Secretary, Mr. Rickman, again urges on the country members of the Association the importance not only to the society but to the profession at large, of full attendance and active support on their part, and we have no doubt that his representations will meet with a cordial response. Many subjects connected with the conduct of the affairs of the Association require to be illustrated and supported by the aid of local opinion; and in this, as in all similar matters, co-operation can only be effected by contact and comparison of views. The delightful neighbourhood of Worcester will present many attractions to the London members of the Association, and the necessary arrangements for promoting an assemblage from all quarters by railway have been made by the committee. A list of subjects is again submitted, on which papers are invited. The new Bankrupt Act heads the list, which, in other respects, is the same as last year; the remaining headings being as follows:—Professional Remuneration; Criminal Law Consolidation; Chancery Evidence; Legal Education—the Preliminary and Intermediate Examinations; Fusion of Law and Equity; Mining Leases; Appointment of a Minister of Justice; Offices of Executor and Trustee; County Court Jurisdiction; Partnership *en commandité*—should it be legalized here? Registration of Partnerships; Corrupt Practices at Elections; Joint Stock Companies; Local Tribunals of Commerce and Councils of Prud'hommes; Admiralty Court; Divorce Court; Local Government Legislation; Grand and Petty Juries—the principle of Unanimity; Law of Libel; Judgments—Lord St. Leonards' Act of 1860; Appeal in Criminal Cases; Registration of Titles—Registration of Deeds; Whether a Union of the two branches of the Legal Profession would be advantageous to the Public? To these suggestions we may perhaps venture to add the new question of the Law of Evidence.

It is also announced that on Wednesday, the 9th of October, a meeting of the Solicitors' Benevolent Association will be held at Worcester, at ten o'clock, which will lend additional interest to the proceedings of the

Association. It will be remembered that a question as to the investment of the capital of that Association stands adjourned from the meeting in April last, upon which, as well as upon other important matters, the views of the assembled members will have to be ascertained.

A proposal for a further change in the law of evidence has been brought forward. The question has long engaged the attention of law reformers; it now seems likely to be submitted in the shape of a distinct proposition to the profession and the public. The suggestion is, that the competency of parties to be examined as witnesses shall be extended to criminal cases. Lord Brougham, in his opening address at the Social Science Congress, introduces the subject by reference to the Act which he succeeded in carrying in the year 1851, for the examination of parties in civil suits. He says:—

Above twenty years before I had strongly urged the change of the law of evidence in this and other respects. Various improvements had been effected rather by judicial decision than by statute—by what Mr. Bentham used to call "judge-made law." Then in 1843, Lord Denman carried a bill for removing the objection of interest to a witness's competency, which I had in vain proposed fifteen years before. In 1842 the proposal was renewed that, all objection of interest proposed to be removed, the parties should themselves be made competent. But the bill passed confined to witnesses not being made parties. It was foretold by the objectors that perjury would be increased. The Act passed, and there was no increase of perjury. I then brought in the bill for the examination of parties, and it passed without much opposition, though the Chancellor of the day resisted it, and had it referred to a select committee. But I never should have carried it had not the first step been taken by the bill of 1843, and the experience under that Act showed how safely we might go further. The Law Amendment Society, the precursor and the ally of our National Association, examined minutely the working of the County Courts Act in the examination of parties. It circulated queries to all the judges of those courts, and their answers proved wholly favourable to the plan. I had thus for the bill the powerful support of actual experience for several years; and I now have hopes of being able to complete the great change by a further step, extending it to criminal cases, at least so far as giving the defendant an option of being examined if he pleases, and of course submitting himself to the sifting of cross-examination.

The project has already been discussed in one of the daily newspapers, and is likely to attract a larger share of non-professional attention than any legal change which has been proposed of late years. We cannot expect that so great an innovation upon the traditional course of public justice will be permitted to take place without opposition. Rules of law which have been rooted by centuries of uninterrupted usage in the minds of the people, are not likely to yield at the first blow to the stroke of reform, although we have been, to some extent, familiarized with great changes, and have seen, in many cases, the salutary effects of amendment. The universal objection which presents itself to this, as to all former movements in the same direction, is the prospect that temptations will be held out to perjury—a misgiving which we think experience has, on the whole, tended to allay; and which may be expected ultimately to subside altogether. A criminal, it may easily be supposed, will hesitate before he risks his chance of detection by a voluntary statement of what is false, even if he be callous to the additional crime of giving false witness. An innocent man, on the other hand, will, in most cases, come to the conclusion, and rightly, that his own evidence will more clearly establish his innocence than the testimony of others. The consciousness of this universal attribute of innocence will perhaps induce the guilty man in many instances to submit to be examined, for fear that his silence should prejudice him, and be interpreted as a sign of his guilt. So far, however, the relaxation

would be favourable to the cause of innocence, whilst it would add to the embarrassments of the criminal by placing before him a choice of evils. We will take, for example, the case of Mr. Hatch. No doubt it was in one respect exceptional. Evidence for the defence was not called, and no one can say, if Mr. Hatch's witnesses had been called, that the jury would not have acquitted him, and that justice would not have been done on the first indictment. But whilst the case does not establish the necessity for the proposed change, it yet furnishes a remarkable instance of a criminal trial, in which the admission of the defendant to become a witness in his own cause would have, in all probability, prevented the perpetration of what we now believe to be a grievous wrong. It is impossible, however, that so vital a change, involving such an entire re-construction of the theory of defence in criminal suits, can be accomplished without the fullest reflection. We invite the attention of our experienced readers to this most important subject, feeling assured that it is one which must before long largely attract public discussion.

PARLIAMENTARY PAPERS OF THE SESSION RELATING TO LAW AND LAWYERS.

II.

3. POLICE AND CRIMINALS.

The good old "crown's quest" might fitly begin a section on the execution of the criminal law; but the return made, upon an address of the House of Commons, of coroners inquests in the metropolis (H. C. 247) was intended to throw light on the practice of murder of a particular kind, rather than on the legal procedure itself. In the early part of the year, when a complaint of the fewness of marriages was rising from a class where they are a luxury, some startling statements were current of the number of bodies of poorer children, recently born, and apparently put to death with violence, that were found in the different parishes of London. The paper is confined to inquests in the metropolitan district on the bodies of infants from the end of 1855 to the end of 1860, with a statement of the parish, age, sex, and verdict in each case. The list for these five years extends to seventy-six pages; the total number of the inquests being 3,901. Taking a page at a venture, which contains seventy cases in the various parishes, we find "wilfully murdered" set down against thirteen; in the next two pages, the same words opposite four and fifteen cases respectively; which would give thirty-two murders out of 210 of the deaths. In many other cases, it is noted that the circumstances of the death are unknown. All these wilfully murdered children are described as newly born. Let England remember these numbers when it thanks Heaven it is not as other countries are, and has no houses of charity at whose wickets mothers, who ought to be maids, can leave their babes at nightfall unharmed.

The Metropolitan Police (H. C. 200) increased from 5,217, in March, 1857, to 5,272, in March, 1859; in the next year the number was 5,188, and in March, 1861, 5,279 together with 462 employed under the 23 & 24 Vict. c. 135, in her Majesty's yards. Of the force in the counties and boroughs the fourth report (H. C. 67), under the 19 & 20 Vict. c. 69, has been made for the year ending September, 1860, by Major Cartwright, inspector for the Eastern Counties, Midland, and North Wales district; Colonel Woodford, for the Northern District; and Captain Willea, for the Southern. The Rutlandshire force is one chief constable and four constables, yet in the year no fewer than 20,132 casual lodgers and vagrants slept at the common lodging houses in Oakham and Uppingham, and 562 vagrants were relieved at the union. In Oxford, the University undertakes the night duties. The extra duties of the constabulary fall under the heads of inspectors of

weights and measures, inspectors of common lodging houses, assistant relieving officer for vagrants, inspector of nuisances, high constables, serving summonses for coroners, and deputy surveyors of highways. Major Cartwright advocates throwing prosecution expenses on the local authorities. One prisoner in Northamptonshire had cost the country thirty-two prosecutions. The forces in the respective districts are 4,179, 5,310, and 4,004.

By the 5 and 6 Will. 4, c. 38, power is given to a Secretary of State to appoint a number of persons, not exceeding five, to inspect, either singly or together, every gaol or other place for the confinement of prisoners; also power to authorise any person or persons to inspect any such place upon any occasion. Mr. Sydney Turner, inspector of the certified reformatory schools of Great Britain, in June last reports a continuance of the sensible diminution of juvenile crime since the establishment of these schools—the numbers of young offenders in England and Wales for the years ending September, 1859 and 1860, being 8,913 and 8,029. But as this decrease might be attributed to an earlier preventive education, the numbers of commitments of offenders above sixteen years old are shown to have steadily decreased in four years from 112,322 to 92,585. Taking the increase of population into account, the decrease of the crimes of boys and girls in five years is stated at 40 per cent.; in grown persons, at 12 per cent. It is remarkable that the latter decrease did not show itself until the former had had time to bear on the supply of older criminals. The inmates of the reformatories themselves have increased from 3,222 in December, 1859, to 3,712 in December, 1860. This the inspector attributes to the admission of a great number of children, under twelve, on first conviction—an inconvenience which will, he hopes, be remedied by the industrial schools. He recommends the following three rules:—that no boy be committed to a reformatory on a first conviction, unless an orphan of whom the parish could not, or could not be required, to take charge; that every boy convicted for the second or third time should be committed to the reformatory for at least three years; that the parent, unless a widow or disabled, should contribute something, however small. Girls appear as criminals at a later age than boys. As they ought to be entirely separated from vicious influences, they should be placed in a reformatory on first conviction. The system is successful. It appears by the returns to the inspector from the managers of the schools, that of 1,000 boys discharged in England up to the end of 1859, above 600 are known to be doing well, 120 have been again convicted, and 100 are doubtful characters. Of girls, the proportion known to be doing well is about 40 per cent. only. The majority of relapses take place among those who are returned to their friends or relatives. Placing the boy or girl out on licence (ticket of leave) for a year has succeeded. Contribution from parents in England has increased; it amounted to £2,234 11s. 3d. for 1860. The payment by the Treasury was £46,735 12s. 4d. Cases of ill-usage and improper punishment have occurred at the large reformatory at Redhill. What they were is not stated, though the object of a report should be to enable Parliament to form its own opinion. The number of reformatories in England (including Wales) is 48, with accommodation for above 2,600 boys and 570 girls. With reference to the industrial schools, we may here notice the report (H. C. 460) of the select committee appointed to inquire how the education of destitute children may be most efficiently assisted by any public funds. For children who have acquired criminal or vagrant habits, the committee does not recommend any such provision until the industrial schools measure has been tried. Ordinary ragged schools, if they give industrial training, may have certain allowances from the Privy Council for rent and raw materials.

The decrease which the report on reformatories states to have taken place in the number of prisoners is supported by the statement of Mr. J. G. Perry, in the 26th report of the inspectors of prisons, that in the houses of correction in Middlesex and Surrey the commitments, which underwent reduction to the amounts respectively of 4,802 and 2,106 in the two previous years, have in the last year been further reduced respectively by 1,365 and 479. Notwithstanding that productive labour is found more beneficial as a reforming agent than other labour, and aids the rates by large pecuniary receipts, there are still many large prisons in which it is a matter of difficulty to find work even for those who are sentenced to hard labour. This report embraces the southern district; and exhibits in a separate notice of each prison the number of the prisoners, distinguishing between males and females, committed in the last year, the average daily number, and the greatest number at one time; the annual ordinary charge per prisoner; a classification of the prisoners, whether for trial or committed, &c.; and their employment. Maidstone county gaol, which has the largest daily average, 500, may be selected as an example. The annual charge there per prisoner is £21 10s. Among the number are 136 summary misdemeanants, 207 convicted of felony, and 67 misdemeanants convicted at assizes or sessions. The trades of the commoner kinds are carried on in the prison. There were 75 prisoners at the treadmill, which is used in grinding corn for the county prison and lunatic asylum. In the year ending Michaelmas, 1859, the infirmary cases were 429; the slight cases seen by the surgeon, 11,208; cases of insanity, 9—contradicting, says the report, the common belief that this malady is of more common occurrence in prisons on the separate system than where the prisoners are associated. All persons registered as Roman Catholics are allowed and required to attend Divine Service of their Church on Sundays. Mass is performed for the males in the manufactory in the presence of an officer. The priest converses with the females in their cells, a female officer being in attendance in the corridor, near the cell door, which is kept ajar, so that the prisoner is not in sight of the officer. The report observes that it would be more in accordance with the gaol Act if the officer did not lose sight of the prisoner during the interview. This is effected in some prisons by means of a door of thick glass, which intercepts the sound of the voices. Ten prisoners were in punishment cells on bread and water. There had been eight floggings in the year. On two boys, one sixteen and the other fourteen, the punishment had been inflicted with the cat. Not only was this contrary to custom, but the scars made the persons inadmissible in after life into the army. In several of those awards of punishment it was not stated that the evidence was taken on oath as required by law. One prisoner had been put in irons *until further notice*, contrary to 2 & 3 Vict. c. 56, s. 6. In the notices of most of the other prisons such points as those observed at Maidstone are not touched upon, and there is in this report generally a want of systematic information as to the religious and moral influences brought to bear upon the prisoners, particularly such as are not of the Established Church, the punishments and rewards, the cases of sickness, the diet of the prisoners, their hours of work and relaxation, and the social position and attainments of the prisoners. If Parliament depends on this little octavo of forty-four pages for its information on such matters as to all the prisons of the southern district, legislative knowledge must be lacking as to some of them, and must be very meagre and perfunctory as to others.

On the particulars of the corporal punishments inflicted in the gaols and houses of correction in the United Kingdom, both the Lords and the Commons have addressed for, and received, returns (H. L. 65; H. C. 3) for the period of the last three years. From the Lords' paper it appears that the total number of

floggings in England was 838, the counties of Cumberland, Huntingdon, Monmouth, and Rutland, having an honourable "*nil*" against them. In Wales, Denbigh and Montgomery are the two only flogging counties, with a total of 16 cases between them. The offence is specified in this return, also the number of lashes, whether public or private, the prisoner's age, by whom the flogging was inflicted; and further, the names of the visiting justices who ordered it, the date of the order, and the names of the justices, surgeons, and other persons present. We find a boy of eight receiving twenty-four lashes with the birch. At Faversham, two boys of nine—let our readers keep their stomachs—are cut with fifteen lashes of the cat, one by the order of J. B. Sharp and E. Garraway, Esqs., the other by that of S. G. Johnson and C. Bryant, Esqs.; the surgeon also being an E. Garraway, Esq. Elsewhere children of ten have forty-eight lashes with the birch, and a boy of eleven, brought out, it seems, to be stripped a second time and re-scarred, has twenty and fourteen with a cat. At Newcastle Gaol a child of eight is flogged with eight lashes of the cat by order of C. E. Ellison, Esq.; it was not thought worth while, apparently, to keep a record of the persons present at this lashing. Such was generally the case at this prison, at which there were nearly 100 cases of flogging out of the whole 838, and all, strange to say, accounted for by the one word "*larceny*." At Shepton Mallet, in Somersetshire, there is nothing under twenty-four with the cat. Two of the boys there were ten years old, one of whom had thirty lashes. The ages of all were between ten and sixteen. A boy there of fourteen received eight-and-forty lashes with the cat; but then, we are told that these punishments were slightly given, and that no blood was drawn. Actually, a child of seven, at Petworth gaol, of which the Duke of Richmond and the Earls of Chichester, March, Winterton, and Egmont were visiting justices, received thirteen lashes with the cat, but by whose order is not disclosed. Then why talk of doing away with such flogging in the army or navy?—unless, indeed, the strong arm of martial law put aside the cat as childish. At any rate, why send a schoolmaster to prison for two months with hard labour for wealing a young lad with a cane? As another phase of this prison practice, men of forty and fifty years of age are flogged with a birch rod "*on the bare breech*."

The boys thus, at an age when the flesh as well as the heart is "*waxen*" to take an impress, having been endorsed for life with the scores of infamy, will in due time rank among the inmates of the convict prisons. In May last (H. C. 278), the number of prisoners at Brixton, Chatham, Dartmoor, Fulham, Millbank, Parkhurst, Pentonville, Portland, Portsmouth, and Woking, was—males, 5,890; females, 1,175. Since the 1st of January there was a decrease of 918 (H. C. 99). As many as 850 took part in the outbreak at Chatham. A paper (H. C. 125) shows the crime, sentence, date of conviction, general prison character, class, and amount of gratuity to 1st of February, of each of them. The very first page of it is sufficiently striking. Out of 82 men 14 had been "*exemplary*," 31 "*very good*," and 22 "*good*" and "*moderately good*" and only 9 are returned as "*very bad*" or "*bad*." Casting our eyes over the other pages, we see exemplary, very good, and good, set against by far the most names. At p. 7, for instance, no less than 62 are very good, and at p. 9, 67. This paper also contains copies of orders issued on the occasion by the directors of convict prisons.

By the returns published a short time since, it appears that in the year 1860, 212 petitions were filed for dissolution of marriage, only one less than in 1859; and there were 62 petitions for judicial separation, 18 less than in the previous year. There were 13 applications for restitution of conjugal rights in 1860. 141 causes were tried. The fees received amounted to £2,490.

The Courts, Appointments, Promotions, Vacancies, &c.

MANSION HOUSE.

Aug. 20.—William Balduino was charged with embezzling the sum of £14 0s. 4d., the property of his employers.

Mr. William R. Turner said,—I am partner in the firm of Preston and Turner, solicitors, of 16, Water-lane, Great Tower-street. The prisoner was our clerk. On the 13th of June last I gave him £11 to pay administration duty at the Probate Office for a client, which he has entered in his book as having been paid by him. My suspicions having been aroused from other circumstances, I made inquiries, and found that he had not done so, and I now produce the papers, which have never been stamped. A £1 stamp should have been on the bond, and one for £11 on the grant. At the time the £11 was given to him he also received £3 10s. from the cashier, and should have paid, in addition to the above duties, 16s. 6d. for court fees, 2s. 6d. for the affidavit, and 1s. for the receipt, none of which have been paid; I spoke to him on the subject last Tuesday, when he told me he had lost the money. I find in the prisoner's book that he has charged £1 for stamping a bond on the 12th of June, which was the day he entered our service. I now produce the bond, which is unstamped. Since the prisoner has been in custody I have received a letter from him, asking us to forego the prosecution and offering to refund the money.

Mr. George Laverick, a clerk in the prosecutors' office, proved the payment of the money to the prisoner for the purposes above stated.

The prisoner, who said he should reserve his defence, was committed to the Old Bailey for trial.

Mr. Baron Wilde, who has been presiding in the Nisi Prius Court at the Liverpool Assizes since they opened on the 12th instant, was compelled on Thursday to adjourn the Court at an early hour in the afternoon, as he was taken exceedingly unwell. At the usual adjournment his lordship was very poorly; and as his indisposition was increasing, Mr. Baron Martin (who was presiding on the Crown side) entered at the resumption of the trial, and announced that his brother Wilde was so much indisposed as to preclude the possibility of his proceeding with the business that day.

James Stephen, Esq., L.L.D., recorder of Poole, has been appointed revising barrister for West Somerset.

Mr. Joseph William Taylor, of Buxton, Derbyshire, has been appointed a commissioner to administer oaths in the High Court of Chancery in England.

Recent Decisions.

HOUSE OF LORDS.

RIGHTS OF MASTER OF A SHIP AGAINST OWNERS—MASTER'S CONTRACTS ABROAD—CHARTERPARTY.

Bristow v. Whitmore, H. of L., 9 W. R. 621.

It is matter of clear law, from the decisions of *Hussey v. Christie* (9 East. 426) and *Smith v. Plummer* (1 B. & Ald. 575) downwards, followed by *Atkinson v. Cotesworth* (3 B. & C. 647), that neither upon a ship, nor upon the freight of a ship, has the master any lien as against the owner in respect of money expended or of obligations incurred by him on account of the ship, either in fitting her out for the voyage, in repairs, in providing stores or necessaries for the voyage, in payment of seamen's wages, or "for other disbursements which he has made during the voyage" (4 De G. & J. 333), however necessary (9 W. R. 622). His assertion of lien on behalf of the owner is another thing, but as against the owner his remedy is a personal one only (*Wilkins v. Carmichael*, 1 Doug. 101). With regard to the master's own wages, indeed, the rule has been relaxed by the Merchant Shipping Act, and he now has, so far as the case permits, the same rights, liens, and remedies for the recovery of his wages as the ordinary seaman (17 & 18 Vict. c. 104, s. 191). There is another case as to which Sir W. P. Wood, V.C., has expressed some hesitation,—the position of a master who has borrowed money to defray the "current expenses" of a ship abroad, and has expended the money for that purpose. The query arises from the absence of authority, and from a passage in the judgment of Lord Ellenborough in

Smith v. Plummer; but the doubt appears not to be entertained by either Lord Cranworth or Lord Kingsdown, whose statements on this subject are couched in very general terms (9 W. R. 622); whilst Lord Chelmsford expressly says (4 De G. & J. 336), that it is difficult to consider the question as to "current expenses" to be still undecided.

In *Bristow v. Whitmore* the application of the above rule would have led to great practical hardship. In this case the master of the ship, on two occasions when at foreign ports, had entered into charter-parties, whereby he agreed to let the ship for the conveyance of troops, undertaking also to make alterations in the vessel, and to provide stores, for which it was expressed that he, the master, was to be paid by Government a certain sum per head for each person so conveyed. One of the charter-parties, in which the master described himself as commander-owner of the ship, was under seal; the other, in which he was described as master of the ship, was not under seal. Having paid money and incurred liability in respect of the cost of altering and victualling the ship, he claimed against the mortgagees of the owner to be reimbursed his expenses as a first payment out of the freight, which had been paid by Government into the Court of Chancery. Now it is evident, that if the master's claim could have been shown by his opponents to have depended on his right to lien on freight, it must, consistently with the above rule, have failed; and, the owner of the ship being bankrupt, the master must have proved for his outlay like an ordinary debtor under the bankruptcy. This view was pressed upon Sir W. P. Wood, but the learned Vice-Chancellor, in language which was afterwards adopted by Lord Chancellor Campbell, treated the master's payments and liabilities as expenses, not on account of the ship, nor even as "current expenses," about which the Vice-Chancellor felt some doubt, but as expenses "entirely and simply in fulfilment of the charter-parties." He considered it a case in which a contract had been entered into by the master for the owner, and performed by the master for the owner; and on the principle of *Qui sentit commodum sentire debet et onus*, that no one could take the freight without first indemnifying the master. This view was supported by the late Lord Chancellor, who described the plaintiff as not being the master of a ship asking for a lien on freight, but as an agent, who in perfect good faith had entered into a contract on behalf of his principal, which the principal had afterwards ratified. Lord Cranworth also considered it a fallacy to treat this as a question of lien on freight. It was a case, he thought, which was to be regulated, not by shipping law, but by the law of contract as relating to principal and agent. Lord Kingsdown also said that if an agent makes a contract on behalf of his principal, whether with or without authority, the principal cannot both approve and reprobate the contract: he must adopt it altogether or not at all.

From these conclusions Lord Chelmsford, who, when sitting as Chancellor, had overruled the Vice-Chancellor Wood, and also Lord Wensleydale, dissented. The former noble lord, on both occasions, dwelt with earnestness on the circumstance that no dispute had been raised as to the authority of the master to enter into the charter-parties. Lord Wensleydale said, there was no averment in the bill or suggestion in the evidence, that the master had no authority. If there existed any ground for this suggestion, the fact ought to have been averred and proved. Upon the assumption, then, of sufficient authority in the master, the two noble lords proceeded to hold that, the contract being within the authority given by the owner, it was incorrect to talk of the owner adopting it. How could a man adopt his own contract? He was bound by it the moment it was concluded by his authorised agent. That being so, the entering into the charter-party and the loan of the vessel for the transfer of troops was as much part of the regular business of the owner and employment of the ship as the carrying of merchandise. There existed no difference between freight and the fruits of a contract—both were equally ship's earnings; and upon neither ship nor freight could the master, who was the mere servant of the owner, possess any lien. There was no distinction, they held, between an outlay for necessaries on a particular voyage and on an ordinary voyage. The master might have protected himself by entering into a special stipulation with the owner that he should be paid his expenses first out of the freight; but this he had not done.

These being the main arguments of the dissentient minority it is plain that the real difference of opinion among the law lords turned upon quite a new question—viz., whether or not the master was duly authorised to enter into the charter-parties so as to bind the owner. Lords Chelmsford and Wensleydale, who went on the assumption that he was so authorised, distinctly admitted that if the master were to be

held to have made the contracts without the authority of the owner, the latter might have sued him for neglect of duty, or might have ratified his unauthorised acts. Lord Kingsdown, whose decision was in favour of the master, was strongly of opinion that the execution of the charter-party was *ultra vires*; but that, as the owner had adopted it, he could not obtain the benefit of it without first repaying the master his outlay.

The result of *Bristow v. Whitmore*, therefore, is, in the first place, to confirm the rule of law above stated as to the ship-master's lien against the owner; but, further, to show that a master may, by entering into a charter-party abroad, establish a new relation of principal and agent between the owner and himself, and to the extent of the charterparty put an end to the relation of employer and servant. It is clearly of the highest importance to ascertain what acts on the part of the ship-master will be sufficient to effect this change. In the present case, Lord Kingsdown held (Lords Chelmsford and Wensleydale dissenting), that the contract for conveyance of troops was, under the circumstances, the contract of an unauthorised agent; and the same conclusion must be drawn from the judgments of the other learned authorities; for their reasoning proceeds on the ground that the owners had ratified the contract, and if they were able to ratify the contract, it seems to follow that they might have repudiated it. (See *Gibbs v. Charlton*, 26 L. J. Ex. 322.) Hitherto it has been laid down that the owners are bound to the performance of any lawful contract made by the master abroad relative to the "usual employment" of the ship (See "Abbott on Shipping," p. 100, MacLachlan, pp. 121—128, and the cases there cited). *Bristow v. Whitmore* seems to decide that the conveyance of troops at least is not part of the "usual employment" of a vessel, and that the owners may, or may not at their option, ratify the act of their master in undertaking it.

The rights of the master in *Bristow v. Whitmore* were in a peculiar position. On the charterparty under seal an action or suit could have been brought only in his name. He himself might have brought the action, and recovered the freight. Had he done so, the owner could have sued him only for money had and received; and in such an action he would have been allowed to claim his expenses as a set-off. This also he would have been permitted to do, if he had brought a suit in equity. On the other instrument not under seal the owners might have sued in their own names, and might have recovered the freight without reimbursing the master. Had this been done, Lord Cranworth supposes that in a court of equity the master would have enjoyed the same advantage as he would have had in the former case. Lord Chelmsford, however, appears to think otherwise (4 De. G. & J. 338), and that equity would not go further than the law.

It was further argued by the opponents of the master's claim that he might, if he also wanted money, have hypothecated the ship. But this seems extremely doubtful. The criterion of the right to hypothecate is necessity (MacLachlan, p. 47)—that is to say, absolute failure of personal credit, which did not exist in this case. And why should the parties be put to the expensive process of hypothecation, when the master was in a position to raise the money without paying maritime interest?

It is remarkable that the rule which denies to the master any lien upon the ship or freight for advances is opposed to the provisions of the Roman law, and of the maritime law of most modern nations. Reasons for the existence of this discrepancy were suggested in the course of the litigation in *Bristow v. Whitmore*. It may have arisen partly from the technical nature of our law of lien, which requires that there shall be possession of the property upon which the lien attaches to enable a party to enforce it. A more powerful reason appears to be, that the rule is intended to preserve the legal provision of the vessel and its earnings at all times in the owner (*Green v. Briggs*, 6 Haro 395, 404); a result which would be seriously interfered with if the master could detain the ship or its freight on pretence of any claim of his own. In such a case the owner would be deprived of his ship and freight until all accounts were settled with the master.

The simplicity and universality of the general rule is undoubtedly to some extent broken in upon by *Bristow v. Whitmore*. We have in this case, probably for the first time, an instance of a master of a ship having executed a charter-party abroad, which, whether *ultra vires*, as Lord Kingsdown supposes, or not, was, at least, not repudiated by the owner, successfully claiming his expenses incurred in the necessary fulfilment of the contract, as a payment out of the freight. The relation of employer and servant has, by acts of the

master alone, been put an end to, and a new relation, that of principal and agent, has, to the extent of the contract, been substituted between him and the owner. The decision in *Bristow v. Whitmore* gives additional security to the rights of the master of a ship, but it does so by an invasion of the doctrine insisted on by Lord Wensleydale—that the ship-master is a mere servant of the owners, acting for their benefit, and it furnishes a remarkable limitation to the principle of law—that the contracts of the master abroad bind the owners. More obvious exceptions to the same rule occur in the cases of *Burton v. Sharpe*, 2 Campb. 529, and *Dewell v. Mozon*, 1 Taunt. 391. See also "Story on Agency," sect. 116, and *Pickering v. Holt*, 6 Greenl. 160.

EQUITY.

RECTIFICATION OF A SETTLEMENT ON THE GROUND OF MISTAKE.

Elwes v. Elwes, L. J., 9 W. R. 307, 820.

By the plaintiff's marriage settlement, executed in 1826, certain manors and lands were settled to the use, *inter alia*, of the plaintiff for life, remainder to trustees for 2,000 years to secure £20,000 for younger children; remainder to the use of the first and other sons of the plaintiff in tail male; remainder to the use of the plaintiff in tail general; remainder to the use of the plaintiff's father, R. C. Elwes, in fee. In 1852, the plaintiff, having become involved in pecuniary difficulties, applied to his father for assistance, which the father consented to give, provided a re-settlement should be made, under which the estates should descend in the male line. Ultimately, in 1852, the estates were settled, subject to the uses of the settlement of 1826 preceeding plaintiff's estate in tail general, to such uses as the plaintiff's father and himself should jointly appoint, and in default of appointment, to the use of Valentine Elwes, the plaintiff's first son in tail general; remainder to the plaintiff's other sons in tail; remainder to the plaintiff's daughter in tail; remainder as R. C. Elwes should appoint. As R. C. Elwes was anxious that the estates should descend in the male line, and gave the plaintiff a consideration for his concurrence in effecting this, the plaintiff consented that this should be so, provided that the sum of £100,000 should be secured to his daughters. Accordingly, the estates were (subject to the uses precedent to the plaintiff's estate tail) appointed to such uses as R. C. Elwes and himself should appoint, and in default of appointment, to trustees for 1,500 years from the decease of the plaintiff and R. C. Elwes, or on failure of the limitations of 1826, and, subject thereto, to the use of the first and other sons of the plaintiff in tail; remainder as R. C. Elwes should appoint, and, in default of appointment, to R. C. Elwes's other sons successively in tail male; with an ultimate remainder to R. C. Elwes in fee. R. C. Elwes died in 1852. In 1856, Valentine Elwes being about to marry, his estate in tail male in remainder was barred and the estates resettled. The disentailing deed contained a saving of the plaintiff's life estate under the settlement of 1826, and of the trusts of such life estate, as also of the several powers thereto annexed; but neither the disentailing deed nor the settlement contained any mention of the term of 1,500 years which was to secure a sum of £100,000 for the plaintiff's daughters. Previously to the execution of the disentailing deed, the plaintiff and Valentine Elwes signed an agreement (*inter alia*) to the effect that Valentine Elwes should disentail the reversion of the estates, and limit them (subject to the plaintiff's life interest and powers, and all subsisting charges) to the joint appointment of the father and son, and, subject thereto, to the use of Valentine Elwes for life; remainder to his first and other sons in tail, &c. The plaintiff filed his bill, praying that the settlement should be rectified by an insertion of the term of 1,500 years. The plaintiff, as also the agent of both parties, who was consulted as to the terms of the settlement, and the family solicitor, affirmed their belief that the term was omitted by mistake. There was, however, no evidence of any agreement to keep it alive, or even that it had been mentioned while the scheme of re-settlement was being prepared. The decision of Vice-Chancellor Stuart, who dismissed the bill with costs, was accordingly affirmed, on appeal, by the Lords Justices.

That articles are to be more liberally construed even than a will in favour of the beneficiaries was laid down in the case of *Trevor v. Trevor*, 2 Brown's Parl. Cases, 122, and has never since been contradicted. Thus, limitations in articles giving an estate tail to the husband or the wife, or to both husband and wife if the land be the husband's, are to be executed in strict settlement (*vide* Fearn's Con. Rem. pp. 93, 94, Ed. 1844),

if either the settlement be not prepared until after the marriage, or if it profess to be founded upon the articles. If the settlement, however, precede the marriage, and contain no reference to the articles, its provisions are final, and will be regarded by the Court as rightly declaring the intention of the parties, even though it do not conform to the usual provisions of marriage settlements (Ferne, p. 107). Such a marriage settlement, therefore, is to be construed like any other deed, and will not be altered by the Court in favour of any alleged general intention to provide for the issue. On the other hand, if a mistake have occurred in framing it, so that its terms do not correspond with the intention of the parties declared by them while the settlement was being prepared, it will be rectified, like any other instrument, upon the general ground of mistake. Such a mistake, however, must have been common to both parties. If, as in the principal case, it has been unilateral only, the party who neglected to watch his interests, and to have a stipulation framed to secure the object of his intention, is remediless, *vigilantibus non dormientibus subveniunt leges*. If, indeed, the precise matter were kept out of his view by the artfulness of the opposite party, such a state of things might give him a *locus standi* in a court of equity, on the ground of the fraud so practised on him. Fraud, however, is a ground of relief wholly different from that of mistake, and can never be substantiated by the mere fact of an omission of a stipulation not mentioned at the time, and to keep which out of view the other party is not shown to have done any positive act. But a mere mistake, forgetfulness, or negligence, on the part of one party only is, *toto calo*, different from a case wherein fraud has been practised, or where a mistake has occurred, in not reducing to writing the declared intention of both parties. "No settlement," says the Vice-Chancellor, in the present cases, "has ever been altered or reformed on the ground that a stipulation, which was wished or intended by one of the contracting parties, but never agreed to or even mentioned or brought to the attention of the other of the contracting parties, had been omitted." In such a case the maxim, " *caveat emptor*," applies. The Court does not make the contracts of its suitors; it merely rectifies the evidences of the terms of those contracts, when these are by mistake imperfectly reduced to writing, and, consequently, differ from the declared intention of the parties.

It may be observed that the daughters of the plaintiff, although they were purchasers under his own settlement as to the sum of £20,000, and even of the sum of £100,000 as regards the plaintiff under the deed of 1846, were not purchasers of the latter sum as against the defendant, because he took an estate tail prior to the limitation to the trustees of the term securing that sum. The circumstances of the case are peculiar, and certainly go far to show that the plaintiff intended to secure this charge for them, although it was nearly one-third of the estimated value of the fee-simple estates. It was carefully bargained for by the plaintiff in 1846, as a compensation to them for his consenting to exclude them from their right to succession under the limitation to him in tail general in the settlement of 1826. But, as it was subsequent to the estate tail of the defendant limited by the settlement of 1826, he should not be presumed to give it priority, especially as the daughters were entitled under their father's settlement to a charge of £20,000 prior to the defendant's estate tail. The prayer of the bill, therefore, should have been, as observed by Turner, L.J., "not to correct the settlement according to the agreement of the parties, but to add to their agreement a provision which had not been determined upon or even agitated between them." The case is a little intricate, owing to the conflicting intentions of the parties; the grandfather, R. C. Elwes, having been anxious that the estates should go in the male line while the father was anxious to provide amply for the daughters, and yet to comply in the main with the wishes of the former. As, however, there was no express stipulation as to the term of 1,500 years and the very considerable sum which it secured throughout the entire negotiation between father and son which led to the settlement of 1857, there is no room to question the soundness of the decision.

COMMON LAW.

PRACTICE—DISCHARGE OF EXECUTION DEBTOR UNDER 48 GEO. 3, c. 123.

Cook v. Beardsall, Exch., 9 W. R. 790.

With reference to this case, it must be remembered that though under 7 & 8 Vict. c. 96, s. 57, a person cannot be

taken in execution for a judgment debt which does not exceed £20 exclusive of the costs, that provision applies only to judgments in action brought for the recovery of a debt, and not for a trespass, assault, and the like. It is to relieve persons in prison who have been taken on such judgments, wherein damages have been awarded under £20, that the statute 48 Geo. 3, c. 123, was passed. The particular point of practice decided in the present case upon this Act has, we believe, been long settled. Indeed, there is an express rule of Court upon the subject, though it does not appear to have been brought before the notice of the Court. We refer to Reg. Gen. H. T. 1853 (Pr.) r. 128, which provides that the rule for the prisoner's discharge under the Act may be made *absolute in the first instance*, on an affidavit having been filed of notice having been given ten days previously to the application. It has been held that this notice should be served on the plaintiff in the action in which the prisoner is detained, not on the attorney on the record. (See *Harris v. Turtle*, 8 Mer. & W. 258.) In the present case, it was served on the executor of the plaintiff, the latter having died while the defendant lay in prison.

RESPECTIVE RIGHTS OF PERSONAL REPRESENTATIVES AND JUDGMENT CREDITORS.

The Wolverhampton and Staffordshire Banking Co. v. Marston, Exch. 9 W. R. 790.

An important case with reference to the respective rights of judgment and other creditors of a deceased person. A creditor of A. brought an action against his personal representative and obtained judgment therein, whereupon issued a writ of *fi. fa. de bonis testatoris*. In the interim, however, between the signing of the judgment and the issue of this writ, the defendant had by deed assigned all A.'s property to trustees for the benefit of A.'s creditors generally; and the question then arose upon an interpleader summons, taken out by the sheriff into whose custody the goods came on the execution of the *fi. fa.*, whose title should prevail—that of the trustees, or that of the creditor who had obtained the judgment.

Now, generally speaking, and irrespective of the policy of the bankrupt law (which does not affect the present case, as A. does not appear to have been a trader) a debtor has a right to prefer one creditor to another. Hence, an assignment by deed by a man (not being a trader) of all his effects to one or more of his creditors, or to trustees for their benefit, is good enough, provided, always, that the circumstances of the case do not bring it within the scope of the statute against fraudulent conveyances (13 Eliz. c. 5), which makes void such a deed as against creditors, if made with intent to defraud them. This proposition was discussed and determined as above in the case of *Pickstock v. Lyster* (3 M. & S. 371), and the doctrine, in fact, governed the present case; for (as observed by the Chief Baron) if a man may make a *bona fide* assignment of this sort, it follows that his representative may do so also—to which we may add, that the circumstance of one of the creditors having obtained judgment makes no difference, provided he had not levied execution; inasmuch as the property in a defendant's goods and chattels is bound only for the satisfaction of the judgment creditor, from the *teste* or issuing of the *fi. fa.* It is to be observed that the Court in deciding in favour of the validity of the assignment intimated that the judgment creditor probably had a remedy against the executor on a *devastavit*. To explain this, it must be remembered that if an executor or administrator be extravagant in his payment even of necessary expenses incurred after death (as for the interment of the deceased), or misapply the assets coming to him in any particular, it amounts, in technical language, to a *devastavit* or waste of the substance of the deceased. The mode of proceeding to be adopted by a creditor in such a case is, first of all to sue the executor or administrator, and obtain judgment (as in the present case), and then obtain from the sheriff a return that there are no goods on which a levy can be had; though sufficient goods of the deceased for the purpose came into the hands of the defendant to be administered, which were, before the coming of the writ to the sheriff, by the defendant wasted and converted to his own use. This return will be evidence of a *devastavit*; and if the execution creditor should afterwards (as he may) commence an action against the executor or administrator on the original judgment, he may have execution thereon against the defendant personally; or else he may sue out a *sci. fa.* on the judgment in the original action, and then establish the fact of a *devastavit* by the inquisition of a jury, and require the defendant to show cause to the Court why execution should not issue against him personally.

Correspondence.

ATTESTATION OF WILLS.

Observing a correspondence on this subject in your journal, I trouble you with the following form, which I have used for some years without any objection:—

"Signed by the said A. B., the testator, in the joint presence of us, who jointly in his presence hereto subscribe our names as witnesses."—Yours faithfully,
Plymouth, Aug. 12. GEO. PRIDHAM.

MORTGAGES—DAYS FOR PAYMENT OF INTEREST

I have been largely engaged during the last ten years in the collection of interest monies, and can therefore bear testimony to the great benefit that would result to both solicitor and client by the adoption of a uniform day of payment, as suggested by your correspondent of the 30th ult.

There is much to be said in favour of the 1st of January as pay-day; and the only time, in my opinion, to be preferred is the 20th of March, on which day the income-tax falls due. The calculation of tax being thus simplified, mortgagees would appreciate the new arrangement.

A MANAGING CLERK.

INSURANCE OF TRADE BUILDINGS, &c.

Would any of your readers state what is the practice as to the tenant or landlord insuring buildings—(a manufactory) containing also machinery, turned by water only—which have been agreed, by a memorandum in writing, to be let for a short term, at a net rent for the whole—clear of all deductions, except property tax.

Tenant to keep in repair, and leave premises and machinery in as good condition at the end of term. A schedule and valuation were made and attached, but in the agreement, there is no express mention as to the insurance either by landlord or tenant; but that lease was to be subject to usual covenants in such a case.

J. R.

JUDGMENT DEBT.—INTEREST.

A bill of exchange carrying interest at £5 per cent. should, I think, be considered an agreement within the 76th practice rule of Hilary Term, 1853, so as to entitle the party issuing execution on foot of a judgment entered up thereon to indorse the execution to levy interest at £5 per cent. The agreement, although not express, is implied by law, and is, I think, equally efficacious as an express agreement that the debt should carry £5 per cent. interest.

M.

EXAMINATION OF ARTICLED CLERKS.

Do you think the examiners at the next examination will expect candidates to answer on the recent Bankruptcy Act, which I see comes into operation next October.

As a subscriber, and knowing you are ever willing to render articulated clerks such assistance as lies in your power, I take the liberty of thus troubling you, and by letting me know in your next impression, you will greatly oblige,

AN ARTICLED CLERK.

[We think it in the highest degree probable—a matter almost of certainty—that one or more questions relating to the main provisions of the new Bankrupt Act will be asked at the forthcoming examination. We anticipate, however, that such a question or questions will be confined to the general outlines of the measure, which will at that time, it must be remembered, have come into operation.—ED. S. J.]

Review.

A Treatise on the Law of Inland Carriers. By EDMUND POWELL, Esq., of Lincoln College, Oxford, M.A., and of the Inner Temple and Western Circuit, Barrister-at-Law, author of "A Treatise on the Principles of Evidence." London: Butterworths.

The law of carriers, which is a branch of the law of bailments, has been ably treated of by Story and Angell, as also by Mr.

Smith, under the head of "Coggs v. Bernard," Smith's Lead. Cas., vol. 1, p. 147. In that famous case Holt, C.J., maintained the soundness of the distinction between ordinary and gross negligence; and held that carriers for hire were liable if guilty merely of the former. Mr. Powell seems disposed to concur with Denman, C.J. (*Hinton v. Dibbin*, 2 Q. B. 646), and with Rolfe, B. (*Wilson v. Brett*, 11 M. & W. 115), in regarding this distinction of cases of negligence as unintelligible, and prefers the use of the word culpable, as it alone, in his opinion, indicates those species of negligence of which the law takes cognizance. We cannot concur in this use, or disuse, of legal terms. Indeed, the use of the word culpable involves a *petitio principii*, for it cannot be used to designate the conduct of a bailee until his character as a gratuitous or hired agent shall have been first ascertained, the latter being liable to be considered to have acted culpably in many cases in which a gratuitous bailee would have been held innocent. The distinction, in point of law, between carriers for hire and common carriers is, as our readers are aware, that as to the latter the law implies a contract of insurance against all contingencies except tempest or such like natural accidents, and the King's enemies. A common carrier is defined by Story, in his treatise on Bailments, 1495, to be one "who undertakes for hire or reward to transport the goods of such as choose to employ him from place to place." Kent's definition corresponds with this; but Mr. Powell correctly observes that regularity and permanence in the occupation should enter into the definition, inasmuch as even special contracts by hired carriers are less strictly construed than the liabilities of common carriers.

The third chapter of this treatise is an interesting one, as it sets forth the legal liabilities of railway companies, stage-coach proprietors, &c., in respect to the accidents that may befall their passengers. The author distinguishes between booking-office keepers, warehousemen, and common carriers, and illustrates the law applicable to each class by a selection of cases. The seventh chapter, "on the duties of carriers as regulated by special contract and by the Carriers Act (1 Will. 4, c. 68)," traces the law historically, and shows that the Carriers Act was the natural result of the conflict between the common law duties of carriers and their attempts to limit those liabilities by means of special contracts. The Act has rendered a compliance with its conditions by the posting of a notice, &c., an indispensable condition to the limitation of the common law liabilities of carriers; but it still admits of special contracts between the sender and carrier; vide *The Belfast and Ballymena Railway Company v. Keys*, lately decided by the House of Lords (9 W. R. 793). Mr. Powell notices a seeming conflict of decisions as to the conclusiveness of such contracts; the Court of Queen's Bench, having, in the case of *Walker v. York and Midlands Railway Co.*, held the contract to be special only on the findings of the jury, while the Court of Common Pleas, in the case of *York, Newcastle, and Berwick Railway Co. v. Crisp* (14 C. B. 527), has treated the contract as manifestly and necessarily special on the terms of the notice used. The author does not state which view he prefers. But, although the effect of the decisions in both courts is the same, yet, as they proceed on different principles, a scientific jurist might naturally be expected to offer some comment *tantas componere lites*. In the eighth chapter Mr. Powell again declares against the distinction of cases of negligence into ordinary and gross, and yet he inconsistently adds that it is "essential to ascertain and to state clearly to a jury the precise amount of prudence and duty which attach as inseparable incidents to the class of bailees within which the carrier is to be placed." But we cannot see how this classification is to be facilitated in practice by the disuse of established definitions. He admits that there is a distinction between fraud and negligence, the former being characterised by moral, the latter by intellectual, defects. This is a good metaphysical analysis of motives; but the legal effects in a civil point of view between both classes of defects are by no means so distinguishable from each other as are those of ordinary and gross negligence. Mr. Powell notices a numerous class of cases in which it has been held that a carrier is liable for no degree of negligence if it shall have been agreed upon between him and the sender that the conveyance is to be at the risk of the latter. He dissents, justly we think, from the principle on which these cases have proceeded, and which threatens to invert the common law rule as between the sender and the carrier. The eleventh chapter comprises a considerable amount of important matter, too much condensed, perhaps; but it is, nevertheless, stated lucidly and in peripatetic order. It relates to actions against and

by carriers; and states the law applicable to the pleadings and evidence, as also to the damages and costs, incident to such cases. The twelfth chapter, on railway carriers, is nearly a summary of the provisions of the various Railway Acts. The author accounts for its comparatively meagre supply of information by the fact that, as railway companies have engrossed the vast proportion of the inland carrying trade of the kingdom, their rights and duties are discussed everywhere throughout the treatise. This reason appears to us rather to indicate an urgent necessity that the various leading Railway Acts should be arranged by practical writers on the law of carriers according to the principles discernible as connecting links in them, in order that a way should "be gradually opened to what the author in the next chapter, on the Railway and Canal Traffic Act, 1854, s. 7," points out as a manifest desideratum in this branch of law—a general Consolidation Act, applicable to all carriers, whether by land or by water. The thirteenth chapter treats of the Railway and Canal Traffic Act, 1854, s. 7, and of the cases that have arisen under it. The policy of that Act was to limit the powers of railway companies to make special contracts, limiting their liabilities as common carriers. It prohibits all undue preference of any particular customers of the company, and also their insisting upon unreasonable stipulations on their own behalf. The effect of the Act, as Mr. Powell justly observes, is to place the whole railway system under the control of the courts. We may add that the general principles of free trade can, on no ground of policy, be held applicable to railway companies, and that if our Government will not directly act upon bureaucratic principles in respect to such bodies, they at all events act wisely in subjecting their contracts to an especial censorship to be exercised by the courts. A general consolidation Act, however, if sufficiently comprehensive in its affirmative as well as in its restrictive provisions, would tend to preclude the formation of special contracts by such companies; and consequently, any litigation as to the meaning of such. These are at present often the subject of a law suit, in which the Court is required by the statute 17 & 18 Vict. c. 31, to pronounce upon the reasonableness of charges, while no rule for its guidance is given by that Act—a discretion which the judges are by no means jealous of preserving for themselves, (*vide* Cresswell, J., in *Ransome v. The Eastern Counties Railway*, 1 C. B. N. S. 452). In the fourteenth chapter Mr. Powell treats of injunctions under the last-mentioned Act; as also, though somewhat briefly, of the necessary requirements of the affidavit to be used, and of the costs incident to such applications. He notices a class of cases under private Acts, from which he professes to have extracted but little of general principles, with the exception that they disclose a tendency in the courts, even independently of the 17 & 18 Vict. c. 31, s. 2, to discountenance favouritism by railway companies towards particular customers. The principle of these cases appears to us to be sufficiently sound as discouraging frauds on the public.

The last chapter is devoted to the consideration of the duties of inland carriers by water. Mr. Powell notices in it that as the Carriers Act did not apply to this class of bailees, and as the Railway and Canal Traffic Act, 1854, applies only to canal companies, the consequence is that river and unincorporated companies may limit their liability even for gross negligence, by means of a special contract, or by affecting a customer with even an implied knowledge of a public notice. So far as the transactions of such companies are concerned, all the evils of the old law of carriers continue unabated. Until the various statutes referred to in this treatise shall be consolidated into a single enactment, just as the numerous Acts relating to traffic by sea were united together in the Merchant Shipping Act, 1854, the laws relating to inland carriers must necessarily continue disjointed and perplexing to the practitioner. The treatise before us states the law of which it treats ably and clearly; but it does not aim at clearness of definitions, nor does it endeavour to apply first principles to the solution of apparent anomalies or of conflicts in the cases which it sets out. The practical merits of the work, however, tend to compensate, so far as the practitioner is concerned, for those defects. The arrangement of the chapters is sufficiently correct, if we except the separation of the sixth from the fourth chapter, with which it is identical in substance and almost in title, as both relate to the liabilities of carriers at common law. The various carrier, railway, and canal Acts are given in an appendix. The treatise is about the same size as the former edition, and contains a good index.

Public Companies.

REPORTS AND MEETINGS.

BLITHE AND TYNE RAILWAY.

At the half-yearly meeting of this company, held on the 12th inst., the following dividends were declared for the past half-year, viz., at the rate of 10 per cent. per annum on the original preference shares, 9½ per cent. per annum on the ordinary and extension shares, and 5 per cent. per annum on the A and B preference shares.

BRADFORD, WAKEFIELD, AND LEEDS RAILWAY.

At the half-yearly meeting of this company, held on the 20th inst., a dividend at the rate of 6½ per cent. per annum was declared for the past half-year.

EDINBURGH AND BATHGATE RAILWAY.

At the half-yearly meeting of this company, held on the 9th instant, a dividend was declared at the rate of 6s. per share, and of 4 per cent. on sums paid in anticipation of calls.

FURNESS RAILWAY.

At the half-yearly meeting of this company, held on the 16th inst., a dividend of 4 per cent. was declared for the past half-year.

GLOUCESTER AND DEAN FOREST RAILWAY.

At the half-yearly meeting of this company, held on the 10th inst., a dividend of 12s. 6d. per share (free of income-tax) was declared for the past half-year.

GREAT NORTHERN RAILWAY.

At the half-yearly meeting of this company, held on the 17th inst., a dividend at the rate of £3 15s. per cent. per annum was declared on the open stock of the company for the past half-year.

GREAT WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 16th inst., a dividend at the rate of 2½ per cent. per annum was declared for the past half-year on the ordinary stock of the company.

HULL AND SELBY RAILWAY.

At the half-yearly meeting of this company, held on the 14th inst., the following dividends were declared—viz., £2 9s. 6d. on each of the £50 shares, £1 4s. 9d. on each of the £25 or half-shares, and 12s. 4½d. on each of the £12 10s. shares, subject to the deduction of income-tax.

LANCASHIRE AND YORKSHIRE RAILWAY.

At the half-yearly meeting of this company, held on the 14th inst., a dividend of £2 15s. per cent., less income tax, was declared for the past half-year, payable on the 2nd of September.

LONDON AND BLACKWALL RAILWAY.

At the half-yearly meeting of this company, held on the 13th inst., a dividend at the rate of £2 15s. per cent. per annum was declared for the half-year ending June 30.

LONDON AND NORTH WESTERN RAILWAY.

The directors of this company have resolved to recommend to the proprietors at the half-yearly meeting to be held on the 23rd inst., a dividend at the rate of 3½ per cent. per annum, carrying forward a balance of about £12,000.

LONDON AND SOUTH WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 15th inst., a dividend at the rate of 4 per cent. was declared for the past half-year on the consolidated stock of the company.

MID KENT RAILWAY.

At the half-yearly meeting of this company, held on the 12th inst., a dividend at the rate of 3 per cent. per annum was declared for the past half-year.

MID KENT (BROMLEY TO ST. MARY CRAY) RAILWAY.

At the half-yearly meeting of this company, held on the 20th inst., a dividend at the rate of £3 per cent. per annum was declared for the past half-year.

MIDLAND RAILWAY.

At the half-yearly meeting of this company, held on the 20th inst., the following dividends were declared for the past half-year, payable on the 2nd September next—viz. £3 2s. 6d. upon each £100 consolidated stock, of £2 8s. 9d. upon each £100 consolidated Birmingham and Derby stock, of £3 2s. 6d. upon each £100 consolidated preferential and Erewash Valley stock, £2 5s. per cent. on the 4½ per cent. preferential stock, £2 on the Leicester and Hitchin stock, 2½ per cent. on the 4½ per cent. redeemable stock, 1s. 7d. on the £6 preference shares, and of 9d. on the £6 4s. shares, leaving a balance of £1,985 for the current half-year.

MIDLAND WAGON COMPANY, BIRMINGHAM.

At the half-yearly meeting of this company, held on the 21st inst., a dividend of £10 per cent. on original shares, with a bonus of £5 per cent. was declared for the past half-year. The £6 per cent. debenture debt of the company has been extinguished, and, with the exception of £900, at £5 10s. per cent., the whole amount now bears interest at £5 per cent.

NORTH AND SOUTH WESTERN JUNCTION RAILWAY

At the half-yearly meeting of this company, held on the 16th inst., a dividend at the rate of 5 per cent. per annum, was declared for the past half-year.

NORTHERN AND EASTERN RAILWAY.

At the half-yearly meeting of this company, held on the 15th inst., the following dividends were declared for the past half-year, viz., on the shares of £50 guaranteed 5 per cent. per annum, £1 5s. each, and on the shares of £50 guaranteed 6 per cent. per annum, £1 10s. each.

NORTH DEVON RAILWAY.

At the half-yearly meeting of this company, held on the 21st inst., the following dividends were declared:—Dividend at the rate of 17s. 6d. per cent. per annum on the ordinary stock and of £1 15s. per cent. per annum on the preference stock, for the half-year ending the 30th of June, payable on the 2nd of September.

NORTH LONDON RAILWAY.

At the half-yearly meeting of this company, held on the 13th inst., a dividend at the rate of 5 per cent. per annum was declared for the past half-year.

ROYSTON AND HITCHIN RAILWAY.

At the half-yearly meeting of this company, held on the 12th inst., a dividend at the rate of 6 per cent. per annum, less income-tax, was declared for the past half-year.

SALISBURY AND YEovil RAILWAY

At the half-yearly meeting of this company, held on the 16th inst., a dividend of 5 per cent. per annum on the preference capital and of 4½ per cent. per annum on the ordinary capital was declared for the past half-year.

SOUTHAMPTON DOCKS COMPANY.

The directors, by their report, recommend that a dividend of £1 10s. per cent. be declared for the past half-year.

SOUTH WESTERN STEAM-PACKET COMPANY.

At the half-yearly meeting of this company, held on the 15th inst., a dividend at the rate of £5 per cent. per annum was declared for the past half-year.

SOUTH YORKSHIRE RAILWAY.

At the half-yearly meeting of this company, held on the 10th inst., a dividend at the rate of 4½ per cent. per annum, less income-tax, was declared on the ordinary stock of the company for the past half-year.

WEST MIDLAND RAILWAY.

At the half-yearly meeting of this company, held on the 15th inst., the following dividends were declared for the past half-year, viz., a dividend at the rate of 6 per cent. per annum on the first guaranteed stock of the Oxford section; a dividend at the same rate on the second guaranteed stock; a dividend at the rate of 5 per cent. per annum on the redeemable preference shares of the Newport section; a dividend at the rate of 6 per cent. on the first preference 6 per cent. shares of the Newport section; and a dividend at the rate of 6 per cent. on the second preference shares of the same section.

ULVERSTONE AND LANCASTER RAILWAY.

At the half-yearly meeting of this company, held on the 10th inst., a dividend at the rate of 2½ per cent. per annum was declared for the past half-year.

Births, Marriages, and Deaths.

BIRTHS.

DENNY—On Aug. 2, the wife of W. F. Denny, Esq., Hanover-park, Peckham, Surrey, Solicitor, of a son and daughter.
HUGHES—On Aug. 16, at Upper Tulse Hill, Mrs. S. Hughes, of a son.

MARRIAGES.

COMINS—STEVENS—On Aug. 15, William Willoughby Comins, Esq., of Great Portland-street, London, Solicitor, to Mary Anne Comins, daughter of Thomas Howell Stevens, Esq., of Eton College, Bucks.
HUNT—HODSON—On Aug. 10, William Hunt, Esq., Solicitor, of Bristol, to Catherine, daughter of the late Rev. John Hodson, of Shaftesbury.
MOUNSEY—COPE—On Aug. 15, George William Mounsey,

Esq., M.A., of Trinity College, Cambridge, and of Lincoln's-inn, Esq., Barrister-at-Law, to Agnes, daughter of the late Isaac Cope, Esq., of Castle White, in the county of Cork.

THEARSBY—HAWORTH—On Aug. 13, William Thearsby Poole, Esq., Clerk of the Peace for Carnarvonshire, to Margaret, daughter of the late George Haworth, Esq., of Hawthorn House, Rossendale.

DEATHS.

AUSTEN—On Aug. 20, Benjamin Austen, Esq., Gray's-inn, aged 72.

EARNSHAW—On Aug. 15, Thomas Earnshaw, Esq., in his 48th year, son of the late William Earnshaw, Esq., Solicitor, of H.M.'s Customs, and son-in-law of the late Mr. Alderman Farebrother.

JONES—On July 29, Frederick Jones, Esq., of Lincoln's-inn, Barrister-at-Law, aged 49.

MACILWAIN—On Aug. 20, Elizabeth, wife of George Macilwain, of the Court-yard, Albany, and daughter of the late John Daubeny, Esq., D.C.L., of Doctors'-commons.

PARHAM—On Aug. 16, in his 69th year, Benjamin Parham, Esq., late Judge of the Worcestershire County Courts.

SHAW—On June 5, at Newcastle, New South Wales, Rosa Josephine, wife of the Rev. Thomas Head Shaw, B.A., and daughter of the late Frederick Hodgson Clarke, Esq., Barrister, of Lincoln's-inn, aged 23.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

BEAMISH, FRANCIS, Gent., Dinan, France, £491 2s. 8d. Consols.—Claimed by JOHN O'MEARA BEAMISH, the person named in the said order.

LEEVEs, REV. HENRY DANIEL, Clerk, Blandford-place, Regent's park, £333 6s. 8d. Three per Cent. Annuities.—Claimed by SOPHIA MARY LEEVEs, Widow, acting surviving executor of the said Henry Daniel Leeeves.

MARSHALL, ELIZABETH, Spinster, Beverley, Yorkshire, £2,300 New £4 per Cents.—Claimed by JOHN HOLLAND, administrator, with will annexed *de bonis non* of the said Elizabeth Marshall.

WEBB, CHARLOTTE SARAH, Widow, Ross, £6 Consolidated Long Annuities.—Claimed by Rev. WILLIAM WEBB ELLIS, the surviving executor.

Next of Kin.

DODGE, GEORGE, who died in South America in 1861, next of kin to apply to the Solicitor of the Treasury, Whitehall, London.

London Gazettes.

Professional Partnerships Dissolved.

FRIDAY, Aug. 23, 1861.

PAWLE, JOHN CHRISTOPHER, JOHN HENRY BELFAGE, and FREDERICK ASPREY, Attorneys & Solicitors, 7, New-inn, Strand (Pawle, Belfage, & Asprey). May 22, by mutual consent.

Windings-up of Joint Stock Companies.

TUESDAY, Aug. 20, 1861.

UNLIMITED IN CHANCERY.

DISTRICT SAVINGS' BANK (LIMITED).—Petition for winding-up, presented August 16, will be heard before V.C. Wood, on August 30, at the Crown Inn, Woodbridge, Suffolk, at half-past twelve.

ELECTRIC TELEGRAPH COMPANY OF IRELAND.—The Master of the Rolls has peremptorily ordered a call of fifteen shillings per share on all contributors who have not been compromised with, to be paid on October 1, at twelve, at 3, South-square, Gray's-inn, London.

LIFE ASSURANCE TREASURY.—V.C. Wood has appointed Robert Palmer Harding, 3, Bank-buildings, London, and 5, Serle-street, Lincoln's-inn, Middlesex, interim manager of this company.

LIFE ASSURANCE TREASURY.—Creditors to prove their debts before V.C. Wood forthwith.

UNLIMITED IN CHANCERY.

FRIDAY, Aug. 23, 1861.

BANK OF TURKEY.—Petition for dissolution and winding-up presented August 20, will be heard before V. C. Wood, on the first petition day in November next. R. and C. H. Hodgson, Solicitors for Petitioner, 10, Salisbury-street, Strand.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Aug. 20, 1861.

EAGLES, EDWARD, Farmer & Miller, Staverton, Northamptonshire. Burton & Son, Solicitors, Daventry. Oct. 1.

FAWKES, JOHN, Farmer, Smalmsdown, Kirkandrews-upon-Esk, Cumberland. Nanson, Solicitor, 9, Castle-street, Carlisle. Nov. 1.

FIELD, JAMES, Esq., formerly of 2, Park-terrace, Park-road, Old Kent-road, Surrey, but late of 21, Maismore-square, Park-road, New Peckham, Surrey. Gover, Solicitor, 40, King William-street, London-bridge. Sept. 30.

FRAMPTON, HENRY, Farmer, formerly of Newington, Oxford, and afterwards of Burghclere, Southampton. Tanner, Solicitor, Speenhamland, Newbury, Berks. Sept. 12.
 HOIT, RICHARD, Grocer, Huncoat, Lancashire. Bannister, Solicitor, Accrington, Lancaster. Oct. 23.
 HUGHMOND, ROBERT, Wine & Spirit Merchant, Liverpool. John & Henry Hindle, Solicitors, 41, Lord-street, Liverpool. Dec. 7.
 WATSON, WILLIAM GEORGE, Watch & Case Gilder & Electro Plater & Gilder, 7, James-street, St. Luke's, Middlesex. Stopher, Solicitor, 36, Coleman-street, City. Sept. 1.
 WILLIAMS, MARY, Haulier, Hunt's-lane, Avon-street, St. Philip's, Bristol. King & Plummer, Solicitors, 5, Exchange-bldgs, East Bristol. Sept. 26.

FRIDAY, AUG. 23, 1861.

BRINDEN, WILLIAM, Gent., Elcot-mill, Preshute, Wilts. T. B. & W. Merriman and Gwillim, Solicitors, Marlborough, Wilts. Oct. 1.
 BROWN, DAME MARY, Widow, 1, St. Germain's-terrace, Blackheath, Kent. Chesholme & Gibson, Solicitors, 64, Lincoln's-inn-fields. Nov. 1.
 DAVES, JONATHAN GLENN, Flour Dealer, East Retford, Nottinghamshire. Marshall & Son, Solicitors, East Retford. Oct. 1.
 DOBSON, ROBERT RAGDENEAU COLTHURST, Esq., late of Cape Town, Cape of Good Hope, and previously of 30, Fortess-terrace, Kentish-town, Middlesex. White, Solicitor, 7, Southampton street, Bloomsbury. Nov. 1.
 DU PRE, REV. THOMAS, Clerk, Willoughby Rectory, Lincolnshire. Joseph & T. Lovegrove, Solicitors, Gloucester. Sept. 1.
 GILL, JOHN, Esq., late of Cumrew, Cumberland. Carrick & Lee, Solicitors, Brampton, Cumberland. Sept. 20.
 HINE, MARY ANN, Spinster, 30, Barnes-terrace, Barnes, Surrey. Rivolta, Solicitor, 10, Montague-street, Russell-square. Oct. 10.
 JARMAN, GEORGE FARWELL, Esq., Upper Berkley-street, Middlesex. Dawes & Sons, Solicitors, 9, Angel-court, Throgmorton-street, London. Sept. 28.
 LAMBERT, MRS. ELIZABETH, Widow, late of Walesby, Lincoln. Saffery, Solicitor, Market Rasen. Sept. 23.
 LEWIS, JENKIN, Farmer, late of Aberfeldon, Margam, Glamorgan. Verity & Middleton, Solicitors, Brigid, Glamorgan. Sept. 23.
 REAT, STEPHEN, Clerk, M.A., Sub-Librarian of the Bodleian Library, St. Alban Hall, Oxford. Duncan, Squarey, & Blackmore, Solicitors, 10, Water-street, Liverpool. Sept. 31.
 SMITH, HENRY, Licensed Victualler, Pitt's Head, Grange-road, Bermondsey, Surrey. Tebb & Sons, Solicitors, 21, Great Knight-Rider-street, Doctors' Commons. Oct. 1.
 WHITTINGTON, ELIZABETH, Widow, Wootton Wawon, Warwickshire. Hancock & Hiron, Solicitors, Shipston-on-Stour, Worcestershire. Oct. 1.
 WILLSON, GEORGE, Clothier & Outfitter, Market-street, Faversham, Kent. Johnson, Solicitor, West-street, Faversham, Kent. Dec. 31.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, AUG. 20, 1861.

BROUGHTON, GEORGE MICHAEL, Schoolmaster, Mount Pleasant, Accrington. Livesey & Broughton, V.C. Wood. Nov. 7.
 WINTER, THOMAS, Lighterman, Old Brentford, Middlesex. Winter & Winter, V.C. Wood. Nov. 5.

(County Palatine of Lancaster.)

MARWOOD, WILLIAM, Hemp Merchant, Netherfield-road, Everton, near Liverpool. Godwin & Marwood, Registrar of Court, 1, John-street, Liverpool. Sept. 17.
 MENDHAM, JOHN, Gent., Frederick-street, Liverpool. Jones & M'Kenzie, Registrar of Court, 1, North John-street, Liverpool. Sept. 17.
 PRESCOTT, JOHN, Grocer & Flour Dealer, Ormskirk, Lancaster. Worsley & Prescott, Registrar of Court, 1, North John-st., Liverpool. Sept. 16.
 WILLIS, THOMAS, Joiner & Builder, Tessera-place, Liverpool. Cort & Thurston, Registrar of Court, 1, North John-street, Liverpool. Sept. 17.

FRIDAY, AUG. 23, 1861.

CAMERON, NATHANIEL, Esq., formerly of Swansea, Glamorgan, and late of Lewes and Hastings, Sussex. Cameron & Cameron, V.C. Stuart. Nov. 14.

(County Palatine of Lancaster.)

HILL, PETER, Gent., Waverree, near Liverpool. Redish & Hill, office of Registrar, 1, North John-street, Liverpool. Sept. 17.

Assignments for Benefit of Creditors

TUESDAY, AUG. 20, 1861.

BAILEY, WILLIAM, Draper, New Seaford, Lincolnshire. Sol. Haddock, 18, St. Paul's Church-yard, London. Aug. 1.
 BEVAN, SAMUEL, Whitesmith & Chain Maker, Town-lane, Dukinfield, Chester. Sol. Darnton & Greaves, Ashton-under-Lyne. July 24.
 BOOTHBY, WILLIAM, Coach & Cab Proprietor, Liverpool. Sol. Snowball & Copeman, 16, Castle-street, Liverpool. Aug. 16.
 CAVET, JOHN, Draper, Paul's-town, Llanelli, Carmarthenshire. Sol. Jones, Llanelli. Aug. 10.
 EDBROOKE, ROBERT, General Smith, Frogmore-street, Bristol. Sol. J. & H. Livett, Albion-chambers, Bristol. July 31.
 GUMMERSALL, ALFRED, Cardmaker, Laister Dyke, near Bradford. Sol. Norris & Foster, 1, Westgate, Halifax. Aug. 1.
 JAMES, GEORGE EDWIN, Milliner, Birmingham, and Bilston, Staffordshire. Sol. Jagger, Cannon-street, Birmingham. July 31.
 ROBERTS, THOMAS, Grocer & Provision Dealer, Cambrian-place, Llanelli, Carmarthenshire. Sol. Jones, Llanelli. Aug. 7.
 THOMAS, RICHARD, Farmer, The Craig, Llanfair, Montgomeryshire. Sol. Yearley, Welshpool, Montgomery. July 31.
 WESTLEY, DANIEL, Shoemaker, Road, Northamptonshire. Sol. Shoosmith, Northampton. Aug. 6.

FRIDAY, AUG. 23, 1861.

DRAKE, REUBEN, Draper, 3, Crosby-row, Waltham, Surrey. Sol. Lawrence, Pews, & Boyer, 14, Old Jewry-chambers, London. July 14.
 ELLIOTT, WILLIAM HENRY, Clothier, 90, Cheapside, London. Sol. Lepard & Gammoun, 9, Cloak-lane, London. July 26.
 JORDAN, THOMAS, Chair Maker, Woodrow, Amersham, Bucks. Sol. Daniels, Amersham, and 15, Bucklersbury, London. Aug. 3.
 NIGHTINGALE, JAMES, Beerhouse Keeper & Provision Dealer, Norfolk-street, Glossop, Derbyshire. Sol. Hodgson, 15a, St. Ann's square, Manchester. July 5.
 NORTH, JOSEPH, GEORGE NORTH, & JAMES NORTH, Cloth Millers, Leeds. Sol. Langford & Marsden, 59, Friday-street, Cheapside, for J. & H. Richardson & Turner, Leeds. Aug. 16.

STOKES, EMMANUEL, Ironmonger, 5, Market-place, Upper Holloway. Sol. Howell, 15, Bow-lane, London. July 23.
 VOWLES, JAMES, Victualler, Plough and Windmill Tavern, East-street, Bedminster, Bristol. Sol. King & Plummer, 5, Exchange-buildings East, Bristol. July 27.
 WATSON, HORACE, Chemist & Druggist, Laceby, Lincolnshire. Sol. Grange & Winttingham, Great Grimsby. Aug. 18.
 WHATT, GEORGE, Grocer & Coal Merchant, Whitgift, Yorkshire. Sol. England, 14, East Parade, Goole. July 29.
 WIKKE, ROBERT, Tailor & Draper, Holywell, Flintshire. Sol. Quinn, 23 Lord-street, Liverpool. Aug. 12.

Bankrupts.

TUESDAY, AUG. 20, 1861.

BATCHELOR, WILLIAM HENRY, Builder & Undertaker, Leatherhead, Surrey. Com. Fonblanque: Aug. 31, at 12.30; and Sept. 18, at 2.30; Basinghall-street. Off. Ass. Stansfeld. Sol. Young, 6, Serjeant's-inn, Fleet-street, London. Pet. Aug. 17.
 CHAPMAN, JOHN, & GEORGE GRANGER, Ironmasters, Britannia Ironworks, Oldbury, Worcestershire. Com. Sanders: Sept. 13 and Oct. 4, at 11; Birmingham. Off. Ass. Whitmore. Sol. James & Knight, Birmingham. Pet. Aug. 8.
 FAWCER, WILLIAM, Victualler & Car Proprietor, Kidderminster, Worcestershire. Com. Sanders: Sept. 9 and 20, at 11; Birmingham. Off. Ass. Whitmore. Sol. Saunders & Son, Kidderminster; or James & Knight, Birmingham. Pet. Aug. 19.
 GARRETT, JOHN WILLIAM, Corn Merchant, Liverpool. Com. Perry: Sept. 4 and 24, at 11; Liverpool. Off. Ass. Bird. Sol. Brabner, North John-street, Liverpool. Pet. Aug. 16.
 HARRISON, WILLIAM, Tailor & Draper, Barnsley. Com. Ayrton: Sept. 2 and 27, at 11; Leeds. Off. Ass. Hope. Sol. Hamer, Barnsley; or Bond & Barwick, Leeds. Pet. Aug. 16.
 RANDALL, JAMES, Victualler, Byfleet, Cobham, Surrey. Com. Fonblanque: Sept. 4, at 12.30; and Sept. 24, at 1; Basinghall-street. Off. Ass. Graham. Sol. Murrough, 18, Warwick-court, Gray's-inn, Holborn. Pet. Aug. 14.
 SIMONS, EDWARD, Lamp Dealer & Italian Warehouseman, 115, Newgate-street, London, and 26, Bull-street, Birmingham. Com. Fonblanque: Aug. 27 and Sept. 25, at 12.30; Basinghall-street. Off. Ass. Graham. Sol. Linklaters & Hackwood, 7, Walbrook, London. Pet. Aug. 12.
 STEAR, WAKEMAN STEAR, Lace Warehouseman & Commission Agent, 64 & 65, Bread-street, London (Henry Wakeham Stear & Co.). Com. Evans: Aug. 29 and Sept. 24, at 11; Basinghall-street. Off. Ass. Bell. Sol. Moseley, Taylor, & Moseley, 9, Old Jewry-chambers, City. Pet. Aug. 19.
 TALEN, JOHN AXEL, 4, Whitley-villas, Caledonian-road, Islington, Middlesex, lately carrying on business at 65, Fenchurch-street, London, with Thomas Penlington, as Ship and Insurance Broker (Talen & Co.); also at the same time carrying on business at Blackhorse-bridge, Deptford, Kent, with Thomas Penlington, as Ice Merchant (Norwegian Ice Co.). Com. Fonblanque: Aug. 31, at 12; and Sept. 18, at 12.30; Basinghall-street. Off. Ass. Graham. Sol. Mercer, 9, Mincing-lane, London. Pet. Aug. 18.
 WEBB, CHARLES, General Salesman, Drury-lane, and of Christ-street, Poplar, Middlesex. Com. Fonblanque: Sept. 4, at 1; and Sept. 23, at 1.30; Basinghall-st. Off. Ass. Graham. Sol. Stopher, 36, Coleman-street, London. Pet. Aug. 17.

FRIDAY, AUG. 23, 1861.

COLLINS, ROBERT, Dealer in Hops, 15, Mark-lane, London. Com. Holroyd: Sept. 5, at 12; and Oct. 8, at 1; Basinghall-street. Off. Ass. Edwards. Sol. Dalton, 3, Bucklersbury, London. Pet. Aug. 31.
 CONNORAN, JOSEPH JOHN, & MAXIMILIAN LINDT, Merchants, 140, Fenchurch-street, London. Com. Fonblanque: Sept. 4, and 19, at 12; Basinghall-street. Off. Ass. Stansfeld. Sol. Harrison & Lewis, 6, Old Jewry, London. Pet. Aug. 16.
 DODDINGTON, FREDERICK THOMAS, Manufacturer of Fancy Drapery Goods and Commission Agent, 6, Falcon-square, Aldersgate-street, London, and of New Cottage, Forest-gate, Stratford, Essex. Com. Goulburn: Sept. 2, at 11; and Oct. 7, at 1.30; Basinghall-street. Off. Ass. Pennell. Sol. Kimberley, 26, Old Broad-street, London. Pet. Aug. 21.
 GREGORY, EDWARD HENRY, and LESLEY ALEXANDER GREGORY, African Merchants & Shipping Brokers, 33, Great Saint Helen's, London (Gregory, Brothers). Com. Fonblanque: Sept. 4, at 1.30, and 23, at 2; Basinghall-street. Off. Ass. Graham. Sol. Wild & Barber, 101, Ironmonger-lane, London. Pet. Aug. 19.
 HETHERINGTON, JOSEPH, Licensed Victualler, Old Oak Public House, Gordon-lane, Kentish Town, Middlesex. Com. Fonblanque: Sept. 5, at 11.30; and 20, at 2; Basinghall-street. Off. Ass. Graham. Sol. Fownall, Son, & Cross, Staple-inn, Holborn, London. Pet. Aug. 16.
 LIVERSIDGE, JOHN, Wheelwright, 61a, Tabernacle-walk, Saint Leonard, Shoreditch, and 6, Devon-villas, Buckingham-road, De Beauvoir Town, Middlesex. Com. Fonblanque: Sept. 4, at 3, and 30, at 1.30; Basinghall-street. Off. Ass. Graham. Sol. Kiss & Son, 3, Feu-court, Fenchurch-street, London. Pet. Aug. 21.
 NEWTON, RAYMOND D'ARCY, Advertising Agent & Dealer in Newspapers, 3, Warwick-square, London. Com. Fonblanque: Sept. 4, at 12.30, and 20, at 2; Basinghall-street. Off. Ass. Stansfeld. Sol. Lawrence, Pews, & Boyer, 14, Old Jewry-chambers, London. Pet. Aug. 21.
 OWERS, OSCAR FITZALLEN, Bookseller & Stationer, 7, Sussex-terrace, Westbourn Grove, Paddington, Middlesex. Com. Fonblanque: Sept. 4, at 11.30, and Sept. 27, at 1.30; Basinghall street. Off. Ass. Stansfeld. Sol. Harrison & Lewis, 6, Old Jewry, London. Pet. August 13.
 PARSONS, JOSEPH SAMUEL, Watchmaker & Leather Seller, High-street, Brentford and London-street, Uxbridge. Middlesex. Com. Fonblanque: Sept. 4, at 2, and Sept. 26, at 12; Basinghall-street. Off. Ass. Stansfeld. Sol. Burr, 12, Paternoster-row, London. Pet. Aug. 20.
 PATEU, ROBERT, Grocer, Wine, Ale, & Stout Merchant, Lewisham. Com. Fonblanque: Sept. 4, at 2.30, and Sept. 26, at 1.30; Basinghall-street. Off. Ass. Graham. Sol. Mote, 33, Bucklesbury, London. Pet. Aug. 20.
 REBAUT, SAMUEL, Junkeeper, 59 & 60, St. James's-street, St. George, Hanover-square, Middlesex. Com. Holroyd: Sept. 5, at 2.30, and Sept. 28, at 11.30; Basinghall-street. Off. Ass. Edwards. Sol. Combs, 25, Bucklersbury, London. Pet. June 23.
 SMITH, JOHN COLES, Jeweller, 64, King William-street, London. Com. Fonblanque: Sept. 2, at 2; and Sept. 26, at 11; Basinghall-street. Off. Ass. Stansfeld. Sol. Lewis & Sons, Wilmington-square, London. Pet. Aug. 12.

BANKRUPTCY ANNULLED.

TUESDAY, AUG. 20, 1861.

LAW, JOHN, Chemist & Druggist, & Omnibus Proprietor, 9, New Church-street, Marylebone. Aug. 19.

FRIDAY, AUGUST 23, 1861.

BROWN, JOHN HARKNESS, Draper, 125, Field-street, Liverpool. Aug. 20.
HUGH, JOHN, Common Brewer, Wakefield, York. Aug. 20.
PICKERLEY, EDWIN JOHN, Scrivener, Wakefield. Aug. 9.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, AUG. 13, 1861.

ANDREW, WILLIAM PARKER, Wine Merchant, 27, Crutched Friars, London (Andrew & Company). Sept. 12, at 12.30; Basinghall-street.—CHAMMAN, JOHN, Boot & Shoe Maker, Sidney-street, Cambridge. Sept. 10, at 1; Basinghall-st.—DOHERTY, JOHN, Corn & Provision Merchant, Liverpool. Sept. 24, at 11; Liverpool.—EAST, WM., Currier, Sudbury, Suffolk. Sept. 12, at 12.30; Basinghall-st.—ELLYETT, FREDK., Hatter, 125, Queen-st., Portsea, Hants. Sept. 10, at 12; Basinghall-st.—GANDY, GERARD, Ironmaster, Leaswood, near Mold, Flintshire. Sept. 24, at 11; Liverpool.—GRIFFITH, RICHARD, Draper & Grocer, Pwllheli, Penychain, Carnarvon. Sept. 24, at 11; Liverpool.—HARDWICK, JOSEPH, and HENRY JONES, Merchants, Ship & Insurance Brokers, 17, Gracechurch-street-chambers, London (Hardwick, Jones, & Maurice); also at Odessa, Russia (Maurice & Co.). Sept. 11, at 2.30; Basinghall-st.—HARRATT, CHARLES, Iron Merchant & Ship Owner, 2, Royal Exchange-buildings, London, and Canning-town, Bow Creek, West Ham, Essex. Sept. 10, at 12; Basinghall-st.—JAUNCKY, ALFRED, Plumber & Glazier, Forest-hill, Kent. September 12, at 12; Basinghall-st.—JONES, WILLIAM, WILLIAM, Ship Builder, Portmadoc, Carnarvon. September 24, at 11; Liverpool.—MANNION, WILLIAM, Currier & Leather Dealer, Liverpool. September 24, at 11; Liverpool.—PARIS, GEORGE JAMES, & WILLIAM HENRY THOMAS PARIS, Provision Merchants, Liverpool (Paris, Brothers). Aug. 20, at 12; Liverpool.—PIDDING, JOHN RHODES, Merchant, 12, George-yard, Lombard-street, London, and of Bolland-lane, Finchley, Middlesex. Sept. 10, at 2.30; Basinghall-st.—SMITH, JOSEPH, Ironmonger, 3, Creed-place, Mase-hill, Greenwich, Kent, lately carrying on business at 32, Gt. Portland-street, Oxford-street, Middlesex. Aug. 31, at 12.30; Basinghall-st.—STEPANOFF, MICHAEL, Merchant, Liverpool. Sept. 24, at 11; Liverpool.—TOWNSON, WILLIAM M., Licensed Victualler, Liverpool. Sept. 24, at 11; Liverpool.—WATKES, JAMES, Hotel Keeper, Gravesend. Sept. 12, at 2; Basinghall-st.—WATSON, JOHN WILLIAM, Scrivener, Shrewsbury. Sept. 13, at 11; Birmingham.—WEBSTER, JOHN, Joiner & Builder, Wavertree, near Liverpool. Sept. 24, at 11; Liverpool.

FRIDAY, AUG. 23, 1861.

FAYE, WILLIAM, Boot and Shoe Manufacturer, Norwich (W. Fryer & Co.). Sept. 13, at 2.30; Basinghall-st.—LORD, WILLIAM, and THOMAS LUTTON, Cotton Spinners and Manufacturers, Shawforth, near Rochdale. Oct. 9, at 12; Manchester.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, PALL MALL, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
£5,000	£1,947 10	£6,947 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1860, amounted to £730,665 7s. 10d., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order, E. L. BOYD, Resident Director.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited),

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

Capital, £300,000, in 30,000 shares of £10 each. £3 per share paid.

CHAIRMAN.

METCALF HOPGOOD, Esq., Bishopsgate-street.

SOLICITORS.

Messrs. PATTESON & COBOLD, 3, Bedford-row.

MANAGER.

CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

INVESTMENTS.—The present rate of interest on money deposited with the Company for fixed periods, or subject to an agreed notice of withdrawal, is 5 per cent.

LOANS.—Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained. JOSEPH K. JACKSON, Secretary.

ROMNEY MARSH, KENT.

An Eligible Freehold Estate, consisting of 313a 3r. 18p. of Valuable Land.

TO BE SOLD by AUCTION, in One Lot, pursuant to an Order of the High Court of Chancery, made in the causes of "Jane Holman and Others v. Thomas Holman and Others," and of "Thomas Holman v. Ann Holman and Others," and of "H. H. Sweetnam and Others v. Ann Holman and Others," with the approbation of the Right Honourable the Master of the Rolls, the Judge to whom these causes are attached, by Mr. JOSEPH TOOTELL (the person appointed for that purpose), at the AUCTION MART, LONDON, on WEDNESDAY, the 18th day of SEPTEMBER, 1861, at TWELVE for ONE o'Clock precisely, an eligible FREEHOLD ESTATE, known as "Gammon's Farm," consisting of 313a. 3r. 18p. of valuable land, 217 acres of which are exceedingly productive arable land, and the remaining 96 acres are sound fattening land, together with a good farm dwelling house, and all the requisite agricultural buildings well arranged, well placed, and in good repair. This valuable property is situate in the parishes of New Church and Eastbridge, in the County of Kent, four miles distant from New Romney, ten miles from Ashford, and seven miles from Hythe. The estate is held on lease by Messrs. Matthew and Thomas William Butler (highly respectable tenants), for a term of twenty-one years from the 11th October, 1853.

The property may be viewed on application to the tenants. Particulars may be obtained on application to Messrs. BROCKMAN & HARRISON, Solicitors, Folkestone; to Messrs. TALBOT, TALBOT, and TASKER, Solicitors, 47, Bedford-row; to Messrs. DISCHOFF, COX, and BOMPAS, Solicitors, 19, Coleman-street; to Messrs. FLUX and ARGLES, Solicitors, 68, Cheapside; and to Mr. JOHN MURRAY, Solicitor, 7, Whitehall-place, London; also at the Auction Mart, London; at the Royal Fountain Hotel, Canterbury; at the Shakespeare Hotel, Dover; at the Albion Hotel, Hastings; at the New Inn, New Romney; at the Swan Hotel, Hythe; at the Saracen's Head Inn, Ashford; and of Mr. TOOTELL, Land Agent and Valuer, Maidstone.

HANTS, near PETERSFIELD.

MESSRS. BROOKS & BEAL are instructed to SELL, by Private Contract, a desirable FREEHOLD ESTATE; comprising a noble mansion, having three reception rooms, 10 bed rooms, all offices; double coach-house, six and three stall stables, and surrounded by pleasure grounds, garden, shrubberies, and an American garden of rhododendrons; a good kitchen garden walled in, and about 120 acres of prime meadow and other land. For price, &c., apply to BROOKS & BEAL, Land Agents, 209, Piccadilly.

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MESSRS. BROOKS & BEAL are instructed to SELL a splendid MANORIAL ESTATE and noble MANSION, seated in one of the best western counties. The whole estate comprises about 6,000 acres, with excellent farm residences and homesteads, houses and cottages. The property is most compact and valuable, hill and valley, wood and river. Let to highly respectable and responsible tenants at moderate rents; is in a fair state of cultivation; uniting in the possessor considerable county and borough, Parliamentary, and local influence, and yielding an ample income. Estate and Auction Offices, 209, Piccadilly, W.

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MESSRS. BROOKS & BEAL have to SELL a FREEHOLD ESTATE; comprising a modern-built residence, of handsome elevation, surrounded by 40 acres of land, laid out in pleasure grounds, kitchen garden, orchard, arable and grass fields; it is adapted for immediate occupation, and within two hours' journey from London. It has coach-houses and stables, and farm buildings; the whole in good order. Purchase £3,500.

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HANTS.

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Upwards of 2,120 acres of Freehold and Leasehold Lands, 6 Policies of Insurance, the Rectorial Rent Charge of the Parish of Bradworthy, and the Manors or reputed Manors of Bradworthy and East Buckish, in the North of Devon.

M. R. E. M. WHITE is instructed to offer for SALE, at the NEW INN, BIDEFORD, on TUESDAY, the 3rd day of SEPTEMBER next, at TWO o'clock in the afternoon, the fee-simple and inheritance of the MANOR of BRADWORTHY, with the tithes and chief rents thereto belonging, and Cleverdon and other farms comprised therein, and the mansion house on Cleverdon; also the Rectorial Tithe Rent Charge of the greater portion of the parish of Bradworthy, commuted at £396 5s., and producing in the present year £428. Also the valuable freehold farms of East Ash and Lower Kismildon (the latter in the parish of West Putford), and Ash Water Grist Mill, the whole constituting a valuable freehold estate extending over upwards of 939 acres, with unlimited rights of common. This property offers peculiar advantages to the purchaser, both as a sportsman and as an investor—to the former, as comprising a capital house suitable for a gentleman's family, with good shooting and fishing, there being an abundance of game, a good rookery, and a portion of the estate being bounded by the river Torridge—to the latter, as affording a scope for the profitable outlay of capital by draining and other agricultural improvements. Bradworthy is situate about 13 miles and West Putford 11 miles by a capital road from the port of Bideford (which is distant about 8 hours by rail from London) and 5 miles from the excellent market of Holsworthy.

Also a valuable Freehold Estate, comprising Clifford and other farms, extending over upwards of 874 acres, and the Manor of East Buckish, in the parish of Woolfordisworthy, distant about 10 miles from Bideford.

The highly valuable Freehold Estate of East Furlong, in the parish of Littleham, about 2 miles from Bideford, containing upwards of 55 acres, on which are some fine building sites, commanding lovely views of the finely wooded Yeo Vale.

The Freehold Estates of West Mead and Welcombe Parks and other tenements, containing about 70 acres in the parish of Welcombe, about 17 miles from Bideford, bounded by the sea, and commanding fine views of the Bristol Channel, having rights of wreck, and offering sites for a marine residence.

A valuable leasehold estate known as Cranam, containing upwards of 111 acres, in the parish of Buckland Brewer, distant about 8 miles from Bideford, and 5 from Torrington, held on the longest of three lives with six Policies of Insurance at various dates for the aggregate sum of £800.

Detailed particulars and plans of the property may be obtained at the New Inn, Bideford; Golden Lion, Barnstaple; White Hart, Holsworthy; Globe Inn, Great Torrington; Queen's Hotel, Exeter; of the Auctioneer; of Mr. J. GROVES COOPER, Wear Gifford, Torrington; of Messrs. JANSON, COBB, & PEARSON, Solicitors, 4, Basinghall-street, London; of Messrs. COODE, KINGDON, & COTTON, Solicitors, 10, King's Arms-yard, Moorgate-street; of W. J. HILL, Esq., Solicitor, Langport, Somerset; or of Mr. ROOKER, Solicitor, Bideford, Devon.

Bideford, 24th July, 1861.

TO BE SOLD, pursuant to an Order of the High

Court of Chancery made in a cause of Gyett against Williams, with the approbation of the Vice-Chancellor Sir William Page Wood, in one lot, by MR. MILNER, the person appointed by the said Judge, at the OXFORD ARMS HOTEL, at KINGTON, in the COUNTY of HEREFORD, on THURSDAY, the 12th day of SEPTEMBER, 1861, at 12 o'clock precisely, a certain FREEHOLD ESTATE, situate in the parishes of Glascomb and Bettus Diserth, and known as Wern Faur or Wern Danzey, and Cefn Glase, in the county of Radnor, now in the occupation of Mr. Danzey Sheen.

Particulars whereof may be had gratis of Mr. THOMAS WESTALL, of No. 3, South-square, Gray's-Inn, London, Solicitor; of Messrs. BODENHAM & TEMPLE, Solicitors, Kingston, Herefordshire; of Messrs. MERE-DITH & LUCAS, Solicitors, No. 8, New-square, Lincoln's-Inn, London; of Messrs. PATRICK & UNDERWOOD, Solicitors, Rolls Chambers, Chancery-lane, London; of Mr. ARTHUR CHEESE, Solicitor, Kingston; of Mr. PARSONS, Presteign, and of the principal Inns and Hotels in the neighbourhood; and of the Auctioneer at his office, Kingston, Herefordshire.

Dated this 13th day of August, 1861.

(Signed) EDWARD WEATHERALL, Chief Clerk.

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We cannot notice any communication unless accompanied by the name and address of the writer.

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THE SOLICITORS' JOURNAL.

LONDON, AUGUST 31, 1861.

CURRENT TOPICS.

The pressure on our space has compelled us to postpone till now the publication of an important paper, consisting of observations drawn up by a committee of the Metropolitan and Provincial Law Association, in reply to inquiries addressed to them by the commission now sitting on the funds of the Court of Chancery. The subject of inquiry was the constitution and working of the Accountant-General's Office, and the suggestions of the sub-committee on this subject, the agitation of which is mainly due to a series of papers which have appeared in this Journal, will be found to recommend themselves at once to the reader's attention, from their practical treatment of the details of the question. One of the first and most pressing reforms urged by these gentlemen is the establishment of a branch of the Bank of England in Chancery-lane, for the convenience, economy of time, and security alike of those who pay money into court and of those who receive it. They also recommend the abolition of one of the duplicate set of books kept by the Accountant-General and the Bank, as a useless measure of precaution; and then proceed to discuss under separate headings—first, the forms to be gone through by the suitor before reaching the Accountant-General's Office; secondly, the dealings of the suitor with that office; thirdly, the suitor's proceedings after leaving the office; and fourthly, the dealings of the Accountant-General with the Bank. Simplification of the numerous and tedious forms requisite before payment into court is a very obvious improvement; and with respect to the forms of orders, it is suggested that a method may be adopted with advantage, from the system of slave compensation payments, where the principle adopted was, that the Court declared rights with regard to the figures as they stood when the account was opened; thus, leaving it to the Accountant-General to apply that declaration to the funds in their altered and accumulated state. As to dealings between the suitor and the office, it is proposed that affidavits of calculation should be entirely dispensed with. As the case now stands, the solicitor has to make an affidavit of calculation, by which, however, the Accountant-General is not bound. The result is that the practitioner invariably inquires beforehand at the office the amount of the funds and cash then standing in the Accountant-General's name, information which is generally afforded with the least possible convenience to the applicant. The amounts are rapidly read out, and no memorandum whatever is furnished by the office. Delay in obtaining the voucher from the office is truly pointed out as a source of uneasiness to the clients of solicitors, not only in the country, but in town. The counter-signature of the Registrar is remarked upon as being a very insufficient check against fraud, having been established at a time when other machinery was at work in the office, which is now abolished. To the inconveniences pointed out by the sub-committee, we may add this, that the duty must necessarily be an irksome one to the Registrar himself. It is unsatisfactory to any officer to be called upon to affix his signature to a draft, in order to authenticate it and make it payable, when, practically, he cannot either verify the document or identify the person who presents it to him as the proper payee. The concluding remarks of the committee will, perhaps, attract more attention than any other. They

point to nothing less than the abolition of the personal office of Accountant-General altogether. They shew that the magnitude of the office is such as to place its details far out of the reach of the supervision of one person, however energetic and experienced; thus leaving matters to the integrity of clerks, who, certainly, have in a remarkable manner, proved their trustworthiness; but whose liability in case of fraud or accident appears to be undecided, whilst the chances of irregularity, of which they may possibly be the victims, are not averted by the adoption of the most approved modern provisions. An institution similar to that of the recent post-office savings banks is recommended, where deposits can be made by suitors who may not have time for investment. It is apparent that much of the cumbrous and antiquated machinery of this department of the court is doomed to destruction; and amongst the suggestions for improvement, none will have more weight than those of the Metropolitan and Provincial Law Association.

Complaints are again rife with respect to an old grievance—the closing of the Office of the Accountant in Bankruptcy for two entire months during the long vacation. A notice at the office in Basinghall-street informs the public that, "in accordance with the order of the Lord Chancellor," the vacation will commence on the 8th of August and end on the 5th of October, both days inclusive. The order itself, however, is not published, and whether it is a general order dated in some previous year, and extending to the present date, or whether it is an order issued by the Lord Chancellor from year to year, the public are not informed. In the Offices of Records and Writs, and of the registrars in Chancery, a better management prevails, and a copy of the actual order is exhibited for the information of those whom it may concern. If this were done in the bankruptcy offices, we should at least learn when and by whom the two months' vacation of the Accountant in Bankruptcy was sanctioned. The provision regulating the vacations in bankruptcy is the 10th section of the Consolidated Act of 1849, whereby the vacations in several offices of the Court of Bankruptcy are assimilated, though not in stringent terms, to those of the Court of Chancery. By the Chancery Orders (5th Consolidated Order, rule 1) the office of the Accountant-General is excepted from the ordinary fixed rules respecting vacations in other branches of the Court; and we presume that the Accountant in Bankruptcy, in like manner, considers himself exempted from ordinary fixed rules respecting the opening of his office; and to be subject to the special order of the Lord Chancellor. But if the analogy to the corresponding office in chancery is adopted at all by the Accountant in Bankruptcy, why is it not carried out in full? We find that by an order of Lord Campbell, dated the 6th June, 1861, the books of the Accountant-General are to be closed from Monday, 19th August, to Monday, the 28th of October, more than two months, it is true; but there is this important addition, that on the 14th, 15th, and 16th October, the offices are to be open for the delivery of drafts payable in respect of the October dividends. Even with this relaxation, the length of the vacation is complained of. But no such indulgence is conceded by the Accountant in Bankruptcy. A correspondent of the *Times* states that about the 12th of August he received a dividend warrant from the Liverpool district court on the Accountant in London for a considerable sum, which he finds he will not be able to receive till after the 5th October, a matter not only inconvenient, but involving the loss of two months' interest. We have every reason to believe that this very reasonable subject of complaint will not be of much longer standing, and that it will be remedied in the framing and settlement of the new bankruptcy orders.

PARLIAMENTARY PAPERS OF THE SESSION
RELATING TO LAW AND LAWYERS.

III.

3. POLICE AND CRIMINALS—(continued).

In the early part of the last century, the Queen's mercy was wont to be extended to thieves on condition of transporting themselves to the West Indies. As they often neglected to perform the condition, and there was at the same time a great want of servants in the British colonies and plantations in America, power was given by an Act of the 4 Geo. 1 to the Court before which such offenders were convicted, instead of ordering them to be burnt in the hand, or whipt, to direct that they should be sent to some of those colonies and plantations for seven years, and to convey them to the use of any person who should contract for the transportation. In capital offences, or where any offenders were excluded the benefit of clergy, and the King was pleased to pardon on condition of transportation to America, the court might allow the pardon and direct the transfer and conveyance of the culprit to any person for fourteen years, or any term made part of the condition; and such person was to have a property in the transport's service for the term. Sixty years later, in the 19 Geo. 3, it was made lawful to order the transportation to any parts beyond the seas of persons liable to be transported to America. In 1792 a proposal was made by Jeremy Bentham to contract with the Government for the management of 1,000 male convicts in a national penitentiary to be erected by him. Power was subsequently given to Government, and Bentham became feoffee of land by an Act for the purpose of carrying out the proposal. A sum of £2,000 was advanced to him, which, with other considerable sums, he laid out in preparations with respect to the plan of the building, the employment to be given to the convicts, and the system of management, and certain patented mechanical works, the invention of his brother Brigadier-General Samuel Bentham. The Government withdrew from the scheme; and in 1812 an Act was passed for compensating Jeremy Bentham, and for building the Penitentiary at Millbank. It gave authority to the King to order persons in Newgate under sentence of transportation to be confined in the Penitentiary for certain terms according to the term of the sentence of transportation. By a revising and consolidating Act of the 3 Geo. 4 it was provided, that when an offender was transported in a king's ship, a secretary of state might nominate some person to have the custody of the offender; and the governor or other person to whom the contractor or nominee should deliver such offender might assign him, and so as often as might be thought fit. By this Act, too, the King was empowered to appoint any place in England, either at land or on board a vessel, for the confinement of persons under sentence of transportation, to which a secretary of state might direct the removal of any male offender under sentence of transportation until he should be transported, or become entitled to his liberty, or be ordered by a secretary of state to be taken back to the prison from which he was removed. Having thus briefly indicated the origin of our system of transportation and convict prisons we pass to the year 1853, when the difficulty of transporting offenders beyond sea made it expedient to substitute in certain cases other punishment. By an Act of that year (c. 99), a person who otherwise would have been liable to transportation became liable, at the discretion of the Court, to be kept in penal servitude for a certain relative term mentioned in the Act. This discretion was abolished by the 20 & 21 Vict. c. 3, which enacted that a person should not be sentenced to transportation, but should, instead, be liable to penal servitude of the like duration as the term of transportation. At the same time, persons under sentence of penal servitude might be conveyed to any place beyond the seas to which offenders under sentence

of transportation might be conveyed, or which might be appointed by the Queen in council. The system of transportation, in its utility, economy, and room for improvement, was inquired into and reported upon last session (286) by a select committee of the Commons. Since the discontinuance of transportation to New South Wales and Van Diemen's Land, and the substitution of penal servitude, the number and duration of the sentences have greatly decreased; the average annual number for transportation in 1850—1852 having been 4,962, all for seven years and upwards; the average for penal servitude in 1858—1860, 2,723, of which only 515 were for periods exceeding six years. In the last-mentioned three years respectively there were transported to Western Australia, 550, 224, and 296; to Bermuda, 640, 281, 0; and to Gibraltar, 0, 140, 0. Of the plan of sending convicts to Bermuda and Gibraltar, employing them on public works there, and bringing them back to this country to be discharged, the committee doubts the advantage. The gross charge for transportation and establishment in 1858-9 was, for Western Australia, £80,000; Bermuda, £65,000; Gibraltar, £35,000. The total number of convicts not being expeirces or conditionally pardoned men, in Western Australia, in June, 1860, was 2,432, of whom 774 were maintained by Government, and 1,658 held tickets of leave. The other Australian colonies desire that transportation to any part of Australia should be abandoned, and some have made laws to keep out from their territories the convicts of Western Australia. But there is no sufficient evidence to show that such convicts have seriously affected any other Australian colony, while it is proved that many of them in Western Australia now lead honest and independent lives. The transportation of women has been abandoned for many years.

From Bermuda, a letter of August, 1860, to the colonial minister from Governor Murray, who had made an unexpected night visit in the hot season to all the convict prisons and hulks, bears witness to good order, regularity, and wholesomeness. The comptroller's report to the governor states that a system of marks, as a test of conduct, had awakened among the prisoners an emulation previously unknown. The prisoners were employed in the naval works, in those of the royal engineers, and in public buildings. The great evil, fatal to discipline, was want of officers' quarters; another evil, the large number of prisoners in the hulks. The average daily number of convicts was 1,206. Of 1,357 in custody in 1860, 10 died; one by his own hand. There were 1,382 punishments, some men being punished ten or twelve times. No more than 26 punishments were for theft. The greater number were for insolence, disobedience, and idleness. In summer, the day is 15 hours—labour 8, meals 2½, prayers ½, in-doors 4. In winter, an hour less in-doors. Each man's food weekly is 10½ pounds of bread, 1½ pounds of biscuit, 4 pounds of fresh beef, 1½ pounds of salt pork, and 7 of vegetables, with the addition of tea, sugar, cocoa, and oatmeal, and 3½ gills of rum. The commoner trades are practised within the prisons. The chaplain and surgeon also make their reports to the governor. From the schoolmaster's return appended to the former it is seen that out of 1,009 convicts, 6 can neither read nor write, 32 can read only, 154 read and write incorrectly, 481 read and write well, while 336 are well instructed.

At Gibraltar, the public works, Governor Codrington considers, are suitable for furnishing labour to the prisoners, and teaching them some occupation by which they may profit on their release; but in the case of convicts for life or long periods, hopelessness nullifies the advantages to the country. For the mere sake of a possible removal to England four prisoners of long sentences had made a murderous assault on the assistant surgeon. The prisoners were employed, as at Bermuda, in public works. Six, in imitation of a course adopted

by Sir J. Jebb in the prisons in England, were sent to work in public gardens, without any warder, and had given every satisfaction. There are public works of great importance sufficient to employ a thousand prisoners for many years to come, but if reformation is expected, buildings such as those at Chatham and Portland must be erected. The average daily number in 1860 was 730. Of the total number of 844 in the year 17 died—13 from cholera, which spread from Spain. About half the prisoners were under thirty years of age. The punishments in the year were 950. There are two diet tables there, one for the workers, another for the idlers; the latter having only 7 pounds of bread and 26 ounces of meat weekly, while the former have 8½ pounds and 40 ounces respectively. The establishment of the idlers' scale had caused a riot. There are also allowances as indulgences to prisoners in advanced stages of penal servitude. For the year 1860 the estimated value of the work done is £23,458 19s. 8½d. The average per prisoner of the cost of the whole penal establishment is £31 9s. 3d., while in the prisons in England the average is £34 2s. 2d. Of 563 prisoners in Dec., 1860, the numbers who could read, not at all, imperfectly, fairly, and well, were respectively 6, 43, 145, & 369; and as to writing, the corresponding numbers were 15, 58, 352, and 138. These accounts from Bermuda and Gibraltar form a blue book. Respecting the conflict of opinion in the Australian colonies, and particularly between Tasmania and Western Australia, as to the advantage of the introduction of convict labour, further correspondence between the colonial secretary and the governors of these two colonies has been presented also in a blue book. It contains numerous scattered statistics, but they are of a controversial character, and are not in a shape convenient for reproduction.

Since we completed the head of Police and Criminals, the 26th report of the inspectors of prisons for the Midland district has appeared. We have space only to remark, that the fault of being meagre and perfunctory, which we imputed to the report for the Southern district, does not seem to be chargeable on this blue book. It contains numerous tables, which were wanting in the other, and has three times as many pages.

4. PUBLIC EXPENDITURE.

The 3rd class in the abstract of the Civil Service Estimates (H. C. 131) shows the current year's cost of law and justice, compared with the cost for the year ending March, 1861. Relative to the subject which we have last treated, as regards England and Wales, criminal prosecutions, sheriffs' expenses, &c., are set down at £167,000, being an increase of £67,000 on the year 1860. The expense of the constabulary of Great Britain is £224,575; the salaries and expenses of the police courts of the metropolis, £21,355; those of the metropolitan police, £136,204, being nearly £5,000 more than in 1860. The prison and convict services at home and abroad furnish items of £17,695 for inspection and superintendence in the United Kingdom; £378,879 for the establishments at home, showing a decrease of about £30,000 on the last year; the maintenance of prisoners in county gaols and the removal of convicts, £213,976, in which there is an increase of about £54,000; transportation, £15,776, being about £5,000 less than in the past year; and for the convict establishments in the colonies, £160,590, or more than a decrease of £13,000 on the year 1860. The total of this expenditure in the administration and execution of the criminal law is £1,336,050. The salaries and expenses of the county courts are estimated at £200,320; the Probate Court at £71,980 against £34,280 of the year 1860. The revising barristers cost the country £17,650 a year. The details of these estimates are given in a separate paper (131, III.), and there is a special return (H. C. 442) of the amounts paid to the treasurers of the several counties in England and Wales on account

of the expenses of criminal prosecutions and maintenance of prisoners in the year 1860. From the detailed estimates it is seen that the decrease of £30,000 for the prisons and convict establishments at home is principally due to building and fitting operations in the past year at Woking Prison, and at the criminal lunatic asylum near Sandhurst. The increase of £54,000 in maintenance of prisoners and removal of convicts is not borne out by the detailed estimates, the totals there being for the year ending March, 1862, £213,976 1s. 3d., and for the year ending March, 1861, £229,357 5s. 10d., showing a decrease of above £15,000. We must leave the Chancellor of the Exchequer to explain this discrepancy of £69,000, trusting only that it is not a specimen of the degree of accuracy with which such papers are framed.

The public expenditure on law and lawyers in 1860 was not all embraced by the civil service estimates for that year. Contingencies must be met; accordingly, a paper (H. C. 224) with that object sets down £3,071 3s. 4d. as expenses incurred for legal and other professional services. Among these are £500 to each of the two draftsmen, Mr. A. J. Wood and Mr. F. S. Reilly, for services in preparing a new edition of the statutes; £100 to Mr. H. T. Holland for drawing the Common Law Procedure Bill of 1860; and £300 and £200 to Mr. D. R. Pigott and Mr. F. M'Blaine respectively for preparing Bills for the amendment of the criminal law of Ireland. Rewards, compensations, and expenses connected with criminal justice are provided for by a moderate sum under £700, including £279 10s. as fees paid to certain scientific persons for professional services in cases of alleged poisoning at Liverpool; fees of £56 5s. 6d. to Professor Taylor for analyses in two criminal cases; and fifty guineas to Mr. Nunneley for a like analysis.

The Courts, Appointments, Promotions, Vacancies, &c.

The Chief Justice of New South Wales has been pleased to appoint Paul J. Gordon, Esq., of 18, Old Broad-street (of the firm of Sills & Gordon) as permanent commissioner in England for taking evidence and affidavits for that colony.

The Queen has been pleased to appoint William Hackett, Esq., Barrister-at-Law, to be her Majesty's Advocate for her Forts and Settlements on the Gold Coast.

The Lord Chief Justice has appointed Thomas Hull Terrell, Alfred Hanson, and Henry S. Maine, Esqs., of the Chancery Bar, to revise the lists of voters for the metropolitan boroughs, the city of London, and the county of Middlesex.

Recent Decisions.

HOUSE OF LORDS.

VOLUNTARY SETTLEMENT—STATUTE 13 ELIZ. C. 5.

Thompson v. Webster, 9 W. R. 641.

The decision of the House of Lords in *Thompson v. Webster* is mainly important, on the ground that it declares emphatically, and by way of affirmation of the previous decrees of the Lords Justices and Vice-Chancellor Kindersley, the true principle of construction which is to be applied to the statute of the 13 Eliz. for the protection of creditors against fraudulent conveyances. By the terms of that statute it is enacted that all conveyances of any property "made of malice, fraud, covin, collusion, or guile, to the end, purpose, and intent, to delay, hinder, or defraud creditors or others" of their debts, shall be deemed and taken as against such creditors, &c., their heirs, executors, &c., to be "clearly and utterly void;" but it is provided (sect. 8) that the Act shall not extend to any estate or interest made, conveyed, or assured "upon good consideration and *bonâ fide*," to any persons not having notice of such covin, fraud, or collusion.

The first leading decision in the statute is that of *Twyne's*

case, 3 Co. Rep. 80 b., where it was laid down that a good consideration is not enough to take the case out of the statute, unless it is *bonâ fide* also; the consideration must be both good, and also without fraud, covin, collusion, or guile. So that where A., being indebted to B. in £400, and to C. in £200, and being sued by C., pending the writ, by secret deed assigns all his goods and chattels (without excepting even apparel) to B., but continues in possession of the property, consisting of sheep, sells some and puts a mark on others, this is a fraudulent conveyance, because, though good, as being in consideration of B's debt, it is made with intent to delay, hinder, or defraud C.

Although sect. 8 speaks of "good," and not of "valuable," consideration, thereby excepting out of the statute all conveyances for meritorious considerations, such as natural love and affection, and the like, provided they are also *bonâ fide*, it seems to have been held at first by the Courts that all voluntary conveyances were an evidence of fraud; and if not made for pecuniary or valuable consideration, were void as against actual or future creditors; *Apharry v. Bodingham*, Cro. Eliz. 350; *Stiles v. The Attorney-General*, 2 Atk. 152; *Ex parte Hall*, 1 V. & B. 112. In *St. Amand v. Lady Jersey*, Comyn, 255, it was held that a voluntary conveyance is bad in equity against bond debts afterwards contracted, there having been other bond debts existing at the time of the settlement. Here also may be mentioned a dictum of Lord Hardwicke, many years later, in 1750, that "there is no case where a person indebted makes a conveyance of a real or chattel interest for the benefit of a child, without the consideration of marriage or other valuable consideration, and dying afterwards indebted, that it shall take place;" (*Townshend v. Windham*, 2 Ves. Sen. 10), a passage which has been commented on and explained by Sir T. Plumer, in *Holloway v. Millard*, *infra*. But it was soon settled that the statute only extended to those voluntary conveyances which were made by a person who was indebted at the time, or where the deed itself was fraudulent; *Shaw v. Standish*, 2 Vern 327. In *Russel v. Hammond*, 1 Atk. 15, Lord Hardwicke said expressly that "a settlement being voluntary is not for that reason fraudulent; it is an evidence of fraud only (thus far the old doctrine was retained), though he hardly knew one case where the person conveying was indebted at the time that it had not been deemed fraudulent. But a voluntary settlement is not fraudulent when the person making it is not indebted at the time; nor will subsequent debts shake such settlement." So again, in *Walker v. Burrows*, 1 Atk. 93, Lord Hardwicke says, "It has been said that all voluntary settlements are void against creditors equally the same as they are against subsequent purchasers, under the statute of the 27th of Eliz. But this will not hold, for there is always a distinction between the two statutes; it is necessary, on the 13th Eliz., to prove at the making of the settlement the person conveying was indebted at the time, or immediately after the execution of the deed."

Upon the decisions in *Russel v. Hammond* and *Walker v. Burrows*, two questions arose—one as to what amount or degree of indebtedness on the part of the settlor, at the time of the settlement, would suffice to vitiate the conveyance; the other, under what circumstances, if any, a voluntary deed could be set aside by subsequent creditors. The two questions were, in many instances, as in *Russel v. Hammond*, discussed and decided together. As to the first, the doctrine of the Courts, having been stretched to its limits in either direction, is now settled; the latter is still left in some degree of uncertainty. In *Stillman v. Ashdown*, 2 Atk. 481, we find Lord Hardwicke laying it down that "it is not necessary that a man should be actually indebted at the time he makes a voluntary settlement, to make it fraudulent; for if he does it with a view to his being indebted at a future time, it is equally so, and ought to be set aside." This dictum is remarkable as containing the germ of the rule of construction afterwards adopted. In *Lush v. Wilkinson*, 5 Ves. 387, a somewhat different view is adopted by the Master of the Rolls, Sir R. P. Arden. He says (as to the first question): "I very much doubt whether a subsequent creditor has a right to come without proving an antecedent debt." (As to the second): "A single debt will not do. Every man must be indebted for the common bills of his house, though he pays them every week. It must depend upon this, whether he was in insolvent circumstances at the time." And in *Kidney v. Coussmaker*, 12 Ves. 150, it is reported as having been admitted by Sir S. Romilly, that *Stephens v. Olive*, 2 Bro. C. C. 90, and *Lush v. Wilkinson* establish, that it is not sufficient that the settlor was indebted at the date of the settlement, unless the debts then existing were still unsatisfied, or the man was insolvent at the time.

This apparent contradiction between the authorities—some

of which seem to say that a conveyance by a man absolutely unindebted at the time may afterwards be avoided; others, that he must be in insolvent circumstances at the time, in order that such a result may follow—was reconciled by Sir T. Plumer, in *Holloway v. Millard*, 1 Madd. 414. The plaintiffs there were creditors subsequent to the date of the settlement, which was voluntary, and made by a person not indebted at the time. The Master of the Rolls, after observing that the word "voluntary" was not to be found in either the 13th Eliz. c. 5, or the 27th Eliz. c. 4, thus summed up the law:—"A conveyance is not fraudulent because it is voluntary. A voluntary conveyance may be made of real and personal property without any consideration whatever, and cannot be avoided by subsequent creditors, unless of the description mentioned in the statute. If a person having £1,000 a-year, and not indebted at the time, gives away £600 a-year, the gift is not fraudulent, unless it were made with an intent to defeat subsequent creditors. Its being voluntary is *primâ facie* evidence, where the party is loaded with debt at the time, of an intention to defeat his creditors; but if unindebted, his disposition is good." And the Court refused an inquiry as to the indebtedness of the grantor, unless some ground were laid for it in the pleadings. In *Richardson v. Smallwood*, Jac. 552, on the other hand, the same learned judge entertained a suit to set aside a settlement where the plaintiff was a person who became a subsequent creditor by the breach of a covenant previously entered into. The settlor was in embarrassed circumstances. In a case of *Shears v. Rogers*, 3 B. & Adol. 362, a few years later, in the Queen's Bench, the doctrine as to indebtedness appears to have again receded. The Court, at least, acquiesced in the view that a man must be in insolvent circumstances in order to render a conveyance by him fraudulent within the statute; although even here Littleton, J., says that the question of insolvency must be determined not only by striking a balance between a man's debts and credits, but also by looking to his conduct and the general state of his affairs. A less hesitating approval of the doctrine laid down in *Lush v. Wilkinson*, on the part of Sugden, L.C., many years later, is to be found in *Martyn v. McNamara*, 4 Dr. & W. 427; but the expressions of the eminent judge must be taken subject to the qualifications suggested by subsequent cases. In *Townsend v. Westacott*, 2 Beav. 340, a case where a man, indebted at the time, made a voluntary settlement in April, 1830, on his housekeeper's daughter, soon after married the housekeeper, and in October, 1832, was imprisoned for debt, and took the benefit of the Insolvent Act, Lord Langdale, M.R., directed inquiries, from which it appeared that the settlor's debts at the date of the settlement were about £3,500. He observed—"There has been a little exaggeration in the agreement on both sides as to the principle on which the Court acts in cases like this. On one side it has been assumed that the existence of any debts at the time of the execution of the deed would be such evidence of a fraudulent intention as to induce the Court to set aside the voluntary conveyance, and oblige the Court to do so under the statute of Elizabeth. I cannot think the real and just construction of the statute warrants that proposition, because there is scarcely any man who can avoid being indebted to some amount. He may intend to pay every debt as soon as it is contracted, and conscientiously use his best endeavours to employ means to do so, and yet may frequently, if not always, be indebted in some small sum. There may be a withholding of claims contrary to his intention by which he is kept indebted in spite of himself. It would be idle to allege this as the least foundation for assuming fraud or any bad intention. On the other hand, it was said that something amounting to insolvency must be proved to set aside a voluntary conveyance. That, too, is inconsistent with the principle of the statute, and with the judgments of the most eminent judges." The settlement in this case was set aside as fraudulent. This modern view of construction has been repeatedly followed. Thus, in an instance where only one small debt was alleged against the grantor, and there was no suspicion of fraud, Brady, C.B., refused to allow an inquiry as to indebtedness; *Manders v. Manders*, 4 Ir. Eq. Rep. 434. The same eminent authority elsewhere expounds the view which is now universally acted upon:—"It appears to me that the solvency of the party affords no infallible rule, but that each case must be judged by its own particular circumstances. On the one hand it is too much to say that the insolvency of the party would, *per se*, be enough to make the deed fraudulent; while, on the other hand, his solvency will not necessarily exclude the possibility of the deed being fraudulent;" *Clements v. Eccles*, 11 Ir. Eq. Rep. 229;

where inquiries were directed by the Court, the case appearing *prima facie* to be within the statute. An instance where a voluntary deed was upheld, though the settlor was largely indebted, is to be found in *Re Magawley's Trusts*, 5 De G. & Sm. 1; a case which was remarkable on other grounds. One of the last occasions on which the subject in both its branches was discussed is *Holmes v. Penney*, 3 K. & J. 90, before Vice-Chancellor Wood. His Honour observed—"With respect to voluntary settlements, the result of the authorities is that the mere fact of a settlement being voluntary is not enough to render it void against creditors; but there must be unpaid debts which were existing at the time of making the settlement, and the settlor must have been at the time not necessarily insolvent, but so largely indebted as to induce the Court to believe that the intention of the settlement, taking the whole transaction together, was to defraud the persons who, at the time of making the settlement, were creditors of the settlor. The mere fact of a man making a voluntary settlement, and thereby parting with a large portion of his property, has never been held to make such a settlement fraudulent as against subsequent creditors. I may I do not know that such has ever been held to be the case; and, perhaps, it is a question which still remains to be determined."

The remarks of Vice-Chancellor Kindersley and of Lord Chancellor Campbell in *Thompson v. Webster* fully confirm the proposition that it is no longer necessary to have absolute insolvency in order to overturn a settlement under the statute; whilst, the further point, whether a voluntary conveyance made by a person absolutely unindebted at the time may be set aside at the suit of future creditors, is still comparatively untouched by authority. In all cases the validity of the settlement depends upon the *motive* of the settlor. That motive has to be collected from his acts in relation to surrounding circumstances. A past decision can do no more than guide the judge or jury, as the case may be, to a conclusion on a question of this nature—it does not bind them by an inflexible rule so long as any material difference exists between the facts in the reported case and those on which they have to decide.

REAL PROPERTY AND CONVEYANCING.

RIGHT OF A MORTGAGEE TO RECOVER TWENTY YEARS' ARREARS OF INTEREST—3 & 4 WILL. 4, c. 27, s. 42; 3 & 4 WILL. 4, c. 42, s. 3.

Lewis v. Duncombe, M. R., 9 W. R. 446; *Round v. Bell*, M. R., 9 W. R. 846.

In the latter case a question has been determined which was long a moot point—viz., whether a covenant in a mortgage deed entitles the mortgagee, in a foreclosure suit to recover arrears of interest for twenty years before the filing of the bill, as against the mortgaged premises. His Honour adhered to the opinion formed by him in *Lewis v. Duncombe*—a case which his Honour stated he had found, in common with other cases which had come under his observation, very accurately reported in the *Weekly Reporter*. The difficulty was occasioned by a seeming conflict between two enactments. The 3rd section of the statute 3 & 4 Will. 4, c. 42, has provided that actions of debt on specialties may be brought within twenty years after the cause of action shall have accrued; while the statute 3 & 4 Will. 4, c. 27, s. 42, had previously enacted that no arrears of rent or of interest in respect of any money charged on land should be recoverable for more than six years. His Honour held that where there is only a simple mortgage deed, such as was in the present case, only six years of interest could be recovered against the estate. In the cases which seem to have decided the contrary the relation of *cestui que trust* and trustee existed between the parties; so that the 42nd section of the 3 & 4 Will. 4, c. 27, did not apply; *Young v. Lord Waterpark*, 13 Sim. 204; *Cox v. Dolman*, 2 De G. M. & G. 592. The origin of the doubts concerning this question of law may perhaps be attributed to the decision in *Hunter v. Nockolds*, 1 M. & G. 640. The abstract question decided in that case was against the validity of a claim for interest on foot of a charge on land for more than six years. But the value of that decision was much lessened by the fact that the instrument creating the charge contained a trust term securing it, and yet that term was never once mentioned in the argument or decision as affecting the rights of the parties. The distinction, however, drawn in *Cox v. Dolman*, and followed in *Lewis v. Duncombe*, is, doubtless, the true principle, as observed by his Honour in the present case, which should govern such cases—viz., where there is a simple mortgage deed only six years' interest can be recovered against the estate; but where there is a trust, such as a trust term to secure the mortgage, or, as in

Lewis v. Duncombe, where an estate is vested in trustees to secure an annuity, the full amount of the arrears may be recovered. In the present case there was no trust term, and, therefore, there was nothing to prevent the 42nd section of 3 & 4 Will. 4, c. 27, from applying, and limiting the mortgagee's right to recover interest to six years before the filing of his bill.

There had been an administration suit of the mortgagor's estate in another branch of the court, and if the plaintiff had come in under that suit, he could of course, as a specialty creditor under the bond and covenant securing the mortgage debt have recovered arrears of interest for twenty years. As he did not do so, he was now precluded from tacking the bond and covenant to the mortgage in a foreclosure suit so as to charge the estate. The right to tack a bond to a mortgage, as against the heir of the debtor, is founded on the ground of its preventing circuity of action. Such a right is not allowed as against mere incumbrancers, because the bond debt is not, except as regards the heir of the mortgagor, a charge on the land; *Smith's Man. Eq. Jur.* p. 198, ed. 1849. Such a right to tack depends, therefore, upon the right of the mortgagee to sue the heir, and there was no representative of the mortgagor before the Court. The mortgagee was thus precluded both by his own laches, as also by the state of the pleadings in the foreclosure suit, from tacking so as to recover twenty years' arrears of interest.

It is not surprising that doubts existed as to the operation of the statute 3 & 4 Will. 4, c. 27, s. 42, in respect to charges on land which are also secured by the bond or other specialty of the debtor; as these belong to a class of obligations which, even though they should be incurred without any consideration, may nevertheless be enforced within twenty years by force of the statute 3 & 4 Will. 4, c. 42, s. 3. This enactment was considered by most lawyers to have *pro tanto* repealed the former Act—to be, as it were, an exception to its general scope and provisions, just as express trusts are excepted from its own purview by the 25th section. The case of *Round v. Bell*, however, dispels all causes of doubt as to the present state of the law in this respect, and as to the reasons which have led to the construction which has been put upon the Statute of Limitations. The effect of this decision will be to lead conveyancers invariably to insert in every deed of mortgage a trust term, which will preclude any ground for disputing the mortgagee's right to recover arrears for twenty years.

COMMON LAW.

CRIMINAL PLEADING—SEVERAL PLEAS, WHEN ALLOWED.

Reg. v. Charleworth, Q. B., 9 W. R. 805.

In this notorious case a point of criminal pleading was raised, which, though scarcely of a doubtful nature, was seriously discussed by a formidable array of counsel. It is, however, well, that in these days of constant change, the ancient landmarks of the law should be occasionally examined into, and if found to be unobjectionable, adhered to with resolution. Of these landmarks one is that in pleading, a single answer only shall be given to a single charge. In civil cases indeed, this rule has long been broken into; first by the statute of Ann. (4 & 5 Ann. c. 16), and again quite recently by the Common Law Procedure Act, 1852; but in criminal cases generally, the common law rule remains intact. The only exception is that in felonies the prisoner is allowed, through the clemency of the law (originally established in *favorem vite*) to plead a special plea in bar, and if he fail thereon, then to place on the record the general issue of "not guilty." But this practice does not apply to an indictment or information for a misdemeanour (see *Reg. v. Taylor*, 3 B. & C. 502), and hence the defendant so charged must rely either on a special plea or on his being "not guilty;" and cannot be allowed to retain both on the record, or to substitute one for the other. In the present case, the defendant having originally pleaded "not guilty" to an information for bribery, and having been placed on his trial thereon, the jury were discharged from giving a verdict. On this he sought to place on the record a special plea, amounting to the defence of *autrefois acquit* (in effect a plea *puis darrein continuance*), but the Court held that this would be pleading "double," which the criminal law does not permit; and that the proper course for the defendant to adopt would be (in the event of his subsequent conviction), to bring error: for by that method the discharge of the jury, in his first trial, on which he relied, would necessarily appear on the record; and be dealt with by the Court more regularly and more conveniently than if argued by way of plea,—to which there might be a demurrer decided in favour of the prisoner, though the issue raised by the plea of "not guilty" remained undisposed of on the record.

Correspondence.

TITHE RENT CHARGE.

The tithe rent charges for the parish of A. are charged under what is called a field apportionment—that is to say, each field is specifically charged in the apportionment, with a sum of tithe thus:—

Landowner.	Occupier.	No.	Quantity.			Rent charge payable to the Vicar.		
			A.	B.	P.	£	s.	d.
Lord Peters	John Smith	276	1	0	24	0	5	0
		278	4	3	9	0	19	6
		340	18	2	30	4	10	0
		608	5	2	12	1	4	6
		720	12	0	4	3	0	4
		904	6	1	1	1	10	0
			48	1	30	11	9	4

Since the apportionment Lord Peters has sold No. 340 to Joseph Taylor, who occupies it himself.

Will some of your readers inform me whether the vicar is entitled to recover from Joseph Taylor, who occupies No. 340, the whole £11 9s. 4d. charged on the 48a. 1r. 30p., making Taylor get back the proportion from the other tenants, or can he only require Taylor to pay the £4 10s. set opposite to his land; and I shall be obliged if a reference to some case or Act of Parliament can be given as an authority.

A CONSTANT READER.

JUDGMENT DEBT—INTEREST.

Your correspondent M. is, I think, clearly wrong in his opinion that a judgment on a bill of exchange carries £5 per cent. interest, because, as he says, it is within the 76th Practice Rule of Hilary Term, 1853. If he and your readers will refer to the 76th Rule, it will be seen that interest at more than £4 per cent. can only be charged on a judgment when "there is an agreement between the parties that more than £4 per cent. interest shall be secured by the judgment." How can it be said that when the bill was given a judgment was ever even contemplated?

B. P. A.

INVESTMENTS BY TRUSTEES—EAST INDIA STOCK

(SEE 22 & 23 VICT. C. 35, s. 32; 23 & 24 VICT. C. 38, ss. 10, 11; ORDER IN CHANCERY, 1st FEBRUARY, 1861).

Will your readers enlighten me as to the course to be pursued by trustees?

The first Act authorises trustees to invest in East India Stock, unless forbidden by the instrument creating the trust. But see *Re Colne Valley and Halstead Railway*, 8 W. R. 18, as to the East India New Loan.

The second Act and the order seem to authorise investment in the East India New Loan, but yet the Court refuses to authorise it. I have heard of one case in which an order has been made, but I have not been able to find the name, and consequently not the circumstances of the case. If the order of court does not include the East India New Loan, is it not too bad that the judges, after the doubt created by the above-quoted case, should have used the same language as in the first Act, and so have left trustees in doubt.

Is it now the practice to advise trustees to invest in the East India £5 per cent?

B. P. A.

ATTESTATION OF WILLS.

The following form has been used by me, and has answered:—

Signed, published, and declared by the above-named (A.B.), as and for his last will and testament, in the presence of us present at the same time, who at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses thereto.

B. P. A.

INSURANCE OF TRADE BUILDINGS, &c.

The tenant should insure for his own protection, because the lessee of a house who covenants generally to repair is bound to rebuild it if it be burned by accidental fire; and where the lessee covenants generally to pay rent, he is bound to pay it though the house be burned down. (Woodfall's "Landlord and Tenant," pp. 369 and 385, 7th ed.)

The landlord may deem it expedient to insure because the tenant may fail to insure, or keep up the insurance, and the

tenant may not be worth suing. And even if the tenant insures, and the premises are within the weekly bills of mortality, the landlord may deem it expedient to insure, because the tenant may obtain the benefit of his insurance previously to the landlord being able to give notice to the insurance office of his interest in the premises.

An arrangement should be made between the landlord and the tenant for an insurance in their joint names. C.

THE ACCOUNTANT-GENERAL'S DEPARTMENT OF THE COURT OF CHANCERY.

The Metropolitan and Provincial Law Association a short time ago published a paper containing observations of the Equity Sub-Committee of that Association in reference to the matters of complaint existing in connexion with the Accountant-General's department of the Court of Chancery, and recommendations and suggestions for remedying the same, drawn up in accordance with the request contained in the printed circular letter received from the Secretary to the Chancery Funds Commissioners. The paper is as follows:—

In our judgment, one of the first steps towards a reform of the present provisions for the custody and management of the funds of the suitors in Chancery should be the opening of a branch office of the Bank of England in Chancery-lane, in, or in immediate connexion with, the Accountant-General's office there, for the payment of Chancery drafts, and for the receipt of monies paid into court.

Very many of the recipients of money out of court are old and infirm; but even where they are younger and more active, the waste of time and the inconvenience of going to the city to get their money (not to mention the risk of loss) are sufficient to constitute a considerable grievance. It is likewise very inconvenient, and attended with risk, for persons paying money into court to be obliged to go first to the Accountant-General's office in Chancery-lane to obtain his directions and authority for the receipt of the money by the Bank, and then a mile and a half to the Bank of England in the city with the cash.

The suitors of the court are, we think, entitled to more consideration and accommodation in these respects than the present system affords.

A branch office of the Bank of England has long been established in the Court of Bankruptcy for the convenience of the suitors of that Court, and we have never heard of any fraud or loss resulting from it.

The next step should be the abolition of one of the duplicate sets of books which are kept by the Accountant-General and the Bank of England respectively, for though the cost of one of them is borne nominally by the Bank, the expense of both falls practically on the suitors. We think the Bank duplicate might with safety, and ought to, be dispensed with, and the Bank left to keep the monies of the Court much as it would those of any other customer; so far as we are aware, there is no other public department in which a duplicate set of books showing the subdivisions of every suitor's or customer's account is kept.

We beg also to submit the following recommendations which we have arranged under the heads suggested in the circular letter.

I.—As to forms to be gone through before the suitor reaches the Accountant-General's office, and, generally, dealings between the Court and the Accountant-General.

1. As regards paying money and transferring stock into court, and the expense and delay involved therein.

We think that money should be allowed to be paid into court without any special order of the Court, and also to be invested, in the same manner as money paid in under the Legacy Act, and that stock should be similarly permitted to be transferred into the name of the Accountant-General without an order, but that in lieu of an order it should be the duty of the solicitor so paying in or transferring to file with the Accountant-General a certificate signed by such solicitor, and in such form as may be directed by any General Order, stating the amount and the account and purpose in respect of which the money or stock is so paid in or transferred.

Under the present system, if the suitor wants to pay in money, he has first to obtain a special order, which it will take from ten days to thirty or more to procure, according to whether it can be made on summons or petition, or on a formal hearing in a cause. Having got his order passed and entered, the suitor lodges it at the Accountant-General's office, and

after two clear days gets the "direction" and authority to the Bank to take the money.

In addition to the cost and inconvenience of these preliminary and useless forms, it often happens that a purchaser under the Court has to pay interest during the time thus occupied, which he might save if he could pay in without an order.

It is hardly necessary to remark that there is no risk in the Court receiving money.

We would further suggest that some arrangement ought to be made by the Bank of England for the receipt by its country branches of money going into court from the country, so as to save the risk, commission, and trouble of a remittance to London; and payments to country suitors should also be made, where desired, through such branches.

Sums enormous in the aggregate, remitted by trustees, receivers, and others, are nearly always lying in cash and uninvested in the hands of London agents, waiting to be paid into court until the forms of obtaining the necessary orders, certificates and directions, can be gone through. This subjects the agents as well as the principals to great and unnecessary responsibility from the risk of the failure of their bankers, and other causes, which might be obviated by giving the power of paying into court without any special order or directions, and either in London or through country branch banks at the option of the suitors.

2. As regards the present forms of orders, and in what way they might be simplified.

The plan adopted in making payments out of the Slave Compensation Fund, shows how much the system which at present prevails in the Accountant-General's office is capable of being simplified and improved, and we would recommend that it should be considered whether some such plan might not be usefully introduced there. The principle adopted in the Slave Compensation Orders was, that the Court declared rights with reference to the figures, as they stood when the account was opened, and left the Accountant-General to apply that declaration to the funds in their altered and accumulated state. It appears to us that the Slave Compensation Forms of Orders might safely and beneficially be employed in a large proportion of cases in Chancery, and that they should be adopted in all cases to which they may prove to be applicable. The reports of the old masters, and the certificates of the present chief clerks to the judges, are worked by the Accountant-General by means of schedules, and we cannot see why a large proportion of orders should not also be so worked.

3. Whether it would be desirable that the orders or office copies thereof should be transmitted from the Registrar's office to that of the Accountant-General, and filed there.

We think it would be undesirable that original orders should be filed in the office of the Accountant-General, as it is important, for many purposes of the suit, that every such original order should remain in the hands of the solicitor having the conduct of such suit; but we think that it should either be the duty of such solicitor to file an office copy of every money order in the Accountant-General's office, or that in some way the Accountant-General should be supplied with and keep an official copy or entry of it to work upon.

When an order has been completed or "passed" by the registrar, it is entered in the books of the Report Office, and any office copy is made from these books of original entry. It seems to us that the money orders, i.e., any orders which the Accountant-General has to work, might be entered in separate books from other orders, and these books of original entry might be given into the custody of the Accountant-General to work from. Such orders might be bound or entered in books, subdivided to correspond with the initial letters of the several departments or divisions of the Accountant-General's office, so that each department might retain, and have always accessible for reference, the orders relating to it.

II. As to dealings between the suitor and the Accountant-General's department.

1. As regards the expenses involved in powers of attorney, and in affidavits of calculation, and certificates of apportionment, and in what cases they might be safely dispensed with.

We are of opinion that powers of attorney, affidavits of calculation and certificates of apportionment might be safely dispensed with in all cases. That in lieu of powers of attorney the present system adopted by the Court of Bankruptcy on payment of dividends might be safely and usefully substituted, and that in lieu of affidavits of calculation and certificates of apportionment, the Accountant-General should himself ascertain and work out the results for which they are at present used.

As regards calculations, it appears to us monstrous that a department assumed to be skilled in figures, and having all the accounts to be dealt with in its own books and keeping, should throw the burthen of the calculations on the suitors and their solicitors.

As a matter of fact, no prudent practitioner ever makes an affidavit of calculation, unless of the very simplest character, without first ascertaining whether his figures agree with those in the Accountant-General's books, because the Accountant-General is in no degree bound by the affidavit, and is sure to reject it if it does not correspond with his own books.

2. As regards the complication and multiplicity of forms in use in the Accountant-General's department, and in what manner they might be most advantageously simplified.

See last answer, and No. 2 of part I.

3. As regards office hours and vacation.

We think that attendance similar to that required from the vacation judge and vacation registrar, should be given by the Accountant-General's department, to deal with matters of pressing urgency; any questions which may arise as to the urgency being determined by the vacation judge.

The present office hours are from ten to three, and from four to six, but we think more convenience would be afforded to the public and the profession, if the partial attendance from four to six were discontinued, and the first mentioned period extended to four o'clock.

4. Whether the present staff of the Accountant-General's office, and the subdivisions therein, are found by the profession insufficient at times of pressure, especially just previous to the long vacation.

They are no doubt insufficient at times of pressure. But we think the real fault on this head lies in the want of more subdivisions. It seems to some of our body, who have had the best opportunities of observing, that the junior clerks are often not fully employed at times when the seniors are much over-worked.

At the Bank of England the alphabet is so subdivided that in times of pressure there is only one letter for each clerk to attend to.

If the calculations for sale and purchase of stock should be thrown upon this department, as we suggest they should be, more assistance will probably be required, and it seems to us that under any system of subdivision, times of pressure will be likely to arise, when the ordinary staff will scarcely be equal to affording the facilities which the public have a right to expect.

We think some powers should be given for the employment of accountants and their clerks for the purpose of giving temporary assistance at such times. They need not be employed on the regular books, but for the purpose of calculations, and work of that kind, they might surely be made very useful.

We also suggest that investigation should be made to ascertain whether it is not practicable and safe to purchase in very many instances the stock in which suitors have life interests, in the joint names of the life tenants and of the Accountant-General, and thereby throw the burden of receiving the dividends thereon on such tenants for life, instead of, as at present, engrossing so much of the time of the Accountant-General and his clerks, and multiplying and encumbering his books to the present enormous extent, for no apparently useful purpose; or whether arrangements might not be made for the Bank to recognize and pay dividends under orders to tenants for life direct, even in cases in which the stock is allowed to remain in the sole name of the Accountant-General; the Bank of England, under either system, to notify the fact to the Accountant-General, if two, or say three, consecutive dividends should at any time remain unapplied for.

Either of these measures would relieve the Accountant-General's department of such a mass of work as would possibly render even the present staff fully adequate to the efficient performance of all the other duties of the department, without the necessity or expense of calling in further assistance.

5. Whether any inconvenience is caused from the circumstance that a voucher for the payment in of money is not obtainable immediately after the money is paid in.

There is this inconvenience that clients in the country, who have forwarded money to their solicitors to pay into court, are often surprised and uneasy that, instead of receiving an official acknowledgment by return of post they have to wait about a fortnight for the voucher.

We do not see any necessity for the present practice of compelling the solicitor to file the Bank of England receipt with

the Accountant-General, who appears to obtain advice of the payment direct from the Bank; but if that practice is to be continued, we would suggest that the Bank should give to the solicitor either a duplicate of such receipt, or a simple accountable receipt on behalf of the Accountant-General, similar to that given by a private banker on receipt of money to his customer's account, which receipt could be sent to the client.

III. *Proceedings of the suitor after leaving the Accountant-General's department.*

1. *As regards the counter-signature of the Registrar.*

We believe the counter-signature to be inadequate to prevent fraud, and next to useless. If it be said that the necessity of obtaining another signature after the draft is issued, is a difficulty in the way of fraud, one answer would be that a third or fourth signature would be a further check, and so checks might be multiplied *ad infinitum*. But the truth is that this signature is not by any means an effectual check. The Registrar merely signs the draft presented to him, no matter by whom, and never even looks at the order unless in the cases of drafts for "principal" money, or first payment of dividends, and all he can possibly do then is to see that the amount of the draft agrees with that of the order, and that it has not been previously paid. If one of the many signed cheques, now kept in the Accountant-General's clerks' drawers, were improperly abstracted and presented to the Registrar, he would sign and pass it as a matter of course if for interest, and, if for principal, on mere production of the order, which the stealer of the cheque would find in all probability on the Accountant-General's clerk's desk, or in the pigeon hole by its side.

Before the "Clerks of Accounts" office was abolished, all drafts issued by the Accountant-General went to that office to be checked and entered, and for "*intratur*" to be written thereon.

On the faith of that "*intratur*," the Registrar counter-signed, in fact he certified the entry of the draft on the account side of the old "Report Office," and when that entry was done away with in 1852, it is difficult to see on what ground the certifying signature was retained.

It is almost needless to point out that anything professing to be a check on fraud, which is in reality no such thing, is likely to be mischievous. The supposed check is depended on, and the watchfulness, which a sense of undivided responsibility always produces, is thereby weakened or destroyed.

The Accountant-General's Office ought to be so constituted as to render any check upon it unnecessary; but if it should be considered expedient still to have one, a more complete and effectual one than that of the Registrar's counter-signature, under the present imperfect practice respecting it, ought to be adopted.

2. *As regards the distance the suitor has to go for his money.*

This would be obviated by establishing a branch of the Bank of England in Chancery-lane, as recommended at the commencement of these observations, and we cannot insist too strongly on the necessity of such a change, and on the suitor's right to such an accommodation.

IV. *As to dealings between the Accountant-General and the Bank of England.*

1. *As regards the present method of buying and selling stock.*

No reason has been discovered for doubting the perfect fairness with which the sales and purchases are conducted. Still we are not aware of any existing security to prevent undue advantage being taken of the fluctuation of the price of stock during the day, or of the power of influencing the market. And it is important that the minds of the suitors and public should be relieved from all feeling of unsensiveness or suspicion on such an important point. It should be shown that unfairness is impossible.

The following plan will, we think, be found free from all the objections which have been raised to the other modes, viz:—

That the office of broker to the Court of Chancery should be abolished, and that, instead of buying and selling the balance of stock required on each particular day, the necessary amounts should be provided by carrying over a proper sum, ascertained on the daily average price of stock, from the stock amounting to nearly three millions, which has been purchased on account of the fund, which is termed "Fund A.," in the report of the Concentration of Courts Commission.

It is needless to do more here than indicate the method we suggest, which is simply in principle that of a "jobbing account," to and from which sales and purchases would have

to be debited and credited to meet the demands of the separate accounts of the suitors.

There is a steady increase of the stock in court year by year, and to meet this increase (which of course represents a surplus of purchases over sales), stock would have to be bought for the "jobbing accounts," at periods and in sums which could readily be arranged.

We observe that Mr. Parkinson makes out that the double one-eighth is not really paid. If so, we do not see that the individual suitor has any right to this saving, and if the Court were its own jobber it would get the profit.

The jobbers under the present system must make their usual profit, and we do not see why the Court should not make it instead. If suitors must be taxed towards the maintenance of the Court, this tax (if it can be so-called) is surely a most unobjectionable way of getting the money.

There cannot, we conceive, be any difficulty in calculating each purchase and sale at the average price of the day when the sale is bespoken, or of the day before the calculation for it is made, and debiting or crediting the separate account of the suitor and the "jobbing account" of the Court accordingly.

Strictly speaking, it seems to us that the day when the order is made for sale or investment is the day when the price of the stock should be ascertained. At any rate, there can be no reason why the actual day when the broker happens to sell or buy should be the one to regulate the price.

2. *As regards the necessity for keeping a duplicate set of accounts at the Bank.*

This is, or ought to be, unnecessary. It is not an effectual check against fraud, and is a great impediment and annoyance to the suitors. [See our first suggestions and the "General Remarks" immediately below.]

GENERAL REMARKS.

There is one other question which strikes us as of considerable importance, and deserving of very careful consideration. It is as to the office of the Accountant-General himself.

When the department was first constituted in 1725, and down to 1764, it appears to have contained only two clerks.

With a business of the contracted character existing at that time, and for many subsequent years, the natural and wise thing, no doubt, was to have one head. It was quite possible for one person to supervise thoroughly the whole work of the department. But with a business of the present magnitude, it is plainly out of all question for any gentleman, be his diligence and business aptitude what they may, to exercise anything like an effective control or supervision of the work. It is nearly as much as he can do to sign his name to the vast number of drafts and other documents which under the present system require his signature, and he must trust almost entirely to his clerks for the accuracy of the documents put before him for that purpose.

This has been the case for very many years, and the fact that only one case of fraud, or even of serious error has occurred, is a proof of the care and trustworthiness of these officers.

Drafts in great numbers, and amounting in the aggregate to enormous sums, are kept by these gentlemen in their drawers, with the signature of the Accountant-General already affixed, and there is nothing to prevent the abstracting by any of the clerks (and not much by the public) of such drafts, and obtaining payment of them by endorsing the names of the parties to whom they are payable. The Bank has no means of knowing the signatures of the payees, and, as a proof of the inadequacy of the system to stop such a fraud, the only case of the kind that did occur, took place when the old "Clerks of the Accounts Office" was in existence, and their "*intratur*" was required to the draft, as well as the registrar's countersignature. In spite of the supposed obstacles, including the check of the bank duplicate books, the money was got for the draft.

In cases where drafts are handed out to third persons under powers of attorney, the clerk who gives out the draft, by putting the attorney's name with his own initials on the back of it, is enabled to authorize the Bank to cash the draft on the indorsement of the attorney instead of the original payee, so that in all such cases (which are very numerous, and involve immense sums of money) the mere initials of the clerk entirely change the destination of the draft, and supersede the signature of the Accountant-General himself.

The clerks also look to the correctness of the evidence that the party to receive is alive, and also to a proper identification of the recipients, where they receive in person, and of the "attorneys," where they do not.

We think this proves clearly that the real responsibility of seeing that the draft is given to the right person rests with the clerk issuing it, and we think also that such clerk is the right person to sign the draft, and that he should sign at the time of issuing it, but not before. The effect would be, that a lost or stolen draft could not be cashed without the signature of the clerk being forged, a signature, be it observed, which the Bank would know, as bankers know that of a customer.

This, in fact, is the system adopted at the Dividend Office at the Bank of England; the warrant (or draft) there is signed by the party receiving, and attested by the clerk of the Bank, who issues the warrant, and on such attestation the Pay Office cashes the warrant.

The result of these remarks is, that it appears to us the personal office of the Accountant-General might be abolished with advantage to the suitors, and that such abolition would expedite the business of the department.

Such an arrangement would tend also much to facilitate and secure the keeping open the office for a sufficient period of the long vacation.

We would also suggest that the principle laid down by the Post Office Savings Bank Act of this session should be adopted, and a deposit account instituted, where money likely to remain under the control of the Court for too short a period to make a request by the suitor for an investment in stock prudent, might at his option be deposited. On such deposits a low rate of interest (say £2 per cent.) might be allowed, and the principal would be preserved to the suitors at its full amount, free from the effects of any fluctuation in the value of stock.

We have only to add that it should be made the duty of some competent and efficient officer to compare periodically and check the bank pass or account book with the books of the Accountant-General's department, and to take care that too much money is not allowed to lie uninvested and unproductive in the hands of the Bank, but that interest for the benefit of the suitors is duly made of all surplus monies that can be spared for investment.

Signed on behalf of the Equity Sub-Committee of the Association.

J. S. TORR, Chairman,
PHILIP RICKMAN, Secretary.

Public Companies.

REPORTS AND MEETINGS.

BRISTOL AND EXETER RAILWAY.

At the half-yearly meeting of this company, held on the 29th inst., a dividend at the rate of 4½ per cent. per annum was declared for the past half-year.

CHARING CROSS BRIDGE.

At the half-yearly meeting of this company, held on the 21st instant, a dividend of 10s. per share on the original shares, free of income-tax, was declared for the past half-year.

EASTERN COUNTIES RAILWAY.

At the half-yearly meeting of this company, held on the 29th inst., a dividend of 16s. 3d. per cent., being at the rate of £1 12s. 6d. per cent. per annum, was declared for the past half-year.

LEOMINSTER AND KINGTON RAILWAY.

At the half-yearly meeting of this company, held on the 27th instant, a dividend at the rate of 4½ per cent. per annum was declared for the past half-year, payable on the 16th September.

LLYNY VALLEY RAILWAY.

At the half-yearly meeting of this company, held on the 22nd inst., a dividend of 5 per cent. on the preference, and of 4 per cent. on the ordinary capital, was declared for the past half-year.

LONDON AND NORTH-WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 23rd instant, a dividend at the rate of 3½ per cent. per annum was declared for the past half-year.

MARYPORT AND CARLISLE RAILWAY.

At the half-yearly meeting of this company, held on the 21st inst., the following dividends for the past half-year (less income tax) were declared:—viz., £1 15s. on each original £50 share, 8s. 9d. on each original £12 10s. share, 8s. 9d. on each preference 4 per cent. share, 8s. 9d. on each preference 4½ per

cent. share, and 6s. 3d. on each preference 5 per cent. share, payable on the 2nd September.

NOTTINGHAM AND GRANTHAM RAILWAY.

At the half-yearly meeting of this company, held on the 22nd instant, a resolution was carried confirming an agreement for leasing this railway and the canals belonging to the company to the Great Northern Railway for 999 years, at the clear annual rent of £4 2s. 6d. per cent. per annum on the share capital of the company.

SOUTHAMPTON DOCK.

At the half-yearly meeting of this company, held on the 21st instant, a dividend of £1 10s. per cent. for the past half-year was declared.

SOUTH DEVON RAILWAY.

At the half-yearly meeting of this company, held on the 27th instant, a dividend at the rate of £1 7s. 6d. per cent. per annum was declared on the consolidated stock of the company.

SOUTH EASTERN RAILWAY.

At the half-yearly meeting of this company, held on the 29th inst., a dividend of 12s. 6d. per £30 share, being at the rate of £4 3s. 4d. per cent. per annum, was declared for the past half-year, payable on the 5th of September.

SOUTH WALES RAILWAY.

At the half-yearly meeting of this company, held on the 23rd instant, the usual dividend on the preference stock, and a dividend of £2 15s. per cent. per annum on the ordinary stock was declared for the past half-year.

VALE OF NEATH RAILWAY.

At the half-yearly meeting of this company, held on the 27th instant, a dividend at the rate of 3½ per cent. per annum was declared for the past half-year.

WHITEHAVEN, CLEATOR, AND EGREMONT RAILWAY.

At the half-yearly meeting of this company, held on the 22nd instant, a dividend at the rate of £10 per cent. per annum was declared for the past half-year.

Births and Marriages.

BIRTHS.

BEAUMONT—On Aug. 27, at Great Coggeshall, Essex, the wife of Joseph Beaumont, Esq., Solicitor, of a son.

CLARKSON—On Aug. 24, at Woodridings, Pinner, the wife of Eugene C. Clarkson, Esq., Barrister-at-Law, of a son.

GARDINER—On Aug. 13, at Woodridings, Pinner, the wife of John Gardiner, Esq., Barrister-at-Law, of twins, son and daughter, stillborn.

STRONG—On Aug. 27, at 17, Hanley-road, the wife of Chas. E. Strong, Esq., of a daughter.

MARRIAGES.

COURTNEY—VOULES—On Aug. 27, Edward Moulas Courtney, to Isabella Elizabeth, daughter of the late William J. Voules, Esq., Barrister-at-Law, of Lincoln's-inn.

GRIGG—MILLS—On Aug. 28, J. N. Grigg, Esq., Barrister-at-Law, to Charlotte Katherine, daughter of E. B. Mills, Esq., Bombay Civil Service, of Weston Lodge, Mannamend, near Plymouth.

MORRIS—KNOX—On Aug. 27, Frederick Philip Morris, of Lincoln's-inn, Esq., Barrister-at-law, to Mary, daughter of the late Rev. Thomas Knox, of Tunbridge, Kent, D.D.

MUSSON—ROBINSON—On Aug. 28, William Edward Musson, Esq., of Clitheroe, to Susanna Catherine, daughter of Dixon Robinson, Esq., of Clitheroe Castle.

ORME—BARLOW—On Aug. 22, Frederick Orme, Esq., Solicitor, late of Madras, in the East Indies, to Elizabeth, daughter of the late George Barlow, Esq., of Salford.

SULLIVAN—BELL—On Aug. 17, at Gibraltar, Francis William Sullivan, Esq., Commander of H.M.S. Greyhound, to Agnes, daughter of the Hon. Mr. Sydney Bell, one of her Majesty's Judges at the Cape of Good Hope.

VAIZEY—REYNOLDS—On Aug. 28, John Savill Vaizey, of the Middle Temple, Barrister-at-Law, to Harriette, daughter of the Rev. John Reynolds, formerly of Halstead.

WARE—HALLETT—On Aug. 22, Charles Tayler, son of Martin Ware, Esq., of Russell-square, and Tilford, Surrey, to Zillah, daughter of T. P. L. Hallett, Esq., of Lincoln's-inn.

WILDE—MONEY—On Aug. 27, Rev. Richard Wilde, son of S. F. T. Wilde, Esq., of Monken Hadley, Barrister-at-Law, to Charlotte Eugenia, daughter of the Rev. J. D. Money, Rector of Sternfield, Suffolk.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

BURNETT, JOHN TASSETT, Esq., May-place, Crayford, Kent, and **WILLIAM SHELTON BURNETT, Esq.,** of the city of Lisbon, £804 3s. 9d. Consols.—Claimed by **FRANCIS FREDERICK SHORE** and **CHARLES ALEXANDER MUNRO**, surviving executors of William Shelton Burnett, who was the survivor.

ROSS, MARY ANN, Spinster, East-street, Marylebone, £65, annuity for a term of years ending 10th October, 1859, and also £14 19s. 6d. Consolidated Long Annuity, expired 5th January, 1860, standing in the name of **MARY ANN ROSS, Spinster,** Southampton-buildings, Chancery-lane.—Claimed by **GEORGE LIBBIS**, the sole executor of the said Mary Ann Ross, Spinster.

London Gazettes.**Professional Partnerships Dissolved.**

TUESDAY, Aug. 27, 1861.

HOOKE, EDWARD, & ROBERT STANWARD FOREMAN, Attorneys & Solicitors, Sheerness, Kent (Hooker & Foreman); by mutual consent. Aug. 20.

Windings-up of Joint Stock Companies.

UNLIMITED IN CHANCERY.

TUESDAY, Aug. 27, 1861.

MEAKIN'S JOINT STOCK BREWERY COMPANY.—The Master of the Rolls has appointed William Turquand, 16, Tokenhouse-yard, London, Accountant, official manager of this company.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Aug. 27, 1861.

CASSON, ROBERT, Esq., formerly of Waterloo, Hants, but late of Field Assarts, Arshal, Oxfordshire. Smith, Alliston, & Smith, Solicitors, 4, Warrford-court, Throgmorton-street, London. Oct. 1.

COTTON, WILLIAM, Esq., formerly of Bryanstone-square, Middlesex, and Lewes, Sussex. Lindsay & Mason, Solicitors, 84, Basinghall-street, City. Oct. 10.

FOX, ISABELLA, Widow, Heath House, Brislington, Somersetshire. Mead & Daubeny, Solicitors, King's Bench-walk, Temple. Oct. 1.

MYER, SAMUEL, Merchant, Manchester, and Withington-cottage, Withington. Sale, Worthington, Shipman, & Seddon, Solicitors, 29, Booth-street, Manchester. Nov. 1.

REED, JANE, Widow, Teignmouth, Devonshire. Mackenzie, Solicitor, 3, Johnson's-buildings, Temple, London. Dec. 2.

RICHARDSON, GEORGE, Gent., Bridge House, Buckland, Surrey. Cutler & Weall, Solicitors, 5, Bell-yard, Doctors' Commons. Oct. 10.

SMYTH, ROY, BENJAMIN STAPLES TRAPAUD, West Pinchbeck, near Spalding, Lincolnshire. Lacy & Bridges, Solicitors, 19, King's Arms-yard. Oct. 1.

STERIKER, MARTHA, Spinster, Dover, Kent. Watson, Solicitor, 14, Snar-gate-street, Dover. Oct. 9.

FRIDAY, Aug. 30, 1861.

ALCOCK, ANN, Widow, Atherstone, Warwickshire. Dewes & Norton, Solicitors, Nuneaton. Sept. 7.

BEDBOURGH, HENRY, Esquire, Nelson, New Zealand. Darvill, Son, & Poulton, Solicitors, Windsor, Berks. Sept. 30.

COCKREAVE, MARIA, Widow, 34, Norfolk-street, Strand, Middlesex. Ford, Solicitor, 43, Lincoln's-inn-fields. Oct. 1.

DIXON, MATTHEW, Silver Plater, formerly of Edgbaston and Snow Hill, Birmingham, and late of Hunter's-lane, Handsworth, Stafford. Walford, Solicitor, 38, Bennet's-hill, Birmingham. Oct. 12.

GILBERT, WILLIAM, Gent., Finchley, Middlesex. Donne, Solicitor, 1, Princes-street, Spitalfields. Oct. 14.

GRIFFITHS, THOMAS, General Fancy Dealer, Brompton terrace, Brompton, Middlesex. Kemp, Solicitor, 4, Henrietta-street, Covent-garden, Middlesex. March 1.

GUTTERIDGE, RICHARD, Gent., Dunstable, Bedfordshire. Willis, Solicitor, Leighton Buzzard, Bedfordshire. Nov. 1.

HATCH, WILLIAM, Farmer, Low Farm, Hanworth, Middlesex. Executors, W. Hatch, Manor Farm, Ham, Surrey; and N. B. Nyles, 1, Hope-cottages, Twickenham-green, Middlesex. Nov. 1.

HEMSLEY, CHARLES, Clifton, Bristol. Sols. Warry, Robins, & Burges, 70, Lincoln's-inn-fields, Middlesex. Oct. 1.

PAVON, JOHN, Farmer, Bentley Farm, near Ansley, Warwickshire. Sols. Dewes & Norton, Nuneaton, Warwickshire. Sept. 28.

POULTNEY, JOHN, Labourer, Camberwell, Surrey. Dewes & Norton, Solicitors, Nuneaton, Warwickshire. Sept. 7.

ROUTLEDGE, ROBERT, Gent., 7, Wellington-terrace, Rochdale-road, Manchester. Storer, Solicitor, 89, Fountain-street, Manchester. Oct. 14.

SCOTT, FRANCIS EDWARD, Wine Merchant, 22, St. Swithin's lane, London. J. & T. Gole, Solicitors, 49, Lime-street, Leadenhall-street, London. Oct. 31.

SEACKELL, MARY ANN, Widow, formerly of 7, Gloucester-villas, Warwick-road, Maida-hill, Middlesex, but late 2, Randolph-road, Maida-hill. Sols. Evans & Phillips, 72, Coleman street, City, E.C. Oct. 1.

SLANEY, THOMAS, Attorney & Solicitor, Birmingham. Sols. Slaney & Co., 2, Newhall-street, Birmingham. Sept. 29.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Aug. 27, 1861.

ARCHER, WILLIAM, Cabinet Maker, Birkenhead. Raine v. Archer, V. C. Kindersley. Nov. 8.

FRIDAY, Aug. 30, 1861.

JONSON, ANN, St. Mary, Islington, Middlesex. Ellmers v. Barnett, V. C. Stuart. Nov. 12.

WILLIAMS, THOMAS, Jan., Joiner, Llanbadarnfawr, Cardiganshire. Williams v. Williams, V. C. Stuart. Oct. 30.

Assignments for Benefit of Creditors

TUESDAY, Aug. 27, 1861.

BALL, THOMAS, Grocer, Chester. Sol. Evans, Liverpool. Aug. 8.

BARGH, WILLIAM HENRY, Joiner & Wheelwright, Newbold, Chesterfield Sol. Cuts, Chesterfield. Aug. 13.

CLARK, WILLIAM, Farmer, East Linkholl, Northumberland. Crosby, 3, Church court, Old Jewry, London, Agent for W. & B. Woodman, Solicitors, Morpeth. Aug. 20.

FARROW, WILLIAM, Miller & Farmer, Horncastle, Lincolnshire. Sol. Tweed, Horncastle. Aug. 16.

KEY, GEORGE, Grocer & Tea Dealer, Lincoln. Sols. Tweed & Hughes, Lincoln. Aug. 21.

DE LIGUORO, FREDERICK WILLIAM, 66, New Bond-street, Middlesex, and JANE his wife (late Jane Soper, Spinster.) Sol. Jones, 15, Sise-lane, London. Aug. 8.

RAUCH, GUSTAVUS FREDERICK, Warehouseman, 3, Huggin-lane, Wood-street, London. Sol. Mardon, Christ Church-chambers, 99, Newgate-street, London. July 29.

ROBERTS, ISHMAEL, Farmer, Saith Taron, Llanarmon Yu Yale, Denbighshire. Sol. Hughes, Wrexham. Aug. 5.

SCRAGGS, JAMES, Draper, High-street, Watford, Hertfordshire. Sols. Lumley & Lumley, 2, Moorgate-street, London. Aug. 7.

SHAW, JOHN COX, Wine & Spirit Merchant, Bruton, Somersetshire. Sol. Wood, Bristol. July 29.

THORNTON, HENRY, Farmer, Millington, Chester. Sol. Barratt, 24, Princess-street, Manchester. Aug. 24.

FRIDAY, Aug. 30, 1861.

BROTHALL, GEORGE, Key Stamper, Union-street, Willenhall, Staffordshire. Sol. Whitehouse, Wolverhampton. Aug. 17.

DRYDER, BENJAMIN, Timber Merchant, Blyth, Northumberland. Sols. Hodge & Harle, Newcastle-upon-Tyne. Aug. 1.

FIELDING, AARON, Grocer and Corn Dealer, Glossop, Derbyshire. Sol. Reddish, 52, Prince's-street, Manchester. Aug. 13.

FLEMING, JAMES, Tea Dealer, Liverpool. Sol. Remington, Ulverston, Lancaster. Aug. 24.

NORWOOD, MICHAEL THOMAS, Upholsterer, 48, High-street, Birmingham (M. T. Norwood & Co.) Sol. Bridges, Birmingham. Aug. 5.

SCHOFIELD, WILLIAM, JAMES SCHOFIELD, JOSEPH SCHOFIELD, MARK RYDER, & WHITAKER SCHOFIELD, Cotton Manufacturers, Middleton, Lancashire. Sols. Bunting & Uingham, Manchester. Aug. 23.

SMITH, CHRISTOPHER WEBB, Dyer, Dudbridge, Gloucester (Christopher Smith & Co.) Sol. Heelas, Stroud. Aug. 9.

WALKER, JAMES, Bookseller & Stationer, Leeds. Sols. Christie, Daniel, & Christie, 4, Albion-place, Leeds. Aug. 22.

BANKRUPTCIES ANNULLED.

TUESDAY, Aug. 27, 1861.

FLEET, SAMUEL, Mercer & Draper, Audlem, Chester. Aug. 22.

GEDDES, THOMAS, Draper, 48, Stafford-street, Liverpool. Aug. 12.

Bankrupts.

TUESDAY, Aug. 20, 1861.

BURGIN, THOMAS, & WILLIAM BURGIN, Upholsterers & Cabinet Makers, 26, Great Winchester-street, London (Burgin Brothers). Com. Fane: Sept. 6, at 2; and Oct. 5, at 11.30; Basinghall-street. Off. Ass. Whitmore. Sol. Hampton, 6, New Boswell-court, Lincoln's-inn. Pet. July 19.

CORBETT, THOMAS, Licensed Victualler, Birmingham. Com. Sanders: Sept. 6, and Oct. 4, at 11; Birmingham. Off. Ass. Kinnear. Sols. East & Parry, 45, Ann-street, Birmingham. Pet. Aug. 24.

COOMAN, JOSEPH JOHN (not COMMAN), as advertised in last Friday's Gazette), and MAXIMILIAN LINDT, Merchants, 140, Fenchurch-street. Com. Fonblanque: Sept. 4, at 12; and Sept. 27, at 2; Basinghall-street. Off. Ass. Stansfield. Sols. Harrison & Lewis, 6, Old Jewry, London. Pet. Aug. 16.

CULLETON, THOMAS, Engraver & Stationer, 25, Cranbourn-street, Leicester-square, Middlesex. Com. Fonblanque: Sept. 9, at 11; and Oct. 9, at 1.30; Basinghall-street. Off. Ass. Graham. Sol. Peckham, 40, Ludgate-street, London. Pet. Aug. 26.

HENSON, HENRY HENSON, Contractor & Builder, Watford, Hertfordshire. Com. Fonblanque: Sept. 5, at 1.30; and Oct. 30, at 1; Basinghall-street. Off. Ass. Graham. Sols. Jenkinson & Sweeting, 7, Clement's-lane, London. Pet. Aug. 23.

KEIGHTLEY, WILLIAM, Glass Manufacturer, Birmingham. Com. Sanders: Sept. 13 and Oct. 4, at 11; Birmingham. Off. Ass. Kinnear. Sol. Walford, Birmingham. Pet. Aug. 12.

KRETSCHMAR, LUDWIG WOLDENAR, Manufacturing Jeweller, 9, Duke-street, Bloomsbury, Middlesex. Com. Fonblanque: Sept. 11, at 11; and Oct. 9, at 1; Basinghall-street. Off. Ass. Stansfield. Sol. Bryan, 33, Bedford-square, London. Pet. Aug. 24.

PATTERSON, JOHN, Licensed Victualler, Coombe, Bissett, Wilts. Com. Fonblanque: Sept. 11, at 2.30; and Oct. 9, at 12; Basinghall-street. Off. Ass. Graham. Sols. Gregory & Co., 1, Bedford-row, London. Pet. Aug. 23.

TAYLOR, WILLIAM BROWN, Tobaccoist & Tea Dealer, Norwich. Com. Fonblanque: Sept. 5, at 12; and Oct. 9, at 11; Basinghall-street. Off. Ass. Stansfield. Sols. Lawrence, Flews, & Boyer, 14, Old Jewry-chambers, London. Pet. Aug. 26.

WHITTARD, JOSEPH, Draper, Bristol. Com. Hill: Sept. 9 and Oct. 5, at 11; Bristol. Off. Ass. Miller. Sol. Salmon, Bristol. Pet. Aug. 20.

WILKES, SAMUEL, Wine Merchant, Cardiff, Glamorganshire. Com. Hill: Sept. 8 and Oct. 10, at 11; Bristol. Off. Ass. Miller. Sols. Clifton & Benson, Bristol; or Pigeon, Bristol. Pet. Aug. 21.

FRIDAY, Aug. 30, 1861.

BEARDMORE, HAMLET, Joiner & Builder, Burslem, Staffordshire. Com. Sanders: Sept. 13 and Oct. 4, at 11; Birmingham. Off. Ass. Kinnear. Sols. Tomkinson, Burslem; or James & Knight, Birmingham. Pet. Aug. 28.

EMEX, JOHN, Watch Manufacturer & Licensed Victualler, Coventry, Warwickshire. Com. Sanders: Sept. 9 and Sept. 30, at 11; Birmingham. Off. Ass. Whitmore. Sols. Minster & Son, Coventry; or Rees, Birmingham. Pet. Aug. 28.

EVERETT, JOHN, Carpenter, late of Rainham, and now of Green-hill Grove, Little Ilford, Essex. Com. Fonblanque: Sept. 9 at 1; and Oct. 9, at 1.30; Basinghall-street. Off. Ass. Graham. Sols. Young & Flews, 29, Mark-lane, London. Pet. Aug. 27.

FELTHAM, MARK, Miller, West Winch, Norfolk. *Com.* Fonblanque: Sept. 12 and Oct. 10, at 11.30; Basinghall-street. *Off. Ass.* Graham. *Sol.* Wilkins, 3, Fumival's-inn, London, and King's Lyn, Norfolk. *Pat.* Aug. 30.

FERRIS, THOMAS, Tailor & Draper, Ashburton, Devonshire. *Com.* Andrews: Sept. 11 and Oct. 9, at 12; Exeter. *Off. Ass.* Hirtzel. *Sols.* Tucker & Son, Ashburton, or Flood, Exeter. *Pat.* Aug. 29.

HARRISON, THOMAS ROBERTSON, & **WILLIAM WATERS**, Sunderland, (Harrison & Waters). *Com.* Ellison: Sept. 10 and Oct. 16, at 11.30; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sol.* Dixon, Sunderland. *Pat.* July 23.

HOPKINS, GEORGE HENRY, Auctioneer, Belper. *Com.* Sanders: Sept. 12 and Oct. 3, at 11; Nottingham. *Off. Ass.* Harris. *Sol.* Lees, Nottingham. *Pat.* Aug. 27.

KIRBY, THOMAS, Baker, Flour Dealer, & Brewer, Honiton, Devonshire. *Com.* Andrews: Sept. 11 and Oct. 9, at 12; Exeter. *Off. Ass.* Hirtzel. *Sol.* Flood, Exeter. *Pat.* Aug. 24.

LEETE, CHARLES WILLIAM, Furniture Dealer, 16, Pitt-street, Liverpool. *Com.* Perry: Sept. 9, at 12, and Oct. 10, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Solomon, 22, Flinsbury-place, London; or Yates, Jun., 22, Fenwick-street, Liverpool. *Pat.* Aug. 16.

ODDEN, GEORGE HENRY, Toy Dealer & Ale and Porter Dealer, Bangor, Carnarvonshire. *Com.* Perry: Sept. 13 and 20, at 11; Liverpool. *Off. Ass.* Morgan. *Sols.* Evans, Son, & Sandys, Commerce-court, Lord-street, Liverpool. *Pat.* Oct. 24.

ROBINSON, MATTHEW DIXON, Grocer & Confectioner, Oldbury, Worcester-shire. *Com.* Sanders: Sept. 13 and Oct. 4, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Shakespeare, Oldbury, or Smith, Birmingham. *Pat.* Aug. 20.

SANDFORD, JAMES, Contractor, Accrington, Lancashire. *Com.* Jemmett: Sept. 10 and Oct. 9, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Boteler. Liverpool. *Pat.* Aug. 21.

SHATTOCK, JOHN, Farmer, Hay Dealer, Innkeeper, & Letter out of a Steam Threshing Machine, Long Ashton, Somersetshire. *Com.* Hill: Sept. 10 and Oct. 8, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* Dix, Bristol. *Pat.* Aug. 23.

SPINK, ELISHA, Eating House Keeper, 14 and 36, High-street, White-chapel, Middlesex. *Com.* Fonblanque: Sept. 9, at 12; and Oct. 9, at 11.30; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Smith & Son, 6, Bernard's-inn, Holborn, London. *Pat.* Aug. 27.

THICKBOOM, JOSEPH, Bookseller & Publisher, 13, Paternoster-row, London. *Com.* Fonblanque: Sept. 9, at 1.30; and Oct. 9, at 2; Basinghall-street. *Off. Ass.* Graham. *Sols.* Lawrence, Smith, & Fawdon, 12, Bread-street, London. *Pat.* Aug. 19.

THORP, GEORGE, Woollen Cloth Manufacturer, Holmfirth, Yorkshire. *Com.* Ayrton: Sept. 10 and Oct. 4, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Booth, Holmfirth; or Bond & Barwick, Leeds. *Pat.* Aug. 27.

WELLS, BENJAMIN WESTON, Floor Cloth Manufacturer, Avenue-road, Camberwell, Surrey. *Com.* Fane: Sept. 14, at 11; and Oct. 11, at 11.30; Basinghall-street. *Off. Ass.* Cannan. *Sol.* George, 3, Sicelano. *Pat.* Aug. 28.

WHITE, WILLIAM, Builder, 18, Wolsey-terrace, Kentish-town, Middlesex. *Com.* Fane: Sept. 13, at 3; and Oct. 11, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Roche & Gover, 33, Old Jewry. *Pat.* Aug. 28.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Aug. 27, 1861.

FERGUSON, JAMES, Draper, Stonehouse, Devonshire. Oct. 7, at 11.30; Plymouth.—**GELDER, HENRY VAN**, Merchant, 24, Crutched-friars, London. Sept. 6, at 12; Basinghall-street.—**STANDUINO, ALEXANDER PETERIE**, & **CHARLES PETHIE STANDUINO**, Iron and Brass Founders, Rochdale, Lancashire (A. P. Standing & Brother); separate estate of each. Oct. 8, at 12; Manchester.

FRIDAY, Aug. 30, 1861.

NYREN, JOHN WILLIAM, & **ADAM WILSON**, Colour Manufacturers, Battersea, Surrey. Oct. 28, at 12; Basinghall-street.—**BELL, ALEXANDER DAINYMPLE**, & **EMIL BRAWERT**, Silk Fringe and Trimming Manufacturers, 7, Goldsmith-street, London. Sept. 24, at 12; Basinghall-street.—**PEREIRA, SILVANO FRANCISCO LUIS**, & **JOHN GRANT**, Wine Merchants, 91, Great Tower-street, London (Pereira & Grant). Sept. 25, at 11; Basinghall-street. Same time, separate estate of S. F. Luis Pereira.—**WOOLDRIDGE, JAMES WILLIAM**, Tanner, Wickham, Southampton. Sept. 24, at 11; Basinghall-street.—**BROCKWELL, JOSIAH**, Merchant, Old Broad-street, London. Sept. 23, at 1.30; Basinghall-street.—**KEMP, EDWARD**, Linen Draper, 7, Beckford-row, Walworth-road, Surrey. Sept. 23, at 2; Basinghall-street.—**HILLS, WILLIAM**, Grocer, Tea Dealer, and Cheesemonger, 6, Harmer-street, Milton-next-Gravesend, Kent. Sept. 24, at 12; Basinghall-street.—**BASSETT, DAVID**, Corn Merchant, Uxbridge, Middlesex. Sept. 25, at 2; Basinghall-street.—**BALDWIN, HENRY**, and **JOHN BALDWIN**, Tailors, 21, Cornhill, and of Tom's Coffee House, Croyder's-court, Cornhill, Tavern Keepers. Sept. 24, at 12; Basinghall-street.—**ASTELL, HENRY**, Ale and Porter Merchant, Oil and Colourman, and Brush Dealer, Loughborough, Leicestershire. Sept. 26, at 11; Nottingham.—**FERGUSON, JOHN STURTON**, Builder, Nottingham. Oct. 3, at 11; Nottingham.—**WARBURTON, JOHN SLACK**, and **WILLIAM STEVENSON**, Timber Merchants, Joiners, and Builders, Manchester (Warburton & Stevenson). Oct. 8, at 12; Manchester.—**BROWN, HENRY**, & **BROOK HODGSON**, Velvet Manufacturers, Halifax, Yorkshire (Brown & Co.). Sept. 20, at 11; Leeds. Sep. Oct. H. Brown.—**LOED, JOHN**, **SIDNEY AQUILA BUTTERWORTH**, & **HORATIO BUTTERWORTH**, Dyers, Shelf, near Halifax, Yorkshire (Lord & Co.). Sept. 20, at 11; Leeds.—**ROBINSON, EDWARD**, Woollen Manufacturer, Sheepridge, Huddersfield. Sept. 20, at 11; Leeds.—**ATACK, SAMUEL**, Builder, Leeds. Sept. 20, at 11; Leeds.—**EDMISTON, ROBERT**, & **THOMAS HIGHAM**, Stuff Manufacturers, Bailiff Bridge, Birstal, Yorkshire, (Edmiston & Higham). Sept. 20, at 11; Leeds.—**PARKER, HUGH**, **OFFLEY SHORE**, **JOHN BREWIN**, & **JOHN RODGERS**, Bankers, Sheffield. Sept. 21, at 10; Sheffield.—**MARTIN, WILLIAM**, **ALFRED PHILLIPS YOUNG**, & **WILLIAM RICHARDSON ROBERTS**, Iron Manufacturers, Doncaster. September 21, at 10; Sheffield; same time the separate estate of **ALFRED PHILLIPS YOUNG**.—**GREGG, GEORGE**, Currier & Leather Seller, Sheffield, and Wath-upon-Deane, Yorkshire. Sept. 21, at 10; Sheffield.—**TURNER, JAMES**, Miller & Farmer, Warsop, Nottinghamshire. Sept. 21, at 10; Sheffield.—**WORRALL, WILLIAM**, Grocer, West Melton, near Wath, Yorkshire. Sept. 21, at 10; Sheffield.—**BOOTH, JOHN STOKES**, Piano Forte Dealer & Music Seller, Sheffield. Sept. 21, at 10; Sheffield.—**LEEMING, SAMUEL**, & **JAMES HILL**, Woollen Manufacturers, Batley Carr, Yorkshire. Sept. 20, at 11; Leeds.—**CALVERT, DEAN**, Scribbler, Holbeck, Leeds. Sept. 20, at 11; Leeds.—**CLAYTON, W.**, **JOS. WILKINSON CLAYTON**, **CHRIS BILLINGTON**, Contractors & Builders, Manningham, Bradford (Clayton & Billington).

ton). Sept. 20, at 11; Leeds.—**LAINO, ROBT**, Farmer, Agricultural Implement Maker, Dealer in Manures & Cattle Dealer, Forest Farm, Scorton. Sept. 20, at 11; Leeds.—**BARTON, BEN**, Grocer, Wortley, Leeds, Yorks. Sept. 20, at 11; Leeds.—**TEALE, JOHN RICHARD**, Cabinet Maker & Upholsterer, Leeds. Sept. 20, at 11; Leeds.—**MARTIN, JAMES**, Boot & Shoe Maker, Dewsbury, York. Sept. 20, at 11; Leeds.—**MARKHAM, RICHARD WOOD**, Haberdasher, Bradford. Sept. 20, at 11; Leeds.—**HOLDKNESS, JOHN WILLIAM**, Timber Merchant, Kingston-upon-Hull. Sept. 25, at 12; Kingston-upon-Hull.—**SPICER, WILLIAM SANDON**, Tobaccoist & Brewer, Kingston-upon-Hull. Sept. 25, at 12; Kingston-upon-Hull.—**ALLEN, GEORGE**, Grocer & Draper, Bardney, Lincolnshire. Sept. 25, at 12; Kingston-upon-Hull.—**ATKINSON, JOHN**, Seed Crusher, Kingston-upon-Hull. Sept. 25, at 12; Kingston-upon-Hull.—**DAVIES, EDWARD CLEMENT**, Chemist & Druggist, Wine & Spirit Merchant, & Dealer in Ale and Porter, Gainsborough. Sept. 24, at 12; Kingston-upon-Hull.—**DAVIES, EDWARD CLEMENT**, & **GEORGE COOPER**, Chemists & Druggists, Wine & Spirit Merchants, & Dealers in Ale and Porter, Gainsborough (Davies & Cooper). Sept. 25, at 12; Kingston-upon-Hull.

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JOSEPH K. JACKSON, Secretary.

ROMNEY MARSH, KENT.

An Eligible Freehold Estate, consisting of 313a. 3r. 18p. of Valuable Land.

TO BE SOLD by AUCTION, in One Lot, pursuant to an Order of the High Court of Chancery, made in the causes of "Jane Holman and Others v. Thomas Holman and Others," and of "Thomas Holman v. Ann Holman and Others," and of "H. H. Sweetnam and Others v. Ann Holman and Others," with the approbation of the Right Honourable the Master of the Rolls, the judge to whom these causes are attached, by Mr. JOSEPH TOOTELL (the person appointed for that purpose), at the AUCTION MART, LONDON, on WEDNESDAY, the 18th day of SEPTEMBER, 1861, at TWELVE for ONE o'clock precisely, an eligible FREEHOLD ESTATE, known as "Gammon's Farm," consisting of 313a. 3r. 18p. of valuable land, 217 acres of which are exceedingly productive arable land, and the remaining 96 acres are sound fatting land, together with a good farm dwelling house, and all the requisite agricultural buildings well arranged, well placed, and in good repair. This valuable property is situate in the parishes of New Church and Eastbridge, in the County of Kent, four miles distant from New Romney, ten miles from Ashford, and seven miles from Hythe. The estate is held on lease by Messrs. Matthew and Thomas William Butler (highly respectable tenants), for a term of twenty-one years from the 11th October, 1853.

The property may be viewed on application to the tenants. Particulars may be obtained on application to Messrs. BROCKMAN & HARRISON, Solicitors, Folkestone; to Messrs. TALBOT, TALBOT, and TASKER, Solicitors, 47, Bedford-row; to Messrs. BISCHOFF, COX, and BOMPAS, Solicitors, 19, Coleman-street; to Messrs. FLUX and ARGLES, Solicitors, 68, Cheapside; and to Mr. JOHN MURRAY, Solicitor, 7, Whitehall-place, London; also at the Auction Mart, London; at the Royal Fountain Hotel, Canterbury; at the Shakespeare Hotel, Dover; at the Albion Hotel, Hastings; at the New Inn, New Romney; at the Swan Hotel, Hythe; at the Saracen's Head Inn, Ashford; and of Mr. TOOTELL, Land Agent and Valuer, Maidstone.

TO BE SOLD, pursuant to an Order of the High

Court of Chancery made in a cause of Gyett against Williams, with the approbation of the Vice-Chancellor Sir William Page Wood, in one lot, by MR. MILNER, the person appointed by the said Judge, at the OXFORD ARMS HOTEL, at KINGTON, in the COUNTY of HEREFORD, on THURSDAY, the 13th day of SEPTEMBER, 1861, at 12 o'clock precisely, a certain FREEHOLD ESTATE, situate in the parishes of Glascomb and Bettus Disserth, and known as Wern Faur or Wern Dansey, and Cefu Glaso, in the county of Radnor, now in the occupation of Mr. Danzey Sheen.

Particulars whereof may be had gratis of Mr. THOMAS WESTALL, of No. 3, South-square, Gray's-inn, London, Solicitor; of Messrs. BODENHAM & TEMPLE, Solicitors, Kingston, Herefordshire; of Messrs. MEREDITH & LUCAS, Solicitors, No. 8, New-square, Lincoln's-inn, London; of Messrs. PATRICK & UNDERWOOD, Solicitors, Rolls Chambers, Chancery-lane, London; of Mr. ARTHUR CHEESE, Solicitor, Kingston; of Mr. PARSONS, Presteign; and of the principal Inns and Hotels in the neighbourhood; and of the Auctioneer at his office, Kingston, Herefordshire.

Dated this 13th day of August, 1861.

(Signed) EDWARD WEATHERALL, Chief Clerk.

FREEHOLDS—LEICESTERSHIRE AND NOTTINGHAMSHIRE.

TO BE SOLD, pursuant to an Order of the High Court of Chancery, made in a cause "Rogers v. Appleby," with the approbation of Vice-Chancellor Sir Richard Torin Kindersley, in Two Lots, by Messrs. WHITE & SON, the persons appointed by the judge for the purpose—Lot 1, at the ANGEL HOTEL, in GRANTHAM, in the county of LINCOLN, on SATURDAY, the 7th day of SEPTEMBER, 1861, at FIVE o'clock in the afternoon precisely; Lot 2, at the WHITE HART HOTEL, in EAST RETFORD, in the county of NOTTINGHAM, on SATURDAY, the 14th day of SEPTEMBER, 1861, at FIVE o'clock in the afternoon precisely—certain FREEHOLD ESTATES, situate at Hoose and Long Clawson, in the County of Leicester, and at South Leverton, in the county of Nottingham, late the property of Francis Blagg, of South Leverton, in the county of Nottingham, surgeon, deceased.

Particulars whereof may be had gratis of Messrs. NEWTON & JONES, and Messrs. SHEE, BURNABY, & DENMAN, Solicitors, East Retford, Nottinghamshire; of Messrs. C. & I. ALLEN & SON, Solicitors, 17, Carliisle-street, Soho-square; of Messrs. REECE, WILKINS & BLYTH, 10, St. Swithin-lane, London; at the Hotels above mentioned; and of Messrs. WHITE & SON, Auctioneers, East Retford, Nottinghamshire.

Dated 17th August, 1861.

CHAS. PUGH, Chief Clerk.

HANTS, near PETERSFIELD.

MESSRS. BROOKS & BEAL are instructed to **SELL**, by Private Contract, a desirable FREEHOLD ESTATE; comprising a noble mansion, having three reception rooms, 10 bed rooms, all offices; double coach-house, six and three stall stables, and surrounded by pleasure grounds, garden, shrubberies, and an American garden of rhododendrons; a good kitchen garden walled in, and about 120 acres of prime meadow and other land.

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HERTS.

MESSRS. BROOKS & BEAL have to **SELL** a **FREEHOLD ESTATE**; comprising a modern-built residence, of handsome elevation, surrounded by 40 acres of land, laid out in pleasure grounds, kitchen garden, orchard, arable and grass fields; it is adapted for immediate occupation, and within two hours' journey from London. It has coach-houses and stables, and farm buildings; the whole in good order. Purchase £3,500.

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TO BE LET, unfurnished, or the Lease to be Sold, of an excellent RESIDENCE, in thorough repair, very light and airy, not overlooked in front or rear. It contains four good reception rooms and five bed rooms, convenient offices, well-placed closets.

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CHAMPAGNE, equal to Moët's, 42s.

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THE SOLICITORS' JOURNAL.

LONDON, SEPTEMBER 7, 1861.

CURRENT TOPICS.

We lay before our readers this week an abridgment of the address of the Right Hon. Joseph Napier at the Social Science Congress, retaining *in extenso* the remarks of the learned writer whenever they touch upon practical questions of law reform. In studying these views every attentive observer will be struck with the love of scientific method which they display. Mr. Napier takes up, for example, the question of the assimilation of legislation for England to that of Ireland. He argues that until the most complete community of rights is obtained for both countries, the Union cannot be said to have realized its purpose. He observes that there is now in Ireland a commission for inquiring into the procedure of the law courts. Why, he asks, should there have been any difference in the two modes of procedure? The learned author, we conceive, is not to be understood as seriously inquiring for a cause of the difference between the procedure in the courts of England and Ireland: he is complaining that any such distinction has ever been permitted. It is only another form of telling us, in the *a priori* mode, that from the first the forms of legal procedure ought to have been the same for the two kingdoms, although they were not the same, for reasons on which it is now needless to speculate. From this aspect of the question many experienced and sincere law reformers will turn aside. They will contend that laws and the administration of laws, like constitutions, grow, and are not made; and that their practical utility depends upon their origin. If they spring from time to time from the wishes of a nation, if they vary with its wants, and follow faithfully its changes in social life, politics, and religion, they will be honoured and obeyed; and to that extent and in that degree only. But the system of a theorist, enforced by unsympathising power, will be practically a dead letter. A formula, however symmetrical, which embodies no vital principle, will be as odious in practice as it is exact in theory. The question of the Irish marriage law, is one of those delicate topics, which cannot be approached without the risk of awakening old animosities. Here, as before, the causes of the diversity in the law of Ireland, are apparent, or at least ascertainable; and how, we ask, could conflicting circumstances of race and religion, to say no more, have led to any other than an incongruous result. It is in vain to lament over a state of things which at least has the merit of faithfully reflecting the political and religious history of the nation. To remove these blemishes is no doubt the worthy task of the scientific jurist, but we cannot forget that reform, to be valid, must be based, not upon an abstract ideal of uniformity, but upon the express will of a majority in intelligence of the people of Ireland. Mr. Napier's arguments in favour of a department of justice, must necessarily be submitted to the same ordeal of public opinion. The experience of the last session of Parliament has shown that the Legislature, at any rate, are not so juristical in their views as to consent to the establishment of a chief judge in bankruptcy, an office which they deemed useless, merely for the sake of uniformity. Modern demands for reform come from a public not yet enlightened enough to insist upon a legal system which shall be gracefully uniform and logically consistent, as well as practically useful. But why are we led into these reflections? Not to point out to the admir-

able reformers of our legal systems what they well know already, that theoretical legislation for the United Kingdom, is impracticable; but to show that their endeavours must be mainly directed to prepare the public mind for the improved system which they advocate. In this country, the first desideratum in law is convenience; the second is cheapness; the third and last are precision and uniformity. The efforts of the social science lawyers, therefore, in spreading a taste for scientific improvement, are most praiseworthy; and Mr. Napier's views, so far as they tend in the same direction, deserve our warmest support, as members of a profession, to which the science of method has hitherto been so sparingly applied. No lawyer could more appropriately fill the chair in a department of jurisprudence than Mr. Napier, and his language is distinguished alike by scholarship and by eloquence. An appropriate sequel to the president's address is to be found in the paper by Mr. J. N. Higgins, pointing out the abundant failures of the last Session of Parliament, and the apparent inefficiency of our existing legislative processes. Of this paper we have been compelled to give only a brief summary. In future numbers we hope to continue the series thus begun by giving some of the more interesting papers in full.

THE LANDED ESTATES COURT—TRANSFER OF TITLE IN LAND.

No. 1.

The compilation of a bankruptcy code under which the expenses of winding up insolvent estates subject to the control of the Court might be diminished, and the discovery of a cheap system of effecting the transfer of title to land, have been for several years past the two most prominent topics of discussion amongst the legal public. The former was the desideratum of commerce, just as the latter is regarded as a sort of philosopher's stone by most of those who take an interest in our real property code. There are natural ills, however, inherent in our social condition, of which kings or laws can cure but a small portion. It is unreasonable to expect that the scattered liabilities due to a speculating and imprudent establishment can be as cheaply collected as the good debts of a cautious firm. Nevertheless, a remedy was sought for in a change of the bankrupt law; and it is only to be hoped that, if the new code fails to satisfy the mercantile world, it will not introduce, as it threatens to do, further complications in the law of creditor and debtor. The discussions of the proposed mercantile law have for some time past absorbed almost the whole attention of law reformers, and have thus diverted public notice from the state of our real property system, which now bids fair in its turn to be the subject of legislative amendment. We do not think, indeed, that we shall ever see commissioners sitting in London invested with powers to bind the rights of persons not parties to the suit before them. Nevertheless, it must be remembered that Sir Hugh Cairns, when in office in 1859, introduced two bills which were intended to have such an operation. That the experiment is perfectly feasible is shown by the system of land transfer at present established by law in South Australia, of which we gave an account (*ante* pp. 176, 196), as also by the statistics of the Irish Landed Estates Court. That judicature was established in the year 1859, and during the first decade of its existence was called upon to adjudicate upon 4,413 petitions, of which 1,363 were presented by the owners of landed estates themselves. Of the first hundred petitions only six were presented by the owners; of the last hundred, 47, within the period mentioned—viz., from 1849 to 1859. The Court pronounced 3,517 orders for sale, and ordered the execution of 8,364 conveyances. The gross proceeds of sales amounted to £23,160,000, a sum which was realised at a cost of about £3 10s. per cent. The number of Chancery suits stopped by the

proceedings in this court was 1,298. Over 3,200,000 acres, or about one-sixth of the area of Ireland, has been disposed of by this tribunal, which has, at the same time, distributed the sum of £28,000,000. The first conception of the principle of the Act has been variously ascribed to Mr. Christie, Sir John Romilly, Lord St. Leonards, and Sir Robert Peel. It is unnecessary, however, to investigate its parentage. It was established because it coincided with the views of a large and influential class in both countries, and was considered to be eminently suited to the peculiar condition of Ireland in 1849.

The Incumbered Estates Court was first set on foot by the Act of the 11 & 12 Vict. c. 48. The essential difference between the jurisdiction conferred by this Act and the powers exercised by the Court of Chancery was that a conveyance by the Incumbered Estates Court conferred a parliamentary title—in other words, a conveyance executed by a commissioner of the Court was as valid in each particular case as if a special Act of Parliament had been passed declaring such conveyance indefeasible and indisputable. No purchaser could object to the title on the ground of want of parties to the suit, or of an outstanding legal or beneficial estate. The conveyance of the Court bound all alike, whether parties or not, and passed the fee simple or such other interest as it might profess to convey despite of any claim or title, legal or equitable. Although the principle of the Act had been long before the public in the shape of an abstract proposition, yet the arbitrary powers entrusted to the commissioners of the Court were such a novelty in our jurisprudence that the judicature was regarded with a jealous eye, and the triumvirate of assessors were invested with their dictatorial powers at first only for five years. Four Acts were passed subsequently, renewing successively the periods of their tenure of office, until finally, in 1858, the Court was constituted a permanent tribunal. Its jurisdiction was then also greatly enlarged. According to the original Act the Court merely pronounced upon the title, ordered a sale, and adjusted the priorities of incumbrances. It was even then, indeed, a court of equity as well as of law, as regarded equitable estates or incumbrances. But it administered only a small portion of executive, as distinguished from regulative and declaratory, powers in equity. Thus, it could not enforce a specific performance, even in cases where the parties had agreed to have the sale of an estate transacted under the Court. The inefficiency of the Incumbered Estates Court in this respect has been in a great measure remedied by the Act by which the present Court is regulated; so that its existing powers with respect to real estate are almost as extensive as those of the Court of Chancery, whilst they are necessarily more efficacious. A sale could not have been had under the original Act, unless the incumbrance in respect of which the petition was presented affected a term of not less than fifty years, and unless it had also been created by the owner of an estate of inheritance. The rights of lessees or occupiers in possession, and of persons entitled to commons and easements, as also rent-charges in lieu of tithes, crown rent, and quit rent, were also excepted out of the operation of the Act.

The Court is at present regulated by the Act 21 & 22 Vict. c. 72. The former title of the Court was changed by this Act to that of the "Landed Estates Court." The commissioners were appointed permanent judges, and the Court was established on a durable basis, and with enlarged powers. The judges may receive affidavits in evidence, examine witnesses, or take evidence either by commission or otherwise, in any manner in which the Court of Chancery might then or subsequently be empowered to receive evidence. The Court has all the powers of a court of equity for investigating title and determining the priorities of incumbrances, as also for enforcing the specific performance of contracts, if these are entered into expressly under the Act. This tribunal may also direct issues of fact to be tried by a

jury before itself. Originally, an appeal could not be brought from a decision of the commissioners without their consent, and the period for appeal was limited to a month. This period has been extended to three months; and an appeal may now be brought without the previous sanction of the commissioners. Appeals lie first to the Court of Appeal in Chancery, and may afterwards, within twelve months, be prosecuted before the House of Lords. The owner of an unincumbered estate, not being a trustee, other than a trustee for sale, may, as he might before, apply for a sale of his land under an order of the Court; or he may have his title investigated, and if it be found satisfactory, may obtain a judicial declaration of indefeasible title, and have such title registered without proceeding to a sale. An incumbrancer within the meaning of the term, as defined by the Act, may also apply for a sale; and it is now no longer necessary that his charge should have been created by an owner of an estate of inheritance; for if a charge be secured by a term of not less than ninety-nine years, of which at least sixty are unexpired, provided only it was created by a person who was owner of a larger estate, that also is an incumbrance within the meaning of the Act. The Court has, in addition to its normal Parliamentary powers, the jurisdiction possessed by the Court of Chancery for the sale of settled estates under the 19 & 20 Vict. c. 120.

After a contract has been made for the sale of any estate in Ireland, it is lawful for the vendor and purchaser jointly, or, if the contract shall so provide, for the vendor or purchaser individually to apply for a conveyance with indefeasible title; and the Court, as incidental to the application, is ordered to exercise the powers now exercised by the Court of Chancery in respect to specific performance. Whenever a decree for sale is pronounced by the Court of Chancery, or by any judge of the Court of Bankruptcy and Insolvency in Ireland, it is to be carried into effect by the Landed Estates Court exclusively, unless the former Courts, upon the representation of the parties, or on account of the small value of the land in question, should deem it expedient to retain the conduct of the sale. The Court may order the conversion of renewable leaseholds in perpetuity into fee farm grants, according to the principles of the Irish Renewable Leasehold Conversion Act. This provision is likely to have a very salutary effect, as a considerable portion of Irish soil is held under reversible leases—a mode of tenure that corresponds in some respects with that of English customary estates, but is productive of litigation, by reason of the necessity which exists for renewal of the leases from time to time, and the consequent frequent applications which are made to the Court of Chancery to order a renewal, even though the legal period, within which a renewal should have been made, has elapsed.

Recent Decisions.

REAL PROPERTY AND CONVEYANCING.

ENTRY ON COURT ROLL OF A DISENTAILING DEED OF COPYHOLDS.

Honeywood v. Foster, M. R., 9 W. R. 855.

In the absence of any special equity the Court is not only governed by legislative enactments and rules of law as regards legal interests, but it even moulds the subjects of its peculiar jurisdiction by analogy to the rules of law. Thus it has always observed the rules of law as to the nature of trust estates, their descent, the administration of legal assets, and the Statutes of Limitation. Even prior to the statute 3 & 4 Will. 4, c. 74, the Court would not entertain stale claims, on the ground that, even though the petitioner's claim were purely equitable, and, consequently, not affected by the old Statute of Limitations (21 Jac. 1, c. 16), nevertheless it was necessary, on grounds of public policy, that long possession should not be disquieted by a party who had slept on his rights; *Cholmondeley v. Clinton*, 1 Bl. 1. It is, perhaps, not going too far

to assert that, if courts of law had allowed full scope to the plea of fraud, and admitted in evidence every matter calculated to prove fraud on the part of the opposite party, the Court of Chancery would have ceased to be required to administer its peculiar jurisdiction. For almost every single ground of that jurisdiction is based upon fraud. Thus, when it enforces a trust, or compels a specific performance, it does nothing but what a court of law should do, if it were as astute as it ought to be in recognising every phase of fraud. The rules of jurisprudence which courts of law and of equity respectively adopt for their guidance as to the interpretation of Acts of Parliament, private instruments, the devolution of property, &c., are almost identical. Notwithstanding this striking resemblance in the main features of our law and equity systems, the distinctness of their respective tribunals sometimes leads a litigant to suppose that an element of chance is introduced into his case either by reason of the supposed discretion of a court of equity, if his case is before such a court, or by reason of the technical tendencies of a court of law, if his suit is brought there. The present case goes far to show that, in the absence of those special circumstances which are appropriate to the peculiar cognizance of a court of equity, the equitable and the legal merits of a case are not likely to be very different from each other.

The Master of the Rolls has decided, in the present case, that disentailing assurances of copyhold should be entered on the court rolls of the manor of which the lands thereby disposed of are parcel, within six months after the execution of the deed. The Act for the Abolition of Fines and Recoveries, 3 & 4 Will. 4, c. 74, requires (sect. 41) that a disentailing deed of freehold land should be enrolled in the Court of Chancery within six months. The 50th section of that Act provides "that all the previous clauses in this Act, so far as circumstances and the different tenures will admit, shall apply to lands held by copy of court roll," &c. This section clearly directs that whatever is done with respect to copyholds is to be regulated by the previous clauses. Iest, however, the 50th section should be held to direct that disentailing assurances of copyholds should be enrolled in Chancery the 54th section negatives such an assumption by enacting that enrolment is not to be required in respect of copyholds otherwise than by entry on the court rolls. The Act makes a distinction between legal and equitable estates tail in copyholds; but this did not touch the present question, although the entail in the case was of an equitable estate. There is no express direction in the Act as to the time within which a disentailing deed of such lands should be entered on the court rolls. The Court, therefore, had to pronounce, in the absence of any distinct provision on the matter, whether such enrolment might be made within a reasonable time, or should be made within six months, in analogy to the rule regarding freeholds. His Honour considered that the 41st section was extended by the 50th to deeds relating to copyholds as to the time limited for enrolment. Copyholds, indeed, cannot be entailed unless where there is a special custom of the manor to that effect; 3 Rep. 8. As custom is so much of the essence of copyhold tenure, it may be supposed that this decision involves an extension of a legal enactment by implication to a class of tenures to which it should not be held to apply except so far as its express terms rigidly demand. But we think that since the Legislature provided by special provisions for the disentailing of copyhold lands, it has become the duty of courts of law and of equity alike to effectuate the intent of the Fines and Recoveries Abolition Act. The disentailing deed in the present case had been enrolled in Chancery, but was not entered on the court rolls until fourteen years after its execution, at a time when the disentailer was dead. It has been decided that enrolment of a disentailing deed must be made within the lifetime of the disentailer; *Hawkins v. Kemp*, 3 East. 410. It was not necessary to have decided in the present case that a like rule should be observed as to the entry of copyholds on the court rolls. But there is little doubt that the decision in *Hawkins v. Kemp* would be held to apply to lands of this tenure. The 47th section of the Fines and Recoveries Abolition Act has so carefully excluded all discretion on the part of a court of equity in respect to assurances under the Act, that it can seldom if ever apply its peculiar rules to the determination of such cases. As to these assurances, therefore, equity does not so much follow the law voluntarily, as it is compelled strictly to obey legal rules.

Mr. Thomas Price, of the Town House, Mile End, and 24, Abchurch-lane, London, has been appointed a London commissioner to administer oaths in chancery.

Correspondence.

TITHE RENT CHARGE.*

The £4 10s. set opposite to No. 340 is the sum charged upon that land, and the sum which the tithe owner is entitled to recover by distress and entry thereon. (See 6 & 7 Will. 4. c. 71, ss. 55, 81, 82.) C.

INVESTMENTS BY TRUSTEES.—EAST INDIA STOCK.

Trustees ought not to invest in East India £5 per cent. Stock. That stock has not the security of any imperial guarantee like the old East India Stock; but the debt thereby created and the dividends thereon are simply charged upon the revenues of India.

Trustees acting *bonâ fide* to the best of their discretion will be protected in making an investment in the old East India Stock; but the Full Court of Appeal, in the exercise of its discretion, has refused to order such an investment, the income of the tenant for life being ample without it (*Cockburn v. Peel*, 9 W. R. 725); and the Master of the Rolls has refused to allow an investment to be made in that stock (*Ungless v. Tuff*, 9 W. R. 729). C.

The views of the Court of Chancery upon this matter (by which trustees must be guided) are fully set forth in the case of *Cockburn v. Peel* (L. C. & LLJ., 9 W. R. 725), decided June 12th, 1861. And although in the more recent case of *Equitable Assurance Company v. Fuller* (V.C.W., 9 W. R. 400; confirmed on appeal, see *Standard*, 18th of July, 1861), decided 2nd March and 17th July, 1861, in favour of the applicant, the settlor, with the agent of the trustees, but without costs, yet the Court above seems to have been influenced by the circumstance that the changed investment had been already made, and the two learned judges (in the court above) do not seem to have been agreed. They both, moreover, intimated that the course pursued in *Cockburn v. Peel* would be in general adhered to.

It will be seen on reference to these cases that the interests of those in remainder are especially to be regarded. The difficulty in the *Colne Valley* case is put out of the way by the more recent statute. G. C.

ATTESTATION OF WILLS.

The following form of attestation is sufficient:—

"Signed by the above-named A. B., the testator, as his last will and testament, in our presence, both being present at the same time, and subscribing this attestation in the presence of each other and of the testator." C.

I beg to recommend the following form (which is something similar to the one signed by "B. P. A.," except the omission of the word "published" (which I believe 1 Vict. c. 26, s. 13, renders unnecessary), it having been used for a considerable period and passed without question:—

"Signed and declared by the said A. B., the testator, as and for his last will and testament, in the presence of us (present at the same time), and who, in his presence and in the presence of each other, subscribe our names as witnesses." G. A. J.

PRICE OF LAW BOOKS.—DUTY OFF PAPER.

Will you kindly allow me to call the attention of the profession to the high price we are compelled to pay for our law books, and see if something cannot be done by us to bring down those high prices.

I have recently been favoured with a letter from an eminent author of several very valuable legal works, and in reply to a letter from me, asking him if he intends to bring out another volume of his work, he says as follows:—

"I do not intend to continue it. The truth is, my publisher, who had an interest in it, would insist upon affixing so monstrous a price to it that it met with a most limited and unremunerative sale. I told him at the outset that 3s. or 3s. 6d. would be ample for it, and that 7s. 6d. would operate as a complete bar to its sale. However, he would insist upon 7s. 6d.;

* *Ante*, p. 728.

and the consequence was as I foretold. . . . The price charged (7s. 6d.) was really extortionate."

You will see from the above that the author thought 3s. or 3s. 6d. was ample for his little work. The publisher would insist on 7s. 6d. The consequence was no one scarcely bought it; and the work—a very useful one—did not pay.

I would suggest to the authors of legal works to keep the copyright themselves, and be their own publishers, and not allow them to fix the price, and such a price that completely retards their sale.

I do hope and trust that authors will take this hint; and as the duty will be very shortly taken off paper, we shall be enabled to purchase law books at a moderate price.

AVOCAT.

ESTATE OF WIDOWS IN FREEHOLDS.

A. having contracted for purchase of a freehold estate, and paid part of the purchase-money, died, leaving a widow and also a daughter under age, before the conveyance was made. What estate has the widow, and how is the contract to be completed.
W.

NEW GENERAL ORDERS IN BANKRUPTCY.

By the 45th section of the new Bankrupt and Insolvent Act, the Lord Chancellor, with the assistance of two Commissioners, is to frame general orders "for regulating the practice and procedure of the Courts of Bankruptcy and the several forms of petitions, orders, and other proceedings to be used in the said courts in all matters under the Act," and by the 46th section like general orders are to be framed for regulating the practice and procedure of the County Courts.

As the schedules to the Act are very few and of very limited application, the whole or nearly so, working part of the Act is left subject to "such forms as general orders shall direct," and until they are issued it is of little practical use to read the Act itself.

Now it is as to the preparation of these general rules and orders that I wish to call the attention of the profession, as it is by them that they will have to work in their every day application of the Act to the twelve or fifteen thousand bankruptcies and insolvencies annually coming before them, to say nothing of trust deeds and assignments for benefit of creditors.

What I want to see, is some of the leading practising attorneys and solicitors consulted on the matter, and not for the preparation of these rules and orders to be left to some chancery draughtsman; so that we may escape such arbitrary rules as (for instance) the 41st of the present existing ones, whereby the size of the paper on which the proceedings are written is fixed at the size of 16×10 inches—a size larger than foolscap, and smaller than draft paper as commonly used by solicitors; it requiring the special leave of the Court to receive any proceedings on any other sized paper. Understand, pray, that I do not object to a uniform size being generally used, but why not adopt the usual and common draft or foolscap size, and not an unusual, intermediate, and uncommon size? I merely mention this as one of those practical matters which a barrister, or other functionary unaccustomed to the practical working of the Act, would overlook. I could give dozens of other instances of ill-judged spaces given in the different forms used, all which, however slight and unimportant they may seem, yet are of more importance to the practitioner than would at first appear.

I therefore suggest that the Incorporated Law Society, and the Metropolitan and Provincial Law Association, communicate with the Lord Chancellor, offering their assistance in settling the forms, &c.; and I would further suggest that a draft of the orders and forms be printed and sent to the registrars of all the bankruptcy and county courts, for their remarks and suggestions thereon, with a sufficient number of spare copies for distribution to the leading practitioners in their respective courts, who might be willing to assist in the matter.

As the Act comes in force in less than six weeks' time, and at a most inconvenient time too—during the long vacation, when many are away—there is no time to be lost.

No book of practice will be of any good till the rules and orders are issued; therefore no editor can dare to go to print on "The New Bankruptcy Law" before he gets them to incorporate into his book, as no one would buy half a thing, which the Act without the rules and orders at present is.

A PRACTICAL SOLICITOR.

Reviews.

A Handy Book of the Game and Fishery Laws. By GEORGE C. OKE, author of "The Magisterial Synopsis" and "Formulist," "The Laws of Turnpike-roads," &c. London: Butterworths. 1861.

This treatise appears to leave nothing to be desired by the reader of this branch of law. Although entitled a Handy-book, it is in reality a comprehensive, though succinct, work. This title, therefore, as the author informs us in the preface, has been used by him "rather to denote the portability of the work than as implying its contents to be a mere superficial, and, therefore, incomplete, statement of the laws upon which it treats." It gives in *extenso* the several enactments relating to its subject matter, as also the decisions and other authorities; and contains forms of the various proceedings. These are appended to the chapters, which treat respectively of the different offences in respect of the seasons and days of shooting, gamekeepers, licenses, landlords' and tenants' rights and liabilities with respect to game, trespasses, &c., &c. There are not less than forty-one statutes relating to the subject-matter of this treatise referred to by the author. Of this conglomeration of enactments twenty-seven were passed in the present reign. One of these statutes, however, redeems in a great degree the character of our recent legislators as to the reproach of officious incompetency, to which such random compilations justly lay them open—we refer to the 24 & 25 Vict. c. 109, which is to come into operation on the 1st of next October, and which consolidates the laws relating to the salmon fisheries. Would that the game laws were alike united together in a single enactment, and that the Legislature would not be reminding country gentlemen of their early mathematical studies, by the difficulties attendant upon a search after a point of game law. This is a species of information that may, on account of the trouble of acquiring it, be denominated, in Lord Bacon's words, "a *venatio Panis*." Pending this consummation, Mr. Oke's Handy-book will doubtless be found to be of the utmost use. The chapters are arranged in a good order, and exhaust the branches of which they treat respectively. The last adopts the method observed in the criminal consolidation statutes of last session (which are duly noticed as to their provisions regarding the subject matter of this work), as it comprises a "Tabular List of Penalties." This treatise deserves unqualified praise; it digests in order a branch of law that has been complicated, rather than rendered difficult of ascertainment, by a reckless accumulation of isolated enactments. It required the author of the "Synopsis" and "Formulist" to write the tenth and fourteenth chapters of the book before us. These deserve especial notice, as they treat of proceedings for penalties, and comprise in a very small compass the varied laws relating to such proceedings. We have no doubt that the Handy-book will become the *vade mecum* of every one desirous of consulting a reliable oracle upon questions of game law, which are, at present, affected by such a multitude of enactments. This treatise is carefully composed, and contains a full index.

An observation is suggested to us by a perusal of this work as to the feasibility of a consolidation of our criminal law—a proposition which Mr. Coode, in his recent pamphlet, upon which we have offered some comments (*ante* pp. 598, 686), has very ably, though, we think, not successfully, combated. The treatise before us would, doubtless, be very incomplete if it wanted the last chapter, or, to use Mr. Coode's words, if it was "truncated of its penal element." Nevertheless, penalties are so distinct in their nature from rights and duties, that any particular class of penalties belongs rather to the general class of criminal offences than to the branch of law upon a breach of the duties specified in which they are to be imposed. We think, therefore, that a treatise of a particular branch of law must, as hitherto, describe the criminal, as well as the civil, provisions of our code applicable to its subject matter, but that a consolidation statute need not be similarly comprehensive. Such a statute would, we think, be complete if it comprised all the civil enactments bearing upon the matter to which it related, and left the penal element to be provided for by a section of the general criminal code.

The game laws are a subject of interest to the sportsman, and of importance to the agriculturalist. The harvest of the present year in France is said to be sadly deficient, by reason of the devastations of certain insects, the swarms of which are attributed by the imperial commissioners who have reported on the subject to the paucity of birds who prey on such—a want which, again, is occasioned by the gastronomic partialities of our allies for birds and their eggs. The *Times* of the 21st

August contains a leading article upon this matter, which is as important as the subject is novel. It is not, however, necessary for agricultural interests that the game laws should be extended in these islands to the protection of all British birds and their domiciles, as well to those underbred species not entitled to the denomination of game, as to the classes already protected.

The Bankruptcy Manual; being a complete Summary of the present Statute Law of Bankruptcy, Arrangement, and Composition between Debtors and Creditors. By CHARLES EDWARD LEWIS, Solicitor. Richardson & Co.

On the 11th of October the new Bankruptcy Act will come into operation; and thousands of persons, traders and non-traders, lawyers and students, officials and non-officials, are, or will be, compelled, as soon as the fast-flying hours of their vacation are over, to make themselves more or less acquainted with the new law, which for good or evil must materially effect either their pecuniary or their social interests, or possibly both. To this vast class of persons Mr. Charles Edward Lewis most opportunely offers the resources of his diligence and experience in the manual before us. In sixteen chapters he lays before the reader the different branches of the subject, confining himself, as he informs us, to the law as it is written, and avoiding all reference to disputed questions, doubts, and anticipated conflicts of legislation. We are introduced, first of all, to the four methods whereby a voluntary or enforced liquidation of a debtor's estate will henceforth be carried out. The treatise then proceeds to explain in familiar language the nature, requisites, aspects and incidents of these four courses. Preliminary chapters are devoted to the constitution and powers of the new court. It is shown that the distinction between traders and non-traders will be as important as ever, whilst the difficulty of deciding who are and who are not traders will be in no way diminished. The requisite steps are pointed out to obtain an adjudication—(1) by and against a trader, and (2) by and against a non-trader, including, under the latter head, a description of the new process by means of a judgment debtor summons. In dealing with the consequences of an adjudication in bankruptcy as regards the bankrupt himself and others, the various clauses of the act of 1849 are interwoven with those of the new statute, so as to constitute a digest of the two enactments in a clear and compact form. We have here only one suggestion to offer, whereby the utility of Mr. Lewis's arrangement may be increased—which is, that the chapters should be divided into sections, numbered to correspond with the enumerated contents at the head of each chapter, as in Lord St. Leonards' "Vendors and Purchasers," and other works. Thus, a greater facility of reference will be attained. We may also observe, in passing, that mention of the "accountant" in bankruptcy appears to have been omitted from page 19. The procedure after adjudication, preferential payments, proof of debts, and declarations of dividends are next considered. A chapter then follows on the duties and liabilities of the official and creditors' assignees, as declared by the new Act. And here a new blot seems to have been hit in this unhappy specimen of modern legislation. A clause directing and providing for a discharge to be given to the creditors' assignees was inserted in the original draft of the Bill. The clause was afterwards struck out; but notwithstanding this, in sections 180 and 181, the "order for discharge" is spoken of and referred to as if it was still subsisting. This is not the only instance of obscurity in the Act complained of by the writer. In dealing with the discharge of bankrupts, Mr. Lewis comments on the doubtful policy which inspired the abolition of class certificates. Into this question, however, it is now too late to enter. It remains only to observe that the criminal law relating to bankrupts has been digested in the manner before mentioned; and the new and important legislation with respect to trust and composition deeds contained in sections 192 to 200 of the new Act is laid before the readers. Finally, the provisions of the 7 & 8 Vict. c. 70, the "Gentleman's Act," as it is popularly called, are fully explained; this being a measure which is likely to come into general request, in order to afford to non-traders a mode of escaping from the new ordeal of bankruptcy. We cordially recommend this excellent treatise, coming from a practised lawyer, to the notice of the profession and the public, feeling satisfied that no better arrangement can be suggested for dealing with an extensive subject, and that Mr. Lewis's accuracy and ability will be found to have conveyed to the reader the supposed intentions of the Legislature in the most intelligible form that is possible.

The National Association for the Promotion of Social Science.

FIRST DEPARTMENT.—JURISPRUDENCE.

Thursday, Aug. 15.

The chair was taken in this department, on the motion of Mr. G. W. Hastings (the honorary general secretary), by the Lord Justice of Appeal, one of the Vice-Presidents of the society; and subsequently by Lord Brougham, the President.

The Right Hon. JOSEPH NAPIER delivered the following opening address as president of the department:—"The limits of an opening address will not permit me to enlarge on the great theme of Jurisprudence; my present duty is to clear the ground for the discussions which are expected to take place in this section; and I have also to prepare the way for giving to the results at which we may arrive their proper effect in the systematic amendment of the law. 'In reality' (says our great countryman, Edmund Burke), 'there are two, and only two, foundations of law, and they are both of them conditions without which nothing can give it any force—I mean equity and utility. With respect to the former, it grows out of the great rule of equality, which is grounded on our common nature, and which Philo, with propriety and beauty, calls the mother of justice. All human laws are, properly speaking, only declaratory; they may alter the mode of application, but they have no power over the substance of original justice. The other foundation of law, which is utility, must be understood, not of partial or limited, but of general and public utility, connected in the same manner with and derived directly from our rational nature.' This is not merely speculative; it is the wise exposition of one who has taught us that 'nothing is desirable that is not practicable'; it is a general sketch of the law as it ought to be. Let us glance at our law as it actually exists—the incongruous heap of enactments which have been huddled together during centuries—some obsolete, some effete, some which have never effected their professional purpose; new laws thrust in to meet some special emergency, without regard to those already in force, still less to general or remote consequences; impolitic in their conception, defective in their structure and expression; text law diffused and uncertain, and too often of mere private interpretation; adjudged cases, accumulated in a confused heap; authority impaired by conflicting and discredited decisions, which help to perpetuate the evils that have been brought into the very bowels of our jurisprudence. Two centuries and a half have elapsed since the amendment of the law engaged the attention of Lord Bacon, and in succeeding times Hale and Prynne, Bentham and Mackintosh, Romilly and Brougham, have kept on foot a standing protest against the complexity, the incoherence, the still graver defects of a system of laws which ought to be a model of jurisprudence for the civilized world. Lord Bacon's elevated and comprehensive mind sketched the outline of a great reform; the statute law to be expurgated, classified, and consolidated; the common law to be digested and methodized; a standing commission to be set up in aid of current legislation. In latter times commissions for the occasion have been impulsively appointed, and have been used rather (as I may say) to stop some troublesome leak than for sufficient repair. This palliative policy has but postponed the demand for an adequate remedy. Notwithstanding all that has been done since our noble president entered upon the warfare of law amendment, there remains a wide waste to be reclaimed. The weeds increase and multiply; dust and defilement accumulate: when will the good work of clearance and cultivation be taken up with the spirit and in the way which can insure success? The remedy which has been approved by our president, and which he has so often and so ably advocated—which the late Lord Langdale pressed upon the attention of Parliament—which in 1846 was brought under the notice of the late Sir Robert Peel, and was afterwards adopted by that able and provident statesman as a part of the comprehensive plan which he suggested for reconstructing the Executive Government of Ireland—this remedy was ultimately approved by the House of Commons. In the session of 1857 an address to the Queen was presented by the House, to which a gracious answer was promptly sent by her Majesty, which led us to expect that a department of administration for the affairs of public justice would soon be constituted. The importance of such a department has grown into a necessity; and after the repeated conferences which I have had with statesmen and jurists, and the

suggestions which I have received from those who have given to the subject the thought which it deserves, I feel myself warranted in saying that such a department might be constructed at any time, in complete consistency with the prerogative of the Crown; the precedence of the Lord Chancellor, the independence of the judges, and the privileges of Parliament. It is competent to the Crown to appoint a committee of council for the affairs of public justice. There is a committee for trade, another for education, and a judicial committee. Over the new committee, the Lord Chancellor, as the great minister of justice, would properly preside, in the absence of the president of the council. The chancellorship of the Duchy of Lancaster might remunerate a vice-president of the committee, whose undivided attention might be given to jurisprudence and the amendment of the law. By an order in council, business relating to the affairs of public justice might be referred to this committee. It is now generally allowed that it is needful to collect, register, and digest the results of experience as to the working of the law, and, therefore, judicial statistics should be periodically collected by and recorded in this department. These would be obtained from the several courts of justice, and might be accompanied by such remedial or other suggestions as the judges or officers of these courts might think fit to add. Defects in the law would thus be disclosed, remedies would be discovered, obscurities arising from imperfect legislation (which, under the present system, rather provoke satirical exposure than induce remedial comment) might hereafter be noticed for the plain purpose of prompt amendment. The course of judicial decision might be followed, and when its authority might seem questionable, either from a conflict of judicial opinion, or the disapproval of the profession, or when it would be found at variance with the known intention of the Legislature, or the current opinions of some class whose interests were specially involved—in these and like cases, the attention of the committee would be directed to the subject. It would, also, from time to time, be directed to the digested results of the statistics obtained from the courts, and would be enabled, at stated intervals, to make a report to the Crown on the state of the law, as administered by the courts, and lay the foundation for such remedial measures as the Government would then feel it to be their duty to submit to Parliament."

Passing to the subject of law reports, the speaker continued: "It is a public necessity, I think, that the present system of irresponsible reporting, and the reviewing of decisions which from the time when they are published have the sanction and force of positive law, should undergo a searching scrutiny. Definitions, principles, and rulings should not be added to the stock of our jurisprudence unless they be supplied by accredited authority. I speak as to the future, but cannot overlook the past. A book has been published in New York by Professor Greenleaf; the fourth edition appeared in 1856, and it contains 548 octavo pages, being, as it is entitled, a 'Collection of overruled, denied, and doubted decisions, both American and English.' The Department of Justice would have to exercise a vigilant supervision over, and perhaps to report frequently on the administration of the criminal law. With reference to the exercise of the prerogative of mercy, advice which would be the result of responsible inquiry might be suitably tendered to the sovereign. Indeed, it is difficult to reconcile with sound principle that the verdict of a jury, founded on evidence given on oath in open court, should be superseded by secret inquiry or by any private influence. If in any case it is alleged or suggested that there are reasons which ought to satisfy the public conscience that the sentence of the law should either be remitted or reduced, is it not desirable that these should be put forward openly, and considered in a judicial proceeding? This would, in general, have a good effect on the public mind, and would give to punishment a greater certainty and a higher sanction."

The probable influence of a Department of Justice upon the machinery of legislation was thus glanced at:—"The help to be given to current legislation would probably be one of the most delicate of the duties of this department of justice. The clearance and consolidation of the statute law, the digesting and arranging of the dogmatic and judicial law, would naturally fall within the province, and come under the supervision, of this department; but it may be considered, perhaps, as of more pressing importance to get the current legislation into approved working order. It was observed by a great jurist, Lord Chancellor Hardwicke, when speaking on the subject in the House of Lords, more than a century ago, that the introduction of a new law should be the result of reason and deliberation. 'In every such case,' he says, 'we ought to consider whether a new law be necessary for the purpose intended; for no new law ought ever to be made unless it appears to be absolutely

necessary, as a multitude of useless laws is one of the greatest plagues a people can be exposed to. In the next place, we ought to consider whether the inconvenience or grievance intended to be removed be of such a nature as to admit of being cured by any human law; for, if it be not, we render ourselves ridiculous by the attempt. In the third place, we ought to consider whether, by endeavouring to remove the grievance complained of, we may not probably introduce a much greater; and, in the fourth place, we ought to examine very strictly whether the law be conceived in such terms as may be effectual for the end intended, and the several clauses so clearly expressed as can admit of no doubt.' *Pace tanti viri*, I would so far alter his wise and comprehensive speech as to conclude it thus—'So carefully framed as not to admit of any reasonable doubt of what was intended.' The Houses of Lords and Commons have provided by their standing orders that, in certain cases, Bills intended to be referred to Parliament should, before they are introduced, be submitted to certain public departments. These departments may therefore report their views and make their suggestions which may assist though not control the Legislature. . . . I feel myself justified, on the present occasion, in pressing on your attention the importance of having such a department as I have suggested. I have had the cordial and consistent support of Earl Russell, both in the House of Commons and in this Association; and the very eminent jurist, the present Lord Chancellor of England, in the address which he delivered on vacating the office of President of the Juridical Society, on the 21st of February, 1859, has pronounced the establishment of a Department of Justice to be the very foundation of an improved system of jurisprudence. If, indeed, jurisprudence have a moral aspect; if it be an inductive science; we must have recourse to the method by which other branches of inductive science have been advanced since the time of Lord Bacon. We must, by reason and reflection, derive general results from particulars collected diligently by observation and experience, and by a graduated work of induction make safe and steady progress. In the celebrated report of the select committee of the House of Commons, with reference to the proceedings in the case of Warren Hastings (a report of which was drawn up by Edmund Burke), it is said of the House of Commons that 'one of its principal functions and duties is to be observant of the courts of justice, and to take due care that none of them shall pursue new courses unknown to the law and constitution of this kingdom, or to equity, sound legal policy, or substantial justice.' This is the constitutional duty of the representatives of the people. In discharging it, or rather in the honest endeavour to discharge it, how desirable it must be to have the aid of a department such as I have suggested I confidently submit to the plain good sense of the public. The agency of commissions might be thus profitably superseded, and even select committees might find their labours usefully abridged. On the score of economy, I would add, that if we calculate the expense of commissions for the last thirty years, and contrast this with what a department would have cost the country, and then consider what would have been the probable balance on the side of law amendment, under a department, instead of these commissions, we might find another illustration of the wise maxim, that the best security for a wise economy is efficiency."

The history of legislation for Ireland was thus commented on:—"It was with reference to Ireland that the late Sir Robert Peel advised that the affairs of public justice should be placed under an imperial department. His policy was sound. For this I maintain, that until there be obtained for both countries the most complete community of rights and laws that is compatible with whatever is indelibly peculiar to each, the Union cannot be said to have realised its proper purpose. Seven centuries have elapsed since England assumed the office of giving laws to Ireland; sixty years have elapsed since the Legislative Union was formally concluded. Sensitive to insult in whatever form, the Irish people are proverbially accessible to justice. Sir John Davis has reported, and Sir Edward Coke has recorded, that no nation under the sun has a greater love of justice. What a basis was this for legislative union! Have, then, the interests of all been united; or has it been the policy to unite them in the attainment of a common and improved system of just laws? Far from it. We persevere until this day—doggedly persevere—in a vicious separate system of legislation, which encumbers the statute-book and weakens the union. There are lucid intervals when we seem to understand our position, but even then we resort to some impulsive and unwise remedy. A commission is now in course of gestation for inquiring into the procedure of the courts here, with a view to assimilation with that of the courts of England. Why should

there have been any difference? Moreover, it would seem to have been supposed or assumed in England that our existing procedure had been, if not as primitive as the Breton law, at least that it was as unreformed. It was forgotten that our chancery reform preceded that of England (*experimentum in corpore vili*). In some respects it is more sweeping—in others less satisfactory. In the common law courts the reform which was completed by the labours of my right hon. friend, Mr. Whiteside, is more liberal than that in England. It is to be regretted that there should be any difference; the two systems should be compared, with a view to substitute for both what might be better than either. I have always advocated such assimilation. When a commission was issued in 1859, with a view to improve procedure in equity, under the sanction of the late Lord Chancellor Campbell, I urged (but without success) that Ireland should share in the benefit. Indeed, it was the deliberate opinion of the influential members of the late Statute Law Commission, that it was not practicable to have even the same criminal law for Ireland as for England. Mr. Whiteside, Mr. Justice Hayes, and myself thought otherwise. We had Bills prepared in conformity with our view, and these were approved by the Cabinet in 1848; they were taken up by the succeeding Cabinet, and to a great extent, though not altogether in the form which was chosen by us, they have now become imperial law, and so far solved the problem of an assimilation which was supposed to be impracticable. The question of procedure, however, is, I regret to say, still left open, even in the criminal law, and yet it is the question the most urgent to be settled. Imperfect procedure works injustice daily, and amendment would come at once into operation. To delay remedial amendment is, in fact, a denial of justice. With reference to professional promotion, I am heartily desirous to see it placed on a common basis for both countries, and I think that this would be more likely to be accomplished, and promotion made, as it ought to be, the reward of merit, if subject to the recommendation of an imperial department, withdrawn from the pressure of party, though responsible to Parliamentary, professional, and public opinion. This would work a beneficial change in the affairs of justice for Ireland. The early policy of England was to divide Ireland against itself; it is now the interest of both to cement their union as firmly as can be effected by assimilating the laws, the equal administration of justice, and full participation of every right and every privilege. In the reconstruction of the existing law, all the Irish statutes, from first to last, should be subjected to the same process as the English, and a selection from both embodied in an imperial edition of imperial statutes for England and Ireland united. But it may be asked, can our future legislation be fashioned on an imperial model? We have assimilated our criminal law—we hope to assimilate our procedure. Why should there be a difference in our laws of property? Why should there be any conflict of commercial law? And above all, why should the marriage law be not only separate but sectarian? Look, moreover, at our scattered Ecclesiastical Courts, with three distinct courts of appeal for the United Church."

On the marriage law of Ireland, Mr. Napier observed:—"Look at what we call our marriage law. You may search for it in the lumber-room amongst the rubbish of Acts of Parliament—Irish, English, and imperial. Thoughtful men ask themselves at last—is marriage, indeed, to remain an institution of God, or has it become the creature and convention of human law? It is, doubtless, of Divine appointment; as Lord Stowell has said, in language eloquent as it is exact—"It is the parent, not the child, of civil society." The relation of husband and wife is constituted—completely and irrevocably constituted—by the free consent of parties competent to contract, and intending by such consent to constitute the relation. The positive law of man cannot make more or less perfect the appointment and institution of God. It has been said, but loosely said, by great authority, that society is a party to the contract; it would be more accurate to say that society may have an interest in its completion. In this day of religious liberty, parties competent to contract and constitute a marriage ought to have the free choice of having that marriage solemnized by such religious sanction as they may think fit to select and superadd. Marriage is *publici quia Divini juris*—it is valid everywhere if valid anywhere. Why is this? Because it depends not on the positive or local law of man, but on the appointment of God for the whole human family. In a Christian State it is acknowledged to be the symbol of a great mystery—the union that is at once indissoluble and divine. It was reasonable to require publicity in the title to dower or to the inheritance of landed property, and in other like cases the interference of

positive law is at least intelligible, and, when rightly understood, is found to belong to the law of property, not to the law of marriage. If, indeed, our laws of property were cleared of all obsolete feudalism, simplified and consolidated, then what is called the marriage question would solve itself. The State may regulate the enjoyment of property in whatever way and upon whatever condition the general interests of the community may reasonably require; but when it proceeds to annul a marriage because some conventional rule has not been observed, I am bound to declare that it exceeds its jurisdiction. Irregular and clandestine marriages, as they are called, deserve to be denounced, and ought to be discouraged by every branch of the Christian Church, and the more so as human law cannot directly deal with them. We must look to a moral remedy for moral evils—to the preventive influence of parental and pastoral care, religious training, and the restraint of improved public opinion. Where the State moulds the laws of property for the convenience of the community, it may justly require—as a matter of sound policy—that every marriage which can claim to be recognized for proprietary or other civil privileges shall have had such sanctions superadded, and been publicly recorded in such form as the interest of society may demand for its common convenience. Nothing more than this should be required. But this, be it observed, would be a part of the law of property; it leaves the law of marriage as God has left it—sacred and universal. This view is, I think, in harmony with the spirit of our ancient law. The Saxon laws of England, which have been exhumed by antiquarian research, and from which has been extracted the law which is said to require the intervention of a minister in holy orders, episcopally ordained, as necessary to the validity of marriage—this has been extended to Ireland as a part of our ancient common law, not in a question of property, but in a case of bigamy. It has given a shock to our social system, which has not yet been quieted by any rational legislation. It is the opinion of the younger generation of the judges, and of all the civilians and jurists with whom I have spoken on the subject, that this decision can only be supported by its own authority as a decision of the House of Lords. The direction of the Saxon law that a mass priest should be present at the nuptials, to pronounce the benediction, may have been very proper at that time; but how can this necessarily imply that marriage then as a sacrament, which the parties could minister to each other, would be null and void without such benediction? Indeed, in the same volume of the Saxon laws will be found a canon (p. 443), which directs that a priest should not be present at a marriage where a man marries a second wife or a woman marries a second husband. He is forbidden in such a case to give the benediction. There is a penance prescribed for the party who so marries; the intervention of the priest is prohibited, but the marriage is left with the inherent validity which is irrevocably conferred by the sacramental completion. If it can be inferred from the one Saxon law which enjoys the intervention of 'the mass priest,' that a deacon who has not received priests' orders may celebrate a valid marriage, the inference from the other laws is at least not less obvious, that their injunction was but directory, and the intervention enjoined was not essential to the validity of the marriage. The great and general interest of the question has induced me to dwell upon it, and to suggest the principles on which, as I conceive, the law should be now settled."

On the admission of defendants to give evidence in criminal suits:—"In the report of the select committee, to which I have already alluded, it has been well observed that 'the trial of a cause is not in the arguments or disputations of the prosecutors and the counsel, but in the evidence, and that to refuse evidence is to refuse to hear the cause.' 'Nothing, therefore,' it is added, 'but the most clear and weighty reasons ought to preclude its production.' Ought oral testimony to be excluded in any case, where it is the best that at the time of the inquiry can be produced? Can this prevent fraud or perjury? Man, indeed, is both frail and fallible; he may deceive and be deceived; but still it is a law of our nature to act on testimony, which may be depreciated but not destroyed by our liability to deception. This consideration has led to the removal of some arbitrary restrictions, which have been taken away by the statutes which were passed at the instance and with the aid of our noble president. Although in both countries the parties in a civil suit are now competent and compellable to give evidence in that suit, in neither country can an accused man be examined as a witness on his own behalf in a criminal proceeding. An accomplice in a murder who becomes an approver, interested in earning a free pardon, is admitted as a competent witness. The party accused is, indeed, permitted to make a

statement, but he cannot sustain it by his oath, nor submit it to the test of a cross-examination; so that, if it be true, its value is unjustly depreciated. There is no case, I am confident, in which an innocent man is put on his trial in which he does not feel the injustice of his existing law. There are cases in which no one but the accused could expose the falsity of the accusation; and there are cases, also, in which the accusation would not have been made, perhaps not even contemplated, but for the very rule which may screen it from exposure. The accusation, indeed, should always be sustained by independent evidence; but, for this very reason, it should be open to the accused to meet such evidence by his account of what he alone may be able to testify; and, moreover, as whatever the accused may state will naturally be received with jealous suspicion, he should be allowed to submit his testimony to cross-examination, that its true value may be tested. It is said that where the option would not be exercised, it would generally be presumed that the accused was guilty; and that where it would be exercised, it would subject the accused to personal interrogation. But what would be the extent of such interrogation? It would be confined within the strict limits of cross-examination, without which any evidence may be imperfect. After all, it is a question as to the probable balance of justice or injustice. An accused man, conscious of his guilt, might hesitate to use the privilege; but no man, conscious of his innocence, would forbear to claim and use the right. Why should an accused man have the option of making a statement at all? Might it not be said that an unfavourable inference would be drawn from his silence? But if he made a statement which, if believed, would be, and nothing else would be, a complete exculpation, is it just to refuse him the opportunity of giving to this statement its true value as evidence, and to remit him to the imperfect and inconsistent remedy of a counter-prosecution for perjury, after the injury has been already inflicted? The spirit of our constitution strives to protect the innocent rather than to clear the guilty. Such should be the effect of our law."

On the Statute of Frauds:—"I have glanced at the Statute of Frauds, under which oral testimony is excluded in cases where its admission as the best evidence at the time available, might help the search for truth. But observe how inconsistent, if not impolitic, are the provisions of this statute. Why should oral evidence of all the particulars be sufficient where the subject of the contract is of small value, or even where a sixpence has been paid to bind the bargain, or a fragment or the bulk has been accepted as a part of the whole? Why should an admission of the fact of such part payment, or part acceptance, be proveable by oral testimony? Why should oral evidence be admissible when the written contract has been lost, though this may have occurred by mere negligence? Why should the rescinding of the contract be proveable by oral testimony? Or why should part performance make oral evidence sufficient to establish and enforce the contract in a court of equity? How many honest contracts have been evaded by this arbitrary legislation? It may be proper to protect, in certain cases, the weak against the strong; but when the parties deal on equal terms, why should they not have been left free to make their bargains in such form, and with such safeguards, as their own interests might require, or their own prudence might suggest? If this simple and sound policy had been consistently adhered to, then the testimony of the parties would have been available according to their own free choice, according to its intrinsic value, and, what is of greater consequence, also according to the general course of commercial law? If our tribunals are equal to the duty of sifting testimony, detecting falsehood, and discovering truth, the sources of evidence should be freely opened."

On the law of bankruptcy, the patent law, and the assimilation of procedure in law and equity:—"The bankruptcy law is still on crutches. I cannot be satisfied until I see an imperial law of bankruptcy for the United Kingdom. The elaborate report which has been prepared by the committee to whom the patent law was referred I will not anticipate; nor shall I further refer to any topics on which I have enlarged in the address of 1858. There is a subject of grave importance which deserves a special notice—I allude to the question of legal and equitable jurisdiction. The tendency of recent legislation has been to remove the impediments which had made the courts of law and equity rather antagonistic than ancillary to each other. The early history of our courts of equity shows that the courts of law had limited their own jurisdiction by a narrow and technical procedure, which was inadequate to afford the judicial remedies that were required by the growing requirements of society. Why, it may well be

asked, should not the resources of either be made available to both? . . . Every court of justice, whether it be a court of law or of equity, should be enabled to do complete justice between the same parties in respect of the same subject matter, either by the convenient interchange of powers and duties each with the other, or by enabling the same court to exercise the entire jurisdiction, so far as is necessary in the pending suit, for the administration of complete justice. Our judicial system ought to be harmonious in itself. The suitor should never be subjected to the unjust penalty still imposed on a mere mistake of jurisdiction, nor to the contingency of an inquiry turning out abortive, in consequence of the inability of the court to give remedial effect to its own decision. In one view this may be regarded as a question of procedure, and the convenient division of judicial labour; but it involves the higher policy of restoring the unity of justice itself."

Adverting to the aid which could be brought by social science to the cause of judicial improvement—"It must never be forgotten that our system is bound up with free institutions which are the inheritance of a free people. Our laws, therefore, have a historic life, a customary and a traditional influence. Adjudged cases and judicial reasons, publicly accepted, are incorporated into our judicial system—a system which requires a reflecting mind to appreciate it as it deserves—

There needs, forsooth, deep salutary thought;
The eye that, like the diver, sees its way
To the pool's depth with vision undisturbed.

It is not worthy of social science to give a greater efficiency to this system, to secure a greater reverence for the law itself, a higher position for the legal profession. Nor is it a light matter whether this profession should sink to a vulgar level, or be raised to a higher elevation. Public justice must have its ministers, and public policy requires that these should be men of refined feeling and cultivated minds. It is not enough to have a supply of rough-and-ready justice. However useful this lower currency may be, we must seek to maintain a great and goodly system of jurisprudence, under which public order, civil and religious freedom, protection of life and property, may be adequately secured—a system which will nurture advocacy of the highest order, and encourage the learning, the wisdom, and the love of justice, which are not less the ornament than the support of judicial authority."

The right hon. gentleman concluded with an elaborate and eloquent peroration.

Mr. WILKINSON laid before the section the following resolutions of "The Patent Law Committee":—1st. That all applications for grants of letters patent should be subjected to a preliminary investigation before a special tribunal. 2nd. That such tribunal should have power to decide on the granting of patents, but it should be open to inventors to renew their application notwithstanding previous refusal. 3rd. That the said tribunal should be formed by a permanent and salaried judge, assisted, when necessary, by the advice of scientific assessors, and that its sittings should be public. 4th. That the same tribunal should have extensive jurisdiction to try patent causes, subject to a right of appeal. 5th. That the jurisdiction of such tribunal should be extended to the trial of all questions of copyright and regulations of designs. 6th. That the scientific assessors for the trial of patent causes should be five in number, to be chosen from a panel to be nominated by the Commissioners of Patents for the adjudication upon facts, when deemed necessary by the judge, or demanded by either of the parties. 7th. That the right of appeal should be to either of the Courts of Exchequer Chamber, with a final appeal to the House of Lords. 8th. That for the preliminary examinations the assessors, if the judge require their assistance, should be two in number, named by the Commissioners of Patents from the existing panel; the decision to rest with the judge. 9th. That the committee should approve of the principles of compelling patentees to grant licenses, on terms to be fixed by arbitration; or, in case the parties should not agree to such arbitration, then by the proposed tribunal, or by an arbitrator or arbitrators appointed by the said tribunal. 10th. That a report be drawn up, in conformity with the resolutions passed by this committee, and that the council, if such report be approved of by them, be requested to allow it to be read at the meeting of the British Association to be held at Manchester this year.

Mr. ARTHUR RYLAND read a paper by Mr. J. NAPIER HIGGINS on "The Machinery of Legislation." The paper discussed the present very faulty method of draughting and enacting Acts of Parliament. Matters were left to private parties in the first instance, and were brought hastily and inconsiderately into the Legislature. The recent discussion on the law of bankruptcy was a flagrant example of this. No proper attempt had

yet been made to consolidate the law, and all the commissions for its consolidation had been failures. The principles of the Bankruptcy Bill, although approved of by the mercantile community, had been defeated by individual members of the Houses of Lords and Commons. The "Trades Marks Bill" had been rejected by similar means, and Bills for the Palace of Justice had also been lost. No Bill should be allowed to be brought into the House of Lords or Commons by private parties, and at least all Government Bills should be prepared by a separate department.

Public Companies.

REPORTS AND MEETINGS.

EDINBURGH AND GLASGOW RAILWAY.

At the half-yearly meeting of this company held on the 2nd inst., a dividend at the rate of 4½ per cent. per annum, was declared for the past half-year.

HEREFORD, ROSS, AND GLOUCESTER RAILWAY.

At the half-yearly meeting of this company held on the 31st ult., a dividend of £5 per cent. per annum, on the preference shares, and of 5s. 9d. per £20 share on the ordinary share capital was declared for the past half-year.

LEEDS, BRADFORD, AND HALIFAX JUNCTION RAILWAY.

At the half-yearly meeting of this company held on the 30th ult., a dividend at the rate of 6 per cent. per annum, was declared for the past half-year.

NEWPORT, WARRENPOINT, AND ROSTREVOR RAILWAY.

At the ordinary meeting of this company held on the 31st ult., a dividend at the rate of 6 per cent. on the preference shares, and of 2s. per ordinary share was declared for the past half-year.

NORFOLK RAILWAY.

At the half-yearly meeting of this company held on the 29th ult., a dividend at the rate of 4½ per cent. per annum, was declared for the past half-year.

NORTH WESTERN RAILWAY.

At the half-yearly meeting of this company held on the 28th ult., a dividend at the rate of 2½ per cent., was declared for the past half-year.

WEST DURHAM RAILWAY.

At the annual meeting of this company held on the 28th ult., a dividend at the rate of £7 per cent. per annum, less income tax, was declared for the past half-year.

WHITEHAVEN JUNCTION RAILWAY.

At the half-yearly meeting of this company held on the 29th ult., a dividend of 12s. per share, less income tax, was declared, for the past half-year.

Births, Marriages, and Deaths.

BIRTHS.

DICKINS—On Sept. 3, the wife of William Park Dickins, Esq., of Lincoln's-inn, of a daughter.

HOLGATE—On Sept. 3, the wife of Wyndham Holgate, Esq., Barrister-at-law, of a daughter.

MARRIAGES.

BATHER—**BLONFIELD**—On Aug. 29, Arthur Henry, son of the late John Bather, Esq., Recorder of Shrewsbury, to Lucy Elizabeth, daughter of the late Right Rev. C. J. Blomfield, D.D., Lord Bishop of London.

DENT—**COLLINSON**—On Sept. 3, Thomas Wilkinson John Dent, Esq., of Lincoln's-inn, Barrister-at-law, to Sophia Amelia, daughter of the Rev. George John Collinson, incumbent of St. James's, Clapham.

ROGERS—**HERRING**—On Sept. 3, Benjamin Bickley Rogers, Esq., of Lincoln's-inn, Barrister-at-law, to Ellen Susanna, daughter of Robert Herring, Esq., of Cromer.

WILLIAMS—**HAMILTON**—On Aug. 31, Thomas Williams, jun., Esq., Solicitor, Cheltenham, to Elizabeth Mary, daughter of the late Thomas Hamilton, Esq., of Sanquhar, Dumfriesshire.

WILSON—**MACLEAN**—On July 6, at King William's-town, Stephen Henry Kenneth Wilson, Esq., son of the late hon. James Wilson, Chief Justice of Mauritius, to Anne Emma

Matilda, daughter of Colonel Maclean, C.B., Lieutenant-Governor of British Kaffraria.

WINTER—**HART**—On Aug. 27, William Henry Winter, Esq., to Fanny Cheney, daughter of the late Robert Hart, Esq., Barrister-at-law, of Driphill House, Worcestershire.

DEATHS.

DOWDING—On Sept. 2, at Bath, Frederick Dowding, Esq., Solicitor, and one of the aldermen of that city.

POCOCK—On Aug. 31, Geo. Pocock, Esq., Solicitor, Southampton, aged 45.

SEELEY—On Aug. 31, in his 55th year, John Seeley, Esq., Solicitor, of Surrey Villa, Lower Streatham.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

ESDAILE, HENRY, Esq., Cothelstone, Taunton, Somerset, £1,699 8s., Consols.—Claimed by **EDWARD JEFFRIES ESDAILE, jun.**, the acting surviving executor.

GOULD, JOHN, Esq., Ambend House, Petminster, Somersetshire. £31 6s. 9d. Consols.—Claimed by the Rev. **ROBERT JOHN GOULD**, the surviving executor.

MANNERS, Rev. EDWARD, and **ROGER MANNERS, Esq.**, both of Rutland-house, Knightsbridge, £20 7s. 8d. Reduced Three per Cent.—Claimed by **ANN JOHNSON**, wife of Samuel Johnson, heretofore Ann Manners, Spinster, the sole executrix of Rev. Edward Manners, who was the survivor.

The *Toronto Globe* of August 20th states that it is reported that the proposed changes in the Upper Canada judiciary will take place in a week. Chief Justice Robinson retires on a pension of two-thirds his salary, and it is reported that he will be appointed to the post of President of the Court of Appeal, with £500 a year additional. The other changes are not yet announced, but it is nearly certain that Mr. Draper becomes Chief of the Queen's bench, and Mr. McLean Chief of the Common Pleas. It is said that Mr. Vankoughnet does not go on the bench at present.

London Gazettes.

Professional Partnerships Dissolved.

FRIDAY, Sept. 6, 1861.

GISSING, SAMUEL NEWSON, and **HENRY DENT HENRICH**, [Attorneys & Solicitors; by mutual consent. Aug. 28.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Sept. 3, 1861.

ATKINSON, GEORGE, Whitesmith, 20, Bingley-street, Leeds. Sol. Hider, 15, Park-row, Leeds. Oct. 1.

BALLS, MATTHEW, sen, Gent., Brixton-hill, Surrey. Sols. Clarke & Morice, 29, Coleman-street, London. Oct. 15.

BLENCOWE, WILLIAM, Husbandman, Marton, Warwickshire. Sols. Dewes & Norton, Nuneaton. Sept. 28.

BROWN, WILLIAM, Farmer, Houghton-in-the-Dale, Walsingham, Norfolk. Sols. Mitchell & Clarke, Wymondham. Oct. 14.

COTTELL, JAMES WILLIAM, a Captain in the Bombay Army, Tufnell-terrace, Upper Holloway, Middlesex. Sols. Lewis, Wood, & Street, 6, Raymond-buildings, Gray's-inn. Oct. 10.

LEIGH, JOSEPH MANUEL, Iron Founder, Haverstock-hill, Hampstead, and Limehouse, Middlesex, and George-yard, London. Sol. Strong, 44, Jewin-street, London. Jan. 1.

NEWCOMB, ELIZABETH, Gresford, Denbighshire. Sols. Warry, Robins, & Burgess, 70, Lincoln's-inn-fields. Oct. 2.

PARKER, LYSIMACHUS, Esq., formerly of Manor House, Little Cawthorpe, Lincolnshire, but late of Prescott House, Prescott, Gloucestershire. Sols. Ingakby & Bell, Town Hall, Louth, Lincolnshire. Oct. 1.

RICHARDSON, EDMOND, Grocer & Provision Dealer, Pavement, York. Sol. Mann, 1, New-street, York. Oct. 22.

FRIDAY, Sept. 6, 1861.

BEDSON, ANN, Spinster, Childer Thornton, Cheshire. Sol. Ford, 2, Grosvenor-street, Chester. Oct. 31.

KIRKMAN, SAMUEL, Gent., Lindridge House, Desford, Leicestershire. Sols. Berridge & Morris, Friar-lane, Leicester. Nov. 30.

LEE, STEPHEN HENRY, Vitriol Manufacturer, Norwood and Henton, Middlesex. Sol. Peachey, 17, Salisbury-square, London. Nov. 2.

MEAD, MARY ANN, Widow, 1, Mayfield-terrace West, Dalston, Hackney, Middlesex. Sols. Pearce, Phillips, Winckworth, & Pearce, 66, Gresham House, Old Broad-street, London. Dec. 5.

POWELL, THOMAS WALTER, Attorney-at-law, Neath, Glamorganshire. Sol. Randall, Neath. Oct. 31.

TWEDDELL, GEORGE, Gent., Westerton, Durham. Sol. Smith, 40, Sadler-street, Durham. Oct. 1.

WHITWORTH, WILLIAM SHEPHERD BRIDENELL, Esq., formerly of Earl's

Barton, Northamptonshire, but late of 12, Hamilton-terrace, Leamington Priors, Warwickshire. *Sol.* Haynes, 9, Hamilton-terrace, Leamington. Sept. 30.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Sept. 3, 1861.

(County Palatine of Lancaster.)

Oakey, Caleb, Upholsterer, Preston, Lancashire. Burrow v. Oakey, Registrar of Court, 10, Camden-place, Preston. Sept. 30.

FRIDAY, Sept. 6, 1861.

Gott, Joseph, Coal Steward, Whitwood, Featherstone, Yorkshire. Hepinstall v. Gott, V. C. Wood. Oct. 29.

(County Palatine of Lancaster.)

Ellison, Robert, Gent., Neston, Chester. Gorst v. Gorst, Registrar of Court, 1, North John-street, Liverpool. Oct. 1.

Assignments for Benefit of Creditors

TUESDAY, Sept. 3, 1861.

Edmundson, Edward, Scribbling Miller, Healey-in-Batley, Yorkshire. *Sol.* Scholesfield, Batley. Aug. 9.

Mellor, William, & Joseph Kershaw, Cotton Spinners, Rakewood, Higher Mill, Butterworth, Hollingworth, Lancashire (Mellor & Kershaw). *Sol.* Sutton, 28, Brown-street, Manchester. Aug. 17.

Nelham, Edward, James Hucks, & Thomas William Murley, Manchester Warehousemen, 4, Bow Church-yard, London. *Sols.* Lawrence, Smith, & Fawdon, 12, Broad-street, Cheapside. Aug. 23.

Nottingham, Henry, John Clougo, & Frederick Charles George, Mantle Manufacturers & Warehousemen, 65, Cannon-street West, London. *Sol.* Mardon, Christchurch Chambers, 99, Newgate-street, London. Aug. 13.

Rose, Thomas, Linen Draper, Notting-hill, Middlesex. *Sols.* Van Sandau & Cumming, 13, King-street, Cheapside, London. Aug. 17.

Scholes, Richard, Corn & Provision Dealer, 26, Kirkgate, Huddersfield. *Sol.* Fernandes, Wakefield. Aug. 7.

Smart, Elizabeth, Milliner & Dress Maker, 6, Promenade-villas, Cheltenham. *Sols.* Wild & Barber, 104, Ironmonger-lane, Cheapside. Aug. 3.

FRIDAY, Sept. 6, 1861.

Ains, John, sen., & John Ains, jun., Tailors & Outfitters, Newport, Isle of Wight. *Sol.* Griffiths, Newport, Isle of Wight. Aug. 15.

Barry, John, Corn Factor, Rye, Sussex. *Sols.* Ellman & Whitmarsh, Rye, Isle of Wight. Sept. 3.

Bell, George, Grocer, 9, Scotland-road, Liverpool. *Sol.* Conway, 4, Harrington-street, Liverpool. Sept. 4.

Cooper, William Henry, & John Hayward, Brewers, Bexley, Kent (Cooper & Hayward). *Sol.* Gibson, Dartford, Kent. Aug. 23.

May, Thomas Baker, Coal Merchant, Hawarden, Flintshire, and of Tryd-dyn, Flintshire. *Sols.* Walker & Smith, Chester. Aug. 7.

Tranter, Joseph, Brewer, Sandy, Bedfordshire. *Sol.* Hooper, Biggles-wade, Bedford. Aug. 24.

Vauley, John, Farmer, Spark Hagg, Selby, Yorkshire. *Sols.* Weddall & Parker, Selby. Aug. 31.

Walton, William Pontier, Corn & Seed Merchant, Kingston-upon-Hull. *Sols.* Lightfoot, Earnshaw, Frankish, & C. R. Codd, Hull. Aug. 12.

Wattam, Thomas, Farmer, Wartle's Park Farm, Waltham Abbey, Essex. *Sol.* Clapham, 14, Liverpool-street, Bishopsgate. Aug. 15.

Wilkins, William, Cloth Dealer, Trowbridge, Wilts. *Sol.* Wood, 19, Clare-street, Bristol. Aug. 12.

Whittington, Jeremiah, Miller & Brewer, Calbourne Lower Mill, Isle of Wight. *Sols.* Hearn & Mew, Newport, Isle of Wight. Aug. 26.

Bankrupts.

TUESDAY, Sept. 3, 1861.

Alston, Ebenezer, Grocer & Tea Dealer, Ashton-under-Lyne, Accrington. *Com.* Jemmett: Sept. 13, and Oct. 16, at 12; Manchester. *Off. Ass.* Herniman. *Sol.* Richardson, Manchester. *Pet.* Aug. 20.

Beck, Samuel Henry, Milliner, Broad-street, Birmingham. *Com.* Sanders: Sept. 13, and Oct. 4, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Southall & Nelson, Birmingham. *Pet.* Aug. 30.

Carter, John, Builder & Timber Merchant, West Hartlepool, Durham. *Com.* Ellison: Sept. 10, at 11.30; and Oct. 23, at 1; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Turnbull & Bell, West Hartlepool. *Pet.* Aug. 24.

Clark, Sampson Estill, Ship Chandler & Provision Dealer, West Hartlepool. *Com.* Ellison: Sept. 12, at 11; and Oct. 23, at 12; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Turnbull & Bell, West Hartlepool. *Pet.* Aug. 24.

Cox, Henry Benson, Tavern Keeper, Tom's Coffee-house, Cowper's-court, Cornhill. *Com.* Goulburn: Sept. 10, at 11; and Oct. 14, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Lawrence, Smith, & Fawdon, 12, Broad-street, London. *Pet.* Sept. 2.

Fantarella, Enrico, Merchant, 11, Lime-street, London. *Com.* Holroyd: Sept. 14, at 11; and Oct. 22, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Marten, Thomas, & Hollams, Mincing-lane, London. *Pet.* Sept. 2.

Hall, Henry John, Farrier & Shoeing Smith, Chapel Close, Berkshire, and of Oxford. *Com.* Holroyd: Sept. 14, at 11.30; and Oct. 8, at 1.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Parker, Rooke, & Parkers, 17, Bedford-row, London. *Pet.* Sept. 2.

Hird, Thomas, Timber Merchant & Builder, Burnley, Lancashire. *Com.* Jemmett: Sept. 17, and Oct. 17, at 12; Manchester. *Off. Ass.* Fraser. *Sol.* Hughes, Liverpool. *Pet.* Aug. 26.

Jardine, Francis North Clerk, Licensed Victualler & Wine and Spirit Merchant, 22, Tottenham-court-road, and 2, Winchester-place, Fern-bridge-villas, Bayswater, Middlesex. *Com.* Fontblanque: Sept. 16, at 11, and Oct. 16, at 12; Basinghall-street. *Off. Ass.* Stanfield. *Sols.* Harrison & Lewis, 6, Old Jewry, London. *Pet.* Aug. 30.

Lees, Samuel, Grocer & Draper, Meltham, Almondbury, Yorkshire. *Com.* West: Sept. 13, and Oct. 4, at 11; Leeds. *Off. Ass.* Young. *Sols.* Jes-son, Huddersfield, or Bond & Barwick, Leeds. *Pet.* Aug. 23.

McIntosh, William, Travelling Draper, 7, Dumfries-place, Newport, Monmouthshire. *Com.* Hill: Sept. 17, and Oct. 15, at 11; Bristol. *Off. Ass.* Actman. *Sol.* Henderson, Bristol. *Pet.* Aug. 20.

Oswald, Thomas Ridley, Ship Builder, Sunderland. *Com.* Ellison: Sept. 12 and Oct. 30, at 11; Newcastle-upon-Tyne. *Off. Ass.* Baker. *Sols.* Hanson & Son, Sunderland. *Pet.* Aug. 22.

Reader, John, Galvanized Iron Roof Manufacturer, Birmingham. *Com.* Sanders: Sept. 13 and Oct. 4, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* East & Parry, Birmingham. *Pet.* Aug. 30.

Selig, Gabriel, Dealer in Watches and Jewellery, 2, North-buildings, Finsbury-circus, London. *Com.* Fane: Sept. 12, at 11.30; and Oct. 18, at 11; Basinghall-street. *Off. Ass.* Cannan. *Sols.* Solomon, 22, Finsbury-place, Finsbury, London. *Pet.* July 25.

Sheldrick, James Thomas, Timber Merchant, 14, Stainsby-terrace, Stainsby-road, Poplar, and 1, Woodbridge-street, Clerkenwell, Middlesex. *Com.* Fontblanque: Sept. 16, at 2; and Oct. 16, at 12.30; Basinghall-street. *Off. Ass.* Stanfield. *Sol.* Norton, 10, Clifford's-inn, Fleet-street, London. *Pet.* Aug. 29.

Spark, Alfred, Watchmaker & Jeweller, 10, Great Coram-street, Russell-square, Middlesex. *Com.* Holroyd: Sept. 14 and Oct. 22, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Boydell, 41, Queen's-square, Bloomsbury, Middlesex. *Pet.* Sept. 2.

Terry, William, Plater & Spur Manufacturer, Birmingham. *Com.* Sanders: Sept. 16 and Oct. 7, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Southall & Nelson, Birmingham. *Pet.* Aug. 29.

Thorn, William, Innkeeper, Lyme Regis, Dorsetshire. *Com.* Andrews: Sept. 11 and Oct. 9, at 12; Exeter. *Off. Ass.* Hirtzel. *Sol.* Willesford Exeter. *Pet.* Sept. 2.

Turneau, Charles, Tobaccoist, Liverpool. *Com.* Perry: Sept. 13, at 11; and Oct. 4, at 2; Liverpool. *Off. Ass.* Turner. *Sols.* Forshaw & Goodman, Sweeting-street, Liverpool. *Pet.* Aug. 23.

FRIDAY, Sept. 6, 1861.

Cameron, William, Dry Salter, Redcliff-street, Bristol. *Com.* Hill: Sept. 17 and Oct. 21, at 11; Bristol. *Off. Ass.* Miller. *Sols.* Marsland, Manchester; or Bevan, Gilling & Press, Bristol. *Pet.* Aug. 27.

Cannon, Edward William, Auctioneer, 3, London road, Croydon, Surrey. *Com.* Holroyd: Sept. 17, at 11.30; and Oct. 18, at 1.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Peverley, 19, Coleman-street, London. *Pet.* Sept. 3.

Cooper, James, Rag & Waste Merchant, Foundry-street, Manchester. *Com.* Jemmett: Sept. 25 and Oct. 25, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* Cobbett & Wheeler, Manchester. *Pet.* Sept. 2.

Fuggle, James Lansdell, Neck Tie Manufacturer, Gutter-lane, Cheapside. *Com.* Holroyd: Sept. 17, at 12; and Oct. 18, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Lepard & Gammon, 9, Cloak-lane, London. *Pet.* Sept. 4.

Radloff, Henry Martin, Seed Crusher, Oil Refiner, & Soap Maker, 32, Chickland-street, Whitechapel, and Copenhagen-place, Limehouse, Middlesex (Meek & Co.). *Com.* Holroyd: Sept. 17, at 11; and Oct. 18, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Marten, Thomas, & Hollams, Mincing-lane, London. *Pet.* Sept. 2.

Ruddard, Edward William Ruddard, Maltster & Brewer, Lincoln. *Com.* Ayrton: Sept. 25 and Oct. 23, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Chambers, Lincoln. *Pet.* Sept. 2.

Smith, Thomas, Milk Finisher & Hot Presser, Sackville-street, Manchester. (Smith & Company). *Com.* Jemmett: Sept. 23 and Oct. 25, at 12; Manchester. *Off. Ass.* Pott. *Sols.* G. & R. W. Marsland, Manchester. *Pet.* Sept. 3.

Taylor, Daniel William, Victualler, Swansea, Glamorgan. *Com.* Hill: Sept. 17, at 11; and Oct. 18, at 12; Bristol. *Off. Ass.* Acraman. *Sol.* Taddy, Shannon-court, Bristol. *Pet.* Sept. 5.

Turneau, Charles, Tobaccoist, Liverpool. *Com.* Perry: Sept. 13, at 11; and Oct. 4, at 2; Liverpool. *Off. Ass.* Turner. *Sols.* Forshaw & Goodman, Sweeting-lane, Liverpool; or Dimmock, 2, Suffolk-lane, Cannon-street, London. *Pet.* Aug. 23.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Sept. 3, 1861.

Henry Boreham, Painter, & Glazier, 26, Wilmot-street, Russell-square, Middlesex. Sept. 14, at 12; Basinghall-street.—John Slater Marshall, Boot and Shoe Factor, Billeter-street, London. Sept. 26, at 11; Basinghall-street.—William Sharp, jun., Underwriter, 11, New Broad-street, London. Sept. 26, at 2; Basinghall-street.—John Julian, Wholesale Milliner & Fancy Manufacturer, 9, Noble-street, Falcon-square, London. Sept. 26, at 1.30; Basinghall-street.—Thomas Taylor & Richard Banks, Cotton Manufacturers, Arlington-street Mills, Salford. (Richard Jackson & Co.) Oct. 9, at 11; Manchester.—Charles Smith Harrison, Grocer, Glossop, Derbyshire. Oct. 8, at 12; Manchester.—Thomas Taylor & Richard Banks, Cotton Manufacturers, Arlington-street Mills, Salford. (Richard Jackson & Co.) Oct. 9, at 11; Manchester; separate estate of Thomas Taylor.—William Routh Burrell, Merchant & Warehousemen, Kingston-upon-Hull. Sept. 23, at 12; Kingston-upon-Hull.—Dunington, Henry, Glove Cloth Manufacturer, Nottingham. Sept. 26, at 11; Nottingham. Henderson, James, Draper, Nottingham. Sept. 26, at 11; Nottingham.

FRIDAY, Sept. 6, 1861.

Henry Broadbent Gaskell, Broker, Liverpool. Sept. 17, at 11; Liverpool.—Daniel Gamon, Coal Merchant, Colney Hatch Station, and Builder, Hornsey, Middlesex. Sept. 30, at 3; Basinghall-street.—James Heyday, Bookbinder, 31, Little Queen-street, Lincoln's-inn-fields, Middlesex. Sept. 30, at 12; Basinghall-street.—Richard Green, Ironmonger, Brighton. Sept. 28, at 12; Basinghall-street.—Anwa Maria Owen, Dealer in China & India Goods, 95, New Bond-street, Middlesex. Sept. 28, at 12; Basinghall-street.—Henry Martin, Tailor, Hanover-buildings, Southampton. Sept. 28, at 11; Basinghall-street.—James White, Miller & Farmer, Ivy-house-farm, Cheddington, Kent. Sept. 28, at 11; Basinghall-street.—Robert Watson Sheppard, Coal Merchant & Auctioneer, Charlbury, near Woodstock, Oxfordshire. Sept. 27, at 11; Basinghall-street.—John Jukes, jun., Manufacturer of Patent Furnaces, Standard Factory, Wharf-road, City-road, Middlesex. Sept. 30, at 2; Basinghall-street.—Harry Cook, Navy Agent & Money Scrivener, Lancaster-place, Strand, Middlesex, and Clement's-inn. Sept. 27, at 1; Basinghall-street.—James Stevens, Jeweller & Silversmith, Derby. Oct. 3, at 11; Nottingham.—Charles Cairns, Bonded Store & Provision Merchant, Newport, Monmouthshire. Sept. 27, at 11; Bristol.—William Randle, Miller, Mealman, & Baker, Arle Mills, and High-st., Winchcombe-street, and Bath-road, Cheltenham. Sept. 27, at 11; Bristol.—Thomas Turner-Ville, Grocer, Worcester. Sept. 27, at 11; Bristol.—John Bound,

Draper, Hay, Breconshire. Oct. 4, at 11; Bristol.—THOMAS DEWICK HUNT, Innkeeper, Bootle, near Liverpool. Sept. 27, at 11; Liverpool.—HENRY STURMENG & WILLIAM GOLDENTEDT, Ship Brokers & Commission and General Forwarding Agents, Liverpool. Same time, sep. est. of Henry Sturmenburg.—WILLIAM RAINFORD, Upholsterer, Liverpool. Sept. 27, at 11; Liverpool.—JOSEPH MORROW & ROBERT THOMAS MORROW, Ship Brokers, Liverpool. Sept. 27, at 11; Liverpool.—GEORGE PATRICK ROONEY, Licensed Victualler, Liverpool. September 27, at 11; Liverpool.—MICHAEL NEVILLE, Brass Founder & Coppersmith, Liverpool. September 27, at 11; Liverpool.—JAMES MANNIN, Leather Dealer, Liverpool. Sept. 27, at 11; Liverpool.—JOSEPH WHITTINGHAM, Boot & Shoe Maker, Liverpool. Sept. 27, at 11; Liverpool.—MATTHEW SOMERVILLE, Joiner & Packing-case Manufacturer, Liverpool. Sept. 27, at 11; Liverpool.—THOMAS THOMPSON, Cabinet Maker, Pocklington, Yorkshire. Sept. 27, at 11; Leeds.—JOSEPH GOMERSALL & JOSEPH BEARY, Carpet Manufacturers, Heckmondwike, Yorkshire. Sept. 27, at 11; Leeds.—RICHARD HARGRAVE, Worsted Stuff Merchant, Leeds and Bradford. Sept. 27, at 11; Leeds.—THOMAS THOMPSON, Stuff Manufacturer, Halifax. Sept. 27, at 11; Leeds.—WILLIAM WILSON, Currier & Leather Cutter, Thirsk and Northallerton, Yorkshire. Sept. 27, at 11; Leeds.—RICHARD HENRY HARTLEY, Merchant, Halifax. Sept. 27, at 11; Leeds.—JOSEPH THOMPSON, Yarn & Worsted Spinner, Wakefield. Sept. 27, at 11; Leeds.—GEORGE HEATH, Builder & Contractor, Chesterfield. Sept. 28, at 10; Sheffield.—HERBERT BIRKS, Grocer & Flour Dealer, Sheffield. Sept. 28, at 10; Sheffield.—JOHN HICKSON, Builder & Contractor, Sheffield. Sept. 28, at 10; Sheffield.—JOSEPH BURROWS, Cabinet Maker, Chesterfield. Sept. 28, at 10; Sheffield.—THOMAS HOBSON, Grocer & Tea Dealer, Sheffield. Sept. 28, at 10; Sheffield.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.
Capital, £300,000, in 30,000 shares of £10 each. £3 per share paid.

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CHARLES JAMES THICKE, Esq., 17, New Bridge-street.

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LOANS.—Advances are made, in sums from £50 to £1,000, upon approved personal and other security, repayable by easy instalments, extending over any period not exceeding 10 years.

Applications for the new issue of Shares may be made to the Secretary, of whom Prospectuses, the last Annual Report, and every information can be obtained.

JOSEPH K. JACKSON, Secretary.

To Landowners, the Clergy, Solicitors, Estate Agents, Surveyors, &c.

THE LANDS IMPROVEMENT COMPANY is incorporated by special Act of Parliament for England, Wales, and Scotland. Under the Company's Acts, tenants for life, trustees, mortgagees in possession, incumbents of livings, bodies corporate, certain leaseholders, and other landowners, are empowered to charge the inheritance with the cost of improvements, whether the money be borrowed from the Company or advanced by the landowner out of his own funds.

The Company advance money, unlimited in amount, for works of improvement, the loans and incidental expenses being liquidated by a rent-charge for a specified term of years.

No investigation of title is required, and the Company, being of a strictly commercial character, do not interfere with the plans and execution of the works, which are controlled only by the Enclosure Commissioners.

The improvements authorised comprise drainage, irrigation, warping, embanking, enclosing, clearing, reclaiming, planting, erecting, and improving farm-houses, and buildings for farm purposes, farm roads, jetties, steam-engines, water-wheels, tanks, pipes, &c.

Owners in fee may effect improvements on their estates without incurring the expense and personal responsibilities incident to mortgages, and with out regard to the amount of existing incumbrances. Proprietors may apply jointly for the execution of improvements mutually beneficial, such as a common outfall, road through the district, water-power, &c.

For further information, and for forms of application, apply to the Hon. WILLIAM NAPIER, Managing Director, 2, Old Palace-yard, Westminster.

FREEHOLDS—LEICESTERSHIRE AND NOTTINGHAMSHIRE.

TO BE SOLD, pursuant to an Order of the High Court of Chancery, made in a cause "Hogers v. Appleby," with the approbation of Vice-Chancellor Sir Richard Torin Kindersley, in Two Lots, by Messrs. WHITE & SON, the persons appointed by the Judge for the purpose—Lot 1, at the ANGEL HOTEL, in GRANTHAM, in the county of LINCOLN, on SATURDAY, the 7th day of SEPTEMBER, 1861, at FIVE o'clock in the afternoon precisely; Lot 2, at the WHITE HART HOTEL, in EAST RETFORD, in the county of NOTTINGHAM, on SATURDAY, the 14th day of SEPTEMBER, 1861, at FIVE o'clock in the afternoon precisely—certain FREEHOLD ESTATES, situate at Hosc and Long Clawson, in the County of Leicester, and at South Leverton, in the county of Nottingham, late the property of Francis Blagg, of South Leverton, in the county of Nottingham, surgeon, deceased.

Particulars whereof may be had gratis of Messrs. NEWTON & JONES, and Messrs. SHEEL, BURNABY, & DENMAN, Solicitors, East Retford, Nottinghamshire; of Messrs. C. & I. ALLEN & SON, Solicitors, 17, Carliole-street, Soho-square; of Messrs. REECE, WILKINS & BLYTH, 10, St. Swithin-lane, London; at the Hotels above mentioned; and of Messrs. WHITE & SON, Auctioneers, East Retford, Nottinghamshire.

Dated 17th August, 1861.

CHAS. FUGH, Chief Clerk.

ROMNEY MARSH, KENT.

An Eligible Freehold Estate, consisting of 313a. 3r. 18p. of Valuable Land.

TO BE SOLD by AUCTION, in One Lot, pursuant to an Order of the High Court of Chancery, made in the causes of "Jane Holman and Others v. Thomas Holman and Others," and of "Thomas Holman v. Ann Holman and Others," and of "H. H. Sweetnam and Others v. Ann Holman and Others," with the approbation of the Right Honourable the Master of the Rolls, the Judge to whom these causes are attached, by Mr. JOSEPH TOOTELL (the person appointed for that purpose), at the AUCTION MART, LONDON, on WEDNESDAY, the 18th day of SEPTEMBER, 1861, at TWELVE for ONE o'clock precisely, an eligible FREEHOLD ESTATE, known as "Gammon's Farm," consisting of 313a. 3r. 18p. of valuable land, 217 acres of which are exceedingly productive arable land, and the remaining 96 acres are sound fatting land, together with a good farm dwelling house, and all the requisite agricultural buildings well arranged, well placed, and in good repair. This valuable property is situate in the parishes of New Church and Eastbridge, in the County of Kent, four miles distant from New Romney, ten miles from Ashford, and seven miles from Hythe. The estate is held on lease by Messrs. Matthew and Thomas William Butler (highly respectable tenants), for a term of twenty-one years from the 11th October, 1853.

The property may be viewed on application to the tenants. Particulars may be obtained on application to Messrs. BROCKMAN & HARRISON, Solicitors, Folkestone; to Messrs. TALBOT, TALBOT, and TASKER, Solicitors, 47, Bedford-row; to Messrs. BISCHOFF, COX, and BOMPAS, Solicitors, 19, Coleman-street; to Messrs. FLUX and ARGLES, Solicitors, 68, Cheapside; and to Mr. JOHN MURRAY, Solicitor, 7, Whitehall-place, London; also at the Auction Mart, London; at the Royal Fountain Hotel, Canterbury; at the Shakespeare Hotel, Dover; at the Albion Hotel, Hastings; at the New Inn, New Romney; at the Swan Hotel, Hythe; at the Saracen's Head Inn, Ashford; and of Mr. TOOTELL, Land Agent and Valuer, Maidstone.

HANTS, near PETERSFIELD.

MESSRS. BROOKS & BEAL are instructed to SELL, by Private Contract, a desirable FREEHOLD ESTATE; comprising a noble mansion, having three reception rooms, 10 bed rooms, all offices; double coach-house, six and three stall stables, and surrounded by pleasure grounds, garden, shrubberies, and an American garden of rhododendrons; a good kitchen garden walled in, and about 120 acres of prime meadow and other land.

For price, &c., apply to BROOKS & BEAL, Land Agents, 209, Piccadilly.

FIRST-CLASS INVESTMENT.—FREEHOLD DOMAIN, ADVOWSON, AND MANORS.

MESSRS. BROOKS & BEAL are instructed to SELL a splendid MANORIAL ESTATE and noble MANSION, seated in one of the best western counties. The whole estate comprises about 6,000 acres, with excellent farm residences and homesteads, houses and cottages. The property is most compact and valuable, hill and valley, wood and river. Let to highly respectable and responsible tenants at moderate rents; is in a fair state of cultivation; uniting in the possessor considerable county and borough, Parliamentary, and local influence, and yielding an ample income.

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FINCHLEY.

MESSRS. BROOKS & BEAL have for SALE, the LEASE of an elegant VILLA, at a ground rent of £70 per annum. The grounds (three lawns) and gardens are beautifully laid out. For detailed particulars of accommodation apply at their offices, 209, Piccadilly, W. (Fo. 281 R.)

HERTS.

MESSRS. BROOKS & BEAL have to SELL a FREEHOLD ESTATE; comprising a modern-built residence, of handsome elevation, surrounded by 40 acres of land, laid out in pleasure grounds, kitchen garden, orchard, arable and grass fields; it is adapted for immediate occupation, and within two hours' journey from London. It has coach-houses and stables, and farm buildings; the whole in good order. Purchase £1,500.

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CAVENDISH-PLACE, CAVENDISH-SQUARE.

TO BE LET, unfurnished, or the Lease to be Sold, of an excellent RESIDENCE, in thorough repair, very light and airy, not overlooked in front or rear. It contains four good reception rooms and five bed rooms, convenient offices, well-placed closets.

BR OOKS & BEAL, Estate Agents and Auctioneers, 209, Piccadilly, W. (Fo. 225).

HANTS.

TO BE SOLD, a desirable FREEHOLD land-tax redeemed PROPERTY, most pleasantly situate, and surrounded by very tasteful pleasure grounds, with ornamental water and well-timbered grass paddocks and capital walled kitchen gardens, elegant conservatory and vinery. House contains hall, two spacious drawing rooms, and dining room, library, and boudoir, two staircases, 13 bed and dressing rooms, and prospect room, capital offices, coach-house, and stables, and other out-buildings. It is one mile from a station, Direct Portsmouth and South Coast Railway, half a mile from church and private sea bathing. Purchase moderate.

BROOKS & BEAL, Estate Agents and Auctioneers, 209, Piccadilly, W. (Fo. 196.)

INVESTMENTS.

MESSRS. BROOKS & BEAL have for SALE, together or separately, FIFTEEN FREEHOLD (or Leasehold) COTTAGE VILLAS, at Wandsworth, on the borders of Wimbledon-park; each let at £30 per annum.

To treat, apply at their offices, 209, Piccadilly, W.

FREEHOLD FOR SALE, near SLOUGH, a Comfortable Residence, and 26 acres of Land adjoining.
Apply to Mr. STEPHENS, Estate Agent, 79, City-road.

SOMERSET.—Freehold Gentleman's Residence and 8 acres of Rich Pasture Land, FOR SALE. Price £2,200.
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BUCKINGHAM.—FOR SALE, Freehold Estate of 450 acres, lying in a ring fence.
Apply to Mr. STEPHENS, Estate Agent, 79, City-road, Finsbury.

CAMBRIDGESHIRE.—FOR SALE, Freehold Estate of about 200 acres, lying in a ring fence.
Apply to Mr. STEPHENS, Estate Agent, 79, City-road, Finsbury.

TO BE SOLD, pursuant to an Order of the High Court of Chancery made in a cause of Gyett against Williams, with the approbation of the Vice-Chancellor Sir William Page Wood, in one lot, by MR. MILNER, the person appointed by the said Judge, at the OXFORD ARMS HOTEL, at KINGTON, in the COUNTY of HEREFORD, on THURSDAY, the 12th day of SEPTEMBER, 1861, at 12 o'clock precisely, a certain FREEHOLD ESTATE, situate in the parishes of Glascomb and Bettus Diawerth, and known as Wern Faur or Wern Danzey, and Cefu Glase, in the county of Radnor, now in the occupation of Mr. Danzey Sheen.

Particulars whereof may be had gratis of Mr. THOMAS WESTALL, of No. 3, South-square, Gray's-inn, London, Solicitor; of Messrs. BODENHAM & TEMPLE, Solicitors, Kingston, Herefordshire; of Messrs. MEREDITH & LUCAS, Solicitors, No. 8, New-square, Lincoln's-inn, London; of Messrs. PATRICK & UNDERWOOD, Solicitors, Rolls Chambers, Chancery-lane, London; of Mr. ARTHUR CHEESE, Solicitor, Kingston; of Mr. PARSONS, Presteign; and of the principal Inns and Hotels in the neighbourhood; and of the Auctioneer at his office, Kingston, Herefordshire.

Dated this 13th day of August, 1861.

(Signed) EDWARD WEATHERALL, Chief Clerk.

COAL.—GREAT NORTHERN RAILWAY.—COAL DEPARTMENT.—The SILKSTONE and ELSECAR COAL-OWNERS' COMPANY delivered their Coal, under specified, to the consumer direct from their own pits; and this Company have supplied from their collieries fully three-fourths of the late customers of the Great Northern Railway Company. Present prices:—

R. C. Clarke's best old Silkstone	ditto	21s. per Ton.
Wharfedale's best Silkstone	ditto	22s. "
Ditto Pilley ditto	ditto	20s. "
Newton, Chambers & Co.'s ditto	ditto	22s. "
Ditto, ditto Park Gate or Brazil	ditto	19s. "
Ditto, No. 2	ditto	18s. "
Ditto, thin seam ditto	ditto	20s. "
Elsecar House	ditto	18s. 6d. "
Wombwell Main ditto	ditto	20s. "

Delivered within five miles of depôt.

Deliveries at Hampstead, Highgate, and Finchley, 1s. per ton extra.—Apply to, and to be obtained ONLY of the SILKSTONE and ELSECAR COAL OWNERS' COMPANY, Great Northern Railway, King's-cross, and Holloway.

Sole Agent, JAMES J. MILLER.

. Customers are particularly requested to specify the description of coal required; and to notice the recent CHANGE of AGENCY, in the appointment of Mr. JAMES J. MILLER in the place of Mr. HERBERT CLARKE.

FURNITURE CARRIAGE FREE.—RICHARD LOADER and Co. have just published a new and elaborate ILLUSTRATED FURNISHING GUIDE, comprising 216 well executed designs of Cabinet and Upholstery Furniture, Iron Bedsteads, &c., which may be had on application, gratis and post free. Every article warranted, and delivered carriage free to any part of the United Kingdom.—Manufactory and Show Rooms, 23 and 24, Finsbury-pavement, London, E.C.

. An inspection is respectfully invited before purchasing elsewhere.

MODELS of SHIPS or BOATS made to Scale or Order. Blocks, deadweights, anchors, cannon, flags, figure-heads, &c. and every article used in fitting up models of ships, cutter and schooner yachts, screw and paddle boats. Models cleaned and repaired. Models of any description made for evidence in actions at law. Ensigns, burgees, and signal flags made to order.

W. STEPHENS, the Model Dockyard, No. 23, Trinity-square, Tower-hill, near Barking Churchyard, E.C.

KAMPTULICON or PATENT INDIA-RUBBER AND CORK FLOORCLOTH. Warm, noiseless, and impervious to damp, as supplied to the Houses of Parliament, British Museum, Windsor Castle, Buckingham Palace, and numerous public and private offices.

P. G. TRESTRAIL & Co., 19 & 20, Walbrook, London, E.C.

Manufactory—South London Works, Lambeth.

TRELOAR'S CORK FLOOR CLOTH, or KAMPTULICON, COCOA NUT MATTING, and DOOR MATS. Best quality and moderate prices.

T. TRELOAR, Manufacturer, 42, Ludgate-hill, London.

ALBION SNEEL, Watchmaker and Jeweller, has removed to his New Premises, 114, High Holborn, seven doors east of King-street, where he respectfully solicits an inspection of his new and well-selected stock.

WINES for the NOBILITY and GENTRY.
WINES for the ARMY and NAVY.
WINES for the CLERICAL, LEGAL, and MEDICAL PROFESSIONS.
WINES for PRIVATE FAMILIES.
PURE and UNADULTERATED GRAPE WINES from the SOUTH of FRANCE.

VENDED by the PROPRIETORS of the VINEYARDS.

THE FRENCH VINEYARD ASSOCIATION have taken extensive cellarage at the West-end of London, for the purpose of introducing FRENCH WINES only to the British public at FRENCH TRADE PRICES; and the members of that Association being proprietors of the most esteemed growths in France, the Nobility, Gentry, and Families patronising such Wines, will become assured of their genuineness.

THE EMPRESS PORT, 30s. per dozen. Sent free, bottles included, to any British Railway Station, on receipt of an Order on Charing-cross Post-office for 22s. 6d., payable to A. Rophe, Director.

THIS EMPRESS PORT, is pure grape, of first-class quality, and delicious taste; the very for Wine family consumption.

CHAMPAGNE, equal to Moët's, 42s.

SPARKLING BURGUNDY

("The Glorious Bumper") at 42s. per dozen.

Pure CLARETS from 16s. to 84s. per dozen.

Tariffs of other Wines sent post free.

Cheques requested to be crossed "London and Westminster Bank."

FRENCH VINEYARD ASSOCIATION,
32, REGENT CIRCUS, PICCADILLY, LONDON, 1861.

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Illustrated Price List of Optical and Mathematical Instruments free, on receipt of two stamps.

THOSE WHO ARE ABOUT TO FURNISH should visit G. I. THOMPSON'S extensive Stock of Furnishing Ironmongery, Electro-Silver Plate, Fenders, Fire-Irons, Japan and Paper Maché Trays, Baths, Toilette Furniture, Gas Chandeliers, Moderator Lamps. All articles marked in plain figures.

THOMPSON'S Electro Silver Spoons, 36s.; Forks, 34s. dozen.

THOMPSON'S Ivory Balance Table Knives, 16s., 22s., 28s. dozen.

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Carriage paid to Railway Stations. Send for a Furnishing List.

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PICTURE FRAMES.—Cheap and Good Gilt Frames for Oil Paintings, 2 1/2 by 2 1/2 inches wide, 20s. Ornamental Frames for Drawings, 14; 7 1/2 by 10, 4s. each. The Art Union Prints, framed in a superior style, at the lowest prices. Neat gilt frames, for the Illustrated Portraits, 1s. 6d. each. Gilt Room Bordering at 4s. per yard. Oil paintings cleaned, lined, and restored; old frames re-gilt equal to new. The trade and country dealers supplied with gilt and fancy wood mouldings, print, &c. German Prints 5s. per dozen. Neat Gilt Frames, 17 by 13, with glass complete, 1s. 6d. each. CHARLES REES, Carver, Gilder, Mount Maker, and Print Seller, 36, Holborn, opposite Chancery-lane.

SIR W. BURNETT, Director-General of the Medical Department of the Navy, recommended BORWICK'S BAKING POWDER in preference to every other, for the use of her Majesty's Navy, because it was more wholesome—more effective—would keep longer—and was in all respects superior to every other manufactured. Pleading testimonials as to its superior excellence have also been received from the Queen's Private Baker; Dr. Hassall, Analyst to the *Lancet*; Captain Allen Young, of the Arctic yacht "Fox," and other scientific men. Sold everywhere in 1d., 2d., 4d., and 6d. packets; and 1s., 2s. 6d., and 5s. boxes.

When you ask for Borwick's Baking Powder, see that you get it, as complaints have been made of shopkeepers substituting worthless articles, made from inferior and inexpensive ingredients, because they are realising a larger profit by them.

BEST SETS OF TEETH.—EDWD. MILES & SON, Dentists, invite the attention of persons desirous to secure the ECONOMY and DURABILITY of their best and newest work in SETS OF TEETH of every description; adapted without pain or extraction, with improvements, the result of 20 years' active practice. Their 2s. work post free, or extracts gratis. Toothache for the most part cured without extraction. Best stopping with gold, &c.

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MR. HOWARD, Surgeon Dentist, 52, Fleet-street, has introduced an entirely new description of ARTIFICIAL TEETH, fixed without springs, wires, or ligatures. They so perfectly resemble the natural teeth as not to be distinguished from the originals by the closest observer; they will never change colour or decay, and will be found superior to any teeth ever before used. This method does not require the extraction of roots, or any painful operation, will support and preserve teeth that are loose, and is guaranteed to restore articulation and mastication. Decayed teeth stopped, and rendered sound and useful in mastication.

52, Fleet-street. At home from 10 till 5.

We cannot notice any communication unless accompanied by the name and address of the writer.

** Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.*

"I.ex."—The advertisement had not escaped our notice. We fear there is no probability of its having been inserted without the alleged writer's knowledge. But the announcement is not worthy of further exposure, and carries its own condemnation with it.

THE SOLICITORS' JOURNAL.

LONDON, SEPTEMBER 14, 1861.

CURRENT TOPICS.

We are glad to give insertion to the following communication from the Mayor of Faversham with respect to a statement of ours on corporal punishments in gaols, occurring *ante*, p. 713. Relying upon the returns which have been furnished to the Houses of Parliament, we stated that at Faversham, in the course of the last three years, two boys of nine were cut with fifteen lashes of the cat, giving from the same authority the names of the magistrates who made the order, and of the surgeon in attendance. Upon this the mayor writes:—

Allow me to correct an error into which you have been led by the returns (H. L. 65 & H. C. 3). There never has been a boy flogged in Faversham gaol with the cat. The two cases to which you refer (*Solicitor's Journal*, vol. 5, p. 713), and in one of which I was a committing magistrate, were simply "birchings," such as we were accustomed to see in the village school, before the introduction of the "cane." A few twigs are taken from an ordinary birch broom, and tied together, and the juvenile offenders (in the present instance depredators of orchards) are corrected with it. I am certain that the infliction is not half so painful as the "leathering" often administered at home; but the calling in of the doctor, the presence of the police, and the formal administration of the "twigs," has a far greater influence than the most severe beating by the parent. The urchins are more frightened than hurt. In proof of the utility of the plan, I may mention that this year we have not had a single case of robbing orchards.

THE MAYOR OF FAVERSHAM.

September 6, 1861.

The formidable charge of severity at Faversham is, therefore, reduced to very narrow limits, and there is ground for hoping that at other places also "lashes of the cat" may resolve themselves into a small beating of birch twigs, accompanied with a very considerable frightening of the offender. But if this should turn out to be so, as we trust it may, there is some very strange error about the returns. Where does the source of this exaggeration lie? Is it with those who furnish the statistics, or those who collect and arrange them for the benefit of the Legislature and others "whom they may concern"? It is quite clear that by no legitimate use of words can a birching be described as the "lashes of a cat;" and the misdescription is so little likely to have been made by mistake that we can only suspect that some over-zealous humanitarian has been unduly exciting our sympathies by a *pia fraus*, or a slight of imagination. We should nevertheless be rejoiced to hear that every item in the black catalogue recounted at p. 713 is susceptible of so simple an explanation, or to speak plainly, of so direct a denial as in this case at Faversham. Prison authorities would do well to look to their entries and returns; and if the blame of misrepresentation is found to rest upon the compiler of the blue book, it is a duty which the committing magistrates owe, as much to themselves as to the public, to expose the falsehood. If anything can be more culpable than doing an injustice to private character, it is the folly or carelessness of those who have spread through the country incorrect or inflammatory statements on such a topic as prison discipline.

Our readers will be not a little startled, perhaps amused, at the announcement conveyed to us by a correspondent relative to a rumoured appointment of a second registrar to the District Court of Bankruptcy at Bristol. An impression seems to prevail that the Lord Chancellor meditates creating this new office, and that the person designated to fill it is a Mr. Inskip, who is now one of the ushers and the housekeeper of the Court. It is added that Mr. Inskip has, on several occasions, brought himself under the notice—we presume the favourable notice—of the Lord Chancellor when Attorney-General; and that his suggestions have been favourably received by Sir F. Kelly and others. Our correspondent seems to believe the story; but we confess that to us it appears simply incredible, and we must have some better authority than an unauthorised paragraph in the local newspapers to convince us that it deserves serious attention. Can our correspondent succeed in discovering some better grounds than those he has stated for the truth of this monstrous suggestion? On further inquiry we learn that the paragraph in the *Bristol Times*, to which, no doubt, allusion is made, states that Mr. Inskip has received the support of the present and of the late commissioner in an application for the appointment of additional registrar. This assertion, at any rate, is open to immediate inquiry, and may be at once confirmed or denied. It is stated, also, in the paragraph in question that an assistant registrar's salary is £800 a year, whereas under the new Act it is £1,000. We cannot help thinking that some humourist, possibly wishing to satirise the unlimited nature of the powers vested in the Chancellor by the new Bankruptcy Act, has been attempting to draw on the credulity of the profession and the public at Bristol.

DR. LONGFIELD'S SCHEME FOR THE ISSUE OF LAND DEBENTURES.

The authority which attaches to the office of Dr. Mountifort Longfield, as one of the judges of the Landed Estates Court, and his high reputation as a political economist, lend great weight to his recent suggestion with respect to the issue of land debentures in connection with sales of encumbered estates. The suggestion which is thrown out by the pamphlet before us, "A proposal for an Act to authorise the issue of land debentures, &c," published by Messrs. Thom, of Dublin, though made with reference only to sales under the authority of the Court in Ireland, may possibly, upon trial, be developed into a measure of general national usage. The scheme is best explained in Dr. Longfield's own words. After observing on the delay, expense, and inconvenience which attend the raising of money by mortgage on a landed estate; the author proceeds:—

Let us suppose that an estate, worth £2,000 a-year, is sold by the Court for £40,000, and that the purchaser desires to have the power of raising money by debentures. He takes the conveyance accordingly, subject to twenty debentures for £1,000 each, which should be expressly mentioned in the conveyance. Those debentures should be drawn in a form to be settled by the Court, and should include a copy of the conveyance of the lands on which they are charged; so that the holder of a debenture should know, accurately, the nature and value of the security. Those debentures are handed to the purchaser, together with his conveyance, and are to be considered as real property, descendible with the estate, but not merging in it as long as they belong to the owner of the land. An account of them, and of every sale and transfer, should be kept in the Court book. Every debenture entitles the holder to interest, at the rate therein mentioned, and also to repayment of the principal money at a time therein specified. This, of course, does not lead to any payment as long as the same person owns both the estate and the debenture. But the debenture may be assigned, at any time, by a short deed, to be registered in the books of the Landed Estates Court. At the same time, the Court will cause a note of this assignment to be endorsed on the debenture.

ture; and the title of the new holder will then be perfect in law and equity, as if he had so much Government stock transferred in the books of the Bank of England. It will be the duty of the Court to make proper rules and forms to prevent forgeries or frauds in the assignments. An equitable assignment may be made by a written instrument, accompanied by a deposit of the debenture, and this equitable assignment should entitle the assignee to demand a legal assignment to be registered in the books of the Court. In case of the loss or destruction of any debenture, the Court is to have power, after proper proof and inquiries, to issue a new debenture in its place. The holder is armed with ample power to enforce the contract expressed in the debenture; but no proceeding shall be taken to recover more than two years' arrears of interest on a debenture. An assignment may be made to any number of persons, not more than four, with a condition that no smaller number shall be permitted to assign. When an assignment is made to trustees on this condition, on the death of one trustee the survivors cannot assign until a new trustee is appointed, either according to the provisions of the deed, or by an order of the Court; but a purchaser is not bound by the trust, provided he obtains a legal assignment on the books of the Court from the proper parties. Any holder of a debenture may, by a proper instrument, registered in the books of the Court, release and extinguish it altogether. We have put the case of a purchaser of an estate for £40,000, who takes, at the same time, twenty debentures of 1,000 each from the Court. (No inspection of the Registry can take place without the permission of the Court). If he wants, at any time, a temporary loan of money, he will have no difficulty in procuring it from his banker, on a deposit of a suitable number of debentures. This without any legal expenses, will be a sufficient equitable security, and a proof that his estate is still unincumbered. If he pays off the debt, he gets back his debentures, and is replaced in his original position, without anything appearing on the record to complicate his title. If he wishes to settle his estate, he assigns to trustees as many debentures as are necessary to raise the charges for the younger children, &c., and extinguishes the rest. The estate is then settled, subject to the debentures, and the settlement is relieved from all those clauses relating to the charges which add so much to its length and complexity. When the proper time comes for raising the charges, the trustees raise the necessary sums by selling the debentures, or assigning them to the parties entitled, according to their equitable rights. If the owner of an estate and debenture, or of a debenture only, desires to contract a permanent loan, he may hand the debenture to a stockbroker, who will dispose of it in the market for its fair price, like so much railway stock, and in this manner obtain the money without any legal expense or unnecessary delay. The person, on the other hand, who wishes to procure an investment for his money, applies to his broker to procure him debentures of such a nature as he requires. The purchaser of a debenture has secured to him, by law, a perfect title to a first incumbrance, without the possibility of deception on this point; and he has also the advantage that the value of the land has been carefully investigated by a disinterested and competent tribunal. It is not too much to say that no ordinary mortgage can be compared to such a security. Admitting even that the Court may make a mistake as to the value of an estate, it is most unlikely that such error will be so great as to prevent the debenture from being recovered; and it is certain that such cases will bear a very small proportion to the number of cases in which persons now lose money, which they imagine they have lent upon good security. At present there is no regular market or market price for such securities as mortgages, charges on land, &c. The person who wants money does not know how long he may have to wait, or how much he may be compelled to pay for it. On the other hand, the person who has money to lend, does not know what terms he may be able to obtain, or how long he may be obliged to keep his money idle. One man may be for some months unable to procure a good investment at 4½ per cent., while during the same period another man has succeeded in obtaining 5 per cent. for his money, on unexceptionable security. Each case is a separate transaction, affording no indication to enable any one to conjecture what may be the result in a different instance. But with the proposed plan of debentures, each will be able to borrow or lend at the market rate, which, of course, may be subject to fluctuations.

This proposal, we learn, is not new; it was made law soon after the introduction of the first Incumbered Estates

Act, but was then rejected on the supposition that it was a mere device to catch purchasers for the estates about to be sold by the Court. The necessity for any such bait for capital has been amply disproved; but the statement involves the necessary inference that the scheme must have been attractive, or it would not have been even pretended to be an incentive to buyers at all. Some objections to the scheme are suggested and answered by the author himself. It has been supposed that people may say, "Oh! you are encouraging extravagance by increasing the facilities for running into debt." Others may anticipate fraud. The first of these apprehensions, scarcely, we think, deserves serious argument. The natural caution of every man, be it more or less, will soon adapt itself to a new state of circumstances. With regard to fraud, inasmuch as the original issue and every transfer of a debenture are proposed to be equally under the control of the Court, a system may doubtless be devised whereby all reasonable security can be attained. The questions which arise with regard to the mode of dealing with an estate subject to debentures necessarily require more explanation and in some instances suggest grave doubts. How is a man who has the power of issuing debentures on an estate to be enabled to lease it? How is he to sell a portion of his estate, in case he has parted with his debentures, or in case he still holds them in his possession? These questions are briefly answered by the writer, but an explanation of all the new relations which present themselves would require a treatise. The only remedy of the debenture-holder appears to be a power of sale to be exercised by the Court on his application; but, in case the debenture-holder prefers that his principal should remain a charge on the unsold lands, the nature of his rights do not appear to be defined. All the debentures are to be made payable together at the end of a certain time to be fixed by the parties, and the right of redemption is necessarily postponed to the expiration of the same period. This latter necessity seems to be one of the disadvantages of the process, unless it can be obviated by previous arrangement, involving, perhaps, a sacrifice on the part of the issuer of the debentures. It is no part of the proposal to make the debentures transferable by mere delivery, like the notes of a bank. Entry in the books of the Court is to form a necessary condition of every legal transfer, but simple delivery will pass the estate in equity. The debenture holder is to be at liberty to apply for a sale *within one month* after default of payment of interest, and no proceeding to recover arrears of interest is to be taken after the lapse of *two years* after the same has fallen due. This shortness of time is an essential part of the scheme, and is expected to lead to prompt and punctual payments.

The reader who remembers the visionary project of Mr. Law, whereby a bank was to be established in Scotland with power of issuing money to the whole value of the lands in the country, may be disposed to look with disfavour or incredulity upon a system of land debentures, but a scheme so boldly devised and patiently elaborated as the present, cannot but attract the study alike of jurists as of financiers. More especially interesting is it to those who believe that in the working of the Landed Estates Court is to be found the true solution of the disputed question, now rising into paramount importance, of the transfer of title in land.

Recent Decisions.

HOUSE OF LORDS.

VOLUNTARY SETTLEMENT—STATUTE OF 13 ELIZ. C. 5.

Thompson v. Webster, 9 W. R. 641.

Having already, *ante* p. 725, reviewed a series of cases in which the question arose, as to whether a voluntary settlement is or is not to be considered fraudulent, on the ground of the

settlor having been indebted, either at the time of the settlement, or subsequently to that date, we now proceed to consider the decisions which have turned on the construction of the 8th section of the 13th Eliz. c. 5, by which all conveyances made upon good consideration and bona fide, are excepted out of the operation of the Act.

In the first place it will be observed that the condition is twofold; in other words, that the failure of either quality, the good consideration or the bona fides of the transaction, will avoid the deed; and secondly, that good considerations may be of two kinds, either valuable, or meritorious. Instances will be found of attempts to relieve deeds from the operation of the statute, on the ground of valuable consideration, when the consideration was, in fact, merely colourable or inadequate; or where marriage or a pretended family arrangement has been resorted to, in order to give value to what otherwise would be only voluntary. There are instances also where a meritorious consideration, such as actual love and affection, has been relied upon, but accompanied with such evidence of fraud as to destroy its validity. There are, finally, cases of deeds fraudulent in themselves, which have been set aside without relation to the peculiar circumstances of the settlor.

Of the latter class the case of *Coppin v. Coppin* (1725), 2 P. Wms. 291, is an example. A receipt was indorsed by the seller on the deed for the purchase-money; but as the money was not really paid, the instrument was of no avail against creditors. On the other hand, where a deed is apparently voluntary, but has been really executed for value, the consideration may be proved *aliunde*; and in one case a bond was admitted in evidence to rebut the presumption arising from the deed that it was executed to delay creditors, *Gale v. Williamson* (1841), 8 M. & W. 405; overruling or qualifying *Peacock v. Monk*, 1 Ves. sen. 128. The same rule prevails in equity; extrinsic evidence will be admitted to prove that a deed apparently voluntary was made for value; *Pott v. Todhunter* (1845), 2 Coll. 76; and further authorities on the same point are *Melland v. Gray* (1843), 2 Y. C. C. 199; *Clifford v. Ferrell*, 1 Y. & C. C. 138; affirmed by Lord Lyndhurst, C. (1845), 9 Jur. 633; 2 Phillips on Ev. 347; Lord St. Leonards' V. & P. 13th ed., p. 592.

It may here be observed, that a deed which is fraudulent under the statute of the 13th Eliz. against creditors, may be set aside at the suit of the assignees of the debtor; in equity, although the subject matter be only a *chose in action*, *Norcutt v. Dodd* (1841), Craig. & Ph. 100; and at law, *Doe v. Ball*, (1843), 11 M. & W. 531.

The question of consideration has frequently arisen in cases of separation deeds. Thus, in *Fitzner v. Fitzner* (1742), Lord Hardwicke says, "it is certain every conveyance of a husband that is voluntary and for his own benefit, is a fraud against creditors;" but he adds, that the Court will not weigh considerations in these cases in too nice scales. In *Stephens v. Olive* (1786), 2 Bro. C. C. 90, decided by Sir Lloyd Kenyon, M.R., sitting for Lord Thurlow, C., it was settled that in a deed of separation a covenant by the trustees indemnifying the husband against the wife's debts, is a valuable consideration, and will take the conveyance out of the statute. Where, on the other hand, as in *Clough v. Lambert* (1839), 10 Sim. 174, there is no indemnifying covenant on the part of the trustees, the deed of separation cannot, generally speaking, be supported against creditors; see also *St. John v. St. John*, 11 Ves. 532. But the rule is not universal, as appears from the case of *Frampton v. Frampton* (1841), 4 Beav. 287. In that case the property, which had been originally the wife's, and in which the husband had an interest under their marriage settlement during their joint lives, was assigned by the husband and wife on trust to pay her an annuity of £300, to invest the residue and pay her the proceeds; and after his death to transfer the principal to her. The husband alone covenanted to pay the annuity, and there was a covenant by the wife to exonerate him from all debts, charges, and incumbrances, which was, of course, void. There was no infraction of the terms of the agreement on the part of the wife; the annuity was regularly paid to her; but the surplus was not regularly invested. The husband died twelve years afterwards. Lord Langdale, M.R., said he did not think a voluntary assignment and declaration of trust by a husband was necessarily vitiated by the absence of a covenant on the part of the trustee; and, under all the circumstances of the case, the deed was supported.

It is obvious that where a valuable money consideration is relied upon in support of a deed, it becomes essential to show that such consideration was adequate. Inadequacy of consideration in a pecuniary sense will not be assisted by a meritorious consideration, such as natural love and affection, in cases

where its presence leads to the suspicion of fraud. In a case in the year 1786, where a man was indebted to the trustees of his daughter's marriage settlement in £300, and at the age of 77, being of infirm health and not likely to live, assigned leaseholds, worth £600, to his son, in consideration of an annuity of £30 a year, and natural love and affection; and died shortly afterwards, leaving the son executor, and the son denied assets beyond £40; the assignment of the leaseholds was set aside. Sir Lloyd Kenyon, M.R., said, that if the conveyance had been made without any consideration, it would certainly have been void under the statute; and he was of the same opinion when the consideration was inadequate. It was true that, as between vendor and vendee, the Court would not weigh the consideration in golden scales; but this was a transaction between father and son, and natural love and affection was mentioned as part of the consideration, upon which, as against creditors, he could not rest at all. It was meritorious, and which, in many instances, the Court would maintain, but not as against creditors; *Mathews v. Feather*, 1 Cox, 278. A case of remarkable resemblance to this, both in its circumstances and in its result, is *Strong v. Strong* (1854), 18 Beav. 408.

Instances in which another valuable consideration—that of marriage—has been relied on in support of a deed against creditors, or has been had recourse to in order to protect property against debts are so numerous, that a few leading authorities only can be referred to here. Of these, *Campion v. Cotton* (1810), 17 Ves. 263, is one of the most remarkable. J. L., after having lodged for many years at the house of one Charlotte T., in January, 1805, married her. During this time he had no property of his own, but with the money of others he bought stock, money, and valuables, and gave them to her. By the settlement made previous to the marriage, reciting that the intended wife was possessed of stock in her own name, and of stock standing in her name and that of another person, also of goods, &c., and reciting that the intended husband was seised of freehold and copyhold property purchased with her money (being, in fact, purchased with money which was partly hers and partly supplied by him), it was witnessed that in consideration of marriage, the funds, rents, and jewels, &c., were assigned to be for the sole and separate use of the wife, with power to her to assign, transfer, sell, &c. After the husband's death his creditors filed a bill against the executor to have the deed set aside, but Sir W. Grant, M.R., upheld the settlement. He said, "I do not think it can be inferred from the evidence, that she knew he was in such circumstances as to make his bounty to her a fraud upon any one." The same principle was followed in *Hardey v. Green* (1849), 12 Beav. 182. There, by articles previous to the marriage, the husband and wife agreed that all the property to which either husband or wife might become entitled should be settled to such uses as the wife should appoint, and in default, on trusts for the husband, wife, and children. The husband at the time had no property, and soon after the marriage became insolvent. Property descended to him afterwards, which Lord Langdale, M.R., held to be bound by the articles. He observed that there was no evidence that the wife had participated in the fraud in any way whatever.

Townsend v. Westacott (1840), 2 Beav. 340, is a leading example of a class of cases in which marriage has been resorted to, for the purpose of attempting to support by a valuable consideration an instrument which at first was either in whole or in part voluntary. A., being indebted to the extent of £3,500, on the 2nd April, 1830, made a settlement of freehold land on Maria P., an infant, the daughter of his housekeeper, absolutely, with a gift over to the mother, in case of the infant's death under twenty-one. Some time afterwards A. married the housekeeper. In October, 1832, he was imprisoned for debt; and in January, 1833, he petitioned the Court under the Insolvent Debtors' Act. Lord Langdale, M.R., directed inquiries as to A.'s indebtedness in April, 1830, and the master having found as above stated, the settlement was set aside. So also, in *Colombine v. Penhall* (1853), 1 Sm. & Giff. 256, which was the case of a settlement made in consideration of marriage by a man who was in insolvent circumstances at the time, whereby he assigned the whole of his real and personal estate (including every article of furniture in his house) upon trust for his wife, subject to a power of joint appointment, but reserving no interest to himself. Sir J. Stuart, V.C., said that "where there is evidence of an intent to defeat and delay creditors, and to make the celebration of marriage a part of a scheme to protect property against the rights of creditors, the consideration of marriage cannot support such a settlement."

Cases of marriage settlements by traders next present themselves; as *Higinbotham v. Holme* (1812), 19 Ves. 87, before

Lord Eldon, C., where a limitation in a settlement, whereby the intended husband, not then being indebted or intending to become a trader, conveyed his own property to the use of himself for life, unless he should embark in trade, and in the life of his wife become bankrupt, and from his decease to secure an annuity to his wife, and subject thereto for his heirs, executors, &c. After the marriage he did embark in trade, and some years afterwards became bankrupt. Lord Eldon said that a limitation of a wife's property until the bankruptcy of the husband, or a lease determinable on the bankruptcy of the lessee, would be good, but not such a provision as this, which "looked forward to a change of intention, and a purpose of becoming a trader." In *Lester v. Garland* (1832), 5 Sim. 205, a trader, by settlement previous to marriage, having received a fortune of £5,000 with his wife, settled a sum of £33,333 6s. 8d. stock in trust for himself for life, with limitations over for the benefit of his wife and children in the event of his becoming bankrupt or insolvent. There was a proviso that if he should survive, and issue of the marriage should fail, and he should then become a bankrupt, 15-66ths of the said sum of stock, being equal in value to £5,000, should go to the wife's next of kin. No part of the £5,000 was settled. It was held that the limitations over in event of bankruptcy were good to the extent of the 15-66ths, but void as to the remainder. The principle of *Campion v. Cotton*, appears to have been followed in *Ex parte M'Burnie* (1852), 1 De G. M. & G. 441. In that case, the husband a trader, being in insolvent circumstances, covenanted by ante-nuptial settlement to pay to trustees £500, who were also to hold about £230 belonging to the wife, on such trusts as the wife should appoint, subject thereto to her for her separate use, then for the husband for life, and the capital to go to the survivor. There was nothing to show any implication on the part of the wife in any fraudulent intention on the part of the husband; and the provisions of the settlement being considered fair on her part, the deed was upheld as against the husband's assignees. One of the latest cases is *Frazer v. Thompson*, (1859), 4 De G. & J. 659. The short grounds of this decision, whereby the settlement was set aside, were that the husband had, prior to and shortly before the date of the settlement, which was expressed to be in contemplation of, and was speedily followed by marriage, committed various acts of bankruptcy, of which the intended wife was cognizant, and to which she was a consenting party. She had in fact, sheltered him in her own house from arrest. In that case, moreover, the marriage engagement had been entered into some two years previously, and it was not shown that the husband was insolvent or indebted at that time.

Correspondence.

BANKRUPTCY APPOINTMENTS.

The legal profession of this city was not a little surprised at a paragraph which appeared in our local newspapers on Saturday last, announcing that it was understood that a second registrar to the Bristol District Bankruptcy Court was to be appointed, and that the expectant new registrar was Mr. Inskip, one of the ushers, and the housekeeper of the court.

On referring to the law on the subject, it appears that any one may be appointed registrar of a court of bankruptcy, and that under the new Act the Lord Chancellor has the power to appoint additional registrars where he thinks fit: so that if his Lordship pleases, and the voice of the profession against the appointment be not raised, and does not reach him, there is every probability of the appointment in question being made.

The qualifications of the gentleman named for the post I do not desire to canvass; he is known I believe to the profession here to have given some attention to the amendment of bankruptcy law, and he has on several occasions brought himself under the notice of the Lord Chancellor when Attorney-General. His suggestions, also, have been favourably received by Sir F. Kelly and others; but my object is to draw attention to the disparagement (I had almost said insult) offered to the legal profession at large, barristers as well as solicitors, if the impending appointment is made. Surely it is not the thing to appoint the lowest officer of a court to the post of registrar without official proof of his fitness for the office, and without his having passed through any professional training for it. Why, look at some of the consequences. The registrar sits as deputy for the commissioner during the latter's absence; and in the case of this court, our commissioner, besides his regular

vacations, and necessary absence from indisposition, &c., is away from his court at least four weeks in every year attending to his duties as Recorder of Birmingham; and on these occasions the registrar of the court sits for him, and may have to hear and decide on questions of law argued before him by learned counsel, to say nothing of the regular duties of his office, taxation of costs, &c.; and it certainly will not be the most agreeable thing in the world for our local bar to have to do this before the newly-raised expectant registrar in question. Why even a county court registrar in any out-of-the-way town or village, such as the neighbouring small places of Sodbury, Temple-Cloud, or Thornbury, is obliged to be an attorney or solicitor, and surely a bankruptcy court registrar ought to possess an equally high qualification.

On principle, therefore, apart from any personal feeling on the subject, I hope the legal profession everywhere will raise their voice and pen against the appointment in question, or against any similar ones elsewhere being made. I believe the profession here has made a move in the matter, but with what success I do not know.

In conclusion, I may say the salary of registrar under the new Act is £1,000 per annum, so that as far as the public purse is concerned the Lord Chancellor has only to make five new registrars at the salary mentioned, and we might as well have had the chief judge at £5,000 a-year at once, and saved all the discussion on that subject that arose between the Lords and Commons when the Bill was before the House. LEX.

Bristol.

CONVEYANCE—FORM OF HABENDUM.

Will any of your conveyancing correspondents give the proper form of the habendum in a conveyance of a freehold estate to a purchaser?

It has been contended, that since the Act 8 & 9 Vict. c. 119, declaring the immediate freehold to lie in "grant" as well as in livery, no limitation of an use is necessary as was formerly the case when the estate was conveyed by lease and release.

A SUBSCRIBER.

PROMISSORY NOTE.

I shall be obliged by your inserting this query in your next, and by any correspondent who will be kind enough to state his opinion as to whether the document (of which the subjoined is a copy) amounts to anything more than a simple I. O. U., or whether it is a promissory note, and also give his reasons:—

"This is to show that I, J. L., owe you, R. H., the sum of £5 borrowed money, with the promise of payment of £1 per month, beginning on the 1st of October, 1860, with the interest to be one shilling in the pound.

"Signed my name."

There is no stamp affixed.
King's Lynn.

JOHN NURSE CHADWICK.

ESTATE OF WIDOWS IN FREEHOLDS.

If A.'s widow was married to A. after 1st January, 1834, she is entitled to dower out of his equitable interest in the freehold estate contracted to be purchased by him, unless her right to dower is barred by his will (3 & 4 W. 4, c. 105, s. 2).

The contract must be completed by a conveyance to A.'s daughter, notwithstanding she is under age—(an infant may be a grantee, Sheppard's "Touchstone," p. 234, 6th edition)—subject to the widow's dower, and the balance of the purchase-money must be paid out of A.'s personal estate.—See Smith's "Manual of Equity Jurisprudence," pp. 155 and 156, 2nd edition.

The widow clearly will have a right of dower out of the estate, unless the husband may have deprived her of her right by any of the various means specified in the Act (3 & 4 W. 4, c. 105). The equitable estate in fee simple, which the purchaser acquired by the contracts, vests in his real representative, as the heir-at-law or devisee (as the case may be), who is entitled to have the remainder of the purchase-money paid out of the personal estate of the deceased purchaser. Your correspondent does not state whether the purchaser died *intestate* or not. If the executor or administrator complete and take the conveyance in his own name he will, of course, be a trustee for the infant devisee or heir-at-law. If the purchaser, however, has made a will, subjecting his real estate to any trusts, the vendor will convey to the trustees upon the trusts of such will.

J. T. S.

ATTESTATION OF WILLS.

Neither of the forms given in your last number is grammatically correct. In C's form I object to "in our presence, both being;" and I should like to ask O. A. T. to what nominative "who" is coupled by "and."

I also object to the words "the above-named" and "the said." The attestation clause should be complete in itself, without reference to the will, and it should not imply that the witnesses have read the will.

I suggest the following clause, which I have always used:—

"Signed by A. B., and by him declared to be his last will, in the presence of us who, at his request, in his presence, and in the presence of each other, have hereunder subscribed our names as witnesses." S. G.

The following form will answer and be found concise:—

"Signed by the said A. B., in the joint presence of us who, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses." J. T. S.

I have prepared very many wills—I was going to say hundreds of them—and I always use the following form of attestation, and it seems to me to meet every requirement of the statute:—

"Signed by the said A. B., as and for his last will and testament, in the presence of us present at the same time, who, at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses."

If you think it worth while to add another to the numerous forms already given by you, pray make use of the above.

D. T. W.

Reviews.

The Law of Nations, considered as Independent Political Communities. On the Right and Duties of Nations in Time of Peace. By TRAVERS TWISS, D.C.L., Regius Professor of Civil Law in the University of Oxford, and one of her Majesty's Counsel. Oxford: University Press. London: Longman & Co. 1861.

The publication of a work on international law, which is a branch of jurisprudence that has been so largely commented upon by Wheaton and Story, nevertheless does not require much apology in the present disturbed state of the world. International jurisprudence has been indeed treated of by a host of foreign jurists *usque ad nauseam*. Still, we should gladly hail the announcement of an eclectic treatise in the English language, which would give us the essence of the judgments of the leading foreign writers, without too copious an infusion of statements of treaties. The work before us, however, has not this recommendation. It mixes up both law and fact, with little regard to their mutual relations, and cannot be considered to tend much to advance the science of which it treats. The author of this work appears to us to have discussed its subject-matter too much in the historical or chronological, as distinguished from the logical, method. Thus, he has taken the Peace of Westphalia as a starting point for his deductions, which should rather have been founded in the nature of things, than professedly drawn from any historic events. This mode of treating the subject of international law, by one who considers that branch of jurisprudence to be a science, is not much more rational than if a writer on logic at the present day professed to go no higher for the source of the principles adopted by him than the date of the publication of Archbishop Whately's treatise. Even the epoch selected by Mr. Twiss seems by no means to possess exclusively the qualities which attracted his favourable notice of it. It was not "a new era" (as he writes) "in the intercourse of commonwealths; the treaties of Munster and Osnabruck being the first practical recognition on the part of the nations of Europe of the principle of territorial sovereignty." If the latter part of the quotation were in the negative, it would be strictly correct, though it should be considered a barren truism. The study of international law, it is true, was not much, if at all, cultivated under the Roman empire. The common explanation of this void in the jurisprudence of Rome is satisfactory enough—viz., that Rome was alone supreme, and, consequently, dictated, instead of obeying, international laws. But even Rome, so far as she allowed foreign nations any voice in the conduct of their external relations, made and moulded this

concession *ratione soli*. We are at a loss, therefore, to perceive the merits of the treaties alleged by Mr. Twiss to have instituted a new principle of international law. He himself admits that the treatise of Grotius had previously popularised the idea of territorial sovereignty.

Mr. Twiss discusses the question whether the term law is to be interpreted to mean "a rule of conduct imposed by a sovereign power upon a subject community," or as "an ordinance of reason promulgated for the common good." He prefers the latter definition of the word law as alone compatible with the existence of an international executive. But though all states are equal in right, they nevertheless obey international law, which has for its executive not one but many states, or, in other words, the balance of power. All particles of matter of equal density have the same gravity; yet these are organised into varied collections of united forces and of solar systems. A law may be properly described as a rule of conduct imposed by a sovereign power upon a subject community for the common good. This account of the meaning of the word law cannot, indeed, be termed its definition. The distinction between the theory of moral sentiments and the criteria of morality may be used to illustrate our meaning. The utility of virtue is not of its essence. That utility is, notwithstanding, an inseparable accident of moral excellence, regarded in its external relations to the individual and society; the utility of virtue, therefore, may be correctly mentioned in a philosophic description of the nature of morality. If the word law be substituted for virtue in the observations we have here offered, the inference is equally unimpeachable. We think that the meaning of the term preferred by Mr. Twiss is inadequate to designate any particular rule of individual or of national conduct; since there are many ordinances of reason promulgated for the common good which have never yet been considered to be duties even of imperfect obligation. The origin of law, indeed, is to be found, as Sophocles declares, in high Olympus—in the supremacy of conscience. But its exposition is made by the light afforded by the natural criterion of virtue—utility, whenever that utility is enforced by a sufficiently powerful executive.

Mr. Twiss considers that international jurisprudence admits of scientific treatment because the rules of international law are of universal application. This reason, like his definition of the term law, is too comprehensive; or, to use a logical phrase, proves too much. Universal rules do not necessarily admit of scientific exposition merely because of their universality. A science is generally considered to be a system of propositions, a knowledge of which leads deductively to an acquaintance with all other matters to which those propositions directly relate. Such are the pure sciences of mathematics and arithmetic. Induction is sometimes termed a science. But, as Archbishop Whately has accurately demonstrated, an inductive process denotes merely a judicious method of observation whereby data are acquired for deductive purposes. Induction, nevertheless, is equally as universal in its application as deduction. Indeed, almost every method, however unscientific, of collecting facts may be applied to any department of science or art. The universality, therefore, of the application of laws is no evidence whatever of their scientific character. In a subsequent portion of his work Mr. Twiss, with more regard for the rules of logic, defines a law to be "a system of applied principles." The mere universality of principles, without a recognised utility which has recommended their adoption and application in practice, is insufficient to entitle them to the designation of laws.

Our author gives the various definitions of a state laid down by Cicero (*De Republica*, lib. 1. c. 25), Grotius, Puffendorf, and Vattel. He defines a nation to be "a political body capable of discharging, without the consent of any political superior, the obligations of natural society towards other political bodies, and of regulating, in concert with them, the mode of discharging these obligations, either as regards the mutual action of the communities themselves or as concerns the intercourse between individual members of them." Without commenting upon the length of this description of the essential elements of national life, we may observe that it is a definition which discloses very special tendencies in the mind of its author. It regards states only in their external relations, which comprise only a portion of the functions of government. These, indeed, are the only phases of national life contemplated by Mr. Twiss in the present treatise. But it would be much better to omit laying down definitions than to give them merely *secundum subjectam materiam*. The terms of the definition are such as we would expect to hear from an advocate discussing the law of nations in a court of admiralty, and showing how

with a proper infusion of exceptive and restrictive provisions, his explanation of the functions of a state corresponded with the claims of his client. But we should never have expected so special, incomplete, and illogical a definition from a philosophic jurist. Moreover, it is, indeed, impossible to treat of international law without occasional references to the rights and duties of individual citizens, both as regards foreign states and their own government. Thus, the right of reprisals between nations, for instance, depends upon the right of the individual citizen to protection from the head of the State against injury, either from his fellow-citizens or from foreigners.

Mr. Twiss considers that sovereignty and independence are distinct qualities of international life, and that it is the latter alone which gives a state a right to contract by treaty arrangement with other states. He cites, as examples of this position, the federal union of the United States of America, which are sovereign in their internal, but not in their external, relations; and, on the other hand, the States of Barbary, which are sovereign as regards their right of entering into treaties with foreign States, and are at the same time subject to the suzerainty of the Sultan of Constantinople. But for all purposes of juridical investigation, sovereignty and independence must be considered identical, and States, which, like those of Barbary, are subject to a foreign suzerainty may, in their contracts with foreign powers, be deemed, so far as the interests of their own provinces are concerned, to be the plenipotentiaries of their suzerain, or to have surrendered their independence only as regards matters which do not vitally affect their external sovereign relations. The right of contracting with foreign States appears to us to be the criterion of sovereignty and of independence. Incidental to this prerogative is the right of alliance, to secure preventively the performance of stipulations by foreign States; of legation, in order to observe whether these stipulations are duly performed; and of making war, to recover indemnity for any injury sustained either in violation of the law of nations or in contravention of express treaty. The question is interesting in its relations to the present American civil contest. Mr. Twiss avoids offering an opinion as to the international status of the several North American States as settled by the Articles of the Confederation of 1778, and by the subsequent constitution of 1787. He even considers that "it is not within the scope of a treatise on the law of nations to examine in what respects and to what extent the sovereignty reserved to each State by the Articles of 1778 was modified by the subsequent constitution of 1787." As regards the independence of the several States, however, he observes "that the exercise of all those functions which characterise an independent State has been delegated by the respective States to the Federal Government, and the national character of each State is so far merged in the national character of the Union." The distinction between sovereignty and independence appears to us to be entirely unreal and delusive. In the case of the United States is not the sovereignty of each as much merged as its independence? No State should, we think, be designated sovereign, which has not the power to make war or peace, to appoint ambassadors and consuls, to conclude treaties, to levy duty on tonnage, to keep troops or ships of war in time of peace, and to engage in war. It might, however, be contended that the United States originally delegated, rather than surrendered, their sovereignty to the Federal Government. The right of entering into compacts, and, consequently of making peace or war on a just occasion with foreign powers, appears to us to be the essential characteristic—"the round and top"—of sovereignty. The acknowledgment of a foreign suzerainty, or the render of a tribute to a foreign power, may affect the social status, so to speak, of the inferior State in the family of nations; but as it does not affect the right of such a State to contract on an equal footing with other nations, and to enforce its claims by an appeal to its own arms, and to the common executive, the balance of power—as it does not, in short, affect the international personality of such a State—it should not, we think, be considered as essentially affecting its independence. The various modifications of international life are well illustrated by Mr. Twiss by references to the semi-sovereign or protected independent States, Monaco, Kniphausen, &c. We regret, therefore, that he did not offer an opinion as to the degree in which each of the United States retained or surrendered its individual sovereignty by the Articles of 1787. The maxim *silent inter arma leges* is, indeed, unhappily but too often applied in practice, and we should have little expectation that the union of the States would be restored by the administration of a dozen lectures from as many accomplished jurists;

yet the conjuncture called for an enquiry into the legal rights of the parties, who, with fratricidal animosity, appear but little disposed themselves to reconcile "the foes that once were friends."

The third chapter of this work, on the National State-systems of Christendom, comprises an account of all the abnormal sovereign nationalities, both in Europe and in North and South America. The lover of political curiosities will find his taste much gratified by a perusal of this chapter, which describes the constitutions of all the leading confederate powers, as well those of the Germanic Confederation and the United and Confederate States of North America, as also those of the Argentine and Swiss Confederations, &c. The point of view from which Mr. Twiss contemplates the subject of his treatise is, as we have stated, eminently the historical one. His work accordingly abounds with important statements of facts of international importance. In this chapter he copiously pours forth the treasures of his collection. But a logical or juridical mind is not gratified with mere details of the data of a science which is not, in our opinion, in itself *avide des faits*; and, accordingly, even in his narrative of the constitutions of Christian States, we miss much that aptitude for discursive suggestion and clear deduction which a sound analysis of international law, even *à posteriori*, should be expected to beget.

Although the data which a science adopts as its premises stand themselves in need of proof derived not from reason but from experience, nevertheless, such premises, when once proved, offer as firm a foundation for ulterior investigation and development as if they were *à priori* cognizable by the human mind. Religion may thus be termed a science, although its revealed data rest on external evidence only. In like manner the law of nations may justly be considered a science, even though its data should be regarded as requiring external proof. Locke considered that the reduction of morality to a strict deductive science stood in need merely of definitions. These are certainly requisite, whether the foundations of a science are laid in the rational or in the empirical conceptions of the mind. Barbeyrae, De Wolff, and Vattel virtually assume that reason alone does not afford the premises for a science of international law. "There are many cases," says the last author, "in which the law of nature does not decide between State and State as it would between man and man." We altogether dissent from this proposition, so far as it applies, and know not how international law can be considered a science by those who hold such an opinion. Hobbes "De civ. Imperium, c. 14, s. 4, and Puffendorf, "Law of Nature and of Nations," lib. 111, c. 3, s. 23, have thought differently, and we do not think that Mr. Twiss has successfully combated their position. Grotius considered that certain rules of international life could not be deduced from principles of natural right. As this body of law rested upon custom and tacit compact, he included it in the "*Jus Gentium Voluntarium* or *Jus Constitutum*." This portion of international common law reminds us of the ancient statutes which are supposed to form an element of the English common law. We think that international law may be logically, and analogically to our civil code, divided into the rational or necessary, and the conventional law of nations; and almost all the premises necessary for the constitution of a scientific code of international law are, we think, deducible *a priori* from principles of natural justice and expediency. But if, according to the opinion of Grotius, some of those data cannot be based upon pure first principles only, their need of a *posteriori* proof suggests that they should be classed among the conventional laws of nations.

Mr. Twiss very clearly refutes Wheaton's opinion as to the extent to which treaties bind the contracting parties, as regards foreign powers not parties to the convention. The latter jurist considers that treaties in many cases constitute a rule to be observed by the contracting parties towards the rest of the world. Such an extreme proposition, so contrary to our municipal rule as to privity, is as unwarranted by first principles as it is contrary to the practice of nations. It has never been even alleged that the Paris manifesto of 1856 bound the contracting parties, as regards the United States which refused to be bound by it. If a *nudum pactum* is inoperative according to our civil code, it should surely be so likewise as regards international disputes. If, indeed, a formal treaty *expressly* granted a gratuitous favour to a third party, then, such an instrument, by its analogy to the municipal laws relating to special contracts, should, of course, be held irrevocable. But any implied donations to third parties are wholly unwarranted by a treaty which is declared to be made between the contract-

ing parties only. So untenable a proposition on the part of so eminent a jurist as Wheaton, shows the danger of constructing a code of international law, as Mr. Twiss does, upon premises which mainly rest, not upon first principles, but upon a collection of facts which can seldom constitute a sufficient induction for a law of universal obligation.

Some of Mr. Twiss's analyses display more accuracy of technical deduction than soundness or breadth of comprehension. Thus, he says (p. 192) "Title by conquest resolves itself *juridically* into title by cession, and it is not the superior power of the conqueror which gives right to his conquest, but it is the consent of the conquered which ultimately sanctions the conqueror's right of possession." We cannot appreciate this subtle reasoning, which ignores the logical maxim *causa causæ est causa causatæ*. The superior power of the conqueror is the cause of the consent of the conquered. Mr. Twiss must admit, therefore, that it is superior power that gives right to the conqueror, which, of course, he denies. Again, he distinguishes the right of empire from the right of property as to newly-acquired territory. But though he cites the authority of Grotius in support of this position, it is, nevertheless, hardly tenable. "The right of empire," Mr. Twiss argues, "may be enjoyed by a nation over certain things in which it is incapable of acquiring an absolute right of property." What are the examples adduced?—air, flowing water, the sea, and the sea shore (Inst. Lib. 11, Tit. 1, s. 1.) Only a qualified property we admit can be acquired in these; but so, also, can only a limited right of empire be exercised over them. As regards international possession, therefore, the right of empire and the right of property are concomitant and co-extensive. In his discussion of the question whether there be a general law of nations for the extra-tradition of criminals who have immigrated from a foreign country, Mr. Twiss cites a host of authorities *pro* and *con*. He then adds (p. 346), "In the conflict of opinion amongst such high authorities, we may safely have recourse to the practice of nations." Yet, in the next page but one he says, "Heffler has very aptly remarked that the very fact of the existence of so many special treaties respecting the extra-tradition of fugitives from justice is conclusive that there is no such usage amongst nations which constitutes the surrender of such fugitives, upon the demand of a state whose laws have been violated, a perfect obligation upon other states." Heffler is certainly right, and, consequently, Mr. Twiss was in error when he referred us to the express conventions of states for the purpose of discovering a common law of nations upon this question.

The treatise before us proceeds mainly upon a basis of historical fact. Its method is, consequently, essentially erroneous. International law, if at all worthy of scientific treatment (and this few will deny), must be discussed and its problems must be solved by a constant reference to first principles of reason and justice. The construction of a complete system of international jurisprudence appears to us to be equally feasible as it is desirable. Political economy has been raised to an almost perfect science, although the conventions of states furnished seeming refutations, rather than examples, of its rules. As to international jurisprudence, treaties between different States, although, *in se*, negating the assumption of the conformity of their stipulations to the common law of nations of the periods when those treaties were concluded, are, nevertheless, evidences of usage, which, if acknowledged in treatises of standard merit, to be recommended generally by their intrinsic utility, would soon become part of the common law of nations. Mr. Twiss has, indeed, devoted too much attention to treaties and express stipulations, and too little to the analysis of this common law. Whenever he does recur to first principles, the transition is somewhat abrupt, and the analysis exhibits more acuteness than judgment on the part of the analyst. The practical merits of the treatise, however, are very considerable. The work is more than a philosophic Hartslet. It comprises a vast amount of details arranged in a good order. The main defect of the work is one of method. It rests too much upon the terms of treaties, and too little upon first principles and authorities. Such a result is due to the chronological order in which the author has mainly conducted his investigations. These are sometimes of an elaborate character, and impart a considerable value to the treatise. It abounds with collections of recondite matter; and is likely to enjoy considerable vitality, though, we think, it is entitled to but little fame.

The National Association for the Promotion of Social Science.

BANKRUPT LAWS OF BELGIUM.

At the recent meeting of this association at Dublin, the following paper was read by Mr. Corr-Vandermaren, a judge of the Court of Commerce at Brussels.

I owe the privilege of attending this distinguished assembly to my position as chairman of the "International Association for Customs Reforms," established by the Free Trade Congress held at Brussels in 1856; I have been delegated here by the central committee of that association. To fulfil the mission with which I am charged, and to show how the question of commercial law has come into the province of our free trade association, I must ask permission to say a few words in explanation.

Engaged in the battle for free trade for a great number of years, we took advantage of the constitutional liberties which we so happily enjoy in Belgium to agitate that great question upon the continent; in 1847 we got up an international congress, "*le congrès des économistes*," where were discussed the principles of political economy in their applications to international commerce; we persevered in the teaching of those principles until 1856, when we got together another and a more important congress, "*le congrès pour les réformes douanières*." In this latter congress we discussed before several hundred members, gathered from various countries, the most practical means to reform the customs tariffs in every country; this congress gave birth to our international association, which again placed in the hands of a central committee established at Brussels the duty of carrying out its objects, and the power to convene at a proper time its future meetings. The unsettled state of Europe interfered very much with the workings of this committee; meanwhile a Belgian association, of which I was also named president, continued with unabated vigour its peaceful agitation. After five years, during which this association held meetings all over Belgium, the public mind has been converted to free trade; our tariff has been considerably reformed; and our chambers of commerce now are claiming the complete suppression of all customs. Thus the question of free trade in Belgium has now entered upon its last stage, and the international central committee has resolved to convene in 1862 a third congress which will have to entertain the great question of the total suppression of customs in all countries; the international association will thus become virtually one for financial reform.

Amongst the members of the congress of 1856, an Irish barrister, a countryman of yours, Mr. Dix Hutton, brought forward the question of tribunals of commerce. This important question was well handled by Mr. Hutton; the resolutions proposed by him were voted, and the congress referred to our association the question so ably advocated by this distinguished member of the Irish bar. It is in the performance of the duties thus devolved upon us that the Brussels committee sent me here. I regret that they did not choose a more competent person to represent them upon this occasion.

I have not made law my special study, I have passed my life in commercial pursuits; owing to that fact, I have been returned several times as judge of the Tribunal of Commerce of Brussels, and I have been lately again called to the same office by the unanimous vote of the merchants of that city. I must claim your indulgence for my insufficiency in the English language, as well as in many other respects. I shall, however, attempt to give you a slight sketch of the practical workings of the bankrupt laws of Belgium. My demonstration will necessarily be incomplete, and in order to give any additional information that may be required, I put myself at the disposal of the section to answer to the best of my abilities any questions that may be put to me respecting the internal workings of the Belgian Tribunals of Commerce.

In 1830, when Belgium, after a bloody contest, proclaimed her independence, a national assembly, perfectly independent, and in the absence of royalty, discussed clause by clause a constitution which forms the basis of those political institutions which ensure to her people the enjoyment and the blessings of perfect constitutional freedom.

(1) The civil and commercial laws of Belgium, like those of a great portion of Europe, have their basis in the great body of statute law, known by the name of "*Code Napoléon*." Those laws, particularly the commercial laws, have been modified in many respects so as to make them suitable to the country, and to the times in which we live.

For the purpose of determining disputes arising out of trading and commercial transactions, the law provides for the establishment of *tribunaux de commerce* in such places as the Government shall, by reason of the extent of mercantile business in the district, see fit to determine. The laws for the organisation of these tribunals are to be found in the Code of Commerce. The object of their formation is, to secure a readier and shorter mode of determining questions arising out of commercial transactions, as also to provide a tribunal which, not being so fettered with forms as the other tribunals, may also take into consideration those principles and customs of trade, which are best understood and appreciated by those who are themselves daily and continually employed in commercial transactions. The tribunal is composed of a president, and of not less than two or more than eight judges, whose services are purely honorary. The president is chosen from among the old judges, and must be at least forty years of age. The judges are elected for two years by an assembly composed of the chief merchants and traders in the locality, from a list prepared by the governor of the province, and approved of by the minister of the interior. The judges, as also the supplementary judges, belonging to the tribunals of Belgium, must be of the age of thirty years at least, and have been actively employed in trade, with honour and success, for at least five years. The registrar and bailiffs of the Court are nominated by the King.

The intervention of solicitors, in proceedings before the tribunals of commerce, is forbidden; but in other respects, the proceedings are conducted in the same manner as before the civil tribunals. The judgment of the Court must be delivered in the presence of three judges at least, including the president. The tribunals of commerce determine, without appeal, actions in which the amount sought to be recovered does not exceed the value of 2,000 francs in principal (£80); beyond that sum, an appeal may be brought before the ordinary courts of appeal, as the tribunals of commerce stand in the same relation to matters of trade, as the tribunals of *première instance* do to civil matters.

The tribunals of commerce can alone take cognisance:— (1) of all disputes relative to engagements and transactions between merchants, traders, and bankers; (2) of disputes between all parties relative to acts of commerce; (3) of actions against factors, and merchants' clerks or servants, in matters relating to the trade in which the merchant is engaged; (4) of matters relating to failures, bankruptcies, and insolvencies. Their jurisdiction in respect to the matters which they are competent to determine is coextensive with that of the civil tribunal of the *arrondissement*, except where there may be more than one tribunal of commerce within the *arrondissement*, in which case the district over which the jurisdiction of each extends is prescribed. In *arrondissements* where no tribunal of commerce exists, the tribunal of *première instance* performs the functions attributed to the tribunal of commerce, according to the laws which regulate the questions cognisable by these tribunals. It is supposed by many people in this country, I have even remarked it amongst the members of Parliament, when I was examined before a committee of that house, that the Belgian tribunals of commerce are mere chambers of arbitration, whereas the fact is that those tribunals are royal courts of justice, possessing jurisdiction and executive power equal to the highest courts of the State; their judges sit in robes, as do those of the other courts. They administer justice in the name of the king. The Code de Commerce, which rules the jurisprudence of this Court, was promulgated in 1807. A section of this code is specially affected to the bankrupt laws of Belgium. Those laws of 1807 are now effaced from the Code de Commerce, and this section of it has been replaced by a law on failures, bankruptcies, and insolvencies, voted by the Belgian Legislature on the 18th of April, 1851, which forms now the third section of the code. It is a great improvement upon the former enactments of the Code Napoleon. The object in view in modifying those laws was to simplify, and thereby to obtain economy of time and money. Ten years' experience has proved that those objects have been admirably realised.

According to the present bankrupt laws of Belgium, every merchant or trader who ceases to pay his debts is, by that fact alone, in a state of bankruptcy.

The state of bankruptcy is declared by a judgment of the Tribunal of Commerce; it declares the cessation of payments by the bankrupt, either upon the admission of the fact of his having ceased his payments being laid before the Court by the bankrupt himself, or upon a written request proving the same fact, put before the Court by one or more of his creditors, or by the in-

itiative of the court when the cessation of payments comes to their knowledge by bills being protested, or any other facts proving sufficiently the state of insolvency.

The Tribunal of Commerce receives from the competent authorities every month a list of all the bills protested in their *arrondissement*.

By the judgment declaring the state of bankruptcy, the tribunal names one or more *curateurs* or assignees to whom is confided the conduct of all the operations; it delegates one of the judges of the Court who is specially charged with the surveillance and direction of the assignee, who is previously authorised by this *juge commissaire* in every act of his administration.

The *Juge-Commissaire* reports to the Tribunal, and deliberates with the sitting judges upon every case where the interest of the estate may be engaged; he presides over every assembly held in reference to the bankruptcy confided to his charge.

By the same judgment the Court fixes the dates on which the creditors are to furnish their accounts, and on which those accounts are to be admitted or discussed. The first of those meetings must take place within twenty days.

All accounts admitted or disputed must be dealt with in open court; every creditor whose account is admitted as correct has a right to take part in the proceedings and debates.

Wherever there is any appearance of fraud, or even neglect in keeping proper books, the tribunal may, by the same judgment, order the arrest and imprisonment of the bankrupt; and the tribunal may by the same or another judgment, when acts are discovered which prove that the bankrupt had in reality ceased his payments at an earlier period, fix the state of bankruptcy at that period, so as it does not go back more than six months from the declaration of the bankruptcy.

The assignee, after taking an oath before the *Juge-Commissaire* to execute with integrity the mission which he receives from the court, proceeds with the judge accompanied by a *commis-greffier* (a registrar-clerk) to take possession of the estate.

If a detailed inventory of all the assets cannot be made out in one day, the judge orders everything to be put under the seal of the Court in his presence.

In three or four days after this a regular inventory is made out in presence of the judge, who gives over the estate into the safe keeping of the assignee. The bankrupt is summoned to be present during all these operations; and he is obliged to give all the information in his power that may be required from him; he must, and any of his family or his clerks or servants may, be put to his oath by the judge as to the question whether or not the whole of his assets have been given up for the benefit of his creditors.

The means for the winding up of the concern are carefully examined. In order to save expense of warehouse and house rent, the immediate sale of the property by auction or otherwise is generally considered the best. The sale must be authorised by a judgment of the Court, given upon the report of the *Juge-Commissaire*.

The judgment declaring a bankruptcy is brought to the knowledge of the parties interested by the public papers, by placards, and by circular letters, which are addressed to all those who may be known by the assignee.

At a subsequent meeting of the creditors, the bankrupt may, if he thinks proper, make proposals to compose with them, or, as we call it, to obtain a *concordat*. The creditors, after discussion of those propositions, vote upon them. The intention of the creditors to agree to a *concordat* must be expressed by a majority in number, and three-fourths in amount, of the whole body.

The *concordat* is not perfect without the sanction of the Court; when this sanction of the Court is obtained, the assignee gives in his account and the bankruptcy is terminated. If the composition or arrangement proposed by the bankrupt has not been accepted by his creditors, or fails to obtain the sanction of the Court, the assignee proceeds with the definitive liquidation of the estate. The law provides that all moneys received by the *curateur* must be immediately placed at interest at the *caisse des consignations*, an office belonging to the Government Treasury. The liquidation being at an end, the *juge-commissaire*, after verification and a strict audit of the accounts, and the personal account of the *curateur* being taxed by the Court, convenes a general meeting of the creditors, wherein they receive a detailed report of all the transactions of the bankruptcy; the creditors are heard in any observations which they may wish to offer; if no objections are produced they sign the *procès-verbal* of the assembly, by which they give a discharge in full to the assignee. At this latter meeting the judge consults the creditors as to the question

whether the bankrupt should or not be declared *excusable* by the Court; this word "excusable" corresponds I suppose with what I believe is called here a certificate: whatever may be the opinion of the creditors, the question of excusability remains with the Court.

If the bankrupt is declared excusable the creditors lose all future right to imprison him for whatever balance he may remain their debtor for. If he is declared *non excusable* they recover all their rights against him, including that of imprisonment for debt, which each one of his creditors may exercise for the amount remaining due to them. The bankruptcy laws of Belgium are very lenient towards those who are only unfortunate, but they give most energetic means of punishing fraud. If at any future period a bankrupt, coming to better fortune, pays his creditors the whole amount of his debts, with interest, the law sanctions that he shall be reinstated in all his rights.

One of the judges of the Brussels Tribunal of Commerce is named every three months to perform the duties of *juge-commissaire* in all the bankruptcies declared during that period. I have had those duties to perform in Brussels during the months of May, June, and July, 1861. The Court of Brussels declared in that period twenty-four bankruptcies, all of which were confided to my direction, besides forty-three others which were given over to me from judges whose time was up. When a bankruptcy shows no assets whatever, not even the £8 or £10 which are necessary to pay the expenses of working it, it is immediately closed by a judgment of the Court; and, the effects of bankruptcy having thus ceased, the bankrupt becomes again liable to be sued and imprisoned for debt by any one of his creditors. Of the forty-three cases handed over to me from my predecessor by judgment of the Court, thirty-seven are concluded, and the Court has pronounced upon the excusability of each of these; the six remaining cases are impeded by various incidents, such as law suits, out-standing debts, or assets in foreign countries, &c. Of the twenty-four new cases declared during my period of three months, five were closed for want of assets, six have been regularly wound up and definitively disposed of; the thirteen remaining still under my direction are progressing, and, with the exception of those cases where complicated incidents interfere, I hope to have them all closed and wound up in the course of another month.

The new Bankrupt laws of Belgium now practised for ten years have produced great economy of time and money;—so much so that the President of the Brussels Tribunal of Commerce, in his report to the electors on the 12th of March last, recommended strongly the adoption of this mode of legal liquidation. "The expenses," said he, "of the working out of a bankruptcy case are very moderate, and we think that it would be much to the interest of honest dealing, except, perhaps, in cases of large establishments where the law of '*sursis*' (reprieve) may be applicable, and far more desirable, to have recourse to this judicial mode of liquidation, than to those amicable and private arrangements wherein the most pressing creditors generally obtain special advantages over the others, and which we see in almost all cases end in disastrous results.

I am afraid, gentlemen, that I have taken up more of the time of this section than I am allowed by your rules. The subject which I have tried to give a sketch of in as brief a manner as I could is extensive in its bearings, and, as I said before, I should be glad to answer any questions upon it which might interest any member of this assembly.

I shall conclude by one observation: we are labouring to suppress custom houses, to adopt uniform weights and measures, to remove all restrictions on international relations; we are labouring, in fact, to promote commercial intercourse and feelings of brotherhood between all nations by assimilating their interests. The uniformity of commercial laws,—so happily introduced into the programme of the National Association for the Promotion of Social Science—is another and a most important link in this golden chain of harmony and peace between nations, which the promoters of free-trade and of free institutions are endeavouring to put together. International uniformity of commercial laws is the corollary of free trade.

I recollect some years ago having produced at one of our free-trade meetings, as an example for Belgium to imitate, a little sixpenny book containing the British tariff, whereas at that time our tariff formed a frightful folio volume, with additional supplements.

I know very little of the commercial laws of Great Britain, but I am informed that to acquire any knowledge of them, I should have to study more folio volumes than one—a task which would be out of the reach of a commercial man.

We have profited by the example given by your sixpenny

tariff; our folio volume has disappeared, and we are progressing towards reducing it to nothing. I have here in my hand a sixpenny book of our own containing the *commercial laws of Belgium*, which I offer to you in return as an example which may, at all events in its form, be useful for you to consider.

If every country had, like Belgium, a fixed code of commerce, the merchant could thus obtain for sixpence the means of acquiring some knowledge of the laws which govern his operations in trade, and which would serve him as a guide to his transactions, not only in his own country, but also in foreign countries to which he trades; and commercial law would no longer be the exclusive monopoly of lawyers.

Births, Marriages, and Deaths.

BIRTHS.

- ANDREWS—On Sept. 8, the wife of Thomas Andrews, Esq., Solicitor, Bagshot, of a son.
BLAXLAND—On Sept. 11, at 18, Clapton-square, the wife of George Blaxland, Esq., of a daughter.
CREERY—On Sept. 5, at Ashford, Kent, the wife of Leslie Creery, Esq., Solicitor, of a son.
JONES—On Sept. 12, at 40, Craven-hill-gardens, the wife of Henry Cadman Jones, Esq., M.A., Barrister-at-Law, of a daughter.
SYDNEY—On Sept. 5, at 88, Guildford-street, Russell-square, Mrs. Algernon E. Sydney, of a son.

MARRIAGES.

- BOSANQUET—LUTTRELL—On Sept. 4, Henry Anstey Bosanquet, Esq., Inner Temple, Barrister-at-law, to Mary Anne, daughter of Colonel Luttrell, of Kilve Court.
CAWLEY—TWINBERROW—On Sept. 4, William Wilkes Cawley, Esq., Solicitor, Malvern, to Elizabeth Mary, daughter of the late John Twinberrow, of Madresfield.
COLT—COLLINS—On Sept. 5, Frederick Hoare Colt, Esq., of the Inner Temple, Barrister-at-Law, to Bertha, daughter of Henry Collins, Esq., of The Duffryn, near Newport, Monmouthshire.
HERBERT—WITHAM—On Sept. 5, George Herbert, Esq., of the Middle Temple, Barrister-at-Law, to Constantia, daughter of the late Sir Charles Witham, of Higham, Suffolk.
HOLKER—WILSON—On Sept. 5, John Holker, Esq., Barrister-at-Law, to Jane, daughter of the late James Wilson, Esq., of Gilda Brook, Eccles.
POULTER—MC CREA—On Sept. 4, Brownlow Poulter, Esq., of Lincoln's Inn, Barrister-at-Law, and late Fellow of New College, Oxford, to Harriet Amelia, daughter of Rear Admiral McCrea.
TOURLE—MARTIN—On Sept. 12, John Joseph Tourle, Esq., of Southampton-buildings, Chancery-lane, to Sarah Anne, daughter of the late David Martin, Esq., of Hove, Sussex.
WEST—DICKSON—On Sept. 10, Rev. George West, to Mary Anne, daughter of William Dickson, Esq., of Alnwick and Alnmouth, Clerk of the Peace for the county of Northumberland.

DEATHS.

- CARLINE—On Sept. 6, aged 47, Jane Frances, wife of Richard Carline, Esq., Solicitor, Lincoln.
PEARSON—On Aug. 28, at Madeira, Octavia Gillespie, widow of Andrew Adam Pearson, Esq., of Luce, Writer to the Signet.
WYNNE—On Sept. 3, in her 15th year, Alice Charlotte, daughter of James Wynne, Esq., Barrister-at-Law.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Party claiming the same, unless other directions appear within Three Months:—

- BURCHALL, SAMUEL, of Grooby-park, and WILLIAM CUMBERLAND, of Mapplewell, Leicestershire, Farmers. £106 18s Consols.—Paid to WILLIAM BURCHALL, the survivor.
CHESTERMAN, HENRY, Timber Merchant, North-street, Manchester-square, £1,500 Navy 5 per Cents.—Paid to RICHARD BROWNING, the surviving acting executor of the said Henry Chesterman, deceased.
MOLONY, EDMOND, Esq., of Cloonony Castle, King's County, Ireland, £470 3 per Cents.—Paid to Alicia Bennett, widow the person named in the said order.

Next of Kin.

FOXBROOK, ANTHONY AUGUSTUS, formerly of 24, Duke-street, West Smithfield, in the city of London, but late of Holme, in the county of Norfolk, a widower, who died at Holme on the 17th day of March, 1861.—Next of kin to apply to the Solicitor to the Treasury, Whitehall, London, S.W.

London Gazettes.

Windings-up of Joint Stock Companies.

LIMITED IN BANKRUPTCY.

TUESDAY, Sept. 10, 1861.

HADFIELD'S PATENT CASE AND PACKAGE COMPANY (LIMITED).—Commissioner Perry will, on September 27, at 11, at Liverpool, proceed to make a call upon contributors for 14s. per share.

WESTMINSTER STREET RAIL COMPANY (LIMITED).—Petition for winding-up, presented September 7, will be heard before Commissioner Holroyd, on September 21, at 12. G. F. Cooke, 35, Southampton-buildings, London, Agent for Hayes & Wright, Oldbury, Worcester, Solicitors for petitioner.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Sept. 10, 1861.

ANJER, JOHN, Gent., Bedminster, Somersetshire. *Sols.* Davis & Fry, Shannon-court, Bristol. Oct. 21.
BARTON, JAMES, Spinster, Silchester, Hants. *Sols.* Blandy & Blandy, 1, Friar-street, Reading. Dec. 1.
COLEMAN, MARY ANN, Widow, Sandridge, Kent. *Sol.* Holcroft, Sevenoaks. Oct. 18.
DOWLING, RICHARD, Surgeon-Dentist, Newcastle-upon-Tyne. *Sols.* Griffith & Crighton, Newcastle-upon-Tyne. Oct. 5.
ORME, HUMPHREY, Esq., St. George's, Stamford. *Sol.* Laxton, Stamford, Lincolnshire. Oct. 11.
SELLS, JONATHAN, Turner, St. John's Hill, Sevenoaks. *Sol.* Holcroft, Sevenoaks. Oct. 18.
TONGE, JAMES, Toll Contractor, Pendleton, Lancashire. *Sols.* Slater, Heelis, & Co., 75, Princess-street, Manchester. Oct. 16.
WILLOUGHBY, WILLIAM LEMOS, Esq., of 91, Victoria-street, Westminster, Middlesex. *Sols.* Parko & Pollock, 63, Lincoln's-inn-fields, Middlesex. Oct. 1.
YOUNG, Sir WILLIAM NOBIS, Bart., Lieutenant in Her Majesty's 23rd Regiment, Royal Welsh Fusiliers. *Sols.* Bager, Bewes, & Bager, Stonehouse. Nov. 15.

FRIDAY, Sept. 13, 1861.

BECKWITH, RICHARD MITCHELL, Gent., Fairfield, Liverpool. *Sol.* Houghton, 39, Lord-street, Liverpool. Nov. 21.
BAILEY, CHARLES, Gent., 4, Montague-place, Kentish-town, Middlesex. *Sols.* Denton & Hall, 15, Gray's-inn-square. Oct. 31.
EMPEON, CHARLES, Gent., 7, Terrace-walk, Bath. *Sol.* Gibbs, 4, Northumberland-buildings, Queen-square, Bath. Nov. 1.
HARRIS, WILLIAM, Farmer, Lever-hill, Kimbolton, Herefordshire. *Sol.* Lloyd, Leominster. Sept. 29.
MOORE, EDWARD, Warehouseman, formerly of Chelsea, then of Primrose-hill, and afterwards of 400, Oxford-street, Middlesex, and late of High-street, Hoxton. *Sol.* Steward, Museum-street, Ipswich. Nov. 2.
SWATLING, JOHN, formerly of Rumwood-green, near Maidstone, Kent, afterwards of Crescent-road, Plumstead, Kent, Victualler, and late of 6, Studley-road, Stockwell, Surrey, Gent. *Sol.* Humphreys, East India Chambers, Leadenhall-street, London. Nov. 9.

Assignments for Benefit of Creditors

TUESDAY, Sept. 10, 1861.

COUNIHAN, JOHN JOSEPH, & **JOHN MURPHY**, Spirit Dealers, Liverpool (Counihan, Murphy, & Co.). *Sol.* Quinn, 22, Lord-street, Liverpool. Aug. 20.
DOBBS, THOMAS HARGOOD, Grocer, Draper, & Milliner, Bedworth, Warwick, and of Halifax, Yorkshire. *Sol.* Davis, Coventry. Aug. 15.
DOWNS, ROBERT, Bookbinder & Bookeller, 53, Paternoster-row, London. *Sol.* Burr, 12, Paternoster-row, London. Aug. 31.
GRACIE, WILLIAM, Draper, Greenfields, Llanelly, Carmarthenshire. *Sol.* Brown, Llanelly, Carmarthen. Aug. 31.
HOOPER, HENRY RICHARD, Brewer, Shirley, Southampton. *Sols.* Hearn & New, Newport, Isle of Wight. Aug. 13.
IBBOTSON, EDWARD, Grocer & Joiner's Tool Maker, Duke-street, Sheffield. *Sols.* Smith & Hinde, Sheffield. Sept. 3.
ISON, JOHN, Wheelwright, Blacksmith, & Innkeeper, Nailstone, Leicestershire. *Sol.* Harvey, 10, Market-street, Leicester. Aug. 19.
LITTLEWOOD, JOHN, Carpenter, Thornhill, Yorkshire. *Sol.* Walker, Dewsbury. Aug. 17.
MOORE, GEORGE, Butcher, Somersham, Suffolk. *Sols.* Jackaman & Son, Ipswich. Sept. 4.
PACE, GEORGE ROBERT, & **RICHARD LINTON**, Mercers & Drapers, Boston, Lincolnshire (Pack & Linton). *Sols.* Hughes, Kearsey, Masterman, & Hughes, 17, Bucklersbury, London. Aug. 14.
RAYNER, RICHARD, Innkeeper, Bramley, Leeds. *Sol.* Booth, Leeds. Aug. 21.
RHODES, STEPHEN, Joiner & Builder, Farnworth, Lancashire. *Sols.* Greenhalgh & Hall, 8, Acrefield, Bolton-le-Moors. Sept. 5.
SMITH, EDWARD, & **FREDERICK HOLMES**, Drapers, Union Passage, Birmingham (The Merchant Drapers' Co.). Langford & Marsden, 59, Friday-street, Cheapside, Agents for Sale, Worthington, Shipman, & Seddon, Manchester, Solicitors. Aug. 29.
THOMPSON, JOHN, Clothier, Dover. *Sols.* Sydney & Son, 46, Finsbury-circus, London. Aug. 29.
WORDSWORTH, EDWARD EGGLESTON, Plumber & Glazier, Scarborough, Yorkshire. *Sols.* Nowell & Priestley, Barton-on-Humber. Aug. 29.

FRIDAY, Sept. 13, 1861.

BANNISTER, JAMES, Tailor, Bernard-street, Southampton. *Sol.* Mackey, Southampton. Aug. 14.

COOKE, ALFRED, Tailor, Newport, Isle of Wight. *Sol.* Ratty, 3, King-street, Cheapside, London. Sept. 6.
KIMBLE, FANNY, Linendraper, Ipswich. *Sols.* Davidson, Bradbury, & Hardwick, Weaver's-hall, 22, Basinghall-street. Aug. 26.
NORTHLEY, SAMUEL LANG, Wine & Spirit Merchant, Tavistock. *Sol.* Chilcott, Tavistock. Aug. 28.
ROBINSON, THOMAS, Jeweller, Sheffield. *Sol.* Saunders, Cherry-street, Birmingham. Aug. 14.
ROTHWELL, JOHN, Bloom-street, Liverpool. *Sol.* Harris, Sandown-lane, Waverley. Aug. 17.
SINCLAIR, GEORGE, Glass Merchant & Commission Agent, 22, Warwick-street, Pimlico, but now of 28a, Walbrook, London. *Sol.* Scott, 4, Skinner-street, Snow-hill, London. Aug. 27.
SMITH, DAVID, Tailor, 32, Gresham-street, London. *Sols.* Fraser & May, 78, Dean-street, Soho. Aug. 30.
WOOD, EDWIN, & **HENRY ALDERSON**, Cabinet Makers, Host-street, Bristol. *Sol.* Miller, Bristol. Aug. 22.

Bankrupts.

TUESDAY, Sept. 10, 1861.

BARSTOW, EDMUND, Grocer, Bradford. *Com.* West: Sept. 23 and Oct. 19, at 11; Leeds. *Off. Ass.* Young. *Sols.* Dawson, Bradford; or Bond & Barwick, Leeds. *Pet.* Aug. 27.
CARTER, THOMAS, Builder, Dealer in Boots and Shoes, and Warehouseman, late of 79, Shoreditch, Middlesex, and 9, Bell-yard, Doctors'-commons, London, and now of Windoor-road, Upper Holloway, Middlesex. *Com.* Holroyd: Sept. 20, at 12.30; and Oct. 22, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Jay & Pilgrim, 14, Bucklersbury, London, and Norwich. *Pet.* Sept. 5.
CLARKE, FREDERICK, Licensed Victualler, Duke of Cambridge Inn, Devon-road, Bromley, Middlesex. *Com.* Fonblanque: Sept. 23, at 12; and Oct. 16, at 1; Basinghall-street. *Off. Ass.* Stansfeld. *Sols.* Dal & Longstaffe, 19, Great Portland-street, London. *Pet.* Aug. 28.
COOMBS, WILLIAM GONNAN, Merchant, St. Peter's-hill, Doctors'-commons, London, and Halifax, Nova Scotia. *Com.* Holroyd: Sept. 21, at 1; and Oct. 29, at 12; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London. *Pet.* Sept. 7.
COOPER, JAMES, Wootton Bridge, Isle of Wight. *Com.* Goulburn: Sept. 19, at 12.30; and Oct. 21, at 12; Basinghall-street. *Off. Ass.* Fennell. *Sols.* Walker & Jerwood, 12, Farnival's-inn, London, and Buckel, Newport, Isle of Wight. *Pet.* Aug. 22.
DRAKE, JAMES, Builder, 4, Lansdown-place, Upper Norwood, Surrey. *Com.* Holroyd: Sept. 20 and Oct. 29, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Howard, Halse, & Trustram, 66, Paternoster-row, London. *Pet.* Sept. 5.
GRAY, JAMES, Joiner and Builder, Innkeeper, and Licensed Victualler, Leeds. *Com.* West: Sept. 23 and Oct. 18, at 11; Leeds. *Off. Ass.* Young. *Sols.* Middleton & Son, Leeds. *Pet.* Sept. 3.
HAITMANN, EMIL, General Merchant, 24, Martins lane, Cannon-street, London, and 1, Little Love-lane, Wood-street, London, and 8, Bedford-terrace, Upper Holloway, Middlesex. *Com.* Holroyd: Sept. 21 and Oct. 22, at 12.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Bailey, 8, Tokenhouse-yard, Lothbury, London. *Pet.* Sept. 6.
MUNDY, DANIEL, Cook and Confectioner, 55, Westbourne-grove, Bayswater, Middlesex. *Com.* Holroyd: Sept. 23, at 1; and Oct. 22, at 1.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Buchanan, 13, Basinghall-street, London. *Pet.* Sept. 7.
PRINCE, THOMAS, Dealer in Fancy Goods, 35, Beckford-row, Walsworth-road, Surrey. *Com.* Holroyd: Sept. 24, at 2.30; and Oct. 29, at 1; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Buchanan, 13, Basinghall-street, London. *Pet.* Sept. 9.
SHARPLES, JOSEPH, Soft Soap Manufacturer and Manufacturing Chemist, Ashton Old-road, Ardwick, near Manchester. *Com.* Jemmett: Sept. 25 and Oct. 25, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* G. & R. W. Marsland, Manchester. *Pet.* Sept. 5.
SKEEP, HENRY, Beer-shop Keeper, Abbey Arms Beer-shop, Abbey Wood, Kent. *Com.* Holroyd: Sept. 23, at 2.30; and Oct. 22, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Buchanan, 13, Basinghall-street, London. *Pet.* Sept. 7.
SMITH, JOHN, Manufacturer, Street End, near Failsforth, Manchester. *Com.* Jemmett: Sept. 26 and Oct. 24, at 12; Manchester. *Off. Ass.* Herniman. *Sols.* Cobbett & Wheeler, Manchester. *Pet.* July 16.
THEOFILIDI, MOURAT, Merchant, Manchester. *Com.* Jemmett: Sept. 26 and Oct. 24, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Sale, Worthington, Shipman, & Seddon, Manchester. *Pet.* Sept. 6.

FRIDAY, Sept. 13, 1861.

COOPER, JAMES, Miller, Wootton Bridge, Isle of Wight. *Com.* Goulburn: Sept. 19, at 12.30; and Oct. 21, at 12; Basinghall-street. *Off. Ass.* Fennell. *Sols.* Walker & Jerwood, 12, Farnival's-inn, London; and Buckel, Newport, Isle of Wight. *Pet.* Aug. 22.
EDBROOKE, ROBERT, Brightsmith and Bellhanger, 14, Orchard-street, Bristol. *Com.* Hill: Sept. 23 and Oct. 28, at 11; Bristol. *Off. Ass.* Miller. *Sol.* Ayre, Jun., Bristol. *Pet.* Sept. 10.
GOODWIN, JOSEPH, Earthenware Manufacturer, Tunstall, Staffordshire. *Com.* Sanders: Sept. 27 and Oct. 25, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* Smith, Birmingham. *Pet.* Sept. 9.
HALL, THOMAS, Licensed Victualler, North End, Fulham, Middlesex. *Com.* Holroyd: Sept. 27, at 2; and Oct. 29, at 1.30; Basinghall-street. *Off. Ass.* Edwards. *Sol.* Edmunds, 1, New-inn, Strand, London. *Pet.* Sept. 11.
HILLS, JOHN, Baker and Flour Dealer, Faversham, Kent. *Com.* Holroyd: Sept. 24, at 2; and Oct. 29, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Lawrence, Mews, & Boyer, 14, Old Jewry-chambers, London; or Messrs. Bathurst & Phillips, Faversham, Kent. *Pet.* Sept. 5.
MEER, JOHN THOMAS, & **HENRY MARTIN RADLOFF**, Oil Refiners, Chicksand-street, Whitechapel, Middlesex. *Com.* Holroyd: Sept. 24, at 2.30; and Oct. 18, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Norton, Son, & Elam, 37, Walbrook, London. *Pet.* Sept. 5.
SOARES, MANOEL JOAQUIM, & **AGUSTO SOARES**, General and Commission Merchants, 50, Mark-lane, London (M. J. Soares & Sons). *Com.* Holroyd: Sept. 26, at 1; and Oct. 29, at 2; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Van Sandau & Cumming, 13, King-street, Cheapside, London. *Pet.* Sept. 10.
STINCHCOMBE, THOMAS, Woollen Draper, 37 & 28, Cloth Fair, London (Thos. Stinchcombe & Co.). *Com.* Holroyd: Sept. 29, at 12; and Oct. 29, at 12.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Ashurst, Son, & Morris, 6, Old Jewry, London. *Pet.* Sept. 6.

BANKRUPTCIES ANNULLED.

Friday, Sept. 13, 1861.

CHORLEY, WILLIAM Brownsword, Slate & Slab Merchant & Manufacturer of Slate Slabs, 16, Great Ormond-street, and 37, Hart-street, Bloomsbury, Middlesex, and of Cwmorthen, Festiniog, Merionethshire, North Wales. Sept. 12.

HOW, FREDERICK, Butcher, Whitstable, Kent. Sept. 13.

MEETINGS FOR PROOF OF DEBTS.

Tuesday, Sept. 10, 1861.

GEORGE PATRICK ROONEY, Licensed Victualler & Builder, Liverpool. Sept. 20, at 11; Liverpool.—**ROBERT CRADOCK DAVIES & JOHN NICHOL TROUGHTON**, Bankers, 167, Shoreditch, Middlesex. Oct. 8, at 11; Basinghall-street.—**JOSEPH APPLETON**, Hop Merchant, Three Crown-square, Southwark, Surrey. Oct. 1, at 11; Basinghall-street.—**THOMAS BACON**, Hotel Keeper, Newmarket, Cambridgeshire. Oct. 2, at 12; Basinghall-street.—**STEVENS TAIPF**, Money Scrivener, Bill Broker, and Commission Agent, 15, Sergeants'-inn, Fleet-street, and late of 2, Adelaide-place, King William-street, London. Oct. 5, at 11; Basinghall-street.—**JOHN JOSEPH**, Importer of Foreign Goods, 87 & 88, Houndsditch, London, and 8, Alton-terrace, Albion-road, Dalston, Middlesex. Oct. 2, at 11; Basinghall-street.—**THOMAS CLAPHAM**, Silversmith and Jeweller, 48, Piccadilly, Middlesex. Oct. 2, at 11; Basinghall-street.—**ANGUS JENNINGS & WILLIAM TAYLOR JENNINGS**, Ship Stores & Commission Merchants, 14, Little Tower-street, London. Oct. 2, at 12; Basinghall-street.—**GEORGE JAMES M'LENNAN & JOHN WILLIAM BIRD**, Builders & Contractors, 12, Osnaburgh-street, Regent's-park, Middlesex. Oct. 2, at 1.30; Basinghall-street.—**JOHN EVERARD FARR**, Carpenter & Builder, Baldock, Hertfordshire. Oct. 2, at 1; Basinghall-street.—**LEWIS ROBERT POOLE & SAMUEL BRYAN**, Boot & Shoe Manufacturers, 504, New Oxford-street, Middlesex, and Northampton. Oct. 2, at 11; Basinghall-street.—**PHILIP RAPHAEL**, Wine & Spirit Merchant & Publican, St. James's Tavern, Duke-street, Aldgate, London, and Cigar Dealer & General Merchant, Magdalen-row, Great Prescot-street, Middlesex. Oct. 2, at 12.30; Basinghall-street.—**ARCHIBALD ARTHUR COOPER**, East India & Commission Merchant, Winchester-house, Old Broad-street, London. Oct. 2, at 11.30; Basinghall-street.—**WILLIAM JAMES WINDHAM & EDWARD SQUIRE TEBBUTT**, Elastic Web Manufacturers, Leicester. Oct. 3, at 11; Nottingham.—**JAMES CAUDWELL**, Coal and Coke Merchant, Southwell, Nottinghamshire. Oct. 10, at 11; Birmingham.—**GEORGE KYNERSTON PALING**, Draper, Wolverhampton, Staffordshire. Oct. 25, at 11; Birmingham.—**WILLIAM BOWEN**, Victualler Swansen. Oct. 3, at 11; Bristol.—**JAMES PERROTT**, Draper, Cheddar, Somerset. Oct. 3, at 11; Bristol.—**JAMES M'MASTER & SAMUEL HAINES**, Drapers & Tea Dealers, Abergavenny, Monmouth (M'Master, Haines, & Co.). Oct. 3, at 11; Bristol.—**THOMAS WINWOOD**, Grocer & Tea Dealer, Neath, Glamorganshire. Oct. 3, at 11; Bristol.—**JOHN ACOCK**, Builder, Winchcomb-st. Cheltenham. Oct. 3, at 11; Bristol.—**THOMAS WILLIAMS**, Grocer & Draper, Crickhowell, Brecon. Oct. 4, at 11; Bristol.—**THOMAS WATTS**, Sail & Ship's Colors Maker, Bristol. Oct. 4, at 11; Bristol.—**JOSEPH HARROP & JAMES HARROP**, Woollen Manufacturers, Westbury, Wilts. Oct. 4, at 11; Bristol.—**EDWIN FOWLER**, Draper & Tailor, Bristol, and Pontypool, Monmouth. Oct. 4, at 11; Bristol.—**JOHN RODGERA**, Draper, Morbyr Tydfil, Glamorgan. Oct. 5, at 11; Bristol.—**JOHN HYNDMAN**, Beer & Porter Merchant & Licensed Victualler, Dock-street, Newport, Monmouth. Oct. 5, at 11; Bristol.—**GEORGE REEVES, JUN.**, Riding Master, Livery Stable Keeper, & Horse Dealer, Cheltenham. Oct. 5, at 11; Bristol.—**THOMAS SAMPSON**, Shawl Manufacturer, Ham Mills, Stroud, Gloucester, and William Barnard, Shawl Manufacturer & Woollen Cloth Manufacturer, Highlands, Minchinhampton, and of Stroud (Thomas Sampson & Co.); also separate estate of WILLIAM BARNARD. Oct. 5, at 11; Bristol.—**DAVID WILLIAM JAMES**, Coal Merchant & Coke Manufacturer, Llynneelyn Colliery, Llanwanno, Glamorgan. Oct. 10, at 11; Bristol.—**RICHARD WILSON**, Flax Spinner, Leeds, York. Oct. 1, at 11; Leeds.—**GEORGE WILSON & JOHN WILSON**, Heckmondwike, York. Oct. 1, at 11; Leeds.—**JOHN EARNSHAWE & GEO. EARNSHAWE**, Dyers, Halifax. Oct. 1, at 11; Leeds.—**STEPHEN STORRY SMITHSON**, Provision Merchant & Ship Owner, Kingston-upon-Hull. Oct. 2, at 12; Kingston-upon-Hull.—**ABRAHAM CHAMBERLIN**, Butcher & Cattle Dealer, 248, High-street, Exeter, and of Stoke Canon, Devonshire. Oct. 8, at 12; Exeter.—**RICHARD PAIRN**, Ironmonger, Exeter, and 48 & 49, Western-road, Brighton. Oct. 8, at 12; Exeter.—**GEORGE CHANT**, Glove Manufacturer, West End, Stoke-sub-Hamden, Somersetshire. Oct. 8, at 12; Exeter.—**NOAH MILLER**, Builder, Sidmouth, Devonshire. Oct. 8, at 12; Exeter.—**FREDERIC EVERY**, Scrivener, Bampfylde-street, Exeter, and Aliphington-road, Saint Thomas, Devonshire. Oct. 8, at 12; Exeter.—**JOHN FRENCH**, Butter & Corn-factor, Martock, Somersetshire. Oct. 8, at 12; Exeter.—**JOHN DALY**, Inn-keeper & Coal Merchant, Starcross, Kenton, Devonshire. Oct. 8, at 12; Exeter.—**EDWARD WILLIAMS**, Builder & Joiner, Wrexham, Denbighshire. Sept. 27, at 11; Liverpool.—**RICHARD FORSHAW**, Machine Manufacturer, Liverpool (Richard Forshaw & Co.) Sept. 27, at 11; Liverpool.—**JOHN M'MILLAN**, Licensed Victualler, Liverpool. Sept. 27, at 11; Liverpool.—**JOSEPH WORSLEY**, Draper, Wotton, Cheshire. Sept. 27, at 11; Liverpool.—**JAS. GRAHAM**, Blue Manufacturer, Liverpool. Oct. 2, at 12; Liverpool.—**GEO. SLEDDALL WRIGHT & JOHN WRIGHT**, Brewers, Wine and Spirit Merchants, Liverpool (G. & J. Wright). Oct. 2, at 12; Liverpool.—**EDWARD BROWN**, Brewer, Ditton, near Warrington, Lancashire. Oct. 2, at 11; Liverpool.—**HUGH MACKAY & WILLIAM BISHTON DAVIES**, Shipwrights, Ship Dealers, Liverpool. Oct. 2, at 12; Liverpool.—**HENRY LEMOX**, Merchant, Liverpool. Oct. 2, at 12; Liverpool.—**WILLIAM THOMAS**, Draper, Llanerchynedd, Anglesey. Oct. 2, at 12; Liverpool.—**JOHN JONES**, Draper, Wrexham, Denbighshire. Oct. 2, at 12; Liverpool.—**JOHN MERSON & T. BRECK INGHAM**, Glass Manufacturers, St. Helen's, Lancashire (J. Merson & Co.) Oct. 2, at 12; Liverpool.—**ED. LYON & JOSEPH GREENWOOD**, Builders, Huyton Quarry, Lancashire. Oct. 2, at 11; Liverpool.—**HENRY ELIAS MOSS**, Merchant, Liverpool. Oct. 2, at 11; Liverpool.—**ROBERT CARBUTHERS & GEORGE CARBUTHERS**, Drapers, Liverpool. Oct. 4, at 12; Liverpool.—**WILLIAM FARRELL**, Cattle Salesman, Kensington, and of the Cattle Market, West Derby, Lancashire. Oct. 4, at 12; Liverpool.—**JOHN WARFORD HUNT**, Lamp Manufacturer, Liverpool. Oct. 4, at 11; Liverpool.—**JOHN LANGTON**, Ship Owner, Liverpool. Oct. 4, at 11; Liverpool.—**CHARLES TUNEAU**, Tobacconist, 11, Castle-street, Liverpool. Oct. 4, at 11; Liverpool.—**JOHN ROBINSON**, Plumber, Painter, & Glazier, Liverpool. Oct. 4, at 12; Liverpool.—**JOHN PARKER HALL**, Broker & Commission Agent, Liverpool. Oct. 4, at 11; Liverpool.—**THOMAS BARTON**, Tanner, Liverpool (Barton & Son). Oct. 4, at 11; Liverpool.

Friday, Sept. 13, 1861.

PHILIP TURNER MILLER, Linen Draper, Aylesbury. Sept. 24, at 2; Basinghall-street.—**WILLIAM SMITH & ROBERT WALLS SINCLAIR**, Linen Factors, 10, Pancras-lane, London (Smith, Sinclair, & Company.) Oct. 10, at 12.30; Basinghall-street.—**ARTHUR DOVVIS KIDD**, Straw Hat Manufacturer, 10, Fore-street, and 10, Cripplegate-buildings, London (Archibald Duff). Oct. 9, at 12.30; Basinghall-street.—**JOSEPH MANTUA**, Jeweller, Cutler, & General Dealer, Market-place, Luton, Bedfordshire. Oct. 9, at 1.30; Basinghall-street.—**GEORGE TODD**, Jun., Builder, Ranelagh Works, Cheyne-walk, Chelsea, Middlesex. Oct. 8, at 11.30; Basinghall-street.—**DANIEL PILDITCH**, Builder, Oakley-crescent South, Chelsea, Middlesex. Oct. 7, at 11; Basinghall-street.—**CHARLES NICHOLSON**, EDWARD PASCALE, & WILLIAM STONE, Warehousemen, Cannon street West, London. Oct. 8, at 12.30; Basinghall-street; same time sep. est. of Charles Nicholson & William Stone.—**JAMES COOK & HENRY BICKERTON GREENWOOD**, Wine & Spirit Merchants, 44, Mark-lane, London (Cook & Greenwood.) Oct. 8, at 12; Basinghall-street.—**EDWARD RUSSELL DAUNT & JOHN WILSON**, Bill Brokers, 37, Old Broad street, London (Daunt, Wilson, & Company.) Oct. 7, at 11; Basinghall-street.—**ROBERT SPEAR BEGGIE**, Merchant, 6, Great Winchester-street, London. Oct. 4, at 1.30; Basinghall-street.—**JOSEPH BUSHELL & ALFRED WALKER**, Straw Hat Manufacturers, 93, Wood-street, London, and of Harpenden, Hertford. Oct. 7, at 11; Basinghall-street.—**THOMAS GERMAIN**, Italian Warehouseman, 75, Gracechurch-street, London. Oct. 5, at 12; Basinghall-street.—**WILLIAM HENRY SMITH, HENRY WILLIAM WITHERS, CHARLES WILLIAM COOK, & GEORGE PARSON**, Coal Merchants, Creek Bridge-road, Deptford, Kent (Smith, Withers, & Co.) Oct. 7, at 11; Basinghall-street; joint estate of William Henry Smith; same time sep. est. of William Henry Smith.—**JOHN YATES**, Mustard Manufacturer & Drysalter, 14, Berry-street, Clerkenwell, Middlesex. Oct. 5, at 11.30; Basinghall-street.—**JOSEPH BARNETT BEHRENS**, Dealer in Pictures, 4, Coventry-street, Haymarket, Middlesex. Oct. 7, at 12; Basinghall-street.—**THOMAS FEAGLE DIAMOND**, Warehouseman & Commission Agent, Blue Boar-court, Friday-street, London. Oct. 5, at 11; Basinghall-street.—**SAMUEL VAGO**, commonly known as SAM COLLINS, Licensed Victualler, late of Hyde, Hendon, Middlesex, now of 40, Gower-place, Bedford-square, Middlesex. Oct. 7, at 1; Basinghall-street.—**GEORGE ELLIOTT**, Blacksmith & Licensed Victualler, West-street, Farnham, Surrey. Oct. 5, at 11; Basinghall-street.—**THOMAS CREAMY BARBER**, Carrier and Leather Seller, 67, High-street, Gravesend, Kent, Grays, Essex, and Enfield, Middlesex. Oct. 5, at 11.30; Basinghall-street.—**ISAAC ANTOINE CHOMEL**, Jeweller, Watch, & Clock Maker, 4, Saint James's-street, Saint James, Westminster. Oct. 5, at 11; Basinghall-street.—**GEORGE DAVIS**, Builder, Plumber, & Brass Founder, Southampton. Oct. 7, at 1; Basinghall-street.—**GEORGE PEFFANI**, Sail Maker & Ship Chandler, 133, Minories, London. Oct. 4, at 2; Basinghall-street.—**HENRY JAMES NORFOLK**, Builder, Great Yarmouth, Norfolk. Oct. 7, at 1; Basinghall-street.—**EDWIN KITT**, Publican, Bent Arms, Lindfield, Sussex. Oct. 7, at 12; Basinghall-street.—**JOHN GOODALL BRETT**, Grocer & Draper, Hornchurch, Essex. Oct. 7, at 12; Basinghall-street.—**SAMUEL WESTON MOORE**, Lace Manufacturer, Nottingham. Oct. 3, at 11; Nottingham.—**GEORGE WILLIAM CAYE**, Bleacher, Nottingham. Oct. 10, at 11; Nottingham.—**THOMAS SADLER REED**, Silk Manufacturer, Derby. Oct. 10, at 11; Nottingham.—**TERENCE FITZPATRICK**, Newark-upon-Trent, Nottinghamshire, and BERNARD FITZPATRICK, Nottingham, Travelling Drapers. Oct. 10, at 11; Nottingham.—**JOSEPH MORRIS**, Needle Manufacturer, Astwood Bank, Feckenham, Worcestershire (Joseph Morris & Sons). Oct. 25, at 11; Birmingham.—**EDWIN PARKES**, Carrier & Leather Seller, Gloucester. Oct. 10, at 11; Bristol.—**EDWARD WETHERSTON**, Plumber, Cheltenham. Oct. 10, at 11; Bristol.—**THOMAS PLUMMER DUNN**, Woollen Flock & Waste Dealer, Woodchester, Gloucestershire, and of Maesteg, Glamorganshire, Iron Master & General Shop Keeper. Oct. 10, at 11; Bristol.—**WILLIAM CLAYTON**, Langcliffe, York, WILLIAM CLAYTON, Lostock, Walton-le-dale, Lancashire, and WILLIAM WILSON, Preston, Lancashire, Bankers. Oct. 10, at 12; Manchester.—**THOMAS SAMUEL DALTON**, HENRY DALTON, and WILLIAM HEAP, Calico Printers, Manchester (Dalton Brothers). Oct. 9, at 11; Manchester.—**CHARLES PENNINGTON**, Builder, Timber Dealer and Commission Agent, Manchester, formerly of Salford. Oct. 10, at 12; Manchester.—**JAMES DANIELS**, Iron Merchant and Commission Agent, Manchester. Oct. 10, at 12; Manchester.—**WILLIAM WHITAKER**, Merchant, Bradford. Oct. 4, at 11; Leeds.—**GEORGE HILL**, Grocer & Tea Dealer, South Milford, Yorkshire. Oct. 4, at 11; Leeds.—**HENRY BINNING**, & GEORGE DOWSON, Ship Owners, Middlesborough, Yorkshire. Oct. 4, at 11; Leeds.—**JAMES BOOTH, JUN.**, Worsted Manufacturer, Bramley, Yorkshire (J. & J. Booth). Oct. 4, at 11; Leeds.—**JOHN SMITH**, Stuff Manufacturer, Bradford. Oct. 4, at 11; Leeds.—**THOMAS PARKINSON**, Stock and Share Broker, Halifax. Oct. 4, at 11; Leeds.—**EDWARD PARKIN, sen.**, File Manufacturer, Sheffield. Oct. 5, at 10; Leeds.—**WILLIAM MARTIN, ALFRED PHILLIPS YOULE**, and WILLIAM RICHARDSON ROEBUCK, Iron Manufacturers, Doncaster. Oct. 5, at 10; Leeds.—**JAMES MARK MARTIN**, Ironmonger, Brazier, & Gasfitter, Chesterfield. Oct. 5, at 10; Sheffield.—**GEORGE HARTLEY**, Common Brewer, Sheffield. Oct. 5, at 10; Sheffield.—**JOHN PARKIN and EDWIN PARKIN**, Iron-forgers, Oughty Bridge, Sheffield (John Parkin and Brothers). Oct. 5, at 10; Sheffield.—**DAVID SILLAR & JOHN CHARLES SILLAR**, Merchants, Liverpool, and of Shanghai, China. Oct. 3, at 11; Liverpool.—**THOMAS BLADES WALDEN**, Silk Mercer and Draper, Liverpool. Oct. 3, at 11; Liverpool.—**JOHN MERSON and THOMAS BRECK INGHAM**, Glass Manufacturers, St. Helen's, Lancashire (Merson & Co.). Oct. 4, at 11; Liverpool.—**ROBERT HELSBY & JOSEPH HELSBY**, Builders, Garston, Childwall, Lancashire, and of Warrington (Robert and Joseph Helsby). Oct. 4, at 11; Liverpool.—**JOHN CUBBON**, Joiner and Builder, Liverpool. Oct. 4, at 11; Liverpool.—**EDWARD LANDSAY BAKER**, Ship Broker & Commission Agent, Liverpool. Oct. 4, at 11; Liverpool.—**THOMAS FLEMING**, Merchant and Commission Agent, Liverpool. Oct. 4, at 11; Liverpool.—**ROBERT MORROW, JOHN MORROW, & CLARESON GARBUTT**, Merchants & Commission Agents, Liverpool. Oct. 4, at 11; Liverpool.—**HENRY CLAPHAM**, Woollen Draper, Liverpool. Oct. 4, at 11; Liverpool.—**HUGH MATHESON**, Merchant, Liverpool. Oct. 7, at 11; Liverpool.—**ROBERT WADEBY KIRKUS**, Chemist & Druggist, Walton-on-the-Hill, Liverpool. Oct. 7, at 11; Liverpool.—**JOHN SCOTT, JUN.**, & RICHARD WOODWARD POWELL, Tea Merchants, Liverpool (Scott, Powell, and Company); also separate estate of each. Oct. 7, at 11; Liverpool.—**JOSEPH EDWARD BELCH**, Ship Broker, Liverpool. Oct. 7, at 11; Liverpool.—**THOS. HINDLE**, Builder, Liverpool. Oct. 7, at 11; Liverpool.

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We cannot notice any communication unless accompanied by the name and address of the writer.

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THE SOLICITORS' JOURNAL.

LONDON, SEPTEMBER 21, 1861.

CURRENT TOPICS.

We alluded last week to a rumour prevalent in Bristol to the effect that Mr. Inskip, who is the housekeeper and usher of the local Court of Bankruptcy there, was about to be appointed to the office of Assistant-Registrar of that Court. We are now authorised to state that there exists no intention of appointing Mr. Inskip to this office. If any recommendation in favour of such an appointment has been made, it has not prevailed; and if any intention of carrying it out has at any time been entertained, it is now abandoned. We congratulate our readers and the profession, especially our correspondent from Bristol, whose timely remonstrance on this subject appeared in our impression of last week, in being able to make this announcement.

Another vacation grievance is complained of, arising in this instance in the Common Law Taxing Offices. A correspondent points out that out of the fifteen masters, one only remains in London to transact business for all the courts. He sits for three hours a-day, on four days in the week only; and as a general rule, refuses to transact any but "vacation" business. This consists mainly, we believe, of "short bills," that is to say, bills of costs in actions after judgment by default, or where the amount is under £20. The master will also tax in all cases of pressing importance, such as impending executions, where serious loss would arise from delay; and, as a matter of course, in all cases where specially directed by the Court to do so. Any bills, other than the above, are taken only as a matter of courtesy, in case the master happens to be at leisure, and with respect to them he refuses to make any appointment. Such, at least, is the representation which has been made to us, and we should be glad to be furnished with the experience of practitioners on the subject if our impression is erroneous. The only question, therefore, seems to be, whether the case complained of falls within either of the classes above described; if not, it is by no means clear how a failure to obtain a matter of indulgence can be fairly considered as a grievance. It is manifest that to alter the whole practice of the taxing offices, and to throw them open during the autumn for the transaction of all business, would be tantamount to doing away with the vacation altogether; and if it were incumbent on the masters to proceed with taxation, on the application of any one who may present himself, we should have a system of preference introduced, depending on the priority of application in each case. If it should be thought desirable to enlarge the class of vacation business, we can suppose an arrangement easily made whereby one master should attend in rotation for each court. But at present it is not alleged that all the so-called regular vacation business cannot be discharged by one master. As to the enjoyment of a vacation, that is a right so highly prized that nothing but the most clearly established necessity will warrant an invasion of the privilege. This, indeed, is felt by our correspondent. The only difficulty is how to admit the claim upon the master's time of one applicant, unless his case is one of those above enumerated, without letting in the claims of all others at the same time.

It seems absolutely necessary that a distinction

should be made between vacation and other business in the taxing offices as in other branches of the Court; but it is highly desirable that a clear and liberal rule, when once made, should be strictly adhered to, otherwise an infringement which is granted as a favour, may come to be looked upon as a matter of right.

The annual report of the Council of the Law Society, which will be found in another part of our impression, will be read with much interest, offering, as it does, the latest observations and reflections of a number of specially qualified professional men on subjects which, either externally or internally, affect the whole body. Not only does the practical working of new statutes which affect the profession fall immediately under the observation of these gentlemen, but their attention is also *ex officio* directed to proposals for the amendment of the law, and to the more silent changes which are continually taking place within the ranks of the profession itself. It is gratifying to observe that, in regard to the last particular, their report is encouraging and satisfactory. They point to signs of manifest improvement both in the *status* and influence of the body whose interests they guard over and represent.

A review of the new Act relating to attorneys is rendered incumbent upon the Council, from the circumstance that its provisions are not always observed. Even to lawyers, it seems, and especially to young lawyers, repeated notice is required of the obligations laid upon them by statute, as to registering articles of clerkship, registering commissions, the production of the certificate of duty having been paid, and the prohibition of article clerks from holding other offices. With great justice the Council point to the success of their efforts in establishing a general test examination, both before entering into articles and during articles, a measure which will be fraught with the greatest advantages both to the profession and the public, whilst it must very considerably affect the pursuits and course of study of a large majority of article clerks. They will have now, before their final legal examination, to undergo a matriculation examination and a "little go" in general subjects, as prescribed by the rules of the 26th of July last. Some useful suggestions as to the best mode of providing facilities of study for article clerks in the country will be found in our correspondence of this week.

Inquiries have in some instances been prosecuted by the Council as to the operation of the new Inland Revenue Act upon certain matters of taxation connected with the profession. Two points have been ruled which deserve notice; one that attorneys and solicitors who may transact the class of business usually managed in London by house agents, such as the letting and receiving the rent of houses, are not, on that account, to be charged under the Act with additional duty. Another is that no stamp duty attaches to a written authority from a vendor to a purchaser to pay the purchase-money to the vendor's solicitor.

The Treasury minute of the 16th of March last, empowering district registrars to prepare affidavits and other documents for parties who are unassisted with other professional advice, is commented upon by the Council in terms of just reprobation, as being dangerous to the public and needlessly injurious to the regular practitioner. On this subject our own opinion has already been expressed on precisely similar grounds. We are further informed that the practice which had crept in of surrogates acting as proctors' agents was first checked at the suggestion of the Council and is now put an end to.

Cases of invasion and encroachment upon solicitors' practice are again alluded to, and the imperfect nature of the remedy is pointed out. The council say they are unauthorised to sue unqualified persons for penalties for acting in matters of this kind; such prosecutions can be instituted only in the name of the Attorney-General by

the Solicitor of Inland Revenue. The Council instruct their own secretary to assist the Solicitor in investigating these cases; but a clear statement of the evidence in each case is required, and no penalties can be recovered after the lapse of two years. Under the head of malpractice we have a summary of the various cases which have arisen in the course of the year, in which frauds and irregularities have been punished and checked at the instance of the Council.

With a few firm and temperate remarks the Council dismiss the question of "privilege of Counsel" which arose between them and Mr. Huddleston in November last. The rest of the report is devoted to the internal affairs of the society. At this period of comparative leisure a retrospect of the past year comes with peculiar advantage. By demonstrating the exact position of the profession in all quarters where changes have been made or are expected, it provides security for the present and the best foundation for wise improvement in the future.

THE LANDED ESTATES COURT—TRANSFER OF TITLE IN LAND.

No. II.

The gist of the statute 21 & 22 Vict. c. 72, which has established the Landed Estates Court as at present constituted, is contained in the sixty-first section of that Act. By that clause every conveyance executed as therein mentioned by any judge of the court, and purporting to pass an estate in fee, is rendered effectual to pass such estate, subject to such charges, tenancies, rights of common, easements, and leases, as may be expressed therein, but discharged from all other estates and incumbrances; and every conveyance of a lease, rent-charge, annuity, or partial estate, is rendered effectual to pass the estate designated in the instrument, subject, as to a lease, to the rent and covenants annexed to the reversion; and, as to rent-charges, annuities, &c., to such tenancies, rights, and easements as are expressed in the instrument; but freed from all other rights, titles, charges, and incumbrances. Conveyances are made, subject to rent-charges in lieu of tithes, crown rents, quit rents, and drainage charges under the 5 & 6 Vict. c. 89, and 10 & 11 Vict. c. 32. Commons and easements were inconsistently excepted out of the original Act. In the case of *Rorke v. Errington* (7 Ho. of Lds. Cas. 617), the effect of the Act was sought to be entirely evaded. In that case A.'s estate, upon which B. had a lease, had been sold by the Incumbered Estates Court. A paper, called "a rental," was, under the 23rd section of the 12 & 13 Vict. c. 77, issued by the Commissioners for the purpose of informing everybody as to what was to be sold. This document recognised the existence and validity of B.'s lease, and proper notices in conformity with that rental were given to the tenants. C. became the purchaser of part of the land, and in the conveyance made to him by the commissioners under the 27th section of the 12 & 13 Vict. c. 77, there was introduced a mistaken description, accompanied by a map, which was also erroneously drawn, of the land purported to be conveyed. The description and map described the land which was held by B. under his lease. In ejectment by C. against B. the House of Lords held, on appeal, reversing the decision of the Irish Court of Exchequer Chamber, that evidence to impeach the conveyance executed by the commissioners had been improperly admitted; that the question founded upon that evidence was improperly submitted to the jury; and that, under the 27th section of the Act last mentioned, the land must be conclusively deemed to have passed by the conveyance, subject only to the leases "expressed therein." The House of Lords also held that the 49th section of the same Act rendered the conveyance conclusive evidence that all necessary acts had been duly performed,

and that all requisite consents had been given. The ground of this appeal was the want of jurisdiction in the commissioners to sell an unincumbered portion of an estate, the other parts of which were incumbered. We may observe that such a question could not arise under the present Act: nor can it be raised in any case under the West India Incumbered Estates Act, 17 & 18 Vict. c. 117, inasmuch as the 38th section of that Act provides that "no conveyance made by the commissioners shall be set aside on the ground of their not having had jurisdiction over the subject matter thereof." A point very similar to that raised in *Rorke v. Errington*, strange to say, had become the subject of judicial decision in two Irish cases relating to the decisions of trustees of forfeited estates. These trustees had been invested with arbitrary powers under a commission consequent on the Irish Rebellion of 1688, and possessed a Parliamentary jurisdiction in Ireland similar to that at present enjoyed by the Landed Estates Court. The decision of these trustees was held, in the case of *Ellis v. Segrate* (5 Bro. P. C. 478), to be final. The case of *Annesley v. Dixon* (Holt 372, 377; 7 Bro. P. C. 213, Toml. ed.), on the other hand, decided that these trustees could not give themselves jurisdiction by declaring an estate forfeited. The judges, upon questions submitted to them by the House of Lords in *Rorke v. Errington*, were unanimous in the opinion that the conveyance of the commissioners passed the estate discharged of B.'s lease, and the House ruled accordingly. When arguments are advanced in favour of the exceptional jurisdiction of this Court, founded upon the absence of complaints and mistakes (as has been recently done by the Irish Solicitor-General at the meeting of the Social Science Association, at Dublin), it should not be forgotten that the case of *Rorke v. Errington* is one which has actually occurred; that the court was then in the probationary stage of its existence, and is not likely to be more vigilant now when endued with permanent authority than it was then; and that such mistakes being irremediable, are not to be lightly discussed as of infrequent occurrence and unimportant in results.

Our readers are familiar with the mode in which the Statute of Uses was evaded by the Court of Chancery. That statute was somewhat similar in principle to the Acts under which the Irish Landed Estates Court has been established. By the first-mentioned statute the corporal seisin of the land is transferred, by the magic of an Act of Parliament, from the legal owner to the *cestui que trust*; by the latter series of enactments both the legal and the beneficial interests in the land are transferred to the purchaser in despite of all other claims and titles, save such as are excepted by the instrument of conveyance itself or by statute. The Court of Chancery, in interpreting the Statute of Uses, was more modest in its pretensions than the Irish Court of Exchequer Chamber has been, as regards the 12 & 13 Vict. c. 77; for equity at no period sought wholly to avoid the Statute of Uses, whereas the decision of the Irish Court of Queen's Bench in *Errington v. Rorke* (6 Ir. Com. Law Cas. 279), tended completely to neutralise the Incumbered Estates Court Act. The current of public opinion or social exigencies of the day may possibly in time to come influence our courts in deciding upon the construction to be placed upon Acts of the Legislature. But, when a statute has been passed in harmony with the requirements of the period in which it is promulgated, if courts of law were to show themselves astute in depriving it of its force, to whatever arbitrary or moral results the application of that force may lead, the Legislature would be likely in such a contingency to re-assert itself by means of *ex post facto* legislation. And this, we believe, was actually contemplated regarding the Landed Estates Court, if the House of Lords had not reversed the decision in *Errington v. Rorke*. It is eminently desirable, therefore, that attention should be timely directed to the nature of the Bills with which we are threatened, before Parlia-

ment shall have committed itself to the adoption of principles contrary to received maxims of law and justice, which, if once established, would in all probability be propped up, if necessary, by supplemental legislation.

The present Act possesses a great advantage over its predecessor as regards the efficaciousness of the method which it has adopted to realise the views of its authors. The first Act applied only to estates that were incumbered. Accordingly, as was ascertained by the commission of inquiry which investigated the working of the Court in 1855, owners actually created charges upon their estates for the purpose of giving the Court jurisdiction to sell. There is no doubt that the principle of the Act applies in the nature of things equally to unincumbered as to incumbered estates. The Act is considered to have worked well in Ireland. The prosperity of that country, however, since 1850 is by no means attributable to the Court; nor, indeed, could that prosperity have flowed from any effort of the Legislature. The price of agricultural produce has risen since 1859 almost progressively. This has been partly owing to the outbreak of the Russian war, and partly to the influx of gold from Australia and California. Lessees at a fixed pecuniary rent have been thus better able to meet the claims of the landlords than if the prices of agricultural produce had been either falling or stationary. We do not think that the throwing of immense quantities of land suddenly into the market, which the Incumbered Estates Court effected, could have served any useful purpose whatsoever. The price of land, like that of every other commodity, depends on demand and supply; and there cannot be a forced increase of the quantity in the market without a fall of price. Land, accordingly, in Ireland, in 1849 and 1850, used to fetch a purchase-money not greater than the value of a few years rent. The persons who suffered most from this effect of the Court on the value of landed property were generally pious incumbrancers. The properties sold were in many cases incumbered to their full normal value. When the price of land fell, as it did in 1849, the creditors of the owner lowest down on the list got nothing, while such of his immediate relatives as had family charges either bought in the estate in order to keep it in the family, getting credit for their charges in the purchase-money, or were, at all events, as a general rule, paid off in full. Incumbrancers who had lent their money when the price of land was high were thus the chief sufferers from the operation of the Act. Besides, the peculiar condition of Ireland in 1849, which seemed to call for a change in the tenure of land as likely to obviate the periodic recurrence of agricultural distress, the state of the law in that country facilitated the working of the Incumbered Estates Court Act. Since the reign of Queen Anne, a general system of registration as regards land has prevailed in Ireland. Searches for title and incumbrances were thus narrowed to the limits of the register. The Incumbered Estates Commissioners admitted the claims of unregistered owners and incumbrancers, if these appeared in the proceedings. If they did not so appear, the conveyance executed by the commissioners barred them for ever. But a conveyance by the owner to a purchaser who registered the instrument would have equally barred them, unless the purchaser had notice of their claims. The existence of a registry system in Ireland, therefore, facilitated the working of the Court in a two-fold manner. It enabled the Court to see the charges which alone were indefeasible, and it also enabled it to grant a conveyance without doing greater injury to any claimant than the owner could have done if he were so disposed. The condition of Ireland, therefore, in 1849, both in law and in fact, precludes the advocates of a parliamentary title system from citing the success of such a judicature in Ireland as a precedent that equally recommends itself to our own adoption.

Recent Decisions.

HOUSE OF LORDS.

VOLUNTARY SETTLEMENT—STATUTE OF 13 ELIZ. C. 5.

Thompson v. Webster, 9 W. R. 641.

Amongst the very few cases which in recent times have come before the courts where the deed of gift was made for no legal consideration either valuable or good, and was the mere act of bounty of the settlor, is to be noticed *Re Magawley's Trust* (1851) 5 De G. & Sm. 1. In that case E., being indebted to A. in a sum of £100, and also to B. and P., in October, 1837, assigned a life policy to A. to secure the £100 and interest. A. acknowledged receipt of the policy, and said he held the balance of the proceeds in trust for M. E. also wrote a letter, in which he stated he had made this arrangement "in order to secure M. from harm," &c., this being "the only way he could legally do so." On the 30th of December, 1837, E. died intestate and insolvent, his personal estate being only £95. B. and P., whose debts amounted to £130, thereupon said they had advanced their money on the faith of the representation that E. had effected the policy for the benefit of his creditors generally. The fund was invested by A., and accumulated until the year 1850. Then, B. and P., having brought a creditor's suit, an administration decree was made, the trust in favour of M. was declared void as against B. and P., but M. was held to be entitled to the residue. Notwithstanding the indebtedness of the settlor, and the want of any consideration, the assignment and letter were held to be a good declaration of trust in favour of M.

The class of deeds executed for good consideration, such as natural love and affection, has already been noticed (*ante* p. 726). It was shown that at first they were considered either as void—*Townshend v. Windham* (1750), 2 Vea. sen. 10; or as *prima facie* evidence of fraud—*Russell v. Hammond* (1738), 1 Atk. 15; *Holloway v. Millard* (1816), 1 Madd. 414. Neither the one nor the other of these doctrines has been advanced of late years. A good illustration of the modern view of the operation of the statute upon a voluntary conveyance for meritorious consideration is to be found in *Jackson v. Bewley* (1841), Carr. & M. 97, in the Court of Common Pleas. L. had executed a deed of gift to his niece in consideration of natural love and affection. Mr. Justice Erskine said, "L. had a right to assign his property, but the law says it is void against creditors, if done fraudulently." The plaintiffs attempt to prove that it was so done by showing that at the time of the conveyance he was indebted in two sums of £20 and £19; and that, when the property in question was removed from the whole property which he had, there was not enough left to pay these two sums amounting to £39. The question is, what is meant by insolvency? If by the act of assignment the party makes himself insolvent—that is, if the property left after the conveyance is not enough to pay his debts—that is insolvency sufficient for the purposes of the plaintiffs in this action (assumpsit against an executor.) But inasmuch as there is no evidence (or plea of *pleni administravit*) that he owed more than £39, and as his property realised a sum so near the amount expended, even if that expense were all fair, it is still a question for you (the jury) whether the transfers above spoken of were fraudulent."

We finally come to that class of cases, of which *Thompson v. Webster* is an example, in which the consideration or alleged consideration for the deed was a family arrangement, or a transaction partaking or affecting to partake of that character—as a post-nuptial settlement, or a deed founded on past cohabitation. Of these *Nunn v. Wilmore* (1800), 8 T. R. 521, is an instance. "If this deed," said Lord Kenyon, "were either actually fraudulent or voluntary, from which the law infers fraud, then the conveyance insisted upon by the plaintiffs would follow, and the defendant would be obliged to repay this money. But that it was not fraudulent in fact is perfectly clear, nor do I think it was voluntary. Consider what was the condition of the parties. The husband and wife living together on bad terms: the former squandering away the property, and ill-treating the wife. In order to prevent his ill-using her in future, to prevent her instituting a suit in the Spiritual Court, and to put an end to all differences, and in consideration of £200 advanced by one of the trustees, this deed was executed. I do not see why the £200 was not a consideration. In deciding questions of this kind the Courts have always disavowed inquiring whether or not the consideration be equivalent. They will not weigh it in very nice scales if it be an honest transaction." This case establishes

the principle that a family arrangement will give a value in point of consideration to a deed, of which the Courts will not attempt to estimate the pecuniary equivalent. In *Perse v. Perse* (1840), 7 Cl. & Finn. 279, Lord Cottenham, C., observed, "By what scale of money consideration are these objects (securing the re-union of a lunatic's estate to the family property) to be estimated? The impossibility of estimating them has led to the exemption of family arrangements from the rules which affect others. The consideration in this and in other such cases is compounded partly of value and partly of love and affection." In another instance, where the consideration for the deed was the marriage of the settlor's son, it was upheld against creditors. *M., a banker, being indebted in bond to the trustees of his son's marriage settlement, and also to other persons, on 1st July, 1831, assigned a house in the Regent's Park and a bond debt as a security to the trustees. On the 2nd January, 1832, he stopped payment, and a fiat in bankruptcy was obtained on the 26th. A jury found that the assignment was not made by way of fraudulent preference* *Belcher v. Prittie*, (1834), 10 Bing. 408; and it was also supported in equity, *Bannatyne v. Leader* (1841), 10 Sim. 350. It was laid down in *Parker v. Carter* (1844), 4 Hare 409, that the mutual concurrence of husband and wife in the buying of a piece of land in which they are jointly interested, and in a declaration for the benefit of the issue, is a valuable consideration to support a deed as against creditors. Past cohabitation was treated as sufficient consideration to support a settlement in *Skarf v. Soulbly* (1849), 1 Mac. & G. 364. *J. M., a married man, living separate from his wife, by deed, in December, 1842, which recited past cohabitation with Eliza Q. and the birth of children, settled on her and the children an annuity of £250, and two policies of assurance. He died in May, 1846, and in a creditor's suit, to which the executors answered that the estate was insufficient, a supplemental bill was filed against Eliza Q. and the children. Lord Cottenham, C., in the absence of evidence as to the testator's insolvency at the time of the settlement, said that the plaintiffs might take any benefit which would accrue to them from the fact of the settlor being indebted to others, but that "indebted" could not be considered as meaning only that he owed some debt; and directed inquiries as to his debts at the time, and the value of the settled property. *Heap v. Tonge* (1851), 9 Hare 90, is the case of a deed being supported, which was entered into between the members of a family for conveying the property of an intestate according to the terms of an agreement entered into between them.*

The following, on the other hand, are three instances where deeds purporting to have been made for the benefit of the wife or relatives of the settlor have been pronounced by the court to be a fraud upon creditors. In the first, a settlor being in embarrassed circumstances, executed a deed for an alleged valuable consideration, which, on investigation, turned out to be in part merely meritorious. The trusts of the deed were mainly in favour of an illegitimate infant daughter. There was a special agreement between the settlor and his mother, to whom, according to the recitals, the settlor was indebted, that provision should be made for the illegitimate daughter. This agreement was not recited in the deed. An annuity, also, which the deed affected to assign to the mother, was continued to be received by the settlor himself. Sir John Stuart, V.C., observed—"Courts of equity have gone very far to maintain family settlements. A deed made between the members of a family, founded on no better consideration than the compromise of a doubtful right, may be upheld on this principle. In this case, if there had been no circumstances of suspicion—no contravention of higher rights—upon the claim of a parent (the mother) who had made large pecuniary advances in favour of a child—advances which had, perhaps, at first, formed the obligation of a debt—the Court might, perhaps, even after lapse of time, have considered the assertion or the existence of such a right a sufficient consideration to support a deed purporting to be a family settlement. But where the rights of existing creditors are directly interfered with, a more severe rule must be applied. And in such circumstances of suspicion as occur here, from the embarrassed circumstances of the grantor, the pressure of creditors, and the appearance of a voluntary arrangement originating in the necessity and fear induced by this pressure, the case is carried beyond the principle which supports a deed as a mere family arrangement, and not on actual valuable consideration;" *Penhall v. Elwin* (1853), 1 Sm. & Giff. 258.

In the second, Mr. R., a debtor, was seised in fee of the reversion of one-third of a manor. Being married, he executed a settlement of his property, purporting to be in consideration of £500 paid by his wife's father. The settlement contained a

power to the father, the husband, and the wife jointly to concur in a sale of the property. In January, 1845, they effected a sale to the tenant for life for a sum of £4,300. The money was invested, and in May, 1846, a deed was executed declaring the trusts of the stock, which corresponded with the trusts of the settlement of January, 1845. The plaintiff obtained judgment on his debt about the same date; and there were other creditors. The evidence showed that the payment of the £500 was illusory. The Lord Chancellor (Cranworth) held the sale in January, 1845, to have been a valid sale; but that the settlement of May, 1846, was voluntary, and that the transaction was a fraudulent contrivance to defeat execution on the judgment just before Mr. R., the debtor, went abroad. The deed of May, 1846, was set aside; *Goldsmith v. Russell* (1855), 5 Do G. M. & G. 547.

In the third, a trader, who was in insolvent circumstances, agreed to sell his business and stock in consideration of a money payment, and that the purchaser should, during the joint lives of the trader and his wife, pay to the former an annuity equal to one-fourth of the profits, and a contingent annuity to the wife, if she survived, of one-sixth of the profits. The trader died, and in a creditors' suit the annuity reserved to the wife was held void. The Lord Chancellor (Cranworth) said, "I think the case is clearly within the statute. A person may, though indebted, withdraw some portion of his property, provided there remains enough for the satisfaction of his creditors; but that must be made out. If the effect is to withdraw any portion of the property, so that there does not remain sufficient to enable creditors to pay themselves, that is, in my opinion, clearly within the statute;" *French v. French* (1855), 6 Do G. M. & G. 95. In *Jenkyn v. Vaughan* (1856), 3 Drew. 419, where a post-nuptial settlement was made by a person largely indebted at the time, and it was not clear whether the then existing debts were paid off or not, though it was certain the plaintiff's debt did not accrue till afterwards, Sir R. Kindersley, V. C., after remarking that there was little or no authority to decide whether a deed could be set aside at the suit of a subsequent creditor (see *ante*, p. 727), directed inquiries as to the settlor's solvency at the time, as was done in *Skarf v. Soulbly*, *supra*.

More recently still the result of the decisions in the same class has been favourable to the settlor, and in several instances, previous to and including *Thompson v. Webster*, the efforts of creditors to disturb the arrangement have failed. Such was *Holmes v. Penney* (1856), 3 K. & J. 90, which was the case of a voluntary post-nuptial settlement, providing for the payment of existing creditors, and directing the income of the settled property to be applied for the benefit of the settlor, his wife and children, as the trustees, in their uncontrolled discretion, should think proper. This settlement was upheld as not being fraudulent against a subsequent creditor. In *Wakefield v. Gibbon* (1857), 1 Giff. 401, there was a family arrangement, whereby the tenant for life surrendered his interest and certain policies of assurance on his own life to his son, in consideration of the son, who was tenant in tail in remainder, and also a creditor, paying off certain charges on the life estate, and providing an annuity for his mother. A bill was filed by the creditors of the tenant for life, on the authority of *French v. French*, impeaching the arrangement. Sir John Stuart, V. C., said that "if the father in this case had disposed of the property available for payment of his debts to purchase the reversionary contingent annuity for his wife, the case might have been brought within the authority of *French v. French*. But here the son was a creditor to so large an amount that the transaction could not be viewed as a fraud upon other creditors." In a very recent case, land was settled by a marriage settlement on such trusts as the husband and wife should jointly appoint, and subject thereto, to the husband in fee. The husband became in insolvent circumstances, and he and the wife executed the joint power, in order to protect part of the property (originally the wife's) from the judgment creditors. The Vice-Chancellor (Wood) considered that if the husband had been insolvent, this could not have been held to be a fraudulent exercise of the power. But no case of insolvency had been made out, or of any design to defeat or delay creditors. The appointment was held valid; *Acraman v. Corbett*, (February, 1861), 9 W. R. 409.

Finally, in the case before us, one J. C. was indebted to the plaintiff on a promissory note for £200. He was also indebted to H. in £90, and to other persons. He was entitled to a moiety of the residue of his father's estate, and also to certain real estate, worth about £45 a year. Judgment was obtained by H. for the £90 and costs. J. C. then applied to his mother to advance him £190. She agreed to do so if he would settle his property. After some hesitation and discussion it

was agreed that she should advance him £400, and thereupon J. C. executed the deeds. One was a mortgage of all his property to his mother to secure repayment of the £400 and interest. The other was the settlement now attempted to be set aside, by which J. C., in consideration of natural love and affection, purported to convey the real estate (subject to a mortgage) upon trusts to sell, and pay the dividends and interest of the proceeds to J. C. for life, remainder to his children. The settlement was executed within six weeks of the date of the promissory note to the plaintiff. J. C. became insolvent, and the plaintiff was appointed his assignee. J. C. died, and then his mother died. The evidence showed that the proposition about settling the property originally came from Mrs. C., who found that her son was squandering his property. It did not appear that she knew of the existence of the plaintiff's debt; and it also appeared that at least £210 never came into the pocket of the son. The deed was supported in every stage of the cause, from the judgment of Sir R. Kindersley, V.C., 7 W. R. 648, to those of the Lords Justices, 4 De. G. & J. 660, 7 W. R. 596; and finally, of the House of Lords. The state of the law, as exemplified by this and the other cases to which we have referred, may be summed up in the following terms:—

In every case, where a deed is impeached as being void against creditors under the statute of the 13th Elizabeth, the Court has to decide whether, under all the circumstances, it can come to the conclusion that the intention of the settlor in making the settlement was to delay, hinder, or defraud his creditors. A voluntary deed is not necessarily void; yet, as we have seen, a settlement executed for the highest consideration—that of marriage—may be set aside. Adequacy of consideration is not always necessary to the instrument; yet there are cases in which the amount of consideration is so important an index to the motives of the settlor that a deficiency of consideration will be fatal. Indebtedness to the extent of insolvency is not essential to be shown in order to the overthrow of a deed; inasmuch as a man may have executed a settlement with intent to defeat, defraud, and delay his creditors, although at the time he may be possessed of more property than is sufficient to satisfy them all. The amount of notice or want of notice on the part of the assignee is a circumstance not conclusive in itself, but is one upon which, amongst others, the Court may found its decision. In the comprehensive words of Mr. Justice Leblanc, in *Nunn v. Wilmore*, "in all cases, whether or not the deed is to be considered as fraudulent with respect to the creditors, must depend on the motives of the party making the deed. In investigating those motives the Court or the jury must be governed less by rules than by circumstances, and precedents can only furnish the aid of example and analogy in guiding them to a conclusion."

Correspondence.

ATTESTATION OF WILLS.

This question having brought forth many correspondents all differing on the point, although each has produced a form of attestation sufficient for the purpose, yet every one considering his own adoption the best, I beg to suggest the following, which was prepared by an eminent conveyancer, as it seems to me the most simple and yet effective form I have hitherto seen.

"Signed by the above named ———, the testator, as and for his will, in the presence of both of us present at the same time, who do attest and subscribe the same in the presence of the said testator."

I agree with some of your correspondents that it is unnecessary to refer to the testator at all in the attestation either as the above-named, or in any other manner, because the Wills Act, 1 Vict. c. 26, s. 9, declares that "it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction, and such signature shall be made, or acknowledged by the testator, in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary." Now I consider that any person making a will—that is, executing one—can do so without communicating to the witnesses the nature of the document he is signing. They are only required to attest and subscribe his signature, the Act declaring a form of attestation to be unnecessary; but if more convenient and regular that a form should be used in which it is made de-

claratory of the instrument being a will, then I think the form I have set out meets the requirement of the Act, inasmuch as it states the witnesses both present at the same time, and following the words of the Act, "they attest and subscribe," &c.

G. H. B.

I object to S. G.'s form "signed by A. B., and by him declared on in the presence of us, who at his request," &c.

The Wills Act, 1 Vict. c. 26, s. 9, requires that the will should be signed at the foot or end thereof, by the testator or by some other person in his presence, and by his direction, and that such signature should be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and that such witnesses should attest and subscribe the will in the presence of the testator.

The Act does not require that the testator should declare the document to be his will, nor does it require that the testator should request the witnesses to attest the will.

I think the attestation clause should contain a reference to the will.

In sending you the form of attestation I made a slight slip therein. The form should run thus:—"Signed by the above-named A. B., the testator, as his last will and testament, in the presence of us the undersigned, both being present at the same time, and subscribing this attestation in the presence of each other, and of the testator."

C.

An attestation to a will in the following concise form will, think, be found to comply in every particular with the requirements of the statute:—

"Signed by the above-named A. B., as his last will, in our joint presence, and by us in his presence."

E. T.

INVESTMENTS BY TRUSTEES.—EAST INDIA STOCK.

The decisions on this subject are perplexing, but neither C.'s nor G. C.'s letters, in your impression of the 7th September, seem to me to fully answer the questions raised by "B. P. A." in that of the 31st August. The Acts he quotes directly authorise an investment in the New East India Five per Cent. Stock (see *Re Colne, &c., Railway*, 8 W. R. 18, and *Equitable, &c., Co., v. Fuller*, 9 W. R. 400); for if the first Act does so, a fortiori, the second does also; and that the first Act does so is clearly stated in the judgments, particularly in that of Vice-Chancellor Wood. Therefore, irrespective of what the Court of Chancery directs, as to the money in the hands of the Accountant-General, it is clear that trustees may safely invest not only in the old but in the new stock; and even according to "G. C.'s" reading of the case, this may reasonably be inferred from *Equitable, &c., Co. v. Fuller*, and confirmed on appeal. But I read this case differently; and the Court of Chancery has acted on the Act of Parliament by its using the order of the 1st February, 1861. In that the language of the first Act is followed. In exercising a discretion, however, under this order, the Court says that even the Old East India Stock is not permissible (your correspondents quote the cases—*Cockburn v. Peel* and *Ungless v. Tuff*); a fortiori, therefore, the new stock is not. One letter misleads us as to *Equitable, &c., Co., v. Fuller*, and neither of the letters in your impression of the 7th tells us how the Court of Chancery can over-ride two Acts of Parliament and its own order; and I submit trustees may invest in both descriptions of stock, though I believe it is not the practice so to advise them.

J. S.

CONVEYANCE.—FORM OF HABENDUM.

In a letter appearing in your last impression, signed "A Subscriber," reference is made by him to an Act of Parliament, relating (*inter alia*) to the transfer of freehold land (8 & 9 Vict. c. 119).

I think on referring to the statutes of those years, your correspondent will find that the Act alluded to is 8 & 9 Vict. c. 106, not 119.

As my experience in the profession is limited to five years, I scarcely feel competent to give the information your subscriber requires; yet I humbly submit that the form of an habendum contained in any conveyance to a purchaser, drawn by a tolerably competent solicitor or counsel within the last few years, will afford all that is required—though some may differ from others, as the sundry attestations of wills, of which himself as well as the rest of your "subscribers" have recently had ample illustration.

ANOTHER SUBSCRIBER.

PROMISSORY NOTE.

In reply to the letter of your correspondent J. N. Chadwick, in your impression of last week, I beg to say that the memorandum would have been a simple I O U had it not contained an express promise to repay the amount lent at times specified.

The following case shows the principles which govern these cases. A. lent B. £1,000, who gave A. the following memorandum:—"I agree to pay quarterly to A. the sum of £12 10s. sterling, the interest on £1,000 at £5 per cent." The opinion of three eminent counsel, among whom was the late Baron Watson, was taken upon this document, and they all agreed, as also did C. B. Pollock, under whose notice the case came at Nisi Prius, that the document was a simple I O U upon the grounds—1st, that the ultimate amount to be paid for interest was uncertain; 2ndly, there was no agreement to repay the principal. J. G.

If Mr. Chadwick refers to *Brooks v. Elkins* (2 M. & W. 74, 6 L. J. Ex. 6) he will see that a similar document to that inserted in his letter was held by the Court to be a promissory note, or an agreement for payment of money, and in either case to require a stamp. H. A. A.

COMMON LAW OFFICES.—VACATION.—TAXATION OF COSTS.

It would seem somewhat invidious at this time of the year to make any complaint about public officials taking their holidays, but as there is a medium in all things, even in the matter of recreation, we think the publication in your hands of the following state of things at present existing in the common law taxing offices might aid in reforming what we cannot abstain from terming an abuse. Reminding you that there are fifteen taxing masters attached to the superior courts of common law, and that fourteen of these are taking their vacation, there remains only one to perform their functions. This year one of the masters of the Queen's Bench sits four days a week from 11 to 2, to tax all bills of costs in all the courts that are brought before him.

A trial of ours took place at the last Liverpool Assizes, in which a verdict was recovered with costs by our client, the plaintiff in the action.

Upon the plaintiff's bill of costs being in due course laid before the vacation master for taxation, the master stated that it was not "vacation business," and refused to tax it. A remonstrance to him, followed by another application to tax, has been ineffectual, and he persists in his refusal.

The result is that the plaintiff cannot enforce the payment of his verdict or his costs until next term, by which time the defendant may be nowhere, and the plaintiff lose his money. If the master be right in his refusal, what becomes of the order giving power to parties to tax and enforce payment of damages and costs at the expiration of fourteen days after the trial. Is not this a state of things that ought to be at once remedied before it is too late? "LONDON AGENTS."

EDUCATION FOR ARTICLED CLERKS.

It will afford me much pleasure to find that, at the meeting of the Metropolitan and Provincial Law Association, appointed to be held on the 8th of October next, at Worcester, attention will be given to the subject of an improved course of education for articled clerks. I desire to see members of the profession promoting the study of the law under the conviction that it is, in the language of Hooker, "a science to which all should do homage, the very least as feeling her care, and the greatest as not exempt from her power," and one which deserves and requires when chosen as a profession the exercise of the best powers of the heart and mind with unwearied industry. This will be greatly promoted by good training of law students in morals founded on Divine truth, and by a well provided course of legal, theoretical, and practical education, and general literature, with athletic and other recreations. Articled clerks in country towns would reap great advantage from having the use of a suitable room, to which a legal and general library is attached. Opportunities would thus be afforded them of passing their evenings profitably and pleasantly; and there might be well selected readings from legal authors by men who can read well. A small company in every considerable town might readily be found to advance a sufficient sum for providing the room and library, the interest

of the shares being paid by a subscription; and in almost every town a public room might be met with not occupied of an evening, the use of which might be obtained for the purposes I have suggested. F. T. S.

Foreign Tribunals and Jurisprudence.

EXECUTION IN FRANCE OF FOREIGN JUDGMENTS BETWEEN TWO ALIENS.

(By ALGERNON JONES, Esq., Advocate in the Imperial Court of Paris.)

A Spaniard, of the name of Muriel, had taken shares in the Mexican and South American Company, which was established in England for mining purposes. The company was subsequently wound up, and M. Muriel was adjudged to pay towards the debts of the company a sum of £11 6s. per share; and an order was made against him to that effect. Meanwhile Muriel had taken up his residence in France, and a suit was brought against him in the Tribunal of First Instance in France to obtain the execution of the English order. He demurred to the jurisdiction of the Court, on the ground of both parties being aliens; but his plea was rejected, and jurisdiction asserted over the case by the Tribunal in the following judgment:—

The TRIBUNAL.—Whereas, it is enacted by the articles 546 of the Code of Civil Procedure and 2123 of the Code Napoleon that the judgments of foreign courts may be ordered to be executed in France by the French courts:—Whereas, the above enactments are general in their terms, and make no distinction between whether the judgment has been given between French subjects and aliens or between aliens of different nationalities; that it is evident that whatever be the nationality of the parties they cannot have recourse to any but the French tribunals to obtain the execution in France of judgments given in foreign countries; and that, therefore, these courts could not, without an absolute denial of justice, refuse to interfere, declares itself competent, &c.

An appeal was entered against this judgment by Muriel, and it was reversed on the 15th of June last by the following judgment of the First Section of the Imperial Court of Paris:—

The COURT.—Whereas, the question to be examined is, whether any execution may be granted upon a judgment given out of France between two aliens; whereas, as a general rule, the French courts owe justice only to French subjects, and that aliens cannot, in general, apply for it one against another; whereas, the above rule of law is grounded on the two principal reasons—1, that the French judges owe their time and labour only to French suitors; 2, that it cannot be expected of them that they should enter into the examination of laws which they know nothing of; that these two reasons have their full force where an alien plaintiff claims execution upon a foreign judgment; that where execution is demanded upon a foreign judgment which concerns a French subject, it is a duty of the French Courts to grant it; and a practicable duty, since they can grant execution only according to the rules of the law of France. But when the contest is between two aliens it does not go thus. Their engagement can only be executed according to their national law; and it is not reasonable to admit that an English subject may demand against his countryman the execution of an English judgment, which will have to be modified according to the laws of France; whereas, the French judge would have to go both into the form and merits of the judgment, which would entail upon him the necessity of an acquaintance with the practice and procedure of foreign countries; and this might occur in suits of all kinds involving the necessity of the examination of all classes of right, which is evidently out of the question:—Whereas, the texts of our laws is entirely in conformity with these principles—that the 1st chapter of the Code Napoleon, which is the only one which settles the principles in these matters, does not recognise any suits before the French but those which interest French subjects; and the Code of Procedure, which settles the mode of enforcement of the various rights, far from extending these, restricts them on the contrary, in article 546, and while one might have supposed by the article 14 of the Code Napoleon, recognising the engagements taken by a French subject in favour of an alien in or out of France, that the law would give *ipso facto* an executory force to the documents embodying the same; but the article 546 of the Code of Procedure, on the contrary, denies all executory force

o foreign contracts and judgments, and submits the judgments to a revision. . . . Whereas, nothing is more rational than the contrary system:—When the right concerns a French subject an action lies either in the French or the foreign courts, and if the judgment has been given by the latter, it must be revised by the French judges, because the principle of national sovereignty requires it, and because the judgment must be brought into conformity with the fundamental principle of the national law. But when the right concerns strangers exclusively, no action lies in France. There can be no procedure because there are no rights to be enforced. . . . Whereas, to conclude, the judges of France owe themselves exclusively to their countrymen; besides, they could not order the execution of a foreign judgment without entering into a law of which they are ignorant, and by which aliens contracting together are exclusively bound:—Whereas, in point of fact, Muriel has never had in France neither authorised domicile nor commercial establishment, but a mere residence; that he falls under none of the exceptions where an alien may be cited before the French courts, receives the appeal and rejects the petition.

This decision, which I have translated as literally as possible, though it comes from a high authority whose judgments are generally of great weight, bears in its style and mode of argument and the repetition with which it abounds, a clear proof of the hasty manner in which it was drawn. But I have other and more material faults to find with it. The French courts have in general not shown themselves very liberal in their reception of the applications of strangers for justice against one another. They apply the rule *actor sequitur forum rei* to such cases very generally. But, as I shall at some future opportunity explain, they have of late shown a disposition to relax in their severity, and in many instances they have given their assistance to aliens against others, where the latter could not be made amenable to any other jurisdiction. Here is, however, and from very high authority, the first Section of the Imperial Court of Paris, a decision with quite contrary tendencies, which lays down principles most startlingly novel, and which could hardly be expected in those days of increased international communication. Till this judgment was given, few had dreamt that there was any doubt about the right of an alien to apply to the French courts for execution on a foreign judgment against another alien. The article 546 of the Code of Procedure, which regulates the execution of foreign judgments in France, says generally, "The judgments given by foreign courts, or acts of foreign officers, shall not be executed in France, except according to the enactment of the articles 2123 and 2128 of the Code Napoleon;" that is, that they must be declared executory by the French courts. The article 121 of the ordinance of 1629, from which the substance of the above articles is taken, is likewise general. It does not limit the possibility of being executed in France to such judgments of foreign courts as have been given between an alien and a French subject. Indeed, it contains a clause which seemed to give more full and uncontrolled operation to the foreign judgment where it is between aliens than where a French party is concerned. It runs thus, immediately after the laying down of the general rule:—"And notwithstanding such judgments, those of our subjects against whom they may have been given, shall be free to defend their rights as if they were entire before our judges." This clause has led many of the judges and text-writers to infer that where there was no French party ousted or condemned in the judgment, the merits of the case were not to be entered upon again; and that the court had no other duty to perform but simply to glance over the judgment to see whether the rules of public morality and policy and the general received rules as to jurisdiction had not been violated therein. That theory is, however, now exploded: at least, the weight of authority is against it, and it now begins to be generally understood that whether both parties are aliens or not, the court is justified in looking into the merits of the case, and trying it *de novo* from the very outset, though in general the gist of the examination of parties and witnesses, as it appears in the judgment of the foreign judges, is generally taken as evidence. Such was, till this judgment, the practice without distinction as to both or one of the parties being of alien status; nor do I think this judgment likely to arrest the current. The novelty of the doctrine it contains is certainly not legitimated by the vigour of the reasoning with which it is set forth, nor is it sufficiently in season to compensate for its other shortcomings. It is at the moment when France has thrown open her doors, and is preparing to do away with the terrors of those bugbears which scared away from her so many visitors,—the passport

office and the custom-house,—that foreigners are told that they may tread the soil of France as much as they please: that they may meet there, but that they may not deal together except at their peril; that France will give them everything except justice; that she will allow aliens dishonestly to walk her streets, and spend *as alienum* there in safety. I do not think, however, there is much danger of this new doctrine prevailing. The reasons on which it is grounded are hardly strong enough to overpower the array of authority which can be exhibited against it. That the alien has no claim upon the French courts is a proposition which many will dissent from, when they recollect that the alien on the French soil is not allowed the enjoyment of the natural rights of doing justice to himself, and that, therefore, he must be allowed the freedom of that legal succedaneum which society has substituted for the turbulent exercise of the same. The impossibility of the French judges understanding foreign law does not seem more conclusive, when one recollects that in many cases where French subjects are concerned, the French courts must do their best to understand and apply it—when, for example, a contract has been entered into by a French subject with an alien in a foreign country, or where a French subject is heir or legatee to an alien. Not to mention many other cases, these and the other arguments of the Court do not seem, therefore, sufficient to counterpoise that which is grounded on the terms of the various articles of the law (which I have given above), and on the rule *ubi lex non distinguit nec nos distinguere debemus*. The weight of authority, as I have already stated, is entirely against the decision of the Court, and I have every reason to believe that it would be set aside upon a writ of error in the Court of Cassation, which would be highly desirable.

Review.

What is Contraband of War and what is not; comprising all the American and English Authorities on the subject. By JOSEPH MOSELEY, Esq., B.C.L., Barrister-at-law. Butterworths. 1861.

Although the international law of contraband is in a very unsettled state, yet, owing to the authority which the works of the American authors, Kent, Story, Wheaton, Flanders, and Parsons, have in our Admiralty Courts, the American law on this branch of belligerent rights is almost identical with our own. This uniformity is still further insured by the deference paid in the American courts to the decisions of Sir William Scott, afterwards Lord Stowell. Moreover, the rules of the British Courts of Admiralty have been formally recognised by the supreme courts of the United States. The duties of an author on this branch of law, which has thus been so copiously treated of, cannot, therefore, be very onerous, especially as regards the bearings of the American code. A concise manual, describing the general principles of international law applicable to questions of contraband, and containing an abridged account of the leading cases which have settled this branch of law, would appear to be as easy of construction as it would doubtless be at the present time acceptable to the commercial as well as to the legal public. A *sine quâ non* of such a work is a good index. A practical treatise on any branch of international law should possess this adjunct, in order that its preventive cautions might be of use to the mercantile public. The present treatise, considered apart from its faults in point of style and grammar, is sufficiently accurate in its statement of received principles, and contains a good collection of decided points, with references to the cases in which they were adjudged, but is wanting in one of the main requisites of a work on contraband as it has no index.

The question whether any particular articles (except arms and ammunition) are contraband is a question rather of fact than of law, and is to be solved in each particular case by a reference to the intentions of the parties concerned as disclosed by the evidence rather than by the application of general principles of law. The work before us, therefore, correctly enough, is made up, to a great extent, of statements of decided points. A good index of the Admiralty cases which have settled the law of contraband is what is mainly desirable in a branch of law which is in little governed by first principles. Mr. Moseley's *a priori* speculations, so far as they go, do not appear to us to be calculated to promote much the interests of international jurisprudence. For instance, he disposes very summarily of an objection urged by Bynkerchoek against regarding as contraband everything that can be used for warlike purposes. Mr.

Moseley considers that swords and cannon are not solely used for these objects. He observes, "swords used as ornament are not articles *solely* applicable for war, nor are cannon, which are used for public rejoicing." We are entirely at a loss to understand how a belligerent inquisitor could foretell whether swords and cannon found in a neutral vessel would be used by the enemy for useful or merely for ornamental purposes; or whether the enemy might not possibly, on an emergency, use the swords not as pruning hooks but as instruments of warfare. The method pursued by the author in the compilation of this treatise is, indeed, an exceedingly good one. He first states, at the commencement of almost every chapter, the general rule evolved from the cases of which he gives a digest in the chapter.

The work itself, however, is penned very loosely, and shows but little regard on the part of the author for the graces of style, or even for the rules of grammar. Some of his rules are expressed in terms almost comic; others are sentimental in their nature. Of the first species we may give his first rule as an example—"Natural produce, neutrality, and nationality, make free goods." The author then adds in a note, "This might be called, perhaps, the rule of the three N's." The second of his rules is, that "doubtful goods of a doubtful power, bound to a doubtful port, will be free." The author, however, does not enunciate this canon as the rule of the three D's. We have, indeed, no objection to alliterate aids to memory. What appears really faulty in this book is its ungrammatical diction, and the want of an index. Of the class of sentimental axioms propounded by the author, let the following suffice as a specimen:—"A friend's ships in a foe's service are foes." Cervantes would, doubtless, limit the application of this axiom to sailing vessels. The next rule we meet with is as follows:—"Ships, and what ships are made from, in contraband of war, is the same thing." Again we find the proposition that "money, and what money stands for, in contraband of war, are liable." What the writer means by the second branch of his axiom is that bills, bonds, and notes represent money to all purposes as regards the law of contraband. The rule as to pre-emption, or the right of a belligerent to take such neutral goods as are capable of warlike use when destined for the enemy's service, the captor paying the price of the articles, is thus stated by the author—"In contraband, whatever may be of use in war, may be taken on payment." He thus describes the penalty for carrying contraband—"Contraband confiscates all of the same bulk and of the same owner." If brevity be the essence of wit, it is sometimes, also, the occasion of a confusion of ideas on the part of a sententious and personifying author. This book, although so faulty in diction and grammar, nevertheless explains the law of contraband concisely and as clearly as bad grammar allows. If revised by the author, and supplied with a copious index, it would, we think, be found generally useful.

Societies and Institutions.

INCORPORATED LAW SOCIETY.

ANNUAL REPORT OF THE COUNCIL TO THE GENERAL MEETING OF THE MEMBERS, JULY 2, 1861.

In obedience to the charter of incorporation and the constitution and laws of the Society, it now becomes the duty of the Council to present their Report for the year 1861;—to trace the progress and indicate the present position of the society, and of the profession with which it is so intimately connected, and for whose benefit it was called into existence;—to advert to the subjects which have occupied the attention of the Council since the last annual meeting;—to show that the Council have endeavoured at least, if not always successfully, to further the legitimate objects and to protect the just rights of the body whose representatives they are;—and to prove that they have not been wholly undeserving of the confidence which has been reposed in them—a confidence which was indispensable to their usefulness.

The Council feel that there is abundant cause for congratulation in the retrospect of the last few years. There is satisfactory evidence of a growing conviction among the members of the Government and the Legislature that the profession as a body are deserving of confidence, and are judicious and disinterested promoters of law amendment, and are qualified by their experience and legal information to render efficient service in the correction of old abuses. There is a marked improvement in the tone of the public mind with reference to the profession; vulgar and unjust prejudices are giving way to a more enlightened estimate of their value as members of this

great social community; and year by year increasing numbers of well-educated gentlemen, graduates of the universities and others, are entering the ranks of the profession.

These important and satisfactory changes are in a great degree attributable, as the Council believe, to the existence and influence of this and other kindred law societies in London and the provinces, and to the cordial manner in which those societies co-operate with each other.

I. LAW OF ATTORNEYS.

For obtaining the sanction of the Legislature to the important statute of last session for the amendment of the law of attorneys, arduous and persevering efforts were required, and though the Act when it received the Royal assent was not entirely satisfactory in some minor points, the Council confidently anticipate very beneficial results from its operation.

At the time of the general meeting on the 3rd of July, 1860, the Bill stood appointed for consideration in committee of the House of Commons. After numerous postponements it passed that House with several alterations, and on the 20th of August was returned to the House of Lords, where the alterations were adopted, and the Bill received the royal assent on the 28th August.

It may be useful to state shortly the scope of this statute, especially as some of its provisions are not always observed, and applications have to be made to the judges for orders to correct irregularities of procedure. [An analysis of the statute is here given. See the *Solicitors' Journal* for 1860, p. 880; and Public Statutes for 1860, p. 90.]

In order to ascertain the qualifications of clerks applying to be examined and admitted under the 4th section who have served three years only under articles, after a ten years' antecedent service in the transaction and performance of *business usually transacted and performed by attorneys or solicitors*, the examiners have issued an additional set of questions as to the nature of the business transacted during such antecedent clerkship. During the four terms which have elapsed since the Act passed, thirty-eight candidates have claimed the privilege given by the 4th section, and of these thirty-three were examined and passed.

In the course of the four terms no less than thirty-nine candidates whose articles expired in vacation have availed themselves of the privilege conferred by the 12th section of being examined in the preceding term.

It is very material to notice that, under the 7th section, articles of clerkship and assignments within three months after enrolment in one of the courts are to be produced to the registrar of attorneys, who is to enter the names of the parties and date of the contract on the register, otherwise the service will be reckoned only from the time of such production, unless the Court or a judge shall otherwise order.*

So, under the 30th section, commissions to administer oaths or take acknowledgments must be brought to the registrar, who shall enter the date and mark the same on the commissions before they can be acted upon.†

By the 21st section of the Attorneys' Act, when the certificate duty is paid after the 1st of January, the certificate must be produced to the registrar of attorneys at the Incorporated Law Society within a month from payment of the duty. If not, it has effect only from the time of production, unless an order be obtained from a judge to enter it *nunc pro tunc*.

It is also important to attend to the 10th section of the Attorneys' Act, by which an articulated clerk is prohibited from holding any office, or being engaged in any employment whatsoever, other than the employment of clerk to the attorney. Many applications have been made to the Council for their opinion as to clerks holding the appointment of deputy coroner, clerk to boards of guardians, agents to insurance offices, &c., and the parties have been referred to the stringent provision of the statute.

Their opinion has also been asked whether the service of an articulated clerk to an attorney who is acting as clerk to another attorney would be deemed good service under the 6 & 7 Vict. c. 73, s. 4, where the attorney acted as clerk in one town who had a practice of his own in another town, and the Council deem such service would not be sufficient.

In carrying into effect the 22nd section of the Attorneys' Act, by which the *Law List* is made *prima facie* evidence of

* From the passing of the Act in August last to the present time, the number of articles of clerkship registered has been 269—viz., 232 for five years, 14 graduates for three years, and 23 clerks for three years, besides 56 assignments for the residue of the term.

† There have been 70 chancery commissions registered; 230 common law, and 40 perpetual commissions.

the right to practise, it was thought desirable that all the places of business of attorneys who practised at several towns should be inserted at each, thus making the list more complete, and removing a serious inconvenience under which attorneys sending writs and other legal documents to country attorneys have hitherto laboured.

The Council have had before them several instances of delay in the service of process, when sent to an attorney entered in the *Law List* as of a town where he only attended on market days. It is expected that under the provisions of the Act attorneys will insert those places only at which they have an office; and no doubt in sending process to an attorney for service one will be selected who, having one place of business only, may be assumed to reside as well as practise there. The list of London attorneys already contains both addresses where a London attorney also practices at some adjacent country place.

In addition to this improvement, the *Law List* now contains the dates of the admission on the roll of attorneys; and the name of each member of a firm practising in the country is placed in alphabetical order as in the London list.

Pursuant to the 31st section of the Act applications have been made to the officers of the several courts for lists of the authorities and appointments now in force granted to attorneys, solicitors, proctors, or others, enabling them to administer oaths and take acknowledgments, declarations, and affirmations, whether such authority be to act in England, or elsewhere, in order to form a complete register of such authorities and appointments, with the places of business of the persons so appointed, and the extent of the authority conferred.

On applications to the High Court of Admiralty for admission as a commissioner to administer oaths in admiralty, the judge has been pleased to direct that the testimonials in support of the application should be sent to the Council for investigation, and they make the requisite inquiries into the character and professional position of the applicants, and report the result.

The Council, having been instrumental in urging upon the Legislature the expediency of the examinations prescribed by the 5th and 8th sections of the Act, on subjects of general knowledge before or during articles, and by the 9th section in legal knowledge during articles, felt that the duty devolved on them of offering to the judges suggestions for carrying those sections into effect.

The Council therefore referred the subject to a committee of their body, who, after having made extensive inquiries for the purpose of obtaining information to guide their judgment, presented a preliminary report, which was widely circulated by the Council among the members of the society, and the several law societies in London and the country. Copies were also sent to the masters of the several courts of law, and all were invited to express their opinions on the subject. The suggestions thus elicited by the Council enabled the committee materially to improve their report, and the Council believe that the revised report, as adopted by them, expressed the opinions and wishes of a very large proportion of the attorneys and solicitors of England.

They transmitted copies of the revised report to the Lord Chief Justice, Master of the Rolls, and Lord Chief Baron, and solicited them to take the report into their favourable consideration, and to make such regulations as might appear to them calculated to carry into effect the intentions of the Legislature, and to confer on the public the advantages which must result from having well-educated, intelligent, and honourable legal advisers.

The report was sent to the judges in the early part of Easter Term, and the Council have recently received from them a communication which leads the Council to believe that, with some modification of one of the suggestions, the scheme contained in the report will be adopted.*

It may here be added, with respect to the examinations in *legal knowledge*, that in the course of the last four Terms 477 candidates have been examined, of whom 417 were passed and 60 postponed. To the first class of the successful candidates 18 prizes were awarded; and to the second class 24 certificates of merit; a favourable notice was also given by the examiners to 25 candidates who were above the age of 26. The names of all these gentlemen are given in an appendix to this report.

II. ALTERATIONS IN THE LAW.

[The Council here enumerate the various Acts of Parliament affecting the profession which were passed, after the previous

* The Rules were made on the 26th July, and a printed copy will be sent by the Council to every attorney. [They are printed *ante*, p. 696.]

annual general meeting of the society, up to the 2nd of July, 1861.]

III. BILLS IN PARLIAMENT.

During the remainder of the last session the Council continued to watch the progress of such of the Bills as affect the duties or interests of practitioners; and they have also taken into consideration the several Bills introduced in the present session of Parliament relating to the following subjects:—*

- * Bankruptcy and Insolvency.
- Constructive Notice of Incumbrances.
- * Wills of Personalty.
- Disgavelling Lands.
- * Drainage of Lands.
- Trustees of Charities.
- Trade Marks.
- Copyright.
- Lunacy Regulation.
- County Courts Procedure.
- Recovery of Debts and Frivolous Defences.
- * Criminal Law Consolidation.
- * Probate Stamp Duties.
- * Inland Revenue.
- * Crown Suits Limitation.
- * Attorneys and Solicitors (Ireland).
- * Statute Law Revision.
- * East India Courts.
- * Wills and Domicile.

The Council received several communications from attorneys and solicitors in the provinces on the subject of the resolution proposed to be moved by the Chancellor of the Exchequer in Committee of Ways and Means, that "there shall be charged for and upon a licence to be taken out yearly by every person who shall use or exercise the *business, occupation, or calling of a house agent*, not being an auctioneer or an appraiser duly licensed as such, the stamp duty of £2."

The communications expressed apprehension that attorneys and solicitors, especially those practising in the country, might be liable to the payment of this tax, many of them having the management of the house properties of their clients, and letting the houses and transacting that description of business connected with house property, which in London is ordinarily under the charge of house agents.

Considering that attorneys and solicitors pay an annual certificate duty of £9 in London and £6 in the country, the Council addressed a letter to the Chancellor of the Exchequer, suggesting that attorneys and solicitors duly authorised to practise as such, should be excepted from the operation of the tax, as well as auctioneers and appraisers duly licensed as such.

In answer to their letter, the Council received a communication from the Chancellor of the Exchequer to the effect that there is no intention of imposing any additional charge upon attorneys, and a proviso has accordingly been introduced, expressly exempting certificated attorneys.

This Bill received the royal assent on the 28th of June.

A select committee of the House of Commons having been appointed to consider the assessments made in respect of different kinds of property, real and personal, the Council have assisted their brethren in preparing petitions to the House of Commons, setting forth the several heavy taxes by which they are already burdened, the uncertainty of professional incomes, and the moderate amount at which the practice of an attorney or solicitor can be estimated, either when he disposes of it when he retires, or is compelled by illness to relinquish.

The Commissioners of Inland Revenue authorised their officer to state that a written authority from a vendor to a purchaser to pay the purchase-money to the solicitor of the former on completing the purchase, is not an instrument chargeable with any stamp duty.

IV. CONCENTRATION OF THE COURTS AND OFFICES.

Soon after the last general meeting, the Commissioners on the Concentration of the Courts and Offices made their report in favour of the site suggested by this society, lying between Lincoln's-inn and the Temple, and extending from this institution to Clement's-inn and New-inn; and the report conclusively showed that the accumulation of surplus interest for upwards of a century in the Court of Chancery might justly be applied towards the purchase of the site and the expense of the building. [See S. J. for 1860, p. 715.]

The Council sent a print of this report to all the members of the society, and deputations from the Council attended the Prime Minister, the Chancellor of the Exchequer, and the

* Marked thus have passed, the rest have been postponed.

Chief Commissioner of Public Works, and assistance was given in the preparation of Bills for the acquisition of the site, and appropriating the requisite funds. The Government authorised surveys and estimates to be made, and notices to be given to the owners and occupiers of the site. Some delay has taken place from the pressure of other public business in forwarding the Bills through Parliament, but they are making progress, and it is hoped they may be passed during the session.

V. CHANCERY EVIDENCE COMMISSION.

The commissioners appointed to enquire into the mode of taking evidence in the Court of Chancery, one of whom was a member of the Council, made their report on the 28th of June last year, and the great importance of the matter induced the Council to supply the members with printed copies thereof. As stated in the last annual report, the Council and their equity committee supplied many suggestions during the progress of the measure, and an Act passed authorising the judges to make rules and orders for carrying the recommendations of the commissioners into effect.

(To be continued.)

In the Court of Bankruptcy, on the 18th inst., in a case of no public importance, Mr. Commissioner Goulburn took occasion to remark upon the absence of the solicitor for the assignees. He said that it was a very common practice for solicitors to send their clerks to that court. The Act did not allow him to hear solicitors' clerks, nor would he do so. He must put a stop to the custom referred to. For the future the fee of every solicitor for the assignees attending only by his clerk would be disallowed upon taxation.

Births, Marriages, and Deaths.

BIRTHS.

CURRY—On Sept. 12, at Maidenhead, the wife of Frederick Curry, Esq., Barrister-at-Law, of a son, still-born.

MARRIAGES.

BROOMHEAD—SHIRT—On Sept. 12, Barnard P. Broomhead, Esq., Solicitor and Notary, to Matilda Staveley, daughter of John Staveley Shirt, Esq., of Wales, Yorkshire.

CABELL—LAWSON—On Sept. 12, William Lloyd Cabell, Esq., of Lincoln's-inn, Barrister-at-Law, to Fanny Harriott, daughter of the Rev. G. R. Lawson, vicar of Pitminster.

CHURCHER—GREENFIELD—On Sept. 4, J. Churcher, Esq., R.N., to Emma, daughter of the late Thomas Greenfield, Esq., Solicitor, Winchester.

M'CULLOCH—CASWELL—On Sept. 10, Samuel M'Culloch, Esq., Barrister-at-Law, of the Middle Temple, to Nessie, daughter of the late Capt. W. Caswell, R.N., of Balickera, William's River, Australia.

DEATHS.

DICKSON—On Sept. 7, at Edinburgh, Mary Campbell Johnstone, wife of Samuel Dickson, Esq., Writer to the Signet.

MAUDE—On Sept. 9, at Champéry, Switzerland, Arthur Grey Maude, Esq., of Great George-street, Westminster, and of the Sessions House, Clerkenwell.

London Gazettes.

Windings-up of Joint Stock Companies.

TUESDAY, Sept. 17, 1861.

ENGLISH AND IRISH CHURCH AND UNIVERSITY ASSURANCE SOCIETY.—Petition for winding up, presented September 3, will be heard before V.C. Wood, on the first petition day in Michaelmas Term. *Sols.* Langford & Marsden, 59, Friday-street, Cheap-side.

FRIDAY, Sept. 20, 1861.

LIMITED IN BANKRUPTCY.

VALE OF CLWYD MINING COMPANY (LIMITED).—Order to wind up made by Commissioner Holroyd, Sept. 11. Same time, George John Graham, 25, Coleman-street, London, was appointed official liquidator. Creditors to prove their debts before Commissioner Fonblanque, on Oct. 16, at 11.30.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Sept. 17, 1861.

AMES, JOHN, Gent., Bedminster, Somerset. *Sols.* Davis & Fry, Shannon-court, Bristol. Oct. 21.

ATTWOOD, WILLIAM, Grocer, St. Alban's, Hertfordshire. *Sol.* Blagg, St. Alban's. Nov. 2.

FOXWELL, WILLIAM, Gent., Bridgewater, Somersetshire. *Sol.* Smith, Bridgewater. Dec. 2.

GULLIFORD, THOMAS, Gent., Shoscombe, Wellow, Somersetshire. *Sols.* Skurray & Son, 2, Chapel-row, Queen-square, Bath. Nov. 15.

MORLEY, ARTHUR, Hosier, Nottingham, and also of Sneinton, Nottingham. *Sols.* Sawyer & Brettel, 2, Staple-inn, London, and Wells, Fletcher-gate, Nottingham. Nov. 16.

OSMAN, WILLIAM, Brewer & Licensed Victualler, The Two Brewers, Mason's Hill, Bromley, Kent. *Sol.* Leitch, 8, Bartlett's-buildings, London. Nov. 30.

SACHS, HERMANN, Bead Merchant, born in Hirschberg, Silesia, formerly of 76, Newgate-street, London, and late of King-street, Holborn, Middlesex. *Sols.* Sydney & Son, 64, Finsbury Circus, London. Oct. 15.

SPRADBURY, GEORGE JOHN, Licensed Victualler, Castle Inn, Old Kent-road, Surrey. *Sol.* King, 5, South square, Gray's-inn, Middlesex. Oct. 24.

FRIDAY, Sept. 20, 1861.

FILDER, MOSES, Gent., Eastbourne, Sussex. *Sols.* Gell & Son, Lewes. Nov. 16.

FORRESTER, JOSEPH JAMES, Merchant, Crutched Friars, London, and Oporto. *Sols.* W. & H. F. Sharp, 92, Gresham-house, Old Broad-street. Dec. 15.

NORRIS, JAMES, Farmer and Market Gardener, Sion-hill, Isleworth, Middlesex. *Sols.* Woodbridge & Son, 8, Clifford's-inn, Fleet-street, London, and Brentford, Middlesex. Nov. 18.

SANDYS, ANN EMMA CHARLOTTE SOPHIA, Widow, Plymouth. *Sols.* Elworthy, Curds, & Dawe, Plymouth. Oct. 28.

STACEY, CHARLES, Elstree, Aldenham, Hertfordshire. *Sol.* George, Wood-street, Chipping Barnet, Hertfordshire. Nov. 21.

Creditors under Estates in Chancery.

TUESDAY, Sept. 17, 1861.

GLOVER, RICHARD HAY, Merchant, Gibraltar, and late of Clifford street, Bond-street, London. *Glover v. Heelis, V.C. Wood.* Nov. 20.

FRIDAY, Sept. 20, 1861.

ELDSFORTH, ANTHONY, Esq., Poulton Hall, Lancashire. *Eldsforth v. Eldsforth, M.R.* Nov. 25.

FENTON, GEORGE, Baker, Kensall-green, Harrow-road, Middlesex. *Lucas v. Fenton, V.C. Kindersley.* Nov. 27.

WHOLEY, THOMAS CROSSBY, Grocer, Gainsborough, Lincolnshire. *Markham v. Wholey, V.C. Wood.* Nov. 4.

(County Palatine of Lancaster.)

STATTER, GEORGE, Gent., Bird-hole, Bury, Lancashire. Office of Registrar, 4, Norfolk-street, Manchester. Oct. 14.

Assignments for Benefit of Creditors

TUESDAY, Sept. 17, 1861.

BOTHAMLEY, CHARLES PARKINSON, Grocer, Gainsborough, Lincolnshire. *Sol.* Oldman, Gainsborough. Aug. 30.

COCKILL, JOSEPH, Farmer & Wool-buyer, Retford, Nottinghamshire. *Sols.* Burnaby & Denman, East Retford. Sept. 3.

GUMBRELL, EDWARD, Draper, Dorking, Surrey. *Sol.* Sole, 63, Alderman-bury, London. Sept. 13.

HARRIS, CHARLES, Ironmonger, Stratford, Essex. *Sol.* Sole, Alderman-bury, London. Aug. 26.

HICKS, GEORGE, Ship Chandler, Calstock, Cornwall. *Sols.* Roacher, Lavers, & Matthews, Plymouth. Sept. 2.

JONES, THOMAS, Farmer, Bryn, Glaschw, Radnor. *Sols.* Bodenham & Temple, Kingston. Sept. 13.

KING, FREDERICK, Inn Keeper, Rye, Sussex. *Sol.* Butler, Rye. Sept. 3.

LEIGH, HENRY JONES, Draper, 76, Leather-lane, Holborn, Middlesex. *Sol.* Turner, 68, Aldermanbury. Sept. 3.

NICHOLSON, EDWARD, Grocer, Seaham Harbour, Durham. *Sols.* Rawson & Son, Sunderland. Sept. 3.

QUICK, WILLIAM, Grocer & Tea Dealer, Camborne, Cornwall. *Sols.* Roscoria & Davies, Penzance. Sept. 7.

THORP, ABEL, Woollen Cloth Manufacturer, Meltham, Almondbury, Yorkshire. *Sol.* Booth, Holmfirth. Aug. 27.

WATERFIELD, JOSEPH, Furniture Dealer, Peterborough. *Sol.* Deacon, Peterborough. Sept. 11.

FRIDAY, Sept. 20, 1861.

COVERDALE, JOHN, Grocer & Provision Dealer, Thirsk, Yorkshire. *Sol.* Rider, Thirsk. Sept. 13.

HOLE, WILLIAM, Grocer & Butcher, Bulwell, Nottinghamshire. *Sol.* Sleinton, St. Peter's Gate, Nottingham. Aug. 20.

LILLEY, JAMES, Brick & Tile Manufacturer & Victualler, Starton by Stowe, Lincoln. *Sol.* Plaskitt, Gainsborough. Sept. 13.

MOSGROVE, GEORGE, Draper, Rawtenstall, Lancashire. *Sols.* Sale, Worthington, Shipman, & Seddon, 29, Booth-street, Manchester. Aug. 31.

STRITTON, JOHN, Draper, Newton Abbot, Devonshire. *Sols.* D'Arcy & Beachey, Newton Abbot. Sept. 7.

UNDERWOOD, JOHN, Draper, Daventry, Northamptonshire. *Sols.* Parker, Lee & Haddock, 18, St. Paul's Church-yard. Aug. 31.

WRAGO, WILLIAM, Machine Builder, Beeston, Nottinghamshire. *Sols.* Campbell, Burton, & Browne, Nottingham. Sept. 14.

Bankrupts.

TUESDAY, Sept. 17, 1861.

ALFORTH, CHARLES EDWARD, Timber Dealer, 10, Lonsdale-terrace, Barnes, Surrey. *Com.* Holroyd: Sept. 28, at 12; and Oct. 29, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* White & Sons, Bedford-row, London; or Wood, Bristol. *Pet.* Sept. 12.

BACON, STEPHEN, Corn & Coal Merchant, 2, Northampton-place, 48A Kent-road, Surrey. *Com.* Goulburn: Sept. 27, at 12; and Oct. 28, at 11.30; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Keen, 77, Lower Thames-street, London. *Pet.* Sept. 16.

BANFIELD, JOHN, Organ Builder, Handsworth, Staffordshire. *Com.* Sanders: Sept. 27 and Oct. 25, at 11; Birmingham. *Off. Ass.* Kincaid. *Sols.* Harrison & Wood, Birmingham. *Pet.* Sept. 14.

BLOW, ALFRED, Mill Band Maker, 15, Great Charles-street, Birmingham. *Com.* Sanders: Sept. 27 and Oct. 25, at 11; Birmingham. *Off. Ass.* Whitmore. *Sol.* Duke, Birmingham. *Pet.* Sept. 13.

FARSON, WILLIAM, Miller, Horncastle, Lincolnshire. *Com.* Ayrton: Oct. 2 and 30, at 12; Kingston-upon-Hull. *Off. Ass.* Carrick. *Sol.* Bean, Boston. *Pet.* Sept. 9.

FIELDING, AARON, Grocer & Corn Dealer, Glossop, Derbyshire. *Com.* Jemmett: Oct. 1 and 29, at 12; Manchester. *Off. Ass.* Hermonian. *Sol.* Reddish, 52, Princes-street, Manchester. *Pet.* Sept. 10.

GREATOREX, WILLIAM, Boot and Shoe Manufacturer, Leicester. Com. Sanders: Oct. 3 and 24, at 11; Nottingham. *Off. Ass. Harris. Sol. Pike, Leicester. Pet. Sept. 12.*

GREEN, WILLIAM, Cartman & Carrier, 1, Bear-lane, Blackfriars-road, Surrey. Com. Goulburn: Sept. 26, at 12; and Oct. 28, at 1; Basinghall-street. *Off. Ass. Pennell. Sol. Howard, Quality-court, Chancery-lane, London. Pet. Sept. 16.*

HARRALL, JOHN MILLS, Cloth Finisher, Huddersfield (Joseph Shaw & Co.). Com. Ayrton: Sept. 27 and Nov. 4, at 11; Leeds. *Off. Ass. Hope. Sol. Jessop, Huddersfield; or Bond & Barwick, Leeds. Pet. Sept. 10.*

HEARD, HENRY CLEMENT, Newspaper Proprietor, Apothecary, Chemist, & Druggist, Bridgewater. Com. Andrews: Oct. 1 and 29, at 12; Exeter. *Off. Ass. Hirtzel. Sol. Smith, Bridgewater; or Turner & Hirtzel, Exeter. Pet. Sept. 12.*

JAMES, WILLIAM CONWAY, Tin Plate Manufacturer, Pontnewydd Tin Works, Llanvrechva Lower, Monmouthshire. Com. Hill: Oct. 1 and 29, at 11; Bristol. *Off. Ass. Acraman. Sol. Devan, Girling, & Press, Bristol. Pet. Aug. 27.*

MAMBY, JOHN, Grocer & Provision Dealer, Newcastle-under-Lyme, Staffordshire. Com. Sanders: Sept. 30 and Oct. 21, at 11; Birmingham. *Off. Ass. Whitmore. Sol. Hodgson & Allen, Birmingham; or Dutton, Birmingham. Pet. Sept. 14.*

MAYES, HARLEY JOHN, Cattle Dealer, Stoke Ferry, Norfolk. Com. Holroyd: Sept. 28, at 12.30; and Nov. 1, at 1; Basinghall-street. *Off. Ass. Edwards. Sol. Sole, Turner, & Turner, 69, Aldermanbury, London; or Miller, Son, & Bugg, Norwich. Pet. Sept. 9.*

PENTON, GEORGE, Malster, Basingstoke, Hants. Com. Holroyd: Sept. 27, at 2.30; and Nov. 1, at 2; Basinghall-street. *Off. Ass. Edwards. Sol. John & Weatheralls, Temple, London; or Lamb, Brooks, & Challis, Basingstoke, Hants. Pet. Sept. 7.*

PLATT, JOHN, Furniture Dealer, Oldham, Lancashire. Com. Jemmett: Oct. 1 and 29, at 12; Manchester. *Off. Ass. Fraser. Sol. G. & R. W. Marsland, Manchester. Pet. Sept. 4.*

RAMSAY, DAVID, Merchant, Melbourne, Victoria, and Forest-hill, Kent. Com. Holroyd: Sept. 27, at 1, and Nov. 1, at 12; Basinghall-street. *Off. Ass. Edwards. Sol. Linklater & Hackwood, 7, Walbrook, London. Pet. Sept. 13.*

FRIDAY, Sept. 20, 1861.

BELFORD, MARY ANN, Innkeeper, late of Fremantle, Southampton, and since of the Royal George Hotel, High-street, Southampton. Com. Goulburn: Oct. 1, at 11.30; and Nov. 4, at 1; Basinghall-street. *Off. Ass. Pennell. Sol. Howard, Halse, & Trustram, 66, Paternoster-row, London. Pet. Sept. 19.*

JEFFRIES, RICHARD, Bleacher, Chapel-en-le-Frith, Derby. Com. Jemmett: Oct. 4, and Nov. 6, at 12; Manchester. *Off. Ass. Fraser. Sol. Cobbett & Wheeler, Manchester. Pet. Sept. 18.*

JEPSON, WILLIAM, and DENNIS PICKUP, Cotton Manufacturers, Blackburn, Lancaster (Jessop & Pickup). Com. Jemmett: Oct. 4 and Nov. 1, at 12; Manchester. *Off. Ass. Pott. Sol. Cobbett & Wheeler, Manchester. Pet. Sept. 13.*

MAITLAND, FRANCIS, Grocer & Tea Dealer, Newcastle-upon-Tyne. Com. Ellison: Oct. 2, at 11.30; and Oct. 30, at 12; Newcastle-upon-Tyne. *Off. Ass. Baker. Sol. J. & R. S. Watson, Dean-street, Newcastle-upon-Tyne. Pet. Sept. 13.*

MORGAN, JAMES, Printer, Stationer, & Bookseller, 48, Upper Marylebone-street, Portland-place, Middlesex. Com. Goulburn: Oct. 1, at 11; and Nov. 4, at 12; Basinghall-street. *Off. Ass. Pennell. Sol. Paterson & Longman, 3, Winchester-buildings, London. Pet. Sept. 19.*

SHACKELL, THOMAS, Woollen Merchant, High-street, Bristol. Com. Hill: Sept. 30 and Oct. 29, at 11; Bristol. *Off. Ass. Miller. Sol. Miller, Bristol. Pet. Sept. 16.*

TALL, JOHN, Tar & Turpentine Distiller, Kingston-upon-Hull (John Tall & Co.). Com. Ayrton: Oct. 2 and 30, at 12; Kingston-upon-Hull. *Off. Ass. Carrick. Sol. England, Saxelbye, & Roberts, Hull. Pet. Sept. 5.*

BANKRUPTCY ANNULLED.

FRIDAY, Sept. 20, 1861.

SUGDEN, JOHN, Builder, 1, Charles-terrace, Paxton Park, Sydenham, Kent. Sept. 17.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Sept. 17, 1861.

WILLIAM MATTHIAS BRUSTER, Letter Press Printer, Swansea, Glamorgan-shire. Oct. 9, at 11; Basinghall-street.—**JAMES ALFRED AXTELL**, WILLIAM RUDD KNIGHTS, & WILLIAM AXTELL, Tanners, 1, White's-grounds, Bermondsey, Surrey, and of St. Neots, Huntingdonshire. Oct. 9, at 11.30; Basinghall-street.—**WILLIAM BOUND**, Jun., Corn & Seed Merchant, Hanworthy, Poole, and Paradise-street, Poole. Oct. 9, at 12; Basinghall-street.—**NATHAN AARON JOSEPH**, Importer of Foreign Goods, 19, Vine-street, Minorities, London (N. A. Joseph & Co.). Oct. 10, at 1; Basinghall-street.—**THOMAS NEWMAN**, General Shop Keeper, Hindolveston, Norfolk. Oct. 10, at 11; Basinghall-street.—**HENRY NORRIS** & **WILLIAM NORRIS**, Jun., Builders, Maro-street, Hackney, Middlesex (Norris Brothers). Oct. 10, at 12; Basinghall-street.—**ARTHUR SMITH**, Engineer, Paragon-buildings, New Kent-road, Surrey. Oct. 12, at 11; Basinghall-street.—**THOMAS TUCKER**, Jun., Lamp Manufacturer, Gas Fitter, & Dealer in Oil and Candles, 190, Strand, and Essex Works, Water-street, Strand (Tucker & Son). Oct. 12, at 12; Basinghall-street.—**EDWARD JOHN HEARD** & **JAMES JOHN WALTERS**, Packing Case Manufacturers, Norway Wharf, Wapping Wall, Middlesex; joint estate. Oct. 10, at 12; Basinghall-street. Same time, separate estate of Edward John Heard.—**MATRICE MONTFLORE JOSEPH** & **LUDOVICK CARMICHAEL**, Merchants, Calcutta, and Liverpool (Montflore, Carmichael, & Co.). Oct. 9, at 12; Basinghall-street.—**SUDAN CATHERINE HARRISON**, Innkeeper, Ipswich. Oct. 10, at 12.30; Basinghall-street.—**JOHN GURNEY MASON**, Ironmonger, Ironmonger-street, Stamford, Lincolnshire. Oct. 10, at 12; Basinghall-street.—**JAMES SMITH**, Cartman and Contractor, 19, Hope Wharf, Macclesfield-street, City-road, Middlesex. Oct. 10, at 11.30; Basinghall-street.—**WILLIAM CASH**, Grocer, High-street, Portland town, Middlesex, and Peterborough, Northamptonshire. Oct. 10, at 12; Basinghall-street.—**ISAAC BROWN**, Wine Merchant, late of Brabant-court, Philpot-lane, London, but now of 25, Philpot lane. Oct. 10, at 11.30; Basinghall-street.—**JOHN LARGE**, Cattle & Sheep Salesman, Upton, Berks. Oct. 9, at 1; Basinghall-street.—**GEORGE HENNER**, Railway Contractor, Ship Owner, Engineer, Timber Merchant, Lime Burner, & Coal Merchant, 24, Duke-street, Westminster, Middlesex. Oct. 9, at 12; Basinghall-street.—**GEORGE HORSLEY**, Gas-fitter & Engineer, 13, West Front, Kingsland-place, Southampton. Oct.

10, at 11.30; Basinghall-street.—**JAMES FREDERICK INGLEDEW**, Coal Merchant & Furniture Dealer, 20, St. James-street, and 7, Rock-place, Brighton. Oct. 10, at 11; Basinghall-street.—**WILLIAM PORTER**, Linen Draper & Hatter, 5, Bond-street, Brighton. Oct. 8, at 11; Basinghall-street.—**JAMES HERBERT SMITH**, Tanner, Wyld's-tenns, Bermondsey, Surrey. Oct. 8, at 12; Basinghall-street.—**EDWARD HERRING**, Manufacturing Chemist, Trinity-street, Southwark, Surrey (British and Foreign Alkaloid Co.). Oct. 9, at 12; Basinghall-street.—**JOSEPH CHADWICK**, Stone Merchant, Willington-wharf, Augustus-street, Regent's-park, Middlesex. Oct. 8, at 12; Basinghall-street.—**JAMES THOMAS**, Builder, Abingdon, Berks, and Brickmaker, Culham, Oxfordshire. Oct. 8, at 11.30; Basinghall-street.—**LEWIS POWELL**, Builder, Plumber, Painter, Glazier, & Decorator, 2 Chapel-place, Cavendish-square, Middlesex (Lewis Powell & Co.). Oct. 8, at 11; Basinghall-street.—**FREDERICK FRANCIS FOX**, Tailor, 131, Fenchurch-street, London. Oct. 8, at 11; Basinghall-street.—**CHARLES McLOUGHLIN**, Gun Maker, 69, High-street, Cheltenham, Gloucestershire. Oct. 10, at 11; Bristol.—**JAMES ROGERSON**, Linen and Woollen Draper, East Hartlepool, Durham. Oct. 10, at 12; Newcastle-upon-Tyne.—**JAMES WILLIAM GREGORY**, Grocer, Halifax. Oct. 11, at 11; Leeds.—**MAJOR GLUCKSTEIN**, Tobacconist, Leeds. Oct. 8, at 11; Leeds.—**DAVID APPLEYARD**, **THOMAS WIGGLESWORTH**, **JOHN EGHERTON**, & **ENGINEER CLEGG**, Machine Makers, Leeds. Oct. 10, at 12; Leeds.—**SAMUEL LEES**, Grocer & Draper, Meltham, Almondsbury, York. Oct. 10, at 12; Leeds.—**JONATHAN HAINSWORTH**, Plumber & Glazier, Halifax. Oct. 8, at 11; Leeds.—**THOMAS GOMLAY**, Draper, Bradford. Oct. 8, at 11; Leeds.—**JOSEPH HAMERTON**, Worsted Manufacturer, Dam Head Mill, Shibden, Yorkshire. Oct. 8, at 11; Leeds.—**ARTHUR JACKSON** & **RICHARD MICHELS EASTMAN**, Brokers & Commission Agents, Liverpool. Oct. 7, at 12; Leeds. Sep. est. of Richard Michele Eastman.—**EDWARD HEATHCOTE**, Grocer, Rock Ferry, Chester. Oct. 7, at 12; Liverpool.—**JAMES BROADBENT HERBERT** & **EDWARD HINDLEY**, Coal Factors, Liverpool. Oct. 7, at 12; Liverpool.—**THOMAS ISLAM** & **VINCENT WANO-STROCHT**, Brokers & Shipowners, Liverpool. Oct. 7, at 12; Liverpool.—**WILLIAM FAWCETT**, Merchant & Iron Founder, Liverpool. Oct. 7, at 12; Liverpool.—**JOHN ANDREW CHRISTIAN REIMANN** & **JOHN GEORGE GILLER**, Merchants, Liverpool. Oct. 7, at 12; Liverpool.—**JOHN ULWIN**, Baker & Flour & Provision Dealer, Seacombe, Cheshire. Oct. 7, at 12; Liverpool.—**RAINES WAITE APPLETON**, Merchant, Liverpool. Oct. 7, at 12; Liverpool.—**JOHN MERTON** & **THOMAS BRECK INGHAM**, Glass Manufacturers, St. Helens, Lancashire. Oct. 8, at 11; Liverpool. Sep. est. of John Merton.—**CHARLES BRITAIN**, Builder & Brick Maker, Dacre-hill, Bebbington, Cheshire. Oct. 8, at 11; Liverpool.—**THOMAS PUGH JONES**, Boot & Shoe Manufacturer, 108, Mill-street, Toxteth-park, Liverpool, and 106, Brownlow-hill, Liverpool. Oct. 8, at 11; Liverpool.—**JOSEPH R. PIM**, Brickmaker, Birkenhead, Cheshire. Oct. 8, at 11; Liverpool.—**HUGH MACKAY** & **WILLIAM BISHTON DAVIES**, Shipwrights Ship Dealers, Liverpool. Oct. 8, at 11; Liverpool.—**ENOCH FAIRBANKS**, Grocer, Ormskirk, Lancashire. Oct. 8, at 11; Liverpool.—**JOHN MOSSET**, Provision Dealer, Liverpool. Oct. 8, at 11; Liverpool.—**JAMES MORISON** & **LARS OSCAR ABELIN**, Ship Chandlers, Liverpool. Oct. 8, at 11; Liverpool.—**JOHN WILKINSON**, Iron Master, Brynbo, Denbigh. Oct. 7, at 12; Liverpool.—**HENRY DAVIES** & **WILLIAM DAVIES**, Stock & Share Brokers, Liverpool. Oct. 7, at 12; Liverpool.

FRIDAY, Sept. 20, 1861.

GEORGE PERKINS, Earthenware Dealer, Bank-street, Ashford, Kent. Oct. 11, at 12; Basinghall-street.—**WILLIAM ROBERTS**, Grocer, King's Lynn, Norfolk. Oct. 21, at 11.30; Basinghall-street.—**JOHN WILLIAM NYREN** & **ADAM WILSON**, Colour Manufacturers, Battersea, Surrey. Oct. 29, at 12; Basinghall-street; sep. est. of Adam Wilson.—**JAMES CAUDWELL**, Coal & Coke Merchant, Southwell, Nottingham. Oct. 10, at 11; Nottingham (and not Birmingham, as advertised in *Gazette* of the 10th Inst.).—**JOHN HOBSON**, Grocer, Leeds. Oct. 11, at 11; Leeds.—**THOMAS HASTINGS INWIN**, Stock & Share Broker, Liverpool. Sept. 10, at 11; Liverpool.—**ELIEZER TIMWELL**, Cart Owner & Carrier, 7, Castle-street, Kirkdale, Lancaster. Oct. 11, at 11; Liverpool.—**WILLIAM HENRY NORTH**, Grocer, Liverpool. Oct. 11, at 11; Liverpool.—**JOHN CUBBON**, Joiner & Builder, Liverpool. Oct. 11, at 11; Liverpool.—**RICHARD HARRISON** & **JOHN SHERRATT**, Builders & Timber Merchants, Saint Helens, Lancashire; also separate estate of John Sherratt. Oct. 11, at 11; Liverpool.

UNITED KINGDOM LIFE ASSURANCE COMPANY,

No. 8, WATERLOO PLACE, Pall Mall, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable upto Dec., 1854.
£5,000	£1,987 10	£6,987 10
1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1860, amounted to £730,000 7s. 10d., all of which had been invested in Government and other approved securities.

No charge for Volunteer Military Corps while serving in the United Kingdom.

Policy stamps paid by the office.

For prospectuses, &c., apply to the Resident Director, No. 8, Waterloo-place, Pall-mall.

By order,

E. L. BOYD, Resident Director.

GUARDIAN FIRE AND LIFE ASSURANCE COMPANY, No. 11, Lombard-street, London, E.C.

Established 1821.

CAPITAL SUBSCRIBED, TWO MILLIONS. PAID UP, ONE MILLION.

DIRECTORS.

HENRY VIGORS, Esq., Chairman.

Sir MILES T. FARQUHAR, Bart., M.P., Deputy Chairman.

Henry Hulse Berens, Esq.

Charles William Curtis, Esq.

Chas. F. Deves, Esq.

Francis Hart Dyke, Esq.

Sir Walter R. Farquhar, Bart.

Thomson Hankey, Esq., M.P.

John Harvey, Esq.

John G. Hubbard, Esq., M.P.

John Labouchere, Esq.

John Martin, Esq.

Rowland Mitchell, Esq.

James Morris, Esq.

Henry Norman, Esq.

Henry R. Reynolds, Esq.

John Thornton, Esq.

James Tulloch, Esq.

AUDITORS.

Lewis Lloyd, Esq.

John Henry Smith, Esq.

Henry Sykes Thomson, Esq.

Cornelius Payne, Jun., Esq.

Thomas Tallmarch, Esq., Secretary. — Samuel Brown, Esq., Actuary.

LIFE DEPARTMENT.—Under the provisions of an Act of Parliament, this Company now offers to new Insurers EIGHTY PER CENT of the PROFITS, AT QUINQUENNIAL DIVISIONS, OR A LOW RATE OF PREMIUM, without participation of Profits.

Since the establishment of the Company in 1821, the Amount of Profits allotted to the Assured has exceeded in Cash value £600,000, which represents equivalent Reversionary Bonuses of £1,056,000.

After the Division of Profits at Christmas, 1859, the Life Assurances in force, with existing Bonuses thereon, amounted to upwards of £4,730,000, the Income from the Life Branch £307,000 per annum, and the Life Assurance Fund, independent of the Capital, exceeded £1,615,000.

LOCAL MILITIA AND VOLUNTEER CORPS.—No extra Premium is required for service therein.

INVALID LIVES assured at corresponding Extra Premiums.

LOANS granted on Life Policies to the extent of their values, if such value be not less than £50.

ASSIGNMENTS OF POLICIES.—Written notices of, received and registered.

MEDICAL FEES paid by the Company, and no charge for Policy Stamp.

NOTICE IS HEREBY GIVEN, That FIRE Policies which expire at Michaelmas must be renewed within fifteen days at this Office, or with Mr. SAMS, No. 1, St. James's-street, Corner of Pall Mall; or with the Company's Agents throughout the kingdom; otherwise they become void. Losses caused by Explosion of Gas are admitted by this Company.

BRITISH MUTUAL INVESTMENT, LOAN and DISCOUNT COMPANY (Limited).

17, NEW BRIDGE-STREET, BLACKFRIARS, LONDON, E.C.

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THE SOLICITORS' JOURNAL.

LONDON, SEPTEMBER 28, 1861.

CURRENT TOPICS.

Mr. Goulburn, the Commissioner in Bankruptcy, has again declared his resolution not to hear in court the clerk of an attorney. The appearance, he says, must be either by the party in person, or by his attorney; otherwise the summons must be dismissed. With reference to the enforcement of this rule under the new Act, it must be understood as referring solely to such clerks of solicitors as have been already admitted solicitors of the Court of Chancery. The rule, with respect to all other persons, has been expressly laid down by the Legislature. The 212th section of the new Bankruptcy Act, which empowers solicitors to appear and plead in the Court of Bankruptcy, contains also this provision that in case any person not being such solicitor—that is to say, not being a solicitor of the Court of Chancery, who has been admitted as a solicitor of the Court of Bankruptcy—shall practise in the Court as a solicitor, he shall be deemed guilty of a contempt of court, and be liable to all the penalties incident thereto. This language is sufficiently explicit, and the only question that can arise is whether a clerk of a solicitor, being himself also a solicitor, is to be at liberty to appear in place of his principal, on behalf either of the debtor or of his creditor. The objections to such a provision have not been very distinctly shown. If the head of a firm, not choosing or being too much occupied to appear in person, thinks proper to delegate his duty of advocate to another solicitor or attorney, who is retained in his own office, he does so at his own risk, and that of his client. He is no more likely to endanger the interests of his client by employing an unduly qualified person, than he would be likely to damage a cause in the courts of law or chancery by securing the services of an inefficient counsel. Every security that can be required or can be obtained by the Court is present in the fact of the advocate being an admitted solicitor or attorney, and, consequently, subject to the jurisdiction of the Court. But the case seems to us to be placed beyond doubt by the language of the 212th section, which expressly states, that "every solicitor," now or hereafter admitted, may practise; and that in case any person, "not being such solicitor," shall practise, he is to be deemed guilty of a contempt. The learned Commissioner proceeded to say, it had been suggested that before the hearing of any attorney, he be bound to produce a retainer, to show that he has been retained by the client as attorney in the case; also that before the hearing of an attorney's clerk in chambers, he be bound to show that he is in fact the representative of a professional man. The reasons for the former suggestion we have yet to learn. The appearance of a solicitor or attorney, whether principal or not, in Court, on behalf of a client, one would suppose to be sufficiently good *prima facie* evidence of his authority to attend; and when coupled with his assurance to that effect, to be beyond question, except upon the distinct statement to the contrary, of the client himself. If a solicitor or attorney is not to be believed in making a personal statement in open court, the sooner the 212th section is repealed the better. The two simple questions—For whom do you appear, Mr. So-and-So? Are you instructed?—admit only of the simplest form of answer, the latter, indeed, consisting of only one of two

monosyllables, aye or no. The precaution with regard to the hearing of a clerk in chambers is another matter. Such a clerk would not be, and often is not a solicitor; his responsibility and self consideration are less; and some security against irregularity in such a case may be desirable. But until we have heard good grounds to the contrary, we cannot but think the requirement of a retainer from an attorney or solicitor who appears on behalf of a client in court would be a vexatious as well as an unnecessary precaution.

THE THIRD CAUSE CELEBRE.

The Rugby proceedings have incurred and surmounted the recent danger of a collapse, like that which reduced the Twickenham domestic drama from a deep-laid scheme of murder by an avaricious father to an unhappy mistake in using the wrong end of a riding-whip in a fit of parental displeasure. The treacherous breakfast at the Clarendon, the alluring visit to the ex-Royal Family of France, the wrapt mood of the Baron on the highway, his abrupt and ill-explained departure from it, the young man's undefined dread, the mysterious threading of bye-lanes—all, in fact, that gave such hopeful newspaper promise that the Vidil trial would prove a worthy follower to the Northumberland-street pistolling and braining case, flashed in the judicial pan. A squamish casuistry set some notion or other of filial duty above the rightful expectations and vested interests of justice and of the reporters. Talk of judges frustrated at the expense of a month in gaol; consider a judicial public disappointed at a time when the serial of exciting crime is coming out in illustrated monthly numbers—when newspaper pen-cunning is rising up to, and a little above, the occasion, with paper itself on the very eve of freedom. There, a tale, standing at the creditable figure of £20,000 under settlement, was as effectually snatched from society as if a manuscript of Mr. Harrison Ainsworth, proofs, copies, and copper-plates, had perished in the fire at Longman's. And now Mr. Philbrick would sacrifice to a dry, selfish exercise of his supposed duty, as counsel for Mr. Richard Guinness Hill, otherwise "R. Hill," an opening romance of £14,000 a-year. Let us treat such a case with the respect which it deserves.

As early as last Monday week, before evidence had been taken, all had been written up to the proper pitch. Mr. Brett, of the London detectives, had, by extraordinary ability, perseverance, and foresight, penetrated what was called the atmosphere of mystery, and had overcome insurmountable difficulties. Grouping together a £20 reward, a gentleman of about thirty and five feet six inches, a stout woman of forty, another, dark, thin, and tall, a large double plaid shawl, dark green and blue, rather faded, and a fine healthy boy, a placard brought Mr. Brett to an interview with the woman Mackay. Though she had but a two years' remembrance of a child's cry heard for a couple of nights through a partition, she thus put one end of the labyrinthine coil between the detective finger and thumb, and at the other end was found the "heir to £14,000 a-year" (under a settlement again, by-the-bye) with nothing on but a dirty rag, and covered with vermin and filth, in a little room up two pair in a foul alley of St. Giles', his companions being an unclad dying man in the corner of the chamber, and some most ragged and miserable women squatting over the floor. The heir's toes were depicted as terribly scored with wounds from walking barefoot on stones, and his head and body as marked with ill-usage. From this den Mr. Brett escapes, as Rolla or his representative may be seen in the picture, with the child held aloft, except that the intrepid police officer had to pay his way "through the swarm of people that blocked up every means of egress." We must not meanly stay here to inquire whether this be not a vigorous allusion to some one or two women who called down stairs after

descending Rolla, something about a pint or other familiar measure of female drink in St. Giles', for which bounty, flushed at the professional success of the rescue, he undrew his heart and purse strings. Mr. Brett, with the heir and its foster mother or proprietress, Mrs. Andrews, at length alight from a cab at the office of Mr. Cooke, the solicitor. Thereabouts, we may imagine, was first disclosed the history of the shilling retainer slipped by the gentleman into her mendicant hand; the retreat into the dimly-lighted entry; the wardship negotiation; the appointment at the same dimly-lighted entry for the following night; her conference with the dark, tall, thin woman, the gipsy, Mrs. Scott, *alias* Idle, cashier in the business, and now under imprisonment for robbery; the contract of wardship; the night appointment opposite Euston Station; the completion of the contract; the additional term somewhat irregularly imposed *pro re nata* by the gipsy for the shawl; its pledge and redemption; the baby-linen box with the linen marks cut out (by the gentleman, of course, according to the reporters); the second inexact St. Giles' registration, "to make all right," of the heir, as Albert Farebrother; his workhouse sojourn on a particular occasion when Mrs. Andrews' tutelage happened to be suspended by an absence over which she had no control; and, in general, the touching addition made by him weekly to the Andrews' family tableau as, on Saturday nights, it would stand before the gas-flare on the gutter slope, with all the outward cleanliness and resignation which betokened the respectable memory of better days. Such were the salient touches in the extra-judicial narrative presented by the gentlemen of the daily press, not omitting the deferential courtesy which they have paid to their valued fountains of daily "copy," "Mr." Policeman Brett, with all his qualities; "Mrs." Gipsy Scott, otherwise Idle, now of Tothill Fields; and "Mrs." Beggarwoman Andrews.

Some two years before the detective exploits in St. Giles', and about the time of the stolen meetings and contract of wardship in Windmill-street, two other events occurred. Amy Georgina, *née* Burdett, wife of Richard Guinness Hill, Esq., of St. Stephen's Green, Dublin, being with child, and on her way to London at her desire to lie in there, was taken suddenly in labour. Stopping at the Globe, in Railway-terrace, Rugby, she was delivered of a boy by a surgeon of the place. The babe, when ten days old, was wrapped in a shawl, and with a box of linen was sent under a girl's care, in Hill's company, to London, to be nursed. The other event was, that two days after this birth an informant, whose signature to the Rugby register is sworn to be Richard Guinness Hill's, supplied the district registrar with particulars for an entry, giving as the date of birth the day Hill's own child was born; the sex, a boy; the father's name, "Robert Hill," the mother's, "Mary Hill, formerly Seymour;" and the description and residence of the informant, "father, 42, Railway-terrace," that being also the number in the terrace of the house known as the Globe. Now, it is enacted by the 41st section of the Act for registering Births, Deaths, and Marriages in England (6 & 7 Will. 4, c. 86), that every person who shall wilfully make or cause to be made, for the purpose of being inserted in any register of birth, death, or marriage, any false statement touching any of the particulars in the Act required to be known and registered, shall be subject to the same pains and penalties as if he were guilty of perjury. These particulars required to be known and registered are found in the form of schedule (A.) to the Act, according to which form the Registrar-General is, by the 17th section, to cause register books to be printed for making entries. Under the 41st section a charge has been laid against Hill, on the hearing of which on remand last Monday, by the magistrates at Rugby, Mr. Philbrick raised a point of great legal interest, to say nothing of its importance to the biographical stir made in the reports that used to follow but now precede the hearing of criminal accusations.

The bulk of the evidence was directed to prove, by recognition of the women, the shawl, and the box, that the gentleman and Richard Guinness Hill were one, and that the child found by Brett really was the heir to the £14,000 a-year, or rather the owner of the capital of £5,000 in possession and £9,000 in reversion, for to that more moderate garniture the narrative became sobered down at the hearing. To the admission of any of this evidence — and, indeed, of all evidence relating or subsequent to the nurse-girl's departure, as being evidence totally irrelevant to the charge of falsifying the register — the counsel of the accused made reiterated objections; and he required from the magistrates a formal decision, as it might be necessary to refer to the matter in another place. They held that the evidence was admissible, as of things incidental to the matter before the Court.

In this state of the question we need scarcely say that it is not our intention to anticipate the legal argument which will be heard in the proper place on the reception of the greatest part of the evidence which has hitherto been taken. That evidence of facts posterior to and in themselves distinct from an offence charged may be admitted is undoubted. For instance, Manning and his wife murdered O'Connor in the evening and buried him in the night; the next morning she went to his lodgings and rifled his cash box. These facts were given in evidence. The disposal of the body might certainly be regarded as a continuation of the act of murder. The robbery was incidental to the act of murder only so far as the murder was a step necessary for the accomplishment of the subsequent act — in short, so far as the two crimes were part of one plan. The same theory would apply to the trial for Mrs. Elmsley's murder, a still stronger case of the admission of evidence of subsequent facts. This, on the first impression, independently of authority, is the test by which we must try the relevancy of the evidence objected to in the Rugby case. Assuming that according to the story told by the newspapers, and on one side of the case — which, however, we beg leave to say we treat at present as only one side — Hill had been desirous of dealing with his child for any purpose of his own succession to property, which purpose required him to endeavour to obliterate all traces of the existence of this inconvenient owner of the £14,000, what would be the bearing of a false registration on the accomplishment of such an intention? If the registration of a birth were a duty made obligatory as a consequence to the birth, the London and Rugby facts might seem to hang inseparably together. But if the registration of the child Hill was a voluntary act of the father, it can scarcely be said that a false registration was more likely to obliterate traces than no registration at all. The 20th section of the Act provides only that the father or mother of every child, or in case of the death, illness, absence, or inability of the father and mother, the occupier of the house or tenement in which such child shall have been born, shall, within forty-two days next after the day of every such birth, give information, "upon being requested so to do," to the registrar, according to the best of his or her knowledge and belief, of the several particulars required by the Act to be known and registered touching the birth of such child. The district registrar who made the entry of the Hill birth has since died. There is no evidence that he requested information from Richard Guinness Hill or from any other person respecting the child born at the Globe; and as it is proved by the evidence of the superintendent registrar that the district officer was then almost past business by reason of infirmity, no presumption will arise that he did make any such request.

Whatever be the ultimate decision on the point of evidence, or, indeed, the issue of the Rugby proceedings, the facts which have come out in the course of them,

and are undisputed, will not increase public confidence in the system of registration. The object of such registration being to establish and preserve evidence, the practical working of the system is that a resident in Dublin, casually stopping at a way-side inn, may describe himself as residing at that inn, not calling it by its well-known name, but by the number which it may happen to occupy in the street or terrace. And the further practical working is, that the child registered at Rugby as a Robert Hill by its unavouched father is again registered in London in a speculative way as Albert Farebrother, by a woman who has no legally definable relation to or connection with it. Again, a district registrar verging upon three-score years and sixteen, whose infirmities are growing upon him so that he is almost past work, who has to travel round his district after his feet have failed him, who mis-spells words, inserts superfluous letters and smears out others, writes December with an o, and has been reported at head quarters by his superintendent for irregularities and inaccuracies in keeping the register, is continued for fifteen months longer, recording marriages, births, and deaths, though the district does not meanwhile stop that rite or its duties, or keep off the grim one who, with impartial tread, knocks at the cottages of the poor and the towers of kings. Such an exhibition of the operation of the registration system will, it may be hoped, afford ground in the next session of Parliament for overhauling it altogether, and will, in that expectation, we have no doubt, stimulate the officials themselves to set their house in better order before February.

Another fact in connection with the enforcement of the law against Richard Guinness Hill demands a brief notice. A warrant had been issued some months ago for his apprehension. He was in Brussels, living within reach of, though not conjugally with, his wife. There is no extradition treaty between this country and Belgium. Hence we have the edifying spectacle of a police contrivance, by which Mrs. Hill was to come to England as a bait to lure her husband within the jurisdiction of the detective. The bait certainly took, so that after quitting Brussels the prey found himself on the floor of the Rugby Court before he had time to change his clothes. It is not easy to understand why a convention should not be made with Belgium, similar at least to those with France and America. Not, however, that these conventions and the Acts made to give effect to them, authorise extradition for any alleged crime other than, in the case of France, murder, attempt to murder, forgery, and fraudulent bankruptcy; and, in the case of America, murder, assault with intent to commit murder, piracy, arson, robbery, forgery and utterance of forged paper. Perjury, for some reason which we are at a loss to discover, enjoys international immunity and protection. There is an equally unaccountable difference in the international estimate of crime between the one convention and the other. This subject appears to be also one to which legislative attention may be renewed, now that intercourse and facility of passage between England and other countries are so much greater than they were even in 1843, when the present conventions were made.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner GOULBURN.)

Sept. 20.—In the matter of a trader debtor summons.—Mr. George, solicitor for the alleged debtor, objected that the attorney's clerk, who appeared on the other side, could not be heard.

Mr. Commissioner GOULBURN said he would once again state that he could not hear the clerk of an attorney. If there was no appearance either in person or by attorney, the summons must be dismissed.

Subsequently counsel was instructed, and the summons stood over.

Mr. Commissioner GOULBURN said he would be very glad of any suggestion from Mr. Bagley, or any other member of the bar at this court, respecting the rule to be enforced under the new statute in reference to the hearing of attorneys. It had been suggested that before the hearing of any attorney he shall be bound to produce a retainer, or some other writing, to show that he has been retained by the client as attorney in the case; also that before the hearing of an attorney's clerk in chambers he shall be bound to show that he is, in fact, the representative of a professional gentleman.

Mr. Bagley said the suggestions referred to were well worthy of consideration.

Mr. Philip William Lovett, Guildford, Surrey, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Surrey.

Recent Decisions.

HOUSE OF LORDS.

ATTESTATION OF WILL—SIGNATURE OF WITNESS.

Hindmarsh v. Charlton, 9 W. R. 521.

The judgment of the House of Lords in this case was directed to a technical question—the elucidation of an arbitrary rule which has been laid down by the Legislature as one of the criteria of validity to be applied to the attestation of a will. The limits of the subject are necessarily narrow; but *Hindmarsh v. Charlton* follows a series of antecedent decisions, a summary of which will illustrate the working of the statute, and show what kind and degree of formal observance will satisfy the requirements of the law, and what amount of departure from the letter of the rule will vitiate a testamentary instrument. The subject may be well introduced by reference to the language of Lord Cranworth, who observes that “for the security of mankind, the Legislature has thought fit to prescribe certain forms and rules which are necessary to be complied with in order to authorise a different distribution of property from that which the law would make, if there were no will. That it is reasonable that, under these circumstances, there should be some rules, no one can doubt; and the rules being established, the House, as the ultimate court of appeal, would ill discharge its duty if it listened to the suggestions of minute differences which would not meet the ordinary apprehensions of mankind, and which would necessarily or naturally lead to great discussions and litigation.”

The enactment bearing on the subject is the 9th section of the Statute of Wills, 1 Vict. c. 26 (1838), by which it is declared “that no will shall be valid unless it shall be in writing, and executed in manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary.”

The case before us turns solely upon what is required of the testator in relation with the two witnesses, and upon what is required of them; and it will be observed that the statute insists, first, that the testator shall “make or acknowledge” his signature “in their presence;” and second, that they shall “attest and subscribe” his will “in the presence of the testator,” and declares that no will shall be valid unless these rules are complied with. The two essential requirements, therefore, are (1) the “presence” of witnesses when the testator signs or acknowledges, and (2) a “signature” by them; and on both these points a number of difficulties have occurred. We discuss here all cases turning upon the presence, in point of locality, of the witnesses, as to what amount of contiguity to, and visibility by, the testator, &c., will constitute presence in the legal sense. The law is laid down in a line of authorities, of which *Tod v. Winchelsea* (1826), 2 Carr. & P. 491, s. o. 3 Russ. 421, is a leading case under the old law; and *Norton v. Bazell* (1856), 1 D. & Sm. 259, under the new; but nothing of this kind arose in *Hindmarsh v. Charlton*. In this case the simple facts were that the deceased produced his alleged will to Mr. W. in the morning, and acknowledged his signature, whereupon Mr. W. signed as witness. In the

afternoon, Mr. W. being present, the will was again produced, and the signature acknowledged by the testator to him and the second witness, who there and then attested it, and signed his name. Mr. W. did not sign again; he only made a slight addition to his former signature by crossing an "F," and he also inserted a date. Here it will be observed that until the afternoon no signature, or acknowledgment of signature, by the testator in the joint presence of the two witnesses, such as the statute requires, had been made. Consequently Mr. W.'s signature on the morning must be held (1) to have amounted to nothing, unless (2) his acknowledgment in the afternoon of his previous signature could be held to be a sufficient signature under the statute, or (3) his mark on the letter "F" could be held to amount to a fresh signature.

1. It was decided not long after the passing of the Wills Act, *Re Byrd* (1842), 3 Curt. 117, that where a will was propounded, which had been signed by the deceased after the witnesses had subscribed their names, the witnesses having verified the signing by the deceased by putting their seals opposite to their signatures, the document was inadmissible. Where, on the other hand, a testatrix produced a codicil all in her own handwriting, and with her signature attached; and two witnesses, who were present at the same time, at her request, made their marks thereto, and the testatrix afterwards wrote the witnesses' names opposite their respective marks, by mistake giving to one of them a wrong surname, the will was admitted; *Re Ashmore* (1843), 3 Curt. 756. There it was considered that there was an acknowledgement under the statute, which was sufficient. The next case is perfectly reconcilable with the preceding, though it led to an opposite result. Two persons subscribed a will in the presence of L. and of each other—L. having previously, in their presence, acknowledged the said paper to be his will. The witnesses did not see L. sign his name to the paper, nor did they, at the time of subscribing their names to it, see his signature; the writing on the paper being purposely concealed from them. On the death of L. his signature was found at the end of the paper. It was held that this was not a valid will within the statute; for the reason that, although there was a signature, it was neither made nor acknowledged in the witnesses' presence, and *non constat* that it was not added afterwards; *Hudson v. Parker* (1844), 1 Rob. 14. If that had been so, the instrument would have been inadmissible. In *Brenchley v. Still* (1850), 1 Rob. 167, Sir H. J. Fust lays it down as perfectly clear, that if the witnesses subscribed before the deceased signed his name, there would not be a due execution. It is a necessary corollary to this, that if the witness subscribes, as in *Hindmarsh v. Charlton*, before the deceased makes acknowledgment of his signature, the execution is invalid.

2. The important question therefore arose, whether the acknowledgment by Mr. W. of his former signature was a sufficient attestation under the statute?

To this inquiry *Moore v. King* (1842), 3 Curt. 243, was in point. A testator signed a codicil in the presence of a witness, his sister, who at his desire attested and subscribed it. On the subsequent day, when his sister and another person were present, he desired her to bring him the codicil and requested the other person to attest and subscribe it, saying, whilst he pointed to his signature, "This is a codicil signed by myself and by my sister, as you see; you will oblige me if you add your signature, two witnesses being necessary." The other person then subscribed in the presence of the testator and his sister, the latter pointing to her signature and saying, "There is my signature; you had better put yours underneath." She did not, however, re-subscribe the document. This was held not to be a sufficient execution. A subsequent Privy Council case, *Foulds v. Jackson* (14th June, 1845), 6 Notes of Cas. supp. i., must be considered to have shaken the doctrine considerably, as to the necessity of the two witnesses being present together at the attestation. In that case it further appears that the testator endeavoured to conceal from one of the witnesses the fact that the instrument was his will. The decision must be treated as an exceptional one, particularly as in a case of *Caement v. Fulton* (25th July, 1845), 5 Moo. P. C. C. 130, one month afterwards, where the circumstances closely resembled those of *Moore v. King*, it was decided that the acknowledgment by a witness of his former separate signature on the occasion of the attestation by the second witness in the presence of the testator and the first witness, is not to be permitted. We next meet with a case of *Re Webb* (1855), 1 Deane & Sw. 1, in which, on the authority of an unreported case of *Chodwick v. Palmer*, Sir H. J. Fust is reported to have decided that "witnesses need not subscribe in the presence of each other;" that is to say, that the testator must

either sign or acknowledge in the presence of both witnesses, and after such signature or acknowledgment both witnesses must sign, but not necessarily in each other's company. This decision, however, if it be law, has no immediate bearing on *Hindmarsh v. Charlton*. The remaining authority is one of *Mitchell v. Huffington*, decided in November, 1858, by the Irish Court of Probate. It was there held that where one of the attesting witnesses subscribes the will after the signature of the testator, but before execution in the presence of the other witness, the execution is bad, unless the first witness signs again. The judgment of the Lord Chancellor fully bears out this. He says, "An acknowledgment by the witness of his former signature is not sufficient." The option, therefore, of either signing or acknowledging his signature, which the law allows to the testator, is not permitted to the witness.

3. The enunciation of the above principle virtually decided the question in *Hindmarsh v. Charlton*. But there still remained the contention that the mark made by Mr. W. in the afternoon was equivalent to a new signature. The following authorities bear on this point, it being observed that we purposely omit all cases turning upon the circumstance of the witness not being able to write—which are numerous, but have no application to the present.

It has been held that where an attesting witness on re-execution traced over his signature with a dry pen, this was not a subscription, but only an acknowledgment of a former signature, and that it was insufficient under the statute; *Playne v. Scriven* (1849), 1 Rob. 772. It has also been held that writing the initials of witnesses is a sufficient subscription under the Act—that they are not required to write their names in full; *Re Christian* (1849), 2 Rob. 110; and even that an attestation by marks only on the part of witnesses who could write (their names having been already written in by somebody else, and there being no room between the names and the edge of the paper to have them written over again) was sufficient; *Re Amias* (1849), 2 Rob. 116. Another case very much resembling the present was *Re Trevanion* (1850), 2 Rob. 311. An attesting witness, having already duly attested and subscribed alone, on the second execution of the will merely added the word "Bristol" at the end of her name, and wrote the name of the street in which she resided over or upon her former execution. This was held to be imperfect, and probate was refused.

In conformity with the above authorities, especially *Playne v. Scriven* and *Re Trevanion*, it was found impossible, both in the Court of Probate below and on appeal in the House of Lords, to support the execution of the will in *Hindmarsh v. Charlton*. An acknowledgment on the part of a witness of a former signature is inadmissible, and crossing the letter "F" with a pen cannot be held to amount to a fresh signature. It does not necessarily follow if, after a testator has either signed or acknowledged his signature in the presence of both witnesses, they attest his signature each in his presence, but separately, and not in the presence of the other witness, that the attestation will be bad, but it is manifestly of the greatest importance that the two witnesses should, if possible, both sign at the same time, as the omission to do so may lead to much controversy.

Correspondence.

INVESTMENTS BY TRUSTEES.—EAST INDIA STOCK.

I may add other cases to those I cited on the above subject in your impression of the 7th instant,—namely, *Re Frome's Estate*, decided, 24th Feb. 1860, by Vice Chancellor Stuart. (8 W. R. 272.) on the authority of the *Colne Valley Case*, and *Bishop v. Bishop*, V.C.K., 19th April, 1861, (9 W. R. 549.) decided on the authority of *Equitable Assurance Company v. Fuller*. To return to B. P. A.'s queries: clearly the power of investment, where not expressly forbidden by the terms of the trust, now exists, as to both the old and the new East India Stock, and trustees will be protected who act *bona fide* to the best of their discretion under the power given. But the Court of Appeal in Chancery (by which I apprehend in future the other branches of the Court will be guided), has decided that it will not exercise the power (which the Court and trustees undoubtedly have), unless under very special circumstances—such, for example, as the exigencies of a family at the time of the application. Even in the case of *Equitable Assurance Company v. Fuller*, costs were refused, and apparently L. J. Turner was opposed to granting the application which, in effect,

when before the Lords Justices, was to confirm the investment already made under order of the Court below. The proper course, then, to be taken as to the advice to be given to trustees must depend on the particular circumstances of each case, and the principles to be acted on must be extracted from the cited cases which have been before the Appeal Court: and trustees acting *bonâ fide* to the best of their discretion will be protected. G. C.

THE LAW LIST.

In the annual report of the Incorporated Law Society, published in your last Saturday's number, I see the council of the society refer to the plan for the first time adopted in this year's *Law List*, of inserting after attorneys' names published therein, all the places of business where they practise when more than one; and they say "it is expected that under the provisions of the Act, attorneys will insert those places only at which they have an office."

This naming of the different places where an attorney practises or professes to do so, is one of the most useful features of the new *Law List*, and it is with the object of making more precise the naming of these other places that attorneys enter themselves as practising at, that I suggest that in future, in the form of application for renewal of the annual certificate, attorneys should be obliged to state in cases where they practise at more than one place, (for instance) "I also have an office and practise at — and —," as the case may be. This would get rid of, to a great degree, attorneys putting themselves down as practising at their places of private residence, which is done in many cases at present. For instance, in the city of Bristol, I observe that some eight or nine attorneys there enter themselves as also practising at Clifton, which is a suburb of that city, not one of them having an office there, or being to be found there in business hours, but merely residing there, with their business offices in the city, the same as I am informed is the case with most of the Bristol attorneys, but who do not, however, profess to "practise" as such at their private residences. Round about London, Liverpool, Shrewsbury, and other places, the same thing occurs, the object being doubtless, as pointed out by another of your correspondents some time ago, to catch stray writs and legal documents. If some such plan as that suggested were adopted in future, the evil would no doubt be remedied, as no respectable attorney or solicitor would, I think, care to assert he had an "office" and "practised" at his private house, when, in fact, he was never known to transact any business there, but on the contrary would be only too likely to show the door to any man who came to him on an ordinary business matter there—especially if he called when my "gentleman" was enjoying his *dolce far niente* after dinner. FAIR PLAY.

GIFT, OR SETTLEMENT OF PERSONALTY.

Not having the Act for registering bills of sale at hand, would any of your practical and informed readers say whether a deed of assignment, or gift of household furniture by A. to trustees for benefit of his wife and children, would require to be registered. It would be an absolute grant. R E. J.

The Provinces.

BRADFORD.—At the monthly meeting of the Bradford town council on Tuesday, the 17th instant, Mr. J. Rayner, the late Secretary of the Huddersfield Chamber of Commerce, was elected to the office of town clerk of Bradford, in the place of the late W. H. Hudson, Esq. There were nine other candidates, eight of whom ultimately withdrew, and the contest finally lay between Mr. Rayner and Mr. William T. McGowan, who has filled the important position of town clerk of Liverpool for the last eight years. Both candidates having been proposed and seconded, a vote was taken, when 32 voted for Mr. Rayner and 17 for Mr. McGowan. Mr. Rayner was then introduced into the council-room, and the mayor informed him of his success. Mr. Rayner, in returning thanks, said that, notwithstanding the very flattering testimonials which his friends had been good enough to shower down upon him, he felt sure the council would not expect him on that occasion to be equal to the task of acknowledging in adequate terms the very high honour they had been pleased to confer upon him. He could only say that

he thanked them sincerely for the honour they had done him. In undertaking an office of that sort he should, under any circumstances, feel the great responsibility of doing so, but under present circumstances he felt it more especially in having to succeed a gentleman so able, worthy, and well qualified in all respects as their late lamented town clerk. He could only assure them that it would be his endeavour to tread in his footsteps. It might perhaps be too much to expect that he should ever stand so high in the estimation of the town council as the late town clerk did; but the fact of his having so brilliant an example before him would perhaps enable him to attain to a higher degree of excellence than he otherwise should. The duties and salary of the office were fixed to commence on the 1st of October next. The salary is £800 per annum.

Foreign Tribunals and Jurisprudence.

FRANCE.

In your number of the 29th of June last, you mention as affecting the wills of British subjects dying in France, a decision of the Imperial Court of Paris, on the will of Miss Kelly. I do not wonder at your taking notice of that judgment, as it must have appeared very strange to you that the rights of the executor should have been so entirely set aside. But your astonishment will cease when you hear, that as appears clearly by the argument in the judgment, the Court was entirely in the dark as to the nature of an executor by the law of England, and his right to the residue of the property. The Court argued on the supposition, which nobody took any pains to combat, that an executor in England was in the same position as one under the law of France, which gives him no right to the residue of the property. Feeling curious on the subject, and desirous of ascertaining the correctness of my impression, I inquired of the counsel who had appeared for the executor, whether he had been instructed as to the right of the executor under the law of England; and he informed me he had not been, and that if the Court had had evidence to that effect, no doubt the judgment would have been different. There is certainly every probability that it would, but assuming the ground which the Court took, the judgment was undoubtedly correct; nobody substantiating against the Crown a right to the residue. It is the more to be regretted that the counsel for the executor had not correct information upon the subject, as there is now, I am afraid, no means of setting matters right, at least in the ordinary course of things, as proceedings in error in the Court of Cassation lie only when the error is on a point of law, and the Court of Cassation has generally till now looked upon questions of foreign law as facts upon which the judgment of the Imperial Court was conclusive.

A case relative to the wills of the late Lord Henry Seymour was recently submitted to the Civil Tribunal. By a will made the 19th of June, 1856, he "gave and bequeathed to Frederick Seymour 200,000*fr.*, and in the event of his death to his eldest daughter, Mary Seymour," and all his property not otherwise specified to the hospitals of London and Paris. He made another will, dated the 22nd of June, 1858, which was almost the literal reproduction of the first one, but which made no mention of the bequest to Frederick Seymour or his daughter. Mr. Frederick Seymour being dead, his daughter, now Mrs. Biddulph, and her husband, recently brought an action against the executors of the deceased nobleman, and also against the hospitals of Paris and London, his residuary legatees, to obtain payment of the 200,000*fr.*, and they based it on the ground that, as the legacy was not expressly revoked in the second will, it must take effect. But on the part of the hospitals counsel contended that the omission must by law be held to prove that the testator did not mean to make the legacy; and besides, they stated that he had left a written declaration to the effect that he annulled all bequests made previously to the 22nd of June, 1858. The Tribunal decided that the suit of Mr. and Mrs. Biddulph must be dismissed with costs.

A decision of some interest to foreigners was lately given by the Imperial Court at Paris. A foreign lady, named De Saldanha, purchased in 1858 from an upholsterer of the name of Lemoine a quantity of furniture of the value of 3,125*fr.*; and as eighteen months after she had not paid, he brought an action against her. She endeavoured to delay judgment as

long as possible, and then, when she could do so no more, she represented that all the proceedings were of no legal value, inasmuch as she was married to a Brazilian, residing at San Jos, in Brazil, and that consequently the action ought to have been brought against her husband as well as herself. The Imperial Court was yesterday called on to say whether this pretension was good in law. The Court held that it was not, for the reasons that the woman, as a foreigner, could not claim a privilege of being a *feme covert*, which is reserved for French married women by the Code Napoleon.

The Civil Tribunal of the Seine recently gave a decision of importance to foreigners residing in France, and the more so as it is in direct opposition to what has been hitherto supposed the law of the land. M. Muhlschovien, a tailor, carrying on business in Paris, sued a person named Pfnor, also a foreigner for the sum of 454*fr.*, for goods delivered. The defendant declined the competence of the Tribunal to decide in a suit between two foreigners, and also demanded that the plaintiff should be called on to give security for the costs of the Court. After hearing counsel, the Tribunal decided that no principle of public order prevented French tribunals, when their competence is accepted by both parties, from deciding suits arising from a contract between foreigners residing and trading in France; that if one of the parties declined the competence of the French judges it is for the latter to decide whether he has not implicitly renounced the right to take such exception by having abandoned his original domicile, in establishing himself in business in France, or by having no other domicile or residence; and that in the present case there had evidently been such renunciation. With respect to the demand for security, *judicatum solvi*, the Tribunal decided that it was only available for a French defendant in a suit brought against him by a foreigner; and that Pfnor's demand was, therefore, inadmissible. For these reasons the Tribunal declared itself competent, ordered the case to be heard on its merits, and condemned Pfnor to pay the expenses arising from the incident.

The Civil Tribunal of the Seine, on the 8th inst., decided a case of some importance to lessees. M. Chevreuil, three years since, took a house at St. Mandé, belonging to three brothers named Tuvillon. The lease was for three, six, or nine years, and contained the following clause:—"It is agreed that in case the lessors or lessee may wish to put an end to the lease six months' notice shall be given." On the 14th of November last, at the expiration of one of the periods, one of the brothers gave M. Chevreuil notice to leave on the 14th of May following. The lessee disputed the right of one lessor to cancel a lease made by three; but the *juge de paix* decided that the lease must be considered void, since it required the consent of all three to continue. M. Chevreuil appealed against that decision, and the Tribunal, after hearing counsel on both sides, decided that the lease is valid for the whole nine years, unless the three brothers give joint notice of their intention to put an end to it.

Societies and Institutions.

INCORPORATED LAW SOCIETY.

(Continued from p. 768.)

VI. CHANCERY FUNDS COMMISSION.

The president of the society some months ago received a communication from the Chancellor of the Exchequer, stating that his attention had been directed by important public considerations to the state of the stocks and funds of the suitors in chancery; and as the association has taken a great interest in the subject, the Chancellor of the Exchequer requested to see the president on that subject.

The president reported that he had attended the Chancellor of the Exchequer, when the Chancellor expressed his approval of the concentration of the law courts and offices, and adverted to the consequent charge upon the finances of the country, and to the duty which devolved on him, as financial minister, of inquiring into the Accountant-General's mode of keeping the accounts of the funds in the Court of Chancery, and the course of proceeding in the Accountant-General's office on the investment, transfer, and sale of cash and stock belonging to the suitors, and into the means of preventing loss to the suitors by an improvement in the mode of dealing with cash in

court not invested at the instance of suitors, and generally into the system of conducting the business of the office; and he desired to know whether he might rely on the earnest support of the profession of solicitors, of whom he considered the Council of this society substantially the representatives, in any attempt to effect the improvements advocated by the witnesses who had given evidence before the Concentration of Courts Commission.

The president further reported that he had referred the Chancellor of the Exchequer to the reports of the committee of this society of the 2nd December, 1851, and 2nd July, 1857, and had stated to him the deep interest which this Council took in the measure for the concentration of the courts recommended by the report of the commissioners; and that if they could be assured that the fund there referred to would be applied to the accomplishment of that object, and that the advantages to be derived from the changes contemplated would enure for the benefit of the suitors, he might rely on the cordial and zealous co-operation and support of the Council, and through them of the profession, and that the Chancellor of the Exchequer fully assented to the propriety and reasonableness of the conditions.

The Council therefore approved of the assurance given by the president to the Chancellor of the Exchequer.

A royal commission has since been issued to inquire into the constitution of the Accountant-General's department of the Court of Chancery, the forms of business in use therein, and the provisions for the custody and management of the stocks and funds of the court, and to suggest improvements in the said matters, with especial view to the advantage of the suitors, and the safety, convenience, economy, and despatch in the transaction of the business of the court. One of the members of the Council has been appointed a commissioner.

The Council have received a special application from the commissioners, requesting them to procure, either from such individual members of the society as may be willing to assist the commission, or from a sub-committee of the society, an expression of their opinion in reference to the matters of complaint alleged to exist in connection with the Accountant-General's department, and the best modes of remedying the same.

The Council have accordingly requested their equity committee to consider and report on the subject, and the committee have held several meetings, and have applied to a considerable number of eminent practitioners, to whom they transmitted a copy of a letter which they had received from the commissioners, together with the printed statements referred to in it, and requested them to favour the council with such information and suggestions as might appear likely to forward the objects of the commission. It is expected that the committee will soon be enabled to make their report. [The report has been published, and will be found *ante* p. 728.]

VII. USAGES OF THE PROFESSION.

During the past year several questions of conveyancing practice have been submitted to the Council, particularly relating to the preparation of conveyances by the vendor's solicitors; the charges for producing deeds and making copies, under a covenant for such production; the preparation of deeds of appointment and marriage settlements; the expense of perusing deeds of covenant when there are several lots; and the charge of the solicitor of a trustee for receiving the notice of an incumbrance and communicating it to his client. The opinions on these and other matters have been entered in the usage book kept in the secretary's office.

VIII. PROBATE COURT.

By a treasury minute issued on the 16th of March last it is provided:—[The provisions and bearing on the profession of this treasury minute are stated and commented on *ante* p. 494.]

The Council, in stating the scope of this treasury minute, feel called upon to observe, that the permission granted and salaries allowed to district registrars to assist strangers in preparing the forms required for probates and letters of administration is highly objectionable in principle, and at variance with the practice of all the superior courts. The district registrars exercise judicial functions in granting probates and administrations, and it is their duty carefully to examine the documents which are brought to them in support of the applications on which they have to decide. It is manifestly inconsistent with this duty that they should act as agents or solicitors for the parties. Neither in the courts of law or equity do the officers of the court prepare, or assist the parties who sue in person in preparing, the writs or other

process on which the official seal is to be affixed. Where a proctor or solicitor is employed, and who is personally acquainted with the parties, there is some security against fraudulent conduct; whilst, under this new regulation, the papers on which the registrar has to exercise his discretion will be prepared by his own clerks, to whom the applicants will be strangers. It appears to the Council, therefore, that this alteration is dangerous to the public, and needlessly injurious to the regular practitioner.

The 26th section of the Attorney's Act prohibits persons from practising in any wise as a proctor, in or with respect to any proceeding in the Court of Probate, without being duly qualified. The Council were informed by solicitors in different parts of the country that it was the practice of clergymen who had formerly been surrogates to act as agents for proctors, in taking out probates and letters of administration, and that they obtained a large part of this branch of professional business, and participated in the profits, contrary to the provisions of the statute.

The Council of the society felt it due to the proctors complained of to acquaint them with the allegations made, and to give them an opportunity of correcting any inaccuracy in the statements which had been laid before the society.

The proctors, not being aware of the illegality of the practice, laid a case before an eminent counsel, who gave an opinion adverse to the proctors, which they candidly communicated to the society.

IX. UNQUALIFIED PRACTITIONERS.

The attention of the Council was called to a statement in a work on the practice of the Judicial Committee of the Privy Council, to the effect that the solicitor or agent in an appeal before the Judicial Committee is not necessarily a solicitor or attorney of any of the superior courts at Westminster, and that there seemed to be no special qualification required, and an application was thereupon made to the registrar of the Judicial Committee for information on the subject.

The registrar replied, that "by the practice of the Privy Council it is competent to practitioners *duly qualified* in the several dependencies of the Crown from which appeals are brought before her Majesty in council, to conduct on either side such appeals from the courts to which these practitioners respectively belong."

Numerous complaints are made against house agents, accountants, and persons who have been clerks in solicitors' offices, for preparing conveyancing and other legal instruments.

The Council are not authorised to sue unqualified persons for penalties for acting in these matters. Such prosecutions can only be instituted in the name of the Attorney-General by the Solicitor of Inland Revenue, but the Council are accustomed to authorise their secretary to assist in bringing these cases before the Commissioners of Inland Revenue. The solicitor requires, in each case, a clear statement of the evidence that can be adduced to support the prosecution. No penalties, however, can be recovered after the lapse of two years from the date of the instrument.

The 44th Geo. 3, c. 98, s. 14, prohibits unqualified persons from preparing deeds relating to real or personal property, but excepts from the prohibition "the drawing or preparing any will, or other testamentary papers, or any agreement not under seal, or any letter of attorney."

In one instance a patent agent had drawn and engrossed an assignment of a share in a patent, for which he made the usual professional charges. It appeared that he was extensively engaged in similar transactions, and the Council submitted to the commissioners that this was a fit case for prosecution. Proceedings were accordingly instituted, and a penalty inflicted.

Information has also been received of attempts of debt-collecting offices and others to encroach on the province of the regular practitioners in the recovery of debts by action, and the conducting of other legal business. The attention of the Council has been very frequently called to instances of irregular conduct in such cases, but they have not yet had before them any case in which any efficient step could be taken to put an end to the irregularities.

In one instance the officer or clerk of an association threatened that he would take legal measures if the debt were not paid; but this was not punishable for several reasons. It was not a proceeding in any court; the expression "legal measures" did not necessarily mean bringing an action; and the intimation might mean that legal measures would be taken through a regular practitioner.

The Council are of opinion that if county court judges and magistrates would refuse to recognise any but regular practi-

tioners great benefit would result to the public. The judges of the county courts, in the exercise of their discretion, sometimes think proper to allow agents who are not attorneys to appear before them, and allow them costs out of pocket.

The Council have also received from one of their correspondents a prospectus of a "Legal and Mercantile Advice Office," proposing to prepare various deeds as well as to give advice on very moderate terms. If deeds should be actually drawn and the charges for them paid, these unqualified persons will be liable to prosecution for penalties, but the mere offer to transact business of course does not subject them to any proceedings.

Papers have also been sent to them relating to a publication, called "Mercantile Test," and they have frequently received objections to the publication of the names of persons against whom warrants of attorney, bills of sale, and judges' orders have been registered; but in the present state of the law and practice they are unable effectually to interfere.

Complaints have also been made of persons acting as clerks to attorneys in the county courts and before magistrates in petty sessions, but there is nothing in the County Courts' Act to prevent the judge from allowing the clerk of an attorney to appear for a party, and there seems no objection to a *bonâ fide* clerk appearing for his principal on such occasions. Indeed, in many instances, the practice is a great convenience to the attorney, who may be unable personally to attend the court. The grievance which has frequently been complained of is that unqualified persons, assuming to act as the clerks of attorneys without due authority, are in some of the courts permitted to appear. In proceedings in the police courts in the metropolitan district, besides hearing barristers and solicitors, the magistrates relax the general rule, and hear clerks to solicitors whom they know, or a solicitors' clerk who brings a letter from the principal requesting that he may be allowed to conduct the particular case in question; and the magistrates make it a rule to exclude from practising before them certain persons who they know are not qualified, and are not the *bonâ fide* clerks of solicitors.

X. CASES OF MALPRACTICE.

Numerous cases of alleged malpractice have been brought under consideration during the last year, in some of which the complaining parties had an obvious remedy by summary application to the court or a judge to compel an account and a taxation of costs, or by an action to obtain damages for neglect; but where there existed no fraud or gross malpractice, an application to strike the accused off the roll could not be maintained. In other cases the evidence in support of the charge has, upon investigation, not been deemed sufficient.

In one case a rule was obtained and ultimately made absolute, at the instance of the society, against an attorney who had committed several breaches of trust by appropriating moneys entrusted to him to invest on mortgage to his own purposes, in speculations in which he was engaged.

A considerable proportion of the complaints which are investigated relate to the highly objectionable practice prevailing amongst a low class of attorneys, of allowing their names to be used by unqualified persons in conducting legal proceedings.

There appears to be no doubt that in many of these cases the attorney is paid for the use of his name, or allows the unqualified person to participate of the profits of the business; but it rarely happens that sufficient evidence of these illegal proceedings can be obtained.

It is essential, in applications to strike an attorney off the roll, that there should be no unreasonable delay. In some instances which came before the Council the complaining parties have neglected to bring the matter forward in time.

Some important questions have arisen as to the sufficiency of service under articles of clerkship where the attorney has more than one place of business, and where the clerk has the management of a branch office at a distance from the attorney's usual residence. The statutes and rules of court require that the clerk should serve the full term of his articles *at the office where the attorney carries on his business*. Cases have arisen in which the clerk, from his local connections, has, in fact, established the practice and induced the attorney to allow him a salary during the clerkship proportioned to the profits of the business introduced into the office. This is not considered a service within the terms of the statute.

The attention of the Council has been called to advertisements from attorneys, which from time to time appear in the newspapers, and seem designed to obtain professional employment for the advertisers in a very objectionable manner. Amongst others, they have observed offers to discount bills and notes.

The Council are now empowered, by the 26th section of the Attorneys' Act, to prosecute persons who act wrongfully as attorneys. This enactment has probably operated in preventing infringements of the law; for at present it has become necessary only in one case to put this clause in force against a person, formerly an attorney's clerk, who had opened an office and used the name of an attorney without his knowledge or authority. In this case a rule nisi was obtained, as for a contempt of court, and the matter has been referred to one of the masters of the Court of Exchequer. Under this section the society may institute proceedings against attorneys practising without annual certificates; but, in such cases, it is necessary that sufficient evidence be previously submitted to the Attorney-General for his sanction to the proceeding. The penalties recovered are to be paid to the Treasury.

A considerable number of applications to renew or take out annual certificates have come before the Council, either on a term's notice or specially on short notice by leave of the judge. The affidavits in support of these applications are referred by the judges to the Council, in order that care may be taken to inquire into the respectability of the parties, and to ascertain whether any arrears of duty be payable, or whether the applicants should be examined, if they have long ceased to practice.

XI. NEW RULES AND ORDERS, AND OTHER PRACTICAL MATTERS.

[A list is here given of the new rules and orders from the 23rd of August, 1860, to 16th April, 1861.]

Complaints have been renewed of delay in the taxation of costs in chancery owing to the pressure of business in the masters' offices.

The Council have referred the matter to the consideration of their Equity Committee.

The inadequacy of the scale of allowance for costs of prosecutions at the assizes and the sessions has again been brought under notice. The Council are informed that the matter is under the consideration of the Government; and it will be expedient for the provincial law societies to communicate directly with the Home Secretary on the subject.

XII. PRIVILEGES CLAIMED BY COUNSEL.

The Council reprint here the correspondence between themselves and Mr. Huddleston, Q.C., in November last, which will be found *ante* pp. 61, 62.

It was very far indeed from the wish or intention of the Council to invade or weaken the just privilege of counsel "established for the benefit of the client;" but they felt it to be their duty to Mr. Clutterbuck to give him an opportunity of vindicating his character, and that it was due, alike to Mr. Clutterbuck and to Mr. Huddleston, to ascertain that the facts had been accurately stated by the former, and to give the latter an opportunity of correcting them, if inaccurate; and they indulged the hope that if Mr. Huddleston could not deny the facts, he would have felt it not unbecoming his position as a barrister, or his honour as a gentleman, to express, spontaneously, his regret that, misled as to the facts, he had been betrayed by his zeal as an advocate into a course which, on reflection, he could not justify. Mr. Huddleston did not think fit to pursue this course, and the Council feel called upon to remark, that it is not, in their opinion, within a legitimate exercise of the privileges of counsel to make statements injurious to the character of professional men, which *they know* do not admit of proof, and which the accused is not at the time permitted to disprove.

XIII. GENERAL AFFAIRS OF THE SOCIETY.

The auditor's report of the receipts and payments of the year, and the debts and assets of the society, has been, as usual, open for inspection since the 15th April last, in the secretary's office, in accordance with the bye law.

It is satisfactory to state that since the audit, which extended to the 31st December, the Council have paid £800 out of the surplus income as the final balance due for the new building, and have also paid out of such surplus another £800 towards the discharge of the loan raised on account of the building.

It will be seen by the auditors' report that credit has been given for the registration fees received to the end of last year. Under the 20th section of the Act a yearly account of these fees and the application thereof is to be rendered to the judges, and a copy open for inspection at the hall of the society. The receipts of these fees commenced on the 16th November last, and the account will of course be made up to that day in the present year.

The courses of conveyancing lectures, by Mr. Frederick J.

Turner; of equity lectures, by Mr. Hemming; and of common law lectures, by Mr. F. Meadows White, have been concluded, and it will be the duty of the council to elect other gentlemen to the vacant lectureships. The lectures during the last season were attended by numerous members of this society, and by 213 subscribers.

Since the last meeting the society has been favoured with valuable donations of books from Mr. W. Baker, Mr. Bilton, Mr. B. Blundell, Mr. T. Boodle, Mr. W. D. Cooper, Mr. J. W. Davis, Mr. C. W. Dilke, Mr. W. Harris, Mr. O. B. Harrison, Mr. S. W. Hunter, Mr. E. Lawrance, jun., Mr. M. Montagu, Mr. H. G. Prichard, Mr. Rickman, Mr. C. Rivington, Mr. John Stow, and from the Law Society Club.

The further publications of Her Majesty's Commissioners of Patents, and several additional contributions from the Colonial Office of the Acts and Ordinances of the Colonies of the Empire have also been received.

The following solicitors and parliamentary agents engaged in promoting local, personal, and private Acts, have kindly presented copies of their Acts—namely, Messrs. Bircham and Co., Mr. M. Brown, Mr. Bryden, Messrs. Burchell, Messrs. Connell and Hope, Messrs. Deans and Rogers, Messrs. Dodd and Greig, Messrs. Dorrington and Co., Messrs. Durnford and Co., Messrs. Dyson and Co., Messrs. Edwards and Co., Messrs. Fearon and Co., Mr. Gale, Messrs. Grahame and Co., Messrs. Gregory and Co., Messrs. Holmes and Co., Messrs. Hunt and Co., Messrs. Johnston and Co., Mr. Kingdon, Messrs. Loch and MacLaurin, Messrs. Maitland and Graham, Mr. Manning, Messrs. Marriott and Jordan, Messrs. Marchant and Pead, Mr. F. Martin, Messrs. Muggeridge and Bell, Mr. Newall, Messrs. Paine and Layton, Mr. Porter, Messrs. Toogood and Co., Messrs. Robertson and Co., Messrs. Walmisley and Son, and Mr. Wyatt.

It is trusted that other solicitors will make similar contributions towards the completion of this department of the library.

The Council have been enabled, by the kind assistance of Mr. Salt, the banker, to make a large and very valuable addition to the collection of private Acts, and in exchange have supplied him with such duplicates as they could spare.

Mr. Salt states that he has completed the task in which he has been engaged, in providing the British Museum with all the private Acts that could be obtained, for the purpose of making up their set; and having prevailed upon the trustees to hand over to him in exchange all the duplicates they had in the time of Queen Anne and George I., he has supplied the Council with a large collection of these Acts. In prosecuting his researches for the British Museum he availed himself of the stores of every law bookseller in London, including the large stock of Messrs. Stevens & Norton, whose collection had been accumulating for nearly a century. The society's series of private Acts is carefully arranged, and it appears that there is no other good collection of them, except at the British Museum.

Besides the above important additions to the library, the Council have availed themselves of the recent sale of the library of the College of Advocates at Doctors' commons, and have purchased many rare, ancient, and valuable works on Roman, Ecclesiastical and Civil Law, with those published by the Parker Society, and other learned and classical publications. They have also recently purchased the last edition of the *Encyclopædia Britannica*, and other books of reference.

The purchase of new legal works during the year has been very considerable, and these, added to the donations, have increased the collection by 777 volumes, making in the whole 16,161.

It has been suggested to the Council, that the extension of the general education of gentlemen intending to enter this branch of the profession under the provisions of the new statute, should induce an enlargement of the classical and literary department of the library, but the Council at present feel reluctant to invest any considerable sum in the purchase of this class of works until they have reduced the debt incurred for the new building, and it has therefore been proposed to form a separate subscription, to which such of the members as approve of the measure are invited to contribute.

It has become the painful duty of the Council to record the loss of their valued friend and colleague Mr. Gregory. Intimately associated with him during many years they have enjoyed more than ordinary opportunities of estimating the worth of his character, and bear cordial testimony to the uniform ability, knowledge, and courtesy, with which he discharged his duties whilst president of the society and as a member of the Council.

At the last annual general meeting there were 1,771 members, and during the current year 86 new members have been elected, making in all 1,858, from which number 56 are to be deducted in consequence of deaths, retirements, and other causes, leaving at the present time 1,802, of whom 1,370 are town and 432 country members.

The Council have had under consideration the expediency of inviting the members of the society to social meetings in the library and hall, but as it appeared that the object could not be carried into effect without a more considerable expenditure of the society's funds than the Council felt justified in appropriating on their own responsibility, it was resolved that the subject be specially brought under the notice of the members at this general meeting with a view to eliciting their opinions and wishes.

(Signed)

WM. STRICKLAND COOKSON, President.

The National Association for the Promotion of Social Science.

THE ADMIRALTY COURT.

At the recent meeting at Dublin of the above association, Mr. B. C. Lloyd read the following very interesting paper:—

The president of this section, in his luminous and excellent address, has already called the attention of the society to the expediency of having a perfect assimilation of the laws, as well as of procedure, in the Courts of England and Ireland. This opinion is one that is daily gaining ground, and we may hope the time is not distant when in every Bill of a national character that shall be introduced into Parliament the word Ireland will be found placed after that of England. The increased intercourse and facility for the transaction of business which such a state of things would bring about would be the true mode of cementing the union between the two countries, which would then rest for its support not upon standing armies, but in a community of interest in that happy constitution under which we have the privilege to live. But there is one branch of our judicial system to which the remarks upon the subject of assimilation are peculiarly applicable—that is, the Court of Admiralty. This is, in fact, the Court of Commerce of the country. Great improvements of late years, and particularly in the last session, have been made in the jurisdiction and procedure of the Court of Admiralty in England; and except a similar constitution be given to the Court of Admiralty here, the result must be very injurious to the interests of commerce in Ireland. This is a subject that affects not only the merchant in Ireland, but the merchant in England, and the merchants all over the world. The number of British and foreign ships that enter the ports of Ireland has of late years been greatly on the increase. In 1854 the number of English ships that entered the ports of Ireland was 881, and of foreign ships 621; while in 1859 the number of English ships was 1,168, and of foreign ships 1,066; and the intermediate years show the increase to have been gradual. There is every reason to believe that the trade with France, which at present is considerable, will be greatly increased by the new tariff. Now, suppose the owner or master of an English or foreign ship coming into an English port, were to find that for any particular grievance he can obtain redress in a summary and inexpensive form, while in an Irish port he finds that for a similar matter, either the Court here has no jurisdiction at all to entertain the complaint, or else that the exercise of its jurisdiction is so clogged with an expensive and continuous machinery as to amount to a denial of justice. The result cannot but be injurious to the interests of commerce in Ireland. I happen to know that there is at present a memorial before the Government by the merchants of Cork, complaining that they have not the same advantages as England for breach of duty or contract on the part of the master or owner of foreign ships. A foreign ship lately arrived in Queenstown with a cargo of wheat, and by the charter-party the master was directed to take the cargo into whatever port he should be directed. He was ordered to go to Yarmouth. He refused to go, and sold part of the cargo, paid his freight, put another captain on board, and made his escape. The Court of Admiralty in this country could give no relief; and as to an action in a court of common law, the vessel might be in the most distant part of the globe before its process could avail. Whereas in England, by the 6th section of the new Act, a fiat

could be at once obtained for the arrest of the vessel, and thus the captain would be made to perform his contract. For a long time the jurisdiction of the Courts of Admiralty in both countries was the same. In very early times they exercised a greater jurisdiction, but owing to the jealousy of the courts of law, this jurisdiction was considerably abridged, for these courts maintained that if any part of the contract was to be performed on land, the case came within their jurisdiction, and they issued prohibitions against the proceedings in the Court of Admiralty. They made an exception in the cases of trials by seamen for their wages, from the necessity of the case, as they admitted the seaman could not be kept in this country to attend from term to term to recover his wages in a court of common law. At last, in the year 1632, upon a petition of the merchants of London, an act of the Privy Council, signed by the twelve judges, was obtained, setting forth the cases in which their prohibitions were not to issue. This act of the council was observed from time to time, but in the troubled times that followed it was suppressed, on the pretext that it was an act of prerogative prejudicial to the common law and the liberty of the subject. Afterwards, on the Restoration, another petition was presented by upwards of one hundred of the merchants of London, for a renewal of the powers of the Court, and referring to the acts of the Privy Council; a Bill was in consequence introduced into the Lords, which, had it passed, which was not the case, would have placed the Court of Admiralty in almost the same condition as it has been placed by the Act of the last session. Thus, it required the lapse of two centuries to get over existing prejudices and to pass the Act for England, which received the Royal assent in the month of June last. But in Ireland nothing has ever been done by the Legislature, except upon the address of the House of Commons a royal commission issued to inquire into the state of the Admiralty Court in Ireland; a report was made in 1829, but nothing has been done; but by the 8th article of the Act of Union, which enacts "That from and after the Union there shall remain in Ireland an Instance Court of Admiralty for the determination of causes civil and maritime only." That is a court as distinguished from a prize court. The only other enactment is a clause which has been inserted into the recent Probate Act, which gives to the Crown, whenever a vacancy shall occur in the Court of Admiralty, the power to annex it to the Court of Probate under the same judge. I have no hesitation in saying that the latter enactment is a step in the wrong direction; for, besides the heterogeneous nature of the business of those courts, the whole value of the Court of Admiralty consists in its being a court open all the year round, and exclusively devoted to marine matters, so as to be able to afford redress in the most summary and inexpensive form. This is very quaintly put by Sir Lincoln Jenkins, who was judge of the Court of Admiralty in the reign of Charles the Second, in his argument before the committee of the House of Lords on the occasion of the introduction of the Bill I have already referred to. He says—"We are yet left the form of a Court of Admiralty, and are bound by it to proceed not only *de die in diem*, or as summary as a judgment *de jure gentium* can be, but from tide to tide. It is the ancient style of the Admiralty and not without reason, for there is not one case in ten before the Court but some of the parties and witnesses in it are pressing to go to sea with the next tide; and the mariners had better lose the wages of a whole voyage than not go off the next that offers itself." Now if the duties of this court are annexed to another, the value of the Court of Admiralty as a court of instance is greatly diminished; for the master and crew, who are perhaps bound for another voyage to a different merchant, may not be able to wait until the termination of some other business in which the Court of Probate may be engaged. It is for this reason that in most mercantile countries there is a separate court for marine affairs. In France there is the Tribunal of Commerce, exclusively devoted to this subject, and where immediate redress can be had. In Ireland the jurisdiction remains as in former times, and is confined to cases of salvage, collision of vessels at sea, bottomry bonds, suits for seamen's wages, suits for materials supplied to the vessels, and suits of possession—that is, where there are part-owners in a vessel, and they quarrel amongst themselves, or differ as to the employment of the ship. All that the Court of Admiralty in Ireland can do in this last case is to arrest the vessel until security is given to the dissentient party for the return of the ship. But such quarrels are very injurious to commerce, and prevent the healthy working of the ship. To remedy it a most important clause has been introduced in England by the 8th section of the Act of last session, which enacts "that the

Court of Admiralty shall have jurisdiction to decide all questions arising between the co-owners, or any of them, touching the ownership, possession, employment, and earnings of any ship registered in any part of England or Wales, or any share thereof, and may settle all accounts outstanding and unsettled between the parties in relation thereto, and may direct the said ship, or any part thereof, to be sold." By this section the Court in England, if it should fail by other means to settle the disputes between the co-owners, has the power to direct the ship, or any share of it, to be sold, so that it may pass into new hands, and the healthy working of the ship be restored. But this enactment is defective in not giving to masters and owners a reciprocal right against the merchant to recover their freight and demurrage. I know of one case in which the master of a French vessel, in order to recover his demurrage, proceeded in the Court of Admiralty, and finding he could get no relief there from want of jurisdiction in the court, he had to go into a court of common law. It was eighteen months before he succeeded in getting a verdict, and then at a cost that left him worse than before. In such cases the Court of Admiralty should have power to issue a monition against the merchant, and compel him to show cause why the freight or demurrage should not be paid. I have been informed by Mons. Burgraff, the intelligent French Consul residing here, that the want of power to give relief by the Court of Admiralty is loudly complained of by the owners and captains of French vessels, who complain of the difficulty they experience in recovering demurrage. The next matter related to proceedings in the Court of Admiralty, and the mode of taking evidence. That must be done *in scriptis* by written interrogatories exhibited to the witness, which is in all cases a very defective mode of arriving at the truth, and even where the impugnant does not appear, the promovant must still prove his case *in scriptis*, and establish each material fact by the evidence of two witnesses. Whereas, the judge should have the power, where the impugnant will not appear, or answer the case made against him, to allow judgment to be entered against him by default, according to the practice of other courts. I ought to mention here, what is very creditable to the proctors practising in this court, that they in almost all cases enter into a consent to have the case heard by a *viva voce* examination of the witnesses in open court. When this is done, a cause can be heard and adjudicated upon in this court in a very few days. But then it is not always practicable to obtain such consent, and the proceedings of the court should not be dependent upon the good feelings of the practitioners. In fact, as Sir Lincoln Jenkins has two centuries ago observed, owners of vessels should then be enabled to recover their freight, and merchants their demurrage; and charter-parties, which are only calculated for sea affairs, should be interpreted and adjudged by the sea laws, and according to the style of the court; not from term to term, but from day to day, and tide to tide, all the year round. If all this cannot be accomplished, I trust, at all events, the court here will not be left in its present condition, so injurious to the interests of commerce; but that the benefits of the Act passed for the improvement of the court in England will, through the intervention of this society, be shortly extended to Ireland.

Public Companies.

REPORTS AND MEETINGS.

CALEDONIAN RAILWAY.

At the half-yearly meeting of this company, held on the 10th instant, a dividend at the rate of £5 per cent. was declared for the past half-year.

EAST ANGLIAN RAILWAY.

At the half-yearly meeting of this company, held on the 6th instant, a dividend on the B. stock at the rate of £6 per cent. per annum, and on the C. stock at the rate of 4 per cent. per annum, was declared for the past half-year.

GLASGOW AND SOUTH-WESTERN RAILWAY.

At the half-yearly meeting of this company, held on the 4th instant, a dividend at the rate of £5 per cent. per annum was declared for the past half-year.

GREAT NORTH OF SCOTLAND RAILWAY.

At the half-yearly meeting of this company, held on the 20th

instant, dividends were declared at the rate of £7 per cent. per annum on the preference and original stock of the company. The dividend on the 4½ per cent. preference shares was also declared.

SCOTTISH NORTH-EASTERN RAILWAY.

At the half-yearly meeting of this company, held on the 5th instant, the following dividends were declared:—The dividends on the 3½ per cent., 6 per cent., and 7 per cent. preference stocks; ½ per cent. per annum on the Aberdeen ordinary stock; and at the rate of 4½ per cent. per annum on the Scottish Midland original stock.

SHROPSHIRE UNION RAILWAY.

At the half-yearly meeting of this company, held on the 7th instant, a dividend at the rate of £1 17s. 6d. per cent. was declared.

BANKRUPTCY AND INSOLVENCY.—The last returns made respecting the judicial proceedings of the year 1860 show of what small amount the mass of the bankruptcy and insolvency cases are, and how ill able to bear an expensive system of administration. About a thousand bankrupts had their balance-sheets passed in the course of the year, and in 866 instances the debts owing by the bankrupt were under £5,000, in 398 under £1,000; dividends were made in 968 cases, and in 562 of them the dividend was under 2s. 6d. In the Insolvent Debtors' Court 5,817 schedules were filed in the year, and in 5,184 instances the debts owing by the insolvents were under £1,000; dividends were made in 701 cases, and in 593 of them the dividend was under 2s. 6d. The returns of the Bankruptcy Court state that the sum realised for administration by that court in the year was £1,080,656, and the charges amounted to £329,440, or £30 9s. 8d. per cent. The official assignees took £45,459; the solicitors, £127,690; the court for its percentage, £26,566; the "messengers," £28,195; brokers, auctioneers, and accountants, £23,598; the bankrupt's allowance and excepted articles amounted to £31,265, and £9,497 was allowed for their accountants, and "other charges," including charges for carrying on trade, took £37,170. The Insolvent Debtors' Court realised £55,952 for administration, and the expenses of administration were £11,963, or £21 7s. 7d. per cent.

The number of persons committed for trial in 1860 on charges too serious for the magistrates to dispose of summarily was—in England, 17 per cent. less than it had been five years previously; in Scotland, 11 per cent. less, and in Ireland 24 per cent. The year's list of committals for murder and attempts to murder or to maim was more numerous in Ireland (in proportion to the population) than in England, being 105 against 283, but the convictions were far more numerous in England—163 against 33. For all offences together convictions in England and Scotland were about 75 per cent. of the committals; in Ireland only 55. The feuds, faction fights, and quarrels of Ireland make their mark in the criminal tables; 560 persons were committed for riot or breach of the peace in 1860, and 154 for rescue or refusing to aid peace officers, the two classes together forming 13 per cent. of the whole number of the committals; in England, for both classes of offences together, the committals were only 50. Taking the more comprehensive returns of the numbers who were in prison during the year for all offences so as to include persons sent to gaol summarily by the magistrates, as well as those committed for trial by the courts, it appears that the number in England (without reckoning military prisoners) was 1 to every 197 of the population, and in Ireland 1 to every 195. But, as the same person when recommitment within the year was counted again, the number of persons sent to prison was not really so large as this; in Ireland there were 30,712 committals, but the number of persons committed was only 24,639, of whom 15,760 had never been in gaol before. In England 34 per cent. could neither read nor write; in Ireland 46 per cent. In England the females were 30 in every 100 criminals; in Ireland no less than 47. Female prisoners in Ireland are not declining in the same ratio as male, and last year's returns show in a most striking manner the irreclaimable character of many female prisoners. 165 of the male prisoners in Ireland had been in gaol above 11 times, but 688 of the females; 47 of the male prisoners had been there above 20 times, but no less than 336 females. Cork city gaol had in it a woman undergoing her 66th imprisonment. 86 per cent. of the Irish committals were Roman Catholics.

Births, Marriages, and Deaths.**BIRTHS.**

DEWSNAP—On Sept. 19, the wife of Mark Dewsnap, Esq., of Lincoln's-inn, Barrister-at-Law, of a daughter.

WEBSTER—On Sept. 18, at 25, Drayton-grove, West Brompton, the wife of Benjamin Webster, Jun., Esq., Barrister-at-Law, of a daughter.

MARRIAGES.

CRAWFORD—COLLINS—On Sept. 19, S. Knox Crawford, Esq., Solicitor, Supreme Courts, Edinburgh, to Sarah Jane, daughter of the late Knight Collins, Esq., of Flaxton Lodge, Yorkshire.

DAWBBER—HULLAND—On Sept. 24, Robert Dawber, Esq., Brewery, Lincoln, to Charlotte Elizabeth, daughter of the late Richard Hulland, Esq., of Lincoln's-inn.

LEVICK—GABB—On Sept. 18, Frederick Levick, Esq., of Shirenewton House, near Chepstow, to Alice Parry, daughter of the late Baker Gabb, Esq., of Llwyn-du, near Abergavenny.

WRIGHT—HUGHES—On Sept. 21, Herbert Wright, Esq., of 6, Waterloo-street, Birmingham, Solicitor, to Helen Marion, daughter of William Hughes, Esq., of Peckham, Surrey.

DEATHS.

DONALDSON—On Sept. 20, William Leverton Donaldson, Esq., Solicitor, of Southampton-street, Bloomsbury-square, in the 59th year of his age.

NAYLOR—On Sept. 15, at Hammersmith, Elisha Naylor, Esq., Solicitor, late Assistant Record Keeper of the Inland Revenue Record Office, Spring-gardens.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

REEVES, FREDERICK JOHN HAWKES, Clerk, East Sheen, Surrey, **JOHN AGLAND JAMES**, Esq., King's College, Cambridge, **ADOLPHUS MEETKERKE**, Esq., Julians, Herts, and **FRANCIS HERBERT GALL**, Esq., Trinity College, Cambridge, £2,487 : 19 : 2, 3¼ per Cents.—Claimed by the said **FRANCIS HERBERT GALL**.

London Gazettes.**Creditors under 22 & 23 Vict. cap. 35.***Last Day of Claim.*

TUESDAY, Sept. 24, 1861.

ASHTON, ROBERT JOHN, Solicitor, 7, Pelham-crescent, Brompton, Middlesex, and New Inn, Strand. *Sol.* Doughty, 41, Montpelier-square, Brompton, Middlesex. Nov. 31.

BUTCHER, THOMAS, Wholesale Grocer, Provision Dealer, and Tallow Chandler, 1, Norfolk-crescent, Bath. *Sol.* Little, 11, Bladud-buildings, Bath. Nov. 30.

FENWICK, REV. JOHN PERGRINE LASCELLES, 2, Vineyards, Bath. *Sols.* Mant, Maule, & Robertson, 2, Wood-street, Bath. Nov. 5.

GOULD, CHARLES, Farmer, Aldbourne, Wilts. *Charles James*, Shillingford, Berks, and *Thomas Hicks* Chandler, Aldbourne, Wilts, Executors. Nov. 5.

HARRISON, JOHN, Swiller and Farmer, Beckside, near Ulverston, Lancaster. *Sol.* Woodburne, Ulverston. Oct. 19.

JOHNSTON, WILLIAM, Esq., 30, Westbourne-place, Eaton-square. *William Sander Higley*, Esq., Stamford-hill, Middlesex, and *Arthur Frederick Vulliamy*, Gent., Ipswich, Suffolk, Executors. Dec. 16.

JONES, Mrs. ELIZA, Widow, 60, Fulteney-street, Bath. *Sols.* Mant, Maule, & Robertson, 2, Wood-street, Bath. Nov. 5.

LAMBERT, EDWARD, Gent., Attercliffe, Yorkshire. *Sols.* J. J. P. & H. Wood, Pavement, York. Nov. 5.

MENZIES, JOHN, Rangoon, Pegu, British Burmah. *Sols.* Oliveron, Lavie, & Peachey, 8, Frederick's-place, Old Jewry, London. Oct. 24.

FRITCHARD, JOHN, Jeweller, Regent-place, Birmingham. *Sols.* Hodgson & Allen, 13, Waterloo-street, Birmingham. Dec. 1.

RICHARDSON, JOSEPH, Bank Manager, Loughborough. *Sol.* Perkins, Loughborough. Nov. 15.

RIDLEY, GEORGE, Gent., Newbrough, Northumberland. *Sol.* Kirsopp, Hexham. Jan. 1.

FRIDAY, Sept. 27, 1861.

BONE, ELIZABETH, Widow, formerly of George-street, Westminster, but late of Gravesend, Kent. *Sols.* Boulton & Sons, Northampton-square, Clerkenwell, Middlesex. Oct. 10.

BONE, WILLIAM, Victualler, George-street, Westminster. *Sols.* Boulton & Son, Northampton-square, Clerkenwell, Middlesex. Oct. 10.

GREGORY, WILLIAM BROCKSOPP, Esq., formerly of Clapham, Surrey, but late of Woodlawn, Loose, Kent. *Sols.* Baker, Baker, & Forder, 52, Lincoln's-inn-fields. Oct. 31.

HEATH, ISAAC, Gent., Kidderminster. *Sols.* Saunders & Son, Kidderminster. Dec. 10.

HIGHTON, EDWARD, Civil & Telegraphic Engineer, formerly of Clarence Villa, Gloucester-road, Regent's-park, Middlesex. *Sol.* Harley, 30, Broad-street, Bristol. Nov. 30.

MARSH, EDWIN LEE, Plumber, Painter, & Glazier, Dover. Executors, *Jane Saunders*, Spinster, Canterbury, and *Edwin Coleman*, Estate Agent, Dover. Jan. 1.

ROBINSON, ABRAHAM, Plumber, 3, Ann's-terrace, Liverpool-road, Islington. *Sols.* Boulton & Sons, Northampton-square, Clerkenwell, Middlesex. Oct. 10.

Creditors under Estates in Chancery.

TUESDAY, Sept. 24, 1861.

BURN, JOSEPH ANTHONY KELSON, Grocer, Hill-street, Haverfordwest. *Sol.* Smith, 1, Frederick's-place, Old Jewry. Sept. 10.

GILBERT, WILLIAM, Grocer and Draper, Langport, Somersetshire. *Sols.* Newman, Lyon, & Newman, 7, King's Bench-walk, Temple, London, and Yeovil, Somersetshire; or Trenerry, Bristol. Aug. 27.

HOPK, ROBERT EDMUND, JOHN EDWIN HEATH, and **WILLIAM LEON HILTON**, Oil Merchants, 37, and 38, Mark-lane Chambers, London, and Lord-street, Limehouse, Middlesex. *Sols.* Hare & Whitfield, 1, Mitre-court, Temple, London. Sept. 20.

PALMER, RICHARD GIBBS, Draper, Bicester, Oxfordshire. *Sol.* Jones, 15, Sisco-lane, London. Sept. 13.

RODIER, JAMES BICKHAM, Manchester Warehouseman, Queen-street, Exeter. *Sol.* Petherick, Cathedral-yard, Exeter. Sept. 5.

SEED, JOHN, Grocer and Provision Dealer, Keighley, Yorkshire. *Sols.* Weatherhead & Burr, 41, New Bridge-street, Keighley, Yorkshire. Aug. 37.

Assignments for Benefit of Creditors

FRIDAY, Sept. 27, 1861.

DOBSON, JOSEPH, Confectioner, Liverpool (Barker & Dobson). *Sols.* Dodge & Wynne, 7, Union-court, Castle-street, Liverpool. Aug. 29.

FITZ, GEORGE, Grocer, Totnes, Devonshire. *Sol.* C. F. Michelmores, Totnes. Sept. 18.

HORSLEY, CHARLES EDWARD, Professor of Music, Southfield, Wandsworth, Surrey. *Sol.* W. B. Tarrant, 2, Bond-court, Walbrook, London. Aug. 30.

JOHNSON, STANLEY KENDRICK, and **WILLIAM VOKES**, Drapers, 61, Newington-causeway, Surrey. *Sols.* Davidson, Bradbury, & Hardwick, Weaver's-hall, 22, Basinghall-street. Sept. 11.

POWELL, JOHN, Iron Master, Brecon, and Clydach Iron Works, Breconshire. *Sols.* Abbott, Lucas, and Leonard, Bristol. Aug. 30.

SHONE, WILLIAM, Coach Builder & Cab Proprietor, Chester. *Sols.* Hoagge & Tatlock, Bridge-street, Chester. Aug. 37.

SNOW, RICHARD CHAPPELL, Grocer, 18, Union-street, Plymouth, Devonshire. *Sol.* Rooker, Plymouth. Sept. 16.

THOMPSON, JOHN WILLIAM, Baker & Grocer, 1, Abercrombie-street, Landport, Portsea, Hants. *Sols.* H. & R. Ford, 170, Queen-street, Portsea. Sept. 13.

Bankrupts.

TUESDAY, Sept. 24, 1861.

ASHWIN, MARTIN RICHARD, Factor, 27, Islington, Birmingham. *Com.* Sanders: Oct. 4 and 25, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* Harrison & Wood, Birmingham. *Pet.* Sept. 23.

BROWN, WILLIAM, Apothecary, Somersham and Earith, Huntingdonshire. *Com.* Goulburn: Oct. 7, at 12.30; and Nov. 11, at 13; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Harris & Mee, Bishopgate-churchyard, London. *Pet.* Sept. 23.

CROTHWAITE, JOHN, Merchant, Liverpool. *Com.* Perry: Oct. 3 and 24, at 11; Liverpool. *Off. Ass.* Turner. *Sols.* Lowndes, Bateson, Lowndes, & Robinson, 3, Brunswick-street, Liverpool. *Pet.* Sept. 23.

HOLDEN, ANDREW, GEORGE HOLDEN, RICHARD HOLDEN, & AMOS HOLDEN, Cotton Manufacturers (Holden, Brothers). *Com.* Jemmett: Oct. 11 and Nov. 14, at 12; Manchester. *Off. Ass.* Fraser. *Sols.* Hall & Janion, Manchester. *Pet.* Sept. 9.

KENT, GEORGE HENRY, Timber Merchant, Stratford-upon-Avon. *Com.* Sanders: Oct. 7 and Oct. 28, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Hobbes & Slater, Stratford-upon-Avon; or James & Knight, Birmingham. *Pet.* Sept. 23.

NIXON, JAMES, Merchant & Commission Agent, Melbourne, Victoria, Australia, and of Liverpool. *Com.* Perry: Oct. 3 and 23, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Yates, Jun., Fenwick-street, Liverpool. *Pet.* Sept. 20.

SHERWOOD, THOMAS, Laceman, Southsea, Portsea, Southampton. *Com.* Holroyd: Oct. 5, at 1; and Nov. 1, at 2.30; Basinghall-street. *Off. Ass.* Edwards. *Sols.* Mason, Sturt, & Mason, 7, Gresham-street, London. *Pet.* Sept. 12.

WHITESIDE, WILLIAM, & GEORGE SIMMONS, Gas Engineers & Brass Finishers, 34, Gt. Queen-street, Middlesex. *Com.* Goulburn. Oct. 7, at 2; and Nov. 4, at 1.30; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Murrough, 18, Warwick-court, Gray's-inn, London. *Pet.* Sept. 31.

FRIDAY, Sept. 27, 1861.

BINNEY, RICHARD, & JOSEPH WALKER BINNEY, Stock & Share Brokers, Leeds. *Com.* West: Oct. 11 and Nov. 8, at 11; Leeds. *Off. Ass.* Young. *Sols.* Bond & Barwick, Leeds. *Pet.* Sept. 20.

CHURCHILL, HENRY, Builder & Brickmaker, Washington, Sussex. *Com.* Goulburn: Oct. 7, at 11.30; and Nov. 13, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sols.* J. & J. H. Linklater & Hackwood, 7, Walbrook, London. *Pet.* Sept. 20.

DAVID, EDWARD, Innkeeper & Sheep & Cattle Dealer, Bridgend, Glamorgan. *Com.* Hill: Oct. 8, at 11.30, and Nov. 5, at 11; Bristol. *Off. Ass.* Acraman. *Sols.* Edwards & Nalder, Bank-court, Bristol. *Pet.* Sept. 12.

FRANKAU, SIDNEY, Importer of Meerschaum Pipes, 79, Bishopgate-street Within, London, and 19, Bridge-street, Westminster (Sidney Frankau & Co.) *Com.* Goulburn: Oct. 8, at 11.30, and Nov. 11, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Brandon, 15, Essex-street, Strand, London. *Pet.* Sept. 24.

HART, WILLIAM, & JOHN HART, Drapers & Grocers, Framlingham and Dennington, Suffolk. *Com.* Fonblanque: Oct. 10, at 12, and Nov. 8, at 11; Basinghall-street. *Off. Ass.* Stansfield. *Sols.* Mason, Sturt, & Mason, 7, Gresham-street, London, and Miller, Son, & Bugg, Norwich. *Pet.* Aug. 6.

HENLEY, WILLIAM, Printer, Bookseller, & Stationer, 1, Southgate-street, Gloucester. *Com.* Hill: Oct. 8 and Nov. 4, at 11; Bristol. *Off. Ass.* Acraman. *Sol.* Wilkes, Gloucester. *Pet.* Sept. 17.

LYON, JOHN DICKSON, Commission Agent, Kingston-upon-Hull. *Com.* Ayrton: Oct. 16 and Nov. 13, at 13; Kingston-upon-Hull. *Off. Ass.* Currick. *Sols.* Easton & Bellby, Hull. *Pet.* Sept. 25.

MAILLEY, GEORGE ISADORE, Corn Dealer, 8, Westbourne-grove, Bayswater, Middlesex. Com. Goulburn: Oct. 8 at 11, and Nov. 11, at 1.80; Basinghall-street. *Off. Ass. Pennell. Sols.* Willoughby, Cox, & Lord, 13, Clifford's-inn, London. *Per. Sept. 16.*

RIDGE, JOHN JAMES, Forest Hill, Kent, and lately carrying on business as a Chemist & Druggist, 10, Freeschool-street, St. John's, Southwark, Surrey. Com. Goulburn: Oct. 8, at 2.30; and Nov. 13, at 1.30; Basinghall-street. *Off. Ass. Pennell. Sols.* Lawrence, Smith, & Fawdon, 12, Broad-street, Cheapside, London. *Per. Sept. 26.*

SOTHERAM, JOHN, jun., Builder & General Dealer, Nottingham. Com. Sanders: Oct. 10 and 29, at 11; Nottingham. *Off. Ass. Harris. Sol.* Preston, Nottingham. *Per. Sept. 26.*

WEATHERLEY, FREDERICK, Draper, 7 Old Chapel-row, Kentish Town, Middlesex. Com. Goulburn: Oct. 7, at 1, and Nov. 13, at 12; Basinghall-street. *Off. Ass. Pennell. Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London. *Per. Sept. 20.*

WHITLEY, JOSEPH, Brass Founder, Leeds. Com. West: Oct. 7 and Nov. 8, at 11; Leeds. *Off. Ass. Young. Sol.* Carls, Leeds. *Per. Sept. 26.*

WRIGHT, EDWIN, Cowkeeper & Dairyman, Upton, near Slough, Buckinghamshire. Com. Goulburn: Oct. 8, at 12.30, and Nov. 13, at 11; Basinghall-street. *Off. Ass. Pennell. Sol.* Cordwell, 22, College-hill, London. *Per. Sept. 16.*

BANKRUPTCIES ANNULLED. TUESDAY, Sept. 24, 1861.

COOMBS, WILLIAM GORROAN, Merchant, St. Peter's-hill, Doctors'-commons, London, and of Halifax, Nova Scotia. *Sept. 21.*

LEVY, JOSEPH, General Dealer, Finsbury-pavement, London. *Aug. 1.*

FRIDAY, Sept. 27, 1861.

SHARPLES, JOSEPH, Soft Soap Manufacturer & Manufacturing Chemist Ashton Old-road, Ardwick, near Manchester. *Sept. 25.*

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Sept. 24, 1861.

ISAAC DEWHIRST, Worsted Spinner and Commission Agent, Halifax. *Oct. 18, at 11; Leeds.*—**THOMAS LEE**, Merchant, 8, George-yard, Lombard-street, London, and 1, Edmund-street, Birmingham. *Oct. 3, at 1.30; Basinghall-street.*—**JAMES JONES SALT**, Glass Dealer and Patent Coffin Manufacturer, Birmingham. *Nov. 11, at 11; Birmingham.*—**GEORGE WILSON WARD**, Publican, Worcester. *Nov. 4, at 11; Birmingham.*—**ROBERT OVERBURY**, Hotel Keeper, Henley-in-Arden, Warwickshire. *Nov. 4, at 11; Birmingham.*—**WILLIAM ROSE**, Rope Maker, Birmingham. *Nov. 4, at 11; Birmingham.*—**GEORGE MOORE**, Market Gardener, Perry Barr, Staffordshire. *Nov. 7, at 11; Birmingham.*

FRIDAY, Sept. 27, 1861.

THOMAS COATES, Publican and Wine and Spirit Merchant, Sunderland. *Oct. 8, at 11; Newcastle-upon-Tyne.*—**WILLIAM DOWNES**, Grocer and Tea Dealer, Wolverhampton. *Nov. 1, at 11; Birmingham.*—**GEORGE BOWLEY MEDLEY**, Underwriter, Highbury-park, North Islington, Middlesex, and 34, Great Tower-street, and of Lloyd's Coffee-house, London. *Oct. 19, at 11; Basinghall-street.*—**ROBERT HARMAN**, Corn Dealer and Coal Merchant, Littlewick, Whith Waltham, Berks. *Oct. 19, at 11; Basinghall-street.*—**JOHN CADMAN**, Brick Maker, Upholland and Billinge, Lancaster. *Oct. 21, at 11; Liverpool.*

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JOSEPH K. JACKSON, Secretary.

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derangement of the digestion.

We cannot notice any communication unless accompanied by the name and address of the writer.

Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

In the annual Report of the Council of the Incorporated Law Society, inserted in our last week's number at p. 776, under the head "Chancery Fund Commissions," we refer to a document at ante p. 728, as the report of a committee of that society. The document intended to be referred to by us is that inserted ante p. 728, under the head "The Accountant General's Department of the Court of Chancery," being observations and suggestions of the Equity Sub-Committee of the Metropolitan and Provincial Law Association, in relation to the Accountant General's Department.

THE SOLICITORS' JOURNAL.

LONDON, OCTOBER 5, 1861.

CURRENT TOPICS.

At the approaching meeting of the Metropolitan and Provincial Law Association, which will be held at Worcester on the 9th inst., the following papers will be read:—

Mr. John Morris.—On Fraudulent Trade Marks.

Mr. Arthur Ryland.—On Registration of Trade Marks.

Mr. W. Shaen.—On Professional Education.

Mr. C. A. Smith.—On Action for Malicious Prosecution, &c.

Mr. John Turner.—On Justice and its Miscarriages.

Mr. Thomas Dry.—On the Avoués of France.

The Solicitors' Benevolent Association will hold its half-yearly general meeting in the lecture room of the Worcestershire Natural History Society, Foregate-street, Worcester, on Wednesday next, the 9th instant. The meeting will be open to the profession generally, and the presence and co-operation of their professional brethren are earnestly invited by the directors. From the half-yearly report of the directors, recently issued, it appears that since the general meeting in April last eighty-five new members have joined the Association. The aggregate number of solicitors now enrolled in the Society is 1,090, of whom 408 are life members and 682 are annual subscribers. The receipts during the last half-year have amounted to £755 11s. 4d., out of which the directors have invested the sum of £500. It appears that the funded capital of the Society now amounts to £5,159 9s. 11d. £3 per Cent. Consols, the dividends arising from which, amounting to £154 16s., is the only fund at present applicable for the objects of the Society. The directors express an earnest hope that those members of the profession who have not yet contributed to the funds of the Society will now do so, in order that its benevolent objects may be carried out to their fullest extent. We have on previous occasions urged the claims of this excellent Association, and we can only repeat that the objects it has in view are such as to entitle it to the warmest sympathy and most liberal support from all members of the profession.

The courts of the revising barristers are now in full operation throughout the country, and deserve attention on account of the extraordinary form which their proceedings are gradually assuming. The practice in these courts is becoming organized into a system which threatens to take it altogether out of the hands of regular practitioners. It seems probable that the suitors, if they may be so called, will soon be represented exclusively by the registration agents of the two great opposing parties into which it is assumed for the purpose in hand the country is divided. What

the abstract and transcendental principles of Liberalism or Conservatism may, be considered apart from the merits of any particular candidate or any definite question of politics, it is not our province to determine, nor have we, fortunately, to make choice between them, though it is taken for granted, at least for registration purposes, that everybody must accept either one or the other. These distinctions belong to the region of politics, into which we strictly refrain from entering. We are anxious only to prevent politicians encroaching upon the province appropriated to practitioners of the law. It seems that, besides the two recognised agents above mentioned, there exists on behalf of each party an unrecognised agent, whose function it is to supply the raw materials of litigation, in the shape of objections to the voters on the register, and who passes under the high sounding title of "the objector-general." Perhaps it would be safer to confine our observations to the office of the objector-general, without going so far as to assert that there is always an officer to fill it; for the functionary in question, whether it be that he exists only in the form of his office, or whether kept in the background by the apprehension of penalties for groundless objections, though much called for and sought after, is seldom forthcoming. As a specimen of the efficient way in which he performs his duties, however, we find that in Middlesex the objector-general on one side made and served no less than 4,000 objections, each objection involving four notices, and each notice, besides the filling up, requiring a separate signature by the hand of the objector himself. Now objections to the register, it is well known, can only be made by a person properly qualified and duly registered himself, and with an exact observance of all the statutory regulations; all which requirements must be sufficiently proved as a condition precedent to the Court entertaining the objection. In the absence of the objector-general himself, great difficulty is naturally found in furnishing available proof of these matters, notwithstanding the zeal and ingenuity of the agents who appear in support of his objections. The revising barristers, as may be imagined, are by no means favourably disposed to this wholesale mode of supplying work for the court, and are equally ingenious in defeating the objections by detecting flaws in the preliminary proofs. In the case above referred to the signatures of the notices were proved by an actual eye-witness of that remarkable feat of signing, but proof of other essentials has not been so readily produced; and such points as the identity of the objector, proof of the posting of the objection, proof that the place of posting was a post-office, that the stamp was a post-office stamp, and others of a like kind, have raised formidable obstacles to the progress of the objections, and have furnished the means of knocking them off by hundreds. The business of the Court thus consists chiefly of very sharp fencing with the rules of evidence between the rival agents; and perhaps it is rather matter of wonder, considering the complicated process required for bringing a voter to defend his vote, and that the judges themselves are often the first to raise the objections to the evidence, which they afterwards adjudicate upon, that any cases at all get safely through to a hearing. The presiding judges, however, profess to show more consideration for independent objections *bonâ fide* taken for the purpose of correcting the register than for the objections thrown broadcast by the objector-general. The first question which occurs to every one in regard to the practice thus described is the general one, whether this is the mode of correcting the register intended by the Legislature, and whether it was really contemplated to make the register the battle-field for political parties. Another important question occurs as to the consequences to the individual voter. The voter served with an objection has the opportunity of entrusting the defence of his vote to a registration agent instead of his own solicitor, and has an obvious interest in so doing;

for by that means he pays his law expenses with his vote instead of with his money. In plain language, he sells his vote to the party to whom he becomes compromised by accepting their services in securing it to him. The transaction, in a political view, is a species of bribery and corruption, and in a legal view savours strongly of champerty and maintenance. With the political view of the question we disclaim any interference; but the monopoly of a large amount of legitimate law business by the agents of political associations seems a matter of serious consideration for the profession.

THE LANDED ESTATES COURT—TRANSFER OF TITLE IN LAND.

No. III.

Statistics by decades are likely to be fallacious. This, however, is the only form in which the Solicitor-General for Ireland has dwelt upon the successful working of the Court. It is the superabundance of causes adjudicated upon in the first years that gives a good average to the records of the decade. We do not think, indeed, that the Court has become unpopular in Ireland; we only mean to say that the argument advanced in its favour, on the ground of its rapid and constant despatch of a vast amount of business, wants foundation. Besides the extreme degree to which the properties brought under the Court in the first years of that tribunal's existence were encumbered, another cause powerfully contributed to gain public favour for the Court. This cause was the condition in which chancery procedure was in Ireland in 1849. Sales of land were not ordered by the Court of Chancery until the priorities of incumbrancers had been adjusted. Upon the unnecessary tediousness of this system we need not now comment. Such delays seldom serve any useful purpose, as the fund in Court, constituting the proceeds of the sale, may be made to represent the estate sold for all necessary purposes. The Irish chancery procedure, however, was in the condition we have described at the period when the Incumbered Estates Court was first established. But the latter tribunal at once ordered a sale in every case when the Court had ascertained that it had jurisdiction to sell; the adjustment of priorities being a matter of subsequent arrangement by the Court. It may be observed that an incumbrancer did not really touch his money one minute sooner under this procedure than he would have under the old. But the presence of money in Court gratified all parties, and the incumbrancer was at all events in the sight of his perhaps long-lent investment. A prompt sale, besides affording mental tranquillity to the incumbrancers of the estate sold, effected real good for the tenants. It demolished the receiver, removed an insolvent owner, and substituted one who was not, like his predecessor, obliged to anticipate the gale day, and be the debtor, instead of the creditor, of his tenants. The Landed Estates Court was thus wafted with a promising breeze before the Irish public. Properties were rapidly brought under the judicial hammer, and if the proceeds were not disbursed with a rapidity proportioned to the expectations of suitors, receivers, at all events, were abolished, and the country improved under solvent landlords and in prosperous times.

Notwithstanding the change of chancery procedure effected by the 13 & 14 Vict. c. 89 (the Irish Chancery Regulation Act, 1850), few in Ireland cared to enquire whether the old Court would act up to its new calling, since there was a young and vigorous rival in Henrietta-street which had no old habits to unlearn. Now, that the altered procedure in chancery has been tried and found to work well, we cannot see the utility of having two judicatures appointed to administer the same class of business, and we altogether concur with Mr. Whiteside, who has

already done so much for the reform of Irish common law procedure, in the opinion that a consolidation of the Landed Estates Court with the Court of Chancery is as desirable on every ground, as it appears to us to be a natural development of the former tribunal, if it is to become a permanent institution. A division of labour is practicable and useful in works of toil, or of art. A similar division of duties is seldom practicable in abstract matters which depend for their due realization upon principles of science, philosophy, or even of positive law. A pin takes ten men to make it, but, if there were ten directors of the pin factory, there would doubtless be the usual results of a divided leadership. There are few more gross fallacies than the notion that a mutual isolation of our judicatures is desirable. For that opinion implies that the client has a knowledge of the legal bearings of his case, and knows to which tribunal he should apply. Many, however, are deceived by the specious phrase—division of labour, and think that a system of jurisprudence may be administered on principles which apply only to the lower walks of art. There should doubtless be but one set of guiding principles and laws for courts which administer similar functions. The division of judicatures which we are now discussing is seldom indeed likely to mislead any one; at least to such a degree as that he may not obtain redress in one of the tribunals, if he is entitled to it in the other. Under the original Incumbered Estates Act, however, the special nature of that judicature, which depended for the definition of its powers solely upon the words of a single statute, might readily have led to inconvenience. Thus, suppose a petition presented against a tenant for life, who was considered by the incumbrancer to be a tenant in fee or a tenant in tail, and, after several proceedings, suppose that the commissioners, upon a re-perusal of an ill-drawn will, considered that the supposed owner took only a life estate,—they should of course dismiss the suit. But, if the petitioner in such a case had proceeded in chancery, he would obtain a decree for sale of the life estate. All unnecessary distinctions of tribunals into separate classes are to be deprecated upon principle, even though the inconveniences of the division might not be as obvious as they are as regards the tribunals, the functions of which we are discussing. It is, moreover, an inconvenient system of procedure that requires decrees, after being pronounced by the Court of Chancery, to be carried out by the Landed Estates Court. We pointed out, *ante* p. 506, the inconvenience of compelling suitors in chancery to resort to the Court of Probate to obtain administration, and showed the expediency of having these judicatures consolidated. The arguments which we there urged are equally applicable to the subject of our present observations. If the Landed Estates Court is to become a permanent adjunct or element of the Irish system of judicatures, it should, doubtless, be completely amalgamated with the more ancient tribunal, with which it is at present so closely allied.

The *Times* of the 20th ult., in a leading article on the Landed Estates Court, observes:—"There are few people who wish to see half a county with all its territorial rights and appendages, quite as transferable as £100 Consols." We should not, indeed, desire to see British soil, which is the chief basis of our political and social system, rapidly changing hands. But we do not coincide with the opinion implied in the passage we have cited from our contemporary, viz.—that it is desirable that there should be legislative checks to the transfer of land, if we except such as the Statute of Frauds, and the 8 & 9 Vict. c. 106, require, for the ensuring of caution and deliberation on the part of individuals. Consols, although so negotiable, are not constantly changing hands. No great proportion of the whole National Debt is yearly sold, and even of that amount, a considerable proportion is, doubtless, sold for the purpose of investment in land. We do not think, therefore,

that if a conveyance in fee simple could be as easily perfected as a transfer of stock may be made at present, that such a capability of transfer would induce landed proprietors to dispose of their estates, or to have agents in Chancery Court where the prices of their lands could be quoted with daily variations. There is nothing inherent in the nature of landed property to prevent it from being as negotiable as merchandise, or stock. Although ponderous in its own substance, it is not that substance which is sought to be conveyed to a purchaser of it, but merely a right to enjoy it; neither is it the substance of merchandise or of stock, which is obtained by a purchaser of these respectively, but merely a right to enjoy or sell the former, and a right either to obtain a certain sum of money from the Government for the latter, or to re-sell it. Rights, and rights alone, are necessarily the subjects of transfer, and, consequently, of law in either of these three cases. These rights are equally intangible, and equally incorporeal, in the three cases mentioned, notwithstanding the diversity of subject matter to which they respectively relate. But, though so ideal in their own nature, they all admit of transfer, and may be alike transferred with equal facility. Notwithstanding, however, that rights to land, merchandise, ships, shares, or stock may be made equally negotiable, it is, on the other hand, impossible that either of these classes of property can be perfectly negotiable, and that the purchaser should, at the same time, be bound to see to the discharge of the trusts with which any such property may be burdened. Would consols be as transferable as they are at present if the Bank incumbered its books with notices of trusts of stock and if the law affected purchasers of such with notice of the trusts thereon charged? If stock, therefore, could not be readily transferred in the case supposed, why do persons chimerically expect that land can be endued with the quality of being readily transferred, and, at the same time, that the purchaser is to look to the discharge of the trusts imposed on it? We cannot at one and the same time enjoy advantages that are contradictory of one another. Land cannot be made to flit rapidly through brokers' offices and purchasers at the same time be bound to discharge the trusts charged on land. We must, therefore, make an election. We must either prefer the interests of those making family settlements or of purchasers of land. In a new country, such as Australia, upon the conveyancing system of which we commented, *ante* pp. 176, 196, the interests of agricultural trade are properly deemed paramount to the occasional requirements of family settlements. The state of agriculture in Ireland offers likewise an excuse for the abnormal tribunal upon the constitution of which we have here commented. But the enormous extent to which many Irish properties were incumbered, and the state of the Irish Chancery procedure down to 1850, offer much more cogent reasons for the first establishment if not for the continuance of the Landed Estates Court—an institution which the Irish system of registration deprives of many of its naturally noxious tendencies. In England, however, what perhaps gives an especial value to land is its security as a basis for family settlements, and neither the requirements of agriculture nor the indebtedness of the landowners is so urgent as to require that the interests usually protected by settlements of land should be sacrificed for the purpose of expediting the deduction of title.

Recent Decisions.

HOUSE OF LORDS.

SUCCESSION DUTIES ACT, 16 & 17 Vict. c. 57—BARRING AN ESTATE TAIL—DISPOSITION AND DEVOLUTION.

Lord Braybrooke v. The Attorney-General, 9 W. R. 601.

It was observed by the late Lord Chancellor, in a case to which we shall presently refer, that one of the intentions of the

Legislature, in passing the Succession Duties Act, was to provide "that like interests in property should be subjected to like duties, wheresoever throughout the United Kingdom the property might be situated." The design was to make the operation of the Act equal, whether it took place in England or in Scotland. In order to effect this object, the framers of the Act were compelled to construct a new nomenclature, by giving to words of ordinary use, a legal significance hitherto unknown. They had to select terms which should be comprehensive enough to include estates under both Scotch and English law, and not so technical as to exclude either the one or the other. Thus in the 2nd section of the Act, all successions are divided into successions by "disposition," and successions by "devolution." The person entitled to a succession is called a "successor;" and the term "predecessor" denotes the person from whom the succession is "derived." Three new terms of art, at least, namely "disposition," "devolution," and "derivation," have been introduced into the legal vocabulary; and the necessary consequence has been a not unfrequent controversy between the Crown and the subject, as to who is, and who is not, in a given state of circumstances the predecessor from whom, whether by "disposition" or "devolution," the succession is "derived." The general principle of law, applicable to all cases of this nature is, that the subject is not to be taxed, except upon the clearest language, and that where a dispute arises as to the amount of tax payable, it is for the Crown to establish its right.

The points raised for the decision in the House of Lords in *Lord Braybrooke v. the Attorney-General* were two: one relating to the amount of duty payable in respect of the real estates, the other as to the duty payable in respect of an annuity charged upon the estates. Each of these may be considered separately. First, as to the estates. By the 2nd section of the Act (which was passed on the 4th of August, 1853, and is to be taken to come into operation on the 19th of May previous) it is provided that "every past or future disposition of property by reason whereof any person has or shall become beneficially entitled to any property, or the income thereof, upon the death of any person dying after the time appointed for the commencement of this Act, and every devolution by law of any beneficial interest in property, or the income thereof, upon the death of any person so dying, shall be deemed to confer on the persons entitled by reason of any such disposition or devolution a 'succession,' and the term 'successor' shall denote the person so entitled, and the term 'predecessor' shall denote settlor, disponent, testator, obligor, ancestor, or any other person from whom the interest of the successor is or shall be derived." Sect. 12 provides that "where any person shall take a succession under a disposition made by himself, then, if at the date of such disposition he shall have been entitled to the property comprised in the succession expectantly on the death of any person dying after the time appointed for the commencement of this Act, and such person shall have died during the continuance of this disposition, he shall be chargeable with duty on his succession at the same rate as he would have been chargeable with if no such disposition had been made." By s. 13, where the successor shall derive his succession from more predecessors than one, and the proportional interest derived from each of them shall not be distinguishable. . . in the absence of any agreement, the successor shall be deemed to have derived his succession in equal proportions from each predecessor, and shall be chargeable with duty accordingly.

It was upon the construction of these clauses principally that the following decisions turned, to which *Lord Braybrooke v. The Attorney-General* forms a sequel. In the case of *Re Jenkinson* (1857), 24 Beav. 64, it appeared that in the year 1852, A., the tenant for life, and B., the remainderman in tail, executed a disentailing deed, reciting that A. was desirous to make a settlement on his daughters, his only issue, and that for that purpose B. concurred in the execution of the deed. On the following day another deed was executed, reciting that it had been agreed that A. should secure an annuity of £2,250 to B. for A.'s life, and that in consideration thereof B. should join with A. in charging the property with £25,000. Accordingly, A. covenanted to pay B. the annuity of £2,250, and A. and B. appointed the estates in the event of the death of A. without male issue, to trustees for a term, on trust to raise the £25,000, of which £5,000 was to go as A. should appoint, and £20,000 was settled on the daughters. Subject thereto the estates were appointed to B. absolutely. On the death of A. in 1855, the daughters petitioned the Court of Chancery for the money (the trustees having paid it in), and the question arose as to the amount of duty payable on the fund. The petitioner contended that the £20,000 was a debt, which might

have been recovered against B.'s reversionary estate, and that it was therefore not chargeable, under the 17th section of the Act; or it was an incumbrance created by B. himself, and that no allowance was to be made to him in respect of it, under the 34th section; in other words, that the duty was payable by him. Or, lastly, it was a succession from A., the petitioners' father, not from B., their cousin, and therefore liable to no more than £1 per cent. On B.'s behalf it was contended that the £20,000 was a reversionary interest to which B. was originally entitled, and which was now vested in the petitioners by alienation, and that they were therefore chargeable under the 15th section with the same duty as B. himself would have been chargeable with—viz. £5 per cent. (B. having been the nephew of A.). The Crown contended that there were two predecessors in this case, A. and B., and that, in the absence of any agreement under the 13th section, the property must be chargeable, as to one moiety at the rate of £1 per cent., and as to the other at the rate of £3 per cent. The Master of the Rolls decided, first, that the £20,000 was not a debt under the 17th section, inasmuch as the petitioners were not contracting parties; secondly, that it was not a reversionary vested interest, being contingent on the death of A., without male issue; thirdly, that it was a charge emanating from A., for the benefit of his daughters, for joining in which B. received valuable consideration. A., therefore, alone, and not B., was the predecessor under the 2nd section. It might have been otherwise had the provision flowed from the bounty of B. Hence £1 per cent only, on the whole fund, was payable by the petitioners. As to the £5,000 the Master of the Rolls treated it as a debt contracted for between A. and B. The important feature in this decision was, that, although A. and B. concurred in making the provision for A.'s daughters, who were also B.'s cousins, yet that as B. received valuable consideration for what he gave up, A. was held to be the sole "predecessor" of the daughters.

The case of *The Attorney-General v. Sibthorp* (1858), 3 H. & N. 424, occurred in the following year. Under the will of A. Colonel S., his brother, was tenant for life, and Major S., the eldest son of Colonel S., was tenant in tail in remainder. In March, 1848, Colonel S. and Major S. executed a disentailing deed, and by another deed on the following day, the estates were conveyed to trustees on trust, subject to the payment of £1,000 per annum to Major S., during the joint lives of Colonel S. and himself, for Colonel S. for life, remainder to Major S. for life, with remainder over in tail to his sons in succession. Colonel S. died in 1855. Two questions arose: one, as to the estates, whether Major S. succeeded under the will of A., his uncle, in which case he would, as the Crown contended, have to pay £3 per cent., or under the deeds of 1848, in which case he would have to pay, as he said, nothing; or, at all events, only £1 per cent. in respect of a moiety. The other question was as to the £1,000 annuity, which will be noticed hereafter. The Court decided for the Crown on both points. They laid down in broad terms the rule which has since been confirmed by the Lord Chancellor Campbell, that it is not in the power of a tenant in tail in remainder to defeat the operation of the statute by joining with the tenant for life in the ordinary arrangement for barring the entail and re-settling the estates. The Court of Exchequer arrived at this conclusion, but the judges differed widely as to their reasons. The Chief Baron thought that the effect of the deeds of 1848 was to leave the succession just were they found it. Baron Bramwell, on the other hand, thought that section 2 had no application. He decided the case on section 12, upon which he thought the argument was irresistible. He considered that the son took a succession under a disposition made by himself, and that he was liable under that clause to the same rate of duty to which he would have been liable, if such disposition had not been made by him. With reference to the 13th section, he considered that the son took nothing from the father, consequently that he did not take from more predecessors than one, and therefore the £3 per cent. duty was payable on the whole succession. Baron Watson in like manner decided the case solely on the operation of the 12th section.

The next case is that of *The Attorney-General v. Baker* (1859), 4 H. & N. 26, which turned entirely upon the construction of the 2nd clause. John P. having died intestate, his brother, Wadham P., administered. Mrs. S. claimed a share of the estate as being a daughter of the intestate's sister; but her right was disputed or doubted, and thereupon an arrangement was entered into between Wadham P., and Mr. and Mrs. S.; and by two deeds a sum of £30,000 was settled on the husband for life, afterwards on the wife for life; and afterwards on the children, as they should jointly appoint;

and the husband and wife gave a release to Wadham P. They afterwards appointed £2,000 to one of their sons under the power. The question was, who was the "predecessor" of this son, under the 2nd section; whether his mother, as he contended; or Wadham P., a stranger in blood, as was said on behalf of the Crown. The decision of the Court was arrived at with considerable difficulty, and with some dissent. Baron Watson thought that, inasmuch as the £30,000 moving from Wadham P. was given in consideration of the release, he could in no sense be held to have been the originator of the trust for the son of Mrs. S.; and consequently that the mother was the settlor and predecessor. The Chief Baron and Baron Martin considered the facts as stated in the special case to be so uncertain that the Crown must be held to have failed in establishing its claim. It did not clearly appear whether Mrs. S. thought she had a just claim, but could not satisfactorily establish it; whether she had a perfect claim, and the £30,000 was her proper proportion; or whether she thought her claim doubtful, and so accepted the sum of money as a satisfaction. Under these circumstances it was impossible, they thought, to do more than guess that she was the predecessor. Mr. Justice Channell leaned to the opinion that Wadham P. was the predecessor.

The Attorney-General v. Lord Braybrooke (May, 1860), 5 H. & N. 588, is a case confessedly undistinguishable in its circumstances from *The Attorney-General v. Sibthorp*. By will in 1796, A. devised estates to his cousin B. for life, remainder to C., the eldest son of B., for life, remainder to the first and other sons of B. in tail male. After the death of B., C. and his first son D., in the year 1841, barred the entail; and in 1850 the estates were re-appointed to the use that D. should receive an annual rent charge of £1,200 during the joint lives of himself and C., and subject thereto, to C. for life, remainder to D. for life, remainder to his first and other sons in tail. Upon C.'s death in 1858 the question arose. The Court of Exchequer, following *The Attorney-General v. Sibthorp*, decided in favour of the Crown. The Chief Baron, in delivering the judgment of the Court, said they considered "the father could not, in any sense, be the predecessor of the son in reference to his present beneficial interests; and that the transaction was not anything more than a resettling of the family estates." There appears to be no reference whatever in this judgment to the operation of the 12th clause of the Act. The opinion of the Chief Baron seems to have been that the deeds of 1841 and 1850 were wholly inoperative upon the succession, which must be traced back to A. the original settlor, and that duty must be paid by D. as the successor of A. With reference to clause 13 he lays it down that D. "never was and never could have been his own predecessor."

We shall find how far this view has been since modified, but before proceeding to consider the judgment of the House of Lords in the last case, we may notice an intermediate decision of *Lord Saltoun v. The Lord Advocate* (June, 1860), 3 Mac. App. Cas. 659. Lady S. by deed of entail in 1846, according to the forms of Scotch law, limited estates to Lord S., her only surviving son and the heirs of his body, whom failing, to A. F., eldest son of a deceased son of Lady S., and the heirs of his body. After Lady S.'s death, Lord S. took the estates, and died in 1853 without issue, whereupon A. F. succeeded. Was A. F. to be considered the successor of his grandmother or of his uncle? According to Scotch law, property can be entailed on a series of heirs *ad infinitum* (subject to the tenant in tail, with certain consents, being able to disentail the property); and the theory of law is that the whole fee is vested in each successive tenant in tail, subject to restrictions as to sale, incumbrances, and non-alteration of the series of heirs. When one tenant in tail dies, his successor must "prove himself heir" to the deceased tenant in tail. The tenant in tail corresponds mainly to tenant for life according to English law. The Lord Chancellor (Campbell), after commenting on the language of the Succession Duties Act, as above mentioned, held, overruling the Court of Session, that the grandmother was in this case the "settlor," "disponer," or "ancestor," from whom A. F. "derived" his succession. Lord Cranworth and Lord Wensleydale concurred; and the case would have presented no difficulty but for the peculiarities in the law of Scotland which led the Court of Session to adopt a too narrow construction of the language of the statute.

We lastly come to the appeal in *The Attorney-General v. Braybrooke* (March, 1861). The Lord Chancellor (Campbell) began by exposing the erroneous view which had been taken in argument, that under the deeds of 1841 and 1850, D. did not take "by his own disposition." He laid it down that the deed of 1841, must be held to be a new disposition by the son of his interest as tenant in tail for his own benefit. The subject

matter of the deeds, therefore, divided itself into two portions, one, the property which D. took by virtue of his new disposition; and the other, that in which the father had a life estate, and which remained unaltered by the arrangement. The Lord Chancellor distinctly confirmed Baron Bramwell's reasoning in *The Attorney-General v. Sibthorp*, on the 12th section of the Act, holding that as to the property which D. took by his own disposition, it was chargeable at the same rate as if no such disposition had been made, i.e., as if he had succeeded under the will of A. Thus both as to one portion of the fund, and as to the other, the same rate of duty, £10 per cent. was payable. In this view Lord Kingsdown concurred. His opinion was that, under the Act, every person succeeding to property on the death of a person after 19th May, 1853, is subjected to payment of duty. One of the exceptions is where a person succeeds under a disposition made by himself. But this exception is subject to the qualification expressed in the 12th section above. In this case D. was at no time entitled to any interest except in expectancy on the death of C. Under the will of A., D. was chargeable with 10 per cent., and so far as the subsequent deeds were a disposition made by himself, D. remained liable to the same amount of duty. After much consideration Lord Kingsdown rejected the view that C, the father, could be held to be one of the predecessors of D. within the 13th section. So far the decree of the Court of Exchequer was confirmed, but rather upon the grounds stated by Baron Bramwell and Baron Martin, in *The Attorney-General v. Sibthorp*, than upon those laid down by the Chief Baron in the two cases. Lord Wensleydale, however, dissented from the Lord Chancellor and Lord Kingsdown. He agreed in condemning the doctrine that family settlements had no effect upon the succession; but, rejecting the application of the 12th clause to the deeds of disentail and re-settlement, he considered that both father and son were "settlers" or "disponers;" and that under the 13th clause the son ought to pay £1 per cent. on that portion of the subject matter only which he "derived" from his father. He thought the deed of 1850 constituted an entirely new succession, to be treated in the same way as if the father and son had bought and settled a new estate. But this view was negatived.

The conclusion to be drawn is the establishment of this principle, that a tenant in tail in remainder cannot vary the succession duty to which he will be liable, by barring the entail and resettling the estate. The tenant in tail in remainder, when he bars the entail, may, if he pleases, alienate the estate, and no succession duty will then be payable by him; but if he re-settles the estate so that he himself shall succeed to it on the death of the tenant for life, he must then pay the same succession duty as if he had taken under the original settlement.

Before quitting this part of the subject, it may be observed that since the above decision of the House of Lords in March last, another case has come before the Master of the Rolls, involving the question of who was the "predecessor" within the 2nd section, under these circumstances. By a marriage settlement the intended husband covenanted to pay within twelve months the sum of £10,000 to trustees, to be held on trust for him and the intended wife successively for life, and after the death of the survivor, for the children of the marriage; and in default of issue of the marriage (which happened), for the children of the intended wife by her late husband, as the wife should appoint; and in default of appointment amongst such children equally. The intended wife also brought a sum of £6,000 into settlement. After the marriage the £10,000 was paid; the wife survived, and died without having exercised the power. When one of the children's shares came to be paid, the question arose as to who was the predecessor, and the trustees, in her interest, relying on *The Attorney-General v. Baker*, and *Re Jenkinson*, amongst other cases, argued that the mother was the predecessor, inasmuch as she supplied the consideration for which the provision was made. The Master of the Rolls held that where upon the marriage of the owner of an estate to a lady, he agrees to settle a sum of money upon her relations, he, and not the lady, must be considered as the predecessor. If it were not so, the wife's property would, for the purposes of succession, be considered as the husband's, and the husband's as belonging to the wife. The ultimate destination of the fund could not affect the question as to who was the predecessor. In this case also, the wife had not exercised her power of appointment, and this made the argument stronger against the theory of her being the settlor. In *re Ramsay's Settlement* (June, 1861), 9 W. R. 910.

More recently still, a judgment has been delivered by the Court of Exchequer, which, though prepared before the deci-

sion of the House of Lords in the *Braybrooke* case, coincides entirely with it.

A., being seised in fee, devised lands to his son Henry for life, remainder to his first and other sons in tail male, and died. Henry, the son, being tenant for life, and William John, his eldest living son, being tenant in tail male in remainder, in 1810, suffered a recovery to such uses as they should jointly appoint. In 1821, Henry and his son, William John, appointed the estates to the use of Henry for life, then to William John for life, remainder to his first and other sons in tail male; then to the use of George, the next son of Henry, for life; remainder to his first and other sons in tail male. Henry died in 1834; William John died in 1855 without issue; whereupon George succeeded as tenant for life, and the question arose. If George derived any part of the succession from his brother William John as predecessor, as to that portion the rate of duty would be £3 per cent.; if not, the whole, being derived from George's father and grandfather, would be chargeable with only £1 per cent. Baron Bramwell, in delivering the judgment of the Court, distinguished the present case from *The Attorney-General v. Sibthorp*. If the question here had been what duty William John should pay, the Court would have followed their decision in the case of Major Sibthorp. But in this case George got an estate by the joint power of his father and brother operating on a fee created out of his brother's estate, but which the brother alone could not operate on, the result was that, whether the Court considered the succession to come half from Henry and half from William John, or whether the interest arising from each could not be distinguished, the 13th section applied, and the rate of duty was £3 per cent. on one moiety, and £1 per cent. on the other. The argument in this case was heard in the year 1860, on the day after the decision in the *Saltoun* Case; *The Attorney-General v. Floyer and Others* (6th July, 1861), Exch.

REAL PROPERTY AND CONVEYANCING.

RIGHTS OF ASSIGNEES FOR VALUE OF VOLUNTARY MORTGAGE GIVEN UNDER DURESS.

Parker v. Clarke, M. R., 9 W. R., 877.

This case involved an important question as to the rights of an assignee for value of a voluntary mortgage. It has been settled by the more recent decisions that such an assignee stands to all intents and purposes in the place of his assignor. The right of such assignees, however, to be regarded as plenary purchasers for valuable consideration, is very often sought to be supported, nor is this position without countenance from the older authorities; for instance, in the case of the *Earl of Aldborough v. Trye*, 7 Cl. & Fin. 436, it was held that if a person grants a voluntary deed enabling the grantee to raise money upon it from a third party, the grantor cannot get back or set aside the deed without paying what was advanced on it without fraud. That case related to the grant of an annuity. In the case of *George v. Milbanke*, 9 Ves. 190, Lord Eldon established that even a creditor of the grantor, in the case of his bankruptcy, could not get back a voluntary deed from a third party, who had purchased it from the grantee, without repaying him the money he had paid for it. This, however, was the case of a purchaser from a party who took under a voluntary deed of appointment. At the time when this decision was pronounced, 1803, the doctrine of powers was in great esteem, and an appointee, even under a voluntary deed, would, doubtless, be regarded with more favour by the Court than at present. A purchaser from the appointee, as observed in the argument in the latter case, could not be deemed to have notice of the state of the appointor's affairs. Even a judgment debt due by the appointor, prior to the statute 1 Vict. c. 110, might be defeated by an appointment. There is, therefore, a clear ground of distinction between voluntary appointees and purchasers from them, and voluntary mortgagees and their assignees for value. An assignee of a mortgage takes subject to all the equities of the mortgagor, and is liable to have the account taken from beginning to end, although he may have had no notice by endorsements on the deeds, or otherwise, that part of the debt had been discharged; *Porter v. Hubbard*, 3 Ch. R. 78; *Matthews v. Wallenger*, 4 Ves. 118. If there is nothing due on foot of the mortgage, the assignment of it is valueless. Why should it not be equally so where no consideration had been ever advanced upon the mortgage? In *Daubeny v. Cockburn*, 1 Mer. 627, a bill by a purchaser for value was dismissed as against the person entitled under the settlement in default of appointment, such person having also the legal estate in the fund appointed. This case, indeed, seems to have

proceeded upon the general principle that when the equities are equal, the law shall prevail. But the decision also seems to imply that the equities of the purchaser from the appointee, and of the party entitled in default of appointment, were not equal, as the former was not considered to have a right to call for a conveyance of the legal interest. All equities, as a general rule are extinguished on a sale to a purchaser for valuable consideration without notice, who also obtains a conveyance of the legal estate. The reason why this rule has no operation as regards assignments of mortgages is, that there cannot be a purchase of the mortgagee's interest without constructive notice of the equities, if any, of the mortgagor. The assignee of a mortgage granted for value may, no doubt, be deemed in many respects, a purchaser for value, as for instance, as regards the right given to purchasers by the 27 Eliz. c. 4, to avoid, *pro tanto*, prior voluntary grants. Such assignee is, nevertheless, bound to consider the mortgage in the light in which equity considers it, viz., as a security for a debt, and therefore liable to be overhauled on an examination of the accounts and equities between the mortgagor and the mortgagee. The Court allows a mortgagee before foreclosure only a qualified interest in the land, which may be still further diminished on an examination of the accounts. The rule which protects purchasers for valuable consideration without notice, *ex necessitate rei* does not apply to the assignees of mortgagees, because these have implied notice that the conveyance is only a security for a debt, and may, therefore, have been either wholly or partially discharged. Such assignees are, consequently, under an obligation to ask the mortgagor whether there is anything due on the mortgage. In the present case, A. B., while in prison, had granted a mortgage under promise of a release which was not carried into effect. The mortgagee subsequently assigned it to a party who had notice of the circumstances under which it was given, and the latter made an equitable mortgage of it to the defendant who gave a consideration for the deposit, and had no notice of its being a voluntary instrument made under duress. The Master of the Rolls held that the depositor could not claim to be in a better position than his mortgagor, and accordingly ordered the deed to be delivered up. The onus of proving the invalidity of the deed lay of course on the plaintiff; but, as this was coupled with the difficulty of proving a negative, once that a *prima facie* case of undue influence was made out by the plaintiff, the burden of proof, became, then, as observed by his Honour in his judgment, shifted upon the defendant, who was then bound to prove the validity of the transaction. If a deed obtained by undue influence be afterwards assigned to a purchaser for value without notice, he holds it, as a general rule, discharged of the infirmity; *Blackie v. Clark*, 15 Beav. 595; *Corbett v. Brock*, 20 Beav. 524. The case of *Parker v. Clarke* establishes that mortgages form an exception to this general rule of equity.

Correspondence.

CONVEYANCE—FORM OF HABENDUM.

I cannot but think that the answer of "Another Subscriber" to the query of "A Subscriber," which appeared in your number for the 14th September, treats the matter in question somewhat too cavalierly, and that the effect of his note is rather to prevent inquiry than to answer it, and may prove a great discouragement to inquiring minds, whether those of actual students or young practitioners. Here allow me to take the opportunity of thanking you for the important assistance which the correspondence section of your valuable *Journal* afforded me as a student. The recollection of this aid renders me very desirous that no check beyond that which your experience can be safely trusted to impose may be given to the free circulation of queries, even though to the more advanced lawyer some of the points mooted may appear but trifling.

In the present case, while I am so far in agreement with "Another Subscriber" as to have been willing to rest satisfied with the ordinary form of conveyance, which, I believe, retains the limitation of a use in the case supposed, yet I was pleased to see the doubt propounded, as, some time since, the limitation was by mistake omitted in the engrossment of a deed which came under my notice after execution, and I was at first uneasy as to the effect of its omission, but, on due consideration of the principles involved, I was of opinion that there was no mis-carriage. I cannot, however, agree with "A Subscriber" in

attributing the non-necessity for the limitation to the operation of the Act 8 & 9 Vict. c. 106, as quite independently of that Act, the limitation would seem to be unnecessary for the purpose of passing to the purchaser the absolute fee-simple (the nature of the proposition excludes any limitations in bar of dower, &c.), and I imagine that in the simple case supposed, the practice of adding the limitation of the use originated, *ex abundanti cautela*, in the desire to exclude the possibility of a resulting use, as to which, however, it may be fairly answered that it is rebutted by the nature of the transaction (see *Hayes' Con.*); and I cannot but think that "A Subscriber" shews a little forgetfulness of his principles of conveyancing in his antithetical reference to the conveyance by lease and release. The limitation under consideration was no more necessary to pass a fee-simple by lease and release than it is now where the conveyance is by grant. The lease for a year, operating as a bargain and sale, under the Statute of Uses, transferred to the lessee the actual possession, and upon his taking a release to him and his heirs the absolute fee-simple passed to him without any limitation of a use. The doctrine of uses was required to effectuate the former, but not the latter of the two deeds. I remember, when first studying law, the difficulty of applying my reading to practice was considerably enhanced by the loose terms in which my "reverend signiors" expressed themselves in reference to the lease and release respectively as the efficient means of bringing the Statute of Uses into play so as to secure the passing of the fee.

I must apologize for the length of these observations, and trust they may call forth any necessary correction from those who are better qualified to instruct than

A YOUNG SOLICITOR.

THE NEW BANKRUPTCY ACT.

By the 71st section of the Bankrupt Act, 1861, if any debtor arrested for debt lie in prison, being a trader, for fourteen days, or non-trader, for two months; or having been arrested for any cause, shall lie in prison as aforesaid, upon any detainer for debt lodged against him and not discharged, he shall be deemed to have committed an act of bankruptcy. It then proceeds, "but no such debtor shall be adjudged bankrupt on the ground of having lain in prison as aforesaid, unless, having been summoned, he shall not offer such security for the debt or debts in respect of which he is imprisoned or detained, as the commissioner or registrar, whose duty it would otherwise be to adjudicate, shall deem reasonably sufficient."

By sect. 100, gaolers are to make returns of prisoners for debt in their custody. Sect. 101 provides that "the commissioner or county court judge, as the case may be, shall, on receiving such return, order the registrar to attend at the gaol as therein specified." It then proceeds, "on the day named in the order the registrar shall attend at the prison and examine every prisoner included in such return who shall have been in prison, being a trader, for fourteen days, or not being a trader, for two months, touching his effects, debts, dealings, and transactions." . . . "The registrar shall have power to make an order of adjudication in bankruptcy against every such person, and to grant him protection and to make an order for his release from prison," &c. In the latter section nothing is said about the debtor being summoned in order that he may give security; yet by section 71 he cannot be adjudged bankrupt until he has been so summoned.

Is it meant in sect. 101 that the registrar is only to examine those prisoners who have been summoned under the proviso in sect. 71, or is that section meant to apply only to those persons who may happen to be in custody for debt, at the time of the commencement of the Act, and the other section to those imprisoned subsequently? The direction to the registrar in sect. 101 is absolute—that he examine every prisoner included in the return who shall have been in prison, being a trader, for fourteen days, or not being a trader, for two months.

It appears to me that there is a conflict between the two sections, and I shall be glad if you or some of your readers will express an opinion upon them.

G.

The "Finance accounts" show that there was paid last year from the Consolidated Fund £323,000 for salaries of judges, and £65,000 for pensions to retired judges. In view of these figures it is well that it was finally determined by Parliament not to add another £5,000 a-year to the account until it is seen whether the changes in the Bankruptcy Court will really require it.

Reviews.

The Law of Bankruptcy and Insolvency, as founded on the Recent Statute. By JOHN FREDERICK ARCHBOLD, Esq., Barrister-at-Law. London: Simpkin Marshall, & Co.

The Bankruptcy Act, 1861, incorporating so much as remains in force of the 12 & 13 Vict. cap. 106; Bankrupt Law Consolidation Act, 1849; of the 15 & 16 Vict. cap. 77; and of the 17 & 18 Vict. cap. 119; with an Appendix and Notes. By WILLIAM HAZLITT, Esq., a Registrar of the Court of Bankruptcy, and HENRY PHILIP ROCHE, Esq., Barrister-at-Law. London: Stevens & Sons; Sweet; and Maxwell.

Treatises on the new law of bankruptcy are multiplying around us. Shortly after the publication of Mr. Lewis's manual appeared the work of Mr. Archbold, which has now been followed by the ample compilation of Messrs. Hazlitt and Roche. The aim of each and all of these learned editors has been to a great extent the same, that is to say, to combine the provisions of the new Act with the unrepealed portions of former statutes; and thus to present the law under every branch of the subject in a compact form. The practitioner is hereby furnished with the statutory materials for forming an opinion on those questions of procedure which must necessarily arise, but which it is impossible to anticipate; whilst the problem of consolidation is practically solved by a variety of arrangements, each of which approximates more or less to perfection. From these attempts, aided by the experience which time will furnish of the working of the Act, the task of preparing a comprehensive measure will at some future day be easy, and the subject, when rendered familiar to the profession and the public, and freed from some of its complexities, will be in a condition to be dealt with by the legislature as a whole. Mr. Archbold offers his acknowledgments to the Lord Chancellor for some "admirable improvements" which have been effected by the new statute, and points out the impracticability of passing a larger measure through a committee of the House of Commons. He then refers to his arrangement, the peculiar feature of which is, that the subject is scientifically arranged under the following headings:—

1. Jurisdiction.
2. Who may be bankrupts, and in what cases?
3. The petition and adjudication.
4. The meeting of creditors and appointment of an assignee.
5. The property, how collected and realised.
6. The property, how applied and distributed.
7. Rights and privileges of bankrupts.
8. Agreement with creditors without bankruptcy.
9. Appeal to the lords justices.
10. Courts of bankruptcy auxiliary to other courts.

Each of these heads is afterwards subdivided and dealt with in detail. Thus the whole of the matter is digested into a system easy of reference and recommending itself to the student by its accessibility and simplicity. In the body of the work the sections are placed together in a narrative form, which does not however depart from the language of the enactments. No cases have been cited, on the ground that it is wholly uncertain how far any of the old decisions can be deemed authorities for the exposition of the law as it stands at present. In the appendix are printed the Act of 1861, and the unrepealed portions of the Act of 1849, with the schedules. These with an index complete the volume. To Mr. Archbold belongs the merit of having been the first to methodize this hitherto unwieldy mass of materials.

The work of Messrs. Hazlitt and Roche has recommendations of another kind. The learned compilers having been, as they state in their preface, "employed under the direction of the Lord Chancellor in the mechanical preparation" of the present Act, and of the Bill of 1860, are in a position to speak authoritatively as to the history of the measure, and its progress through Parliament; and even of its amendments in the Committee of the House of Lords. The notes which are furnished on this last subject are founded on the observations of one of the editors, who attended the meetings of the Committee. Much incidental light is thus thrown upon the origin of parts of the measure, which are not amongst the clearest in meaning and application. To some of the more important of these we may at once refer.

Section 114, a clause which empowers the Court to dispose, for the benefit of the creditors, of the copyholds and customary lands of a bankrupt, was inserted in the Lords' Committee by Lord St. Leonards, in substitution of section 209 of the Consolidation Act of 1849. The object of the section is to render only one deed necessary, instead of two, as formerly.

Section 115 of the new Act provides that the life estate in remainder of a bankrupt non-trader is not to be sold before it falls into possession, without the leave of the Court. This provision, it seems, was introduced in the Select Committee by Lord St. Leonards, in order to prevent sales of such interests for inadequate prices, which Lord Derby, in committee, shewed, from the calculations of an actuary, would necessarily be the case, if the life estate were disposed of during the existence of the previous estate.

Sect. 152 was introduced by Sir Hugh Cairns in order to put a final termination to the questions which have given rise to litigation on the question of *double proof*. Of these *Goldsmid v. Casanova*, decided by the House of Lords in 1859, 29 L. J. Bkcy. 17, is one of the latest examples. Other cases on the point are collected in "Tudor's Leading Cases on Mercantile and Maritime Law." Sect. 153, which provides that unliquidated damages in respect of a contract broken by the bankrupt at the time of his adjudication, shall be assessed by a jury and proved like an ordinary debt, is intended to meet cases like those of *Boorman v. Nash*, 9 B. & C. 145; and *Green v. Bicknell*, 8 Ad. & Ell. 701.

Sect. 154 was inserted with reference to the decision of the Queens' Bench in *Warburg v. Tucker*, 24 L. J. Q. B. 317, in which it was held that the certificate in bankruptcy was no bar to a claim in respect of a covenant to pay premiums on a policy of assurance, which had become due since the bankruptcy.

In sect. 159, rule 1, occur words which have given rise to much speculation—"if the bankrupt consent thereto." This is with reference to the bankrupt's prosecution before the Commissioner. These words were introduced in the House of Lords, and disagreed to by the Commons, and were, as the editors believe, inadvertently retained in the printed Act. Their effect probably will be to enable the bankrupt to decline to be tried by the Court of Bankruptcy on a charge of misdemeanour. This power, the learned editors think, will rarely be exercised by the bankrupt, inasmuch as it is competent to the Court to direct him to be indicted and prosecuted in one of the ordinary courts. This course, they add, is inexpedient from its costliness; but this is manifestly a consideration which will weigh with very few bankrupts of the class who are likely to be prosecuted for misdemeanours. The power of the bankrupt to inflict additional expense on the estate is rather likely to throw an impediment in the way of an indictment on the part of the creditors.

We are reminded (p. 182) that section 160, which enables persons heretofore bankrupt, and whose certificate of conformity has been refused to apply for an order of discharge, was "mercifully" introduced by Mr. Malins.

With reference to the trust deed clauses, sections 192—200; it is stated, on the authority of a Parliamentary return, that, upon an average of ten years up to 1857, the number of composition, arrangement, and inspectorship deeds out of court was 9,000 per annum.

Practitioners are reminded that section 207 will render great facilities for the swearing of affidavits with reference to bankruptcy proceedings in Scotland and Ireland. There will no longer be any necessity to resort to the Irish Affidavit Office in Southampton-buildings, or to special offices, as the Mansion-house and others, in the case of Scotland.

In one of the appendices will be found the Act introduced in 1860 by the Lord Advocate, to prevent English debtors from taking advantage of the Scottish bankrupt laws to the detriment of their English creditors; and in connexion with this subject some valuable notes prepared by Mr. James P. Falkner, solicitor at Edinburgh, for the purpose of giving assistance to English solicitors in the recovery of debts, or the prosecution of bankruptcies. The Act of the 7 & 8 Vict. c. 70 is also given at length, and in addition, such of the rules and orders of 1852, as will, it is presumed, for the present remain applicable to the procedure of the Court—in other words, such of them as will remain untouched by the forthcoming orders. The principle of Messrs. Hazlitt and Roche's arrangement is to follow the order of clauses in the new statute, interpolating the corresponding portions of the old unrepealed law in a different type, a system which possesses very obvious advantages.

The specimens we have given above will show the importance of the annotations and other materials which are assembled in this volume. The particulars here stated are only to be found elsewhere, if at all, by searching files of Parliamentary papers, or the unauthorized, it may be defective, and even erroneous, newspaper reports of proceedings in Parliament; whilst of the details of what passes in a House of Lords' Committee the public has no record whatsoever. To the

information thus collected by the learned editors, the official position of one of them, and the fact of their having been the draughtsmen of the Act under the superintendence of the Lord Chancellor, lend an especial authority and guarantee of authenticity.

RAILWAY BILLS.—Resolutions of both Houses of Parliament were passed last session discontinuing the system of engrossing Bills, and providing that in future every Bill shall be printed immediately after it shall have been passed in the House in which it originated. When a Bill has passed both Houses a print on vellum is to be furnished to the House of Lords before receiving the royal assent. The Master of the Rolls is also to receive a copy, and as it is considered expedient with a view to economy, convenience, and despatch, and diminution of the chances of error, that one printer should print the public general Bills for both Houses, and as the Queen's printer is, by virtue of his office, bound to print the Acts of Parliament, it is deemed advisable that the Queen's printer should be employed for that purpose by both Houses in future.

A new entrance to the Temple from the bottom of Essex-street, Strand, has been completed. It opens opposite to the new Library-chambers, and is built of Portland stone, in the same style of architecture; the old wall facing the west front of the Library is being paved with Portland stone, and a wall of the same material, extending from the porter's lodge of the new entrance to the river, has been built. This means of ingress and egress to persons having business in the Library, or Garden-court, will be very convenient.

Admission of Attorneys.

Queen's Bench.

NOTICES OF ADMISSION.

Michaelmas Term, 1861.

[Candidates' names appear in Small Capitals, and Solicitors to whom articles or assigned in ordinary type.]

AMOS, GEORGE PEMBROKE.—G. Amos, Wye; G. L. P. Eyre, 1, John-street, Bedford-row.
 ANSDALL, THOMAS FERGUSON.—J. Ansdall, St. Helen's, Lancaster; J. Walker, Chester.
 ANTHONY, WILLIAM HENRY.—R. Norris, sen., Liverpool; P. Simpson, Liverpool.
 ASHWIN, STEPHEN GODFREY.—T. S. Ashwin, Stratford-upon-Avon; D. Harrison, 5, Walbrook.
 BANNISTER, CHARLES ALBERT.—Charles Pearson, Guildhall; J. Davidson, Weavers' Hall.
 BLAKE, EDWARD FREDERICK.—F. Blake, Newport, Isle of Wight.
 BLEW, JOHN CARDALL.—T. M. Whitehouse, Wolverhampton.
 BONVILLE, JOHN.—W. Lloyd, Carmarthen.
 BOYS, ATHELSTAN HERVEY.—J. H. Boys, Margate.
 BRADLEY, HENRY BARRELL.—R. Galsworthy, Ipswich.
 BRAIN, ALFRED JAMES.—William Matthews, Gloucester.
 BRETON, ALEXANDER GORDON.—P. Karlake, Regent-street.
 BREWIS, THOMAS.—J. Fleming, Newcastle-upon-Tyne.
 BRICE, RICHARD.—Dyne & Harvey, 61, Lincoln's-inn-fields; H. Dyne, Bruton.
 BROOKS, ARTHUR.—R. H. Tarleton, Birmingham.
 BROWN, RICHARD.—T. Swainson, Lancaster.
 CARR, ALFRED.—S. Davidson, Basinghall-street; B. Hardwick, Basinghall-street.
 CHAMBERS, JOHN H. BROUGHAM.—J. W. H. Richardson, Leeds.
 CHIDLEY, SYDNEY.—J. R. Chidley, Old Jewry.
 CLARK, JAMES.—E. F. Slack, Bath.
 CLIFTON, GEORGE HENRY.—F. Smedley, 14, Jermyn-street, St. James's.
 COLLINS, JOHN.—John Atkinson, Whitehaven.
 CORNISH, HERBERT HENRY.—H. Cornish, Tavistock; T. Cornish, Penzance.
 COTTERELL, GEORGE.—S. Wilkinson, jun., Walsall.
 CUDON, GEORGE JOHN.—C. Blount, Usk; W. Blackmore, Liverpool.
 DALTON, HENRY.—R. Radcliffe, South Liverpool.
 DAUNCEY, OSBORNE.—R. Bracey, Wotton-under-Edge.
 DAWSON, WILLIAM.—J. Bevan, Cowbridge, Glamorgan.
 DIMBLEBY, DAVID.—T. Slaney, Birmingham.
 DUERDIN, JAMES.—J. Hollams, Commercial Sale Rooms, Mincing-lane.
 EDELSTON, THOMAS.—T. Harris, Preston.
 EMERSON, MATTHEW SALLITT.—W. Massey, Watton.

FARDELL, JOHN WILSON.—J. H. Hearn, Newport, Isle of Wight.
 FIELD, HENRY HARRISON.—W. Daggett, Newcastle-upon-Tyne.
 FLINT, REST WILLIAM.—E. Knocker, Dover.
 FLOYD, ROBERT AARON.—C. S. Floyd, Huddersfield; N. Learoyd, Huddersfield; W. Janeway, Bedford-row.
 GARWOOD, CLIFTON RAMSAY.—W. Garwood, York.
 GIBSON, WILLIAM, jun.—R. H. Speed, Nottingham.
 GILL, THOMAS JOSEPH.—Richard Radford, Manchester.
 GREY, JOHN WILLIAM BACON.—S. Newinan, Newport Pagnall.
 GROVER, JOHN NIGHTINGALE KEY.—J. W. Weston, Manchester.
 GUSH, WILLIAM FREDERICK.—L. Walters, 36, Basinghall-street.
 HARDING, CHARLES.—W. S. Harding, Birmingham.
 HEAVEN, ARTHUR.—C. G. Heaven, Bristol.
 HEMMING, JOHN JOSEPH.—J. H. Warman, Ebley House, Stroud.
 HERBERT, CHARLES HENRY.—F. Herbert, 20, Royal Avenue-terrace, Chelsea.
 HERBERT, MONTAGUE BERTIE.—R. Nicholson, Old Palace-yard, and Spring-gardens.
 HINDE, WILLIAM GREGSON.—Kennaway and Buckingham, Exeter.
 HIPWOOD, LACY.—E. Thompson, Salters' Hall.
 HODGSON, CHARLES BRAY.—W. S. Allen, Birmingham; F. Turner, Aldermanbury.
 HOLMES, JOHN.—A. Croaley, 34, Lombard-street.
 HORSELL, HENRY.—J. Pratt, Wootton Bassett.
 HULME, WILLIAM ODYERNE.—W. Simons, Merthyr Tydfil.
 JACKSON, NORFOLK BARSTOW.—J. Richardson, York; J. Williamson, jun., Great James-street, Bedford-row.
 JACKSON, ROBERT LONDON.—H. A. Palmer, Bristol; A. H. Wansey, Bristol.
 JEFFERY, ALFRED JOHN.—J. Jeffery, Northampton.
 KELLY, THOMAS THELWELL.—A. T. Roberts, Mold.
 KEMPTHORNE, JAMES.—Alex. Cuthbertson, Neath.
 KING, THOMAS, jun.—A. R. Bristow, Greenwich.
 KNIGHT, JAS. HENRY.—R. Underwood, Castle-street, Hereford.
 KNOWLES, JAMES HARDCASTLE.—J. Knowles, Bolton.
 KNOWES, ROBERT ANDREW.—J. Knowles, Bolton.
 KYNASTON, JOHN, jun.—H. Nicol, 8, Queen-street, Cheapside.
 LACE, WILLIAM HENRY.—Robt. Norris, Liverpool, T. Rigge, Liverpool; A. Lace, Liverpool.
 LAKE, BENJAMIN GREENE.—H. Lake, 10, New-square, Lincoln's-inn.
 LAY, JOS. BLACKBURN.—J. C. Fenton, Huddersfield; J. J. J. Sudlow, 20, Chancery-lane.
 LEE, BARNARD.—C. V. Lewis, 2, Raymond's-buildings, Gray's-inn.
 LEE, HENRY.—J. Lee, Whitechurch.
 LEWIS, LOUIS.—J. G. Lewis, 10, Ely-place.
 LITTLE, WILLIAM.—L. Harrison, Penrith.
 LOWTHIAN, ISAAC.—D. McAlpin, Carlisle.
 LUMB, ALFRED.—L. Harrison, Penrith.
 LYUB, GEO. ORMISTON.—G. Lys, Diss, Norfolk.
 MALLORY, DANIEL.—B. Bubb, Cheltenham.
 MARSHALL, BENJAMIN JOHN.—J. H. Marshall, 12, Hatton-Garden.
 MARTIN, GEORGE.—J. Bush, Bradford, Wilts.
 MATHEWS, JAMES LLEWELLYN.—W. Walton, 30, Bucklersbury.
 MAXFIELD, HENRY OATES.—W. Esam, East Retford, Notts.
 MAYHEW, SYDNEY.—A. Mayhew, 26, Carey-street, Lincoln's-inn-fields; H. White, 7, Southampton-street, Bloomsbury.
 MAYNARD, CROFTON.—T. C. Maynard, Durham.
 MILWARD, ROBERT HARDING.—W. P. Allcock, Birmingham.
 MORLEY, CHARLES EDWARD.—J. Loxley, 80, Cheapside.
 MORTON, ROBERT.—E. Willoby, Berwick-upon-Tweed.
 NORRIS, GEORGE.—P. Simpson, Liverpool; R. Norris, Liverpool.
 NOTT, JOHN.—W. Burridge, Wellington.
 NUNN, JOHN BRIDGES.—A. Dixon, 3, King's-bench-walk, Temple; G. M. Arnold, Gravesend; R. H. Burne, 1, Carey-street, Lincoln's-inn.
 PALMER, FREDERICK DANBY.—C. J. Palmer, Great Yarmouth.
 PARKER, FREDERICK.—J. Parker, 40, Bedford-row.
 PERKINS, EDMUND.—W. S. Perkins, Sutton Coldfield; J. J. Simpson, Derby.
 PHELPS, PHILIP EDMUND.—W. Hobbs, Reading.
 PIFFARD, ALBERT.—R. Wilson, 1, Copthall-buildings.
 PINFIELD, WILLIAM HENRY.—J. North, Liverpool.

PRIDHAM, GLINN.—G. Pridham, Plymouth.
 PRITT, GEORGE ASHBY.—E. Bailey, 5, Berners-street, Oxford-street.
 PURRIER, VINCENT JNO.—T. Purrier, 35, New Broad-street.
 RAWLINSON, ABRAM CRESWICKE.—A. L. Rawlinson, Chipping Norton.
 RAY, WALTER BLUETT CARPENTER.—H. C. Ray, Bristol.
 RANARD, FREDERICK.—J. White, 13, Barge-yard-chambers, Bucklersbury.
 ROGERS, CHARLES LACEY.—W. H. Peacock, Barnsley.
 SCATCHERD, OLIVER.—T. Taylor, Wakefield.
 SHAFT, GEORGE THOMAS.—A. R. Bristow, Greenwich.
 SHEPHERD, WILLIAM CONNING.—H. De Jersey, 13, Gresham-street.
 SMITH, HORACE WILLIAM.—J. Crowdy, 17, Serjeant's-inn, Fleet-street.
 SMITH, RENTIN.—R. H. Anderson, York; G. H. Smith, York; R. E. Smithson, York.
 SOBEY, GEORGE FERRIS.—H. W. Hooper, Exeter.
 SPILLER, JAMES ROBERT.—J. R. White, Bruton; E. F. Burton, 25, Chancery-lane.
 STEVENS, HENRY.—R. T. Jarvis, 23, Chancery-lane.
 STRETTON, ALBERT.—C. Stretton, Leicester.
 TAYLOR, JAMES PARKINSON.—J. W. Taylor, 28, Great James-street, Bedford-row.
 THOMAS, CHARLES.—H. Thomas, 35, Lincoln's-inn-fields.
 TILL, WALTER JOHN.—G. J. Till, Croydon.
 TILLET, WILLIAM HENRY.—J. H. Tillet, Norwich.
 TOWNEND, JOHN.—W. M. Perfect, Blackburn; and D. Robinson, Clitheroes Castle.
 TRAFFORD, JOHN LEIGH.—C. W. Potts, Chester.
 TURNBULL, HENRY.—J. Uppleby, Scarborough; J. J. P. Moody, Scarborough.
 WEBB, ANTHONY EDWARD.—E. Webb, Bath; T. Skinray, Bath; A. Warner, 7, Golden-square.
 WEBSTER, HENRY.—T. Price, 24, Abchurch-lane.
 WHATLEY, TOM.—G. L. Whatley, Mitchel Dean.
 WHITE, THOMAS BLACK.—W. Billson, jun., Leicester.
 WHITE, WILLIAM HENRY.—H. White, Williton, Somerset.
 WHITTON, WILLIAM, jun.—J. Becke, Northampton; J. M. Dale, 3, Gray's-inn-square.
 WIGHTON, WILLIAM.—C. Rice, Boston.
 WILLIAMS, THOMAS.—W. R. Smith, Merthyr Tydfil.
 WILLIS, THOMAS PRICE.—T. D. Willis, Winslow.
 WILMER, CHARLES PONSONBY.—G. H. Kinderley, 6, New-square; W. H. Domville, New-square.
 WILTSHIRE, CHARLES HENRY.—G. E. Sharland, Gravesend.
 WOOD, HENRY FRANCIS.—J. Taylor, Bradford; H. Roscoe, 36, Lincoln's-inn-fields.
 WOODALL, JAMES WILLIAM.—J. Parry, Manchester; F. Marriott, Manchester.
 YATES, JOHN JOSEPH.—J. Yates, jun., Liverpool.

Michaelmas Term, 1861, pursuant to Judges' Orders.

ADDISON, JOSEPH.—J. Linklater, 7, Walbrook.
 BLUNT, FREDERIC WILLIAM.—J. Blunt, 13, Austin-friars; A. H. Shadwell, 13, Austin-friars.
 BRAITHWAITE, WILLIAM JOHN.—J. Watson, Nottingham.
 PULLEN, THOMAS JAMES.—J. Robinson, 17, Ironmonger-lane.
 SMITH, CHARLES AUG. WOLSTON.—C. A. Smith, Greenwich.
 SMITH, LEIGH DELVES BROUGHTON.—H. Smith, Richmond; C. J. H. Fletcher, 31, Abingdon-street, Westminster.
 TILLET, ABEL.—W. L. Mendham, Norwich.

Public Companies.

REPORTS AND MEETINGS.

EPSON AND LEATHERHEAD RAILWAY.

At a special meeting of this company held on the 30th ult., a dividend of 5s. per share was declared.

GLASGOW, DUMBARTON, AND HELENSBURGH RAILWAY.

At the half-yearly meeting of this company held on the 25th ult., a dividend at the rate of £5 10s. per cent. per annum was declared for the past half-year.

PERTH, ALMOND VALLEY, AND METHVEN RAILWAY.

At the half-yearly meeting of this company held on the 27th ult., a dividend of £2 per cent was declared for the past half-year.

PERTH AND DUNKELD RAILWAY.

At the half-yearly meeting of this company held on the 27th ult., a dividend at the rate of £2 per cent. per annum was declared for the past half-year.

SCOTTISH CENTRAL RAILWAY.

At the half-yearly meeting of this company held on the 27th ult., a dividend at the rate of £6 per cent. per annum, was declared for the past half-year.

Births, Marriages, and Deaths.

BIRTHS.

STOKER—On Sept. 30, at No. 4, Hereford-road, Westbourne-grove, the wife of W. C. Stoker, Esq., of a daughter.

MARRIAGES.

HEATH—EVANS—On Oct. 1, John Carlen Heath, Esq., of the Inner Temple, Barrister-at-Law, and Fellow of Trinity Hall, Cambridge, to Mary Jane, youngest daughter of the Rev. Henry Evans, rector of Lyng.

TIPPETTS—LUCAS—On Sept. 26, Theodore George Tippetts, Esq., of Chelsea, Solicitor, to Elizabeth Susan, daughter of William Lucas, Esq., of Hartsill.

WILLS—TAYLOR—On Oct. 1, Alfred Wills, Esq., of the Inner Temple, and of Esher, Surrey, Barrister-at-Law, to Bertha, third daughter of Thomas Lombe Taylor, Esq., of Starston, Norfolk.

WOOD—DICKIN—On Sept. 25, Edmund Burke Wood, Esq. Barrister-at-Law, to Elizabeth Sarah, daughter of the late S. Dickin, Esq., of Moreton Hall, Shropshire.

DEATHS.

BOXER—On Sept. 26, at 12, Pelham-place, Brompton, Caroline, relict of the late Jas. Boxer, Esq., Solicitor.

CHUBB—On Sept. 27, at Redlands, Reigate, Emily Sarah, the beloved wife of Wm. Chubb, Esq., of No. 14, South-square, Gray's-inn, Solicitor, aged 33.

PLOMER—On Sept. 28, Anne Hamilton, the beloved wife of J. G. Plomer, Esq., Solicitor, Helston, aged 46.

SMITH—On Sept. 29, at Nailsworth, Gloucestershire, aged 53, William Smith, Esq., Solicitor.

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, Oct. 1, 1861.

DUTTON, WILLIAM HENRY, & JOHN EDSWORTH, Attorneys and Solicitors, Walsall and Wednesbury, Staffordshire. By mutual consent. Sept. 30.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Oct. 1, 1861.

CHURCH, ANN, Widow, formerly of the Rising Sun Public House, Commercial-road, Finsbury, Middlesex, and late of 50, Holywell-street, Westminster. *Sols.* Mackeson & Goldring, 59, Lincoln's-inn-fields. Oct. 30.

GLOVER, LOUISE, Spinster, Brighton. *Sol.* Barron, 96, Guildford-street, Russell-square, Middlesex. Nov. 19.

GRANT, ROBERT, Tailor and Draper, Bideford, Devonshire. *Sol.* Burnard, Bideford. Nov. 9.

HUGHES, MARY, Widow, Bath. *Sol.* Crutwell, 5, Westgate-buildings, Bath. Nov. 17.

LICKFOLD, CHARLES, Cheesemonger, 6, Queen's Head-row, Lower-street, Islington, Middlesex. *Sols.* Boulton & Sons, 21a, Northampton-square. Nov. 1.

LOCK, JOHN, Glass and China Ware Dealer, Grafton House, Tunbridge Wells, Kent. *Sols.* Howard, Halse, & Trustram, 66, Paternoster-row, E.C., and Tunbridge Wells. Dec. 28.

SHELLY, RICHARD, Butcher, Nottingham. *Sol.* Brewster, Nottingham. Oct. 30.

SMITH, RICHARD, Porter, 12, St. John's-place, Grange-lane, Birkenhead, Chester. *Sols.* Drew & Serjeantson, Walmer-buildings, Water-street, Liverpool. Oct. 31.

WHITE, STEPHEN, Gent., Church-street, Warminster, Wilts. *Sol.* Pullen, Warminster. March 1.

FRIDAY, Oct. 4, 1861.

BRYAN, JONATHAN WAGSTAFF, Esq., 17, Clement's-inn, Middlesex. *Sol.* Turner, 13, Clement's-inn, London. Dec. 9.

BURBIDGE, WILLIAM, Wholesale Hat Manufacturer, 27, Bridge-street, Southwark, Surrey. *Sols.* Young & Piewa, 29, Mark-lane, London. Nov. 30.

CATTERNS, FRANCES, Spinster, Queen's Head-lane, Islington, Middlesex. *Sols.* W. & J. Sparling, 1, King's-road, Bedford-row, Dec. 6.

CROSS, ANNE, Widow, Liverpool. *Sols.* Eden & Stanistreet, Liverpool. Oct. 31.

HATFIELD, REV. JOHN HANSON, Clerk, Chaplain to the Chorlton Union Workhouse, Withington, Lancashire. *Sol.* Jackson, Chancery-place, Manchester. Oct. 13.

JONES, THOMAS JOHN, otherwise **THOMAS JONES**, Atkins-road, Clapham-park, Surrey. *Sols.* Madox & Wyatt, 30, Clement's-lane, Lombard-street, London. Dec. 25.

LOCKWOOD, GEORGE BROCKMER, Banker's Clerk, formerly of Retford, Nottingham, and late of Ordsall, Nottingham. *Eliza Lockwood*, Widow, Ordsall, and *John Marshall Dewick*, Grocer, East Retford, Executors. Nov. 16.

SCOTT, FRANCIS EDWARD, Wine Merchant, 22, St. Swithin's-lane, London. *Sols.* J. & T. Gole, 49, Lime-street, Leadenhall-street, London. Oct. 31.

SIMPSON, WILLIAM BOOTHMAN, Commission Agent, Leeds. *Sols.* Snowden & Son, 36, Bond-street, Leeds. Nov. 12.

WALKER, ABRAHAM, White Abbey, Bradford. *Sols.* Rawson, George, & Wade, Kirkgate, Bradford. Dec. 2.

WHITE, RICHARD, Gent., Priors Halton, near Ludlow, Salop. *Sol.* Newill, Wellington, Salop. Dec. 2.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Oct. 1, 1861.

(County Palatine of Lancaster.)

TOMKINSON, JOHN, Salt Proprietor, formerly of Liverpool, but at the time of his death of Wotton-cum-Twambrookes, Chester. *Tomkinson v. Lowe*, Office of Registrar, 1, North John-street, Liverpool. Oct. 24.

Assignments for Benefit of Creditors

TUESDAY, Oct. 1, 1861.

CHAPMAN, EDWARD, Merchant, Kingston-upon-Hull. *Sol. Monds*, 98, Coltman-street, Kingston-upon-Hull. Sept. 11.

CHAPMAN, JOHN, Veterinary Surgeon, Gainsborough. *Sol.* Burton, Gainsborough. Sept. 23.

NOTTALL, ROBERT, Manufacturer and Grocer, Bury, Lancashire. *Sols.* T. A. & J. Grundy & Co., Manchester. Sept. 6.

PHILLIPS, EDWARD, Grocer, Rawmarsh, Yorkshire. *Sols.* Hiddals & Craddock, 8, Gray's-inn-square. Sept. 19.

PRICE, THOMAS DAVID, & **GEORGE ASHBY SWANN**, Warehousemen, 45, Friday-street, Cheapside, London. *Sols.* Linklater & Hackwood, 7, Walbrook, London. Sept. 5.

SCOTT, HORATIO WILSON, & **GEORGE PARKINSON WRIGHT**, Woollen Warehousemen, Vigo-street, Middlesex. *Sols.* Bell, Brodrick, & Bell, 9, Bow Churchyard, London. Sept. 17.

FRIDAY, Oct. 4, 1861.

BELTON, THOMAS STOREY, Malster, Kingston-upon-Hull. *Sol.* Shackles & Son, 7A, Land of Green Ginger, Kingston-upon-Hull. Sept. 16.

COPPEN, EDMUND, Baby Linen Warehouseman, 9, Sussex-terrace, Westbourne-grove, Middlesex. *Sol.* Burkill, Currier's-hall, London-wall, London. Sept. 6.

LAKEMAN, JOHN, and **JANE EDWARDS**, Hosiery and Drapers, 11 and 12, High-street, Barnstaple, and Torrington, Devonshire. *Sols.* Smith, 1, Frederick's-place, Old Jewry, London. Sept. 12.

MARSH, EDMUND ALFRED, Grocer, 8, Gloucester-place, Old Kent-road, Kent. *Sols.* Wilde, Rees, Humphrey, & Wilde, 21, College-hill, London. Sept. 11.

MILLS, CHARLES, JUN., Tailor and Woollen Draper, Stratford-upon-Avon, Warwickshire. *Sol.* Hobbes, Stratford-upon-Avon. Sept. 26.

PARRY, EVAN, Carrier, Leather Dealer, and General Shopkeeper, Llangeftul, Anglesey. *Sol.* Owen, Llangeftul. Sept. 23.

PROFFITT, THOMAS, Collar Maker, 28, Clifton-street, Finsbury, Middlesex. *Sol.* Peverley, 19, Coleman street, City. Sept. 6.

WESTON, JAMES, Miller, Ticehurst, Sussex. *Sol.* Tournay, Ticehurst. Sept. 5.

Bankrupts.

TUESDAY, Oct. 1, 1861.

BRADLEY, RICHARD, Broker, Handsworth, Staffordshire. *Com. Sanders*: Oct. 16 and Nov. 11, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Hodgson & Allen, Birmingham. *Pet.* Sept. 24.

BUTTERFIELD, WILLIAM, & **JAMES BUTTERFIELD**, Earthenware Manufacturers, Tunstall, Staffordshire. *Com. Sanders*: Oct. 14 and Nov. 6, at 11; Birmingham. *Off. Ass.* Whitmore. *Sols.* Lichfield, Newcastle-under-Lyme; or *James & Knight*, Birmingham. *Pet.* Sept. 9.

EMINTON, JOHN, Leather Seller, Salisbury. *Com. Goulburn*: Oct. 12, at 11.30; and Nov. 13, at 2; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Kelsey, Salisbury; or *Bothamley & Freeman*, 39, Coleman-street, London. *Pet.* Sept. 27.

GOLDENITH, THOMAS, Baker, Confectioner, and Dealer in Flour, Malt, Hops, Corn, and Seed, and British Wines and Tea, St. Stephen's-street, Norwich. *Com. Goulburn*: Oct. 12, at 12; and Nov. 14, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Storey, 6, King's-road, Bedford-row, London; or *W. Ladd, Jun.*, Norwich. *Pet.* Sept. 30.

HARRIS, CHARLES, Ironmonger, Stratford-le-Bow, Essex. *Com. Fane*: Oct. 11, at 2; and Nov. 8, at 1; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury. *Pet.* Sept. 20.

FRIDLINGTON, JESSE, Miller and Farmer, Southorpe Mill, Northamptonshire. *Com. Goulburn*: Oct. 12, at 11; and Nov. 14, at 12.30; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Wright & Bonner, 15, London-street, Fenchurch-street, London; or *Law*, Stamford, Lincolnshire. *Pet.* Sept. 30.

LEAVELEY, THOMAS, & **HENRY LEAVELEY**, Silk Dyers, Coventry (Leaves-

ley & Son). *Com. Sanders*: Oct. 11 and Nov. 7, at 11; Birmingham. *Off. Ass.* Kinnear. *Sols.* E. & H. Wright, Birmingham. *Pet.* Sept. 27.

LORD, THOMAS, Cotton Spinner, Vale Mill, Todmorden, Lancashire. *Com. Jemmett*: Oct. 11 and Nov. 1, at 12; Manchester. *Off. Ass.* Fraser. *Sol.* Leigh, Manchester. *Pet.* Sept. 27.

NIXON, JAMES, Merchant and Commission Agent, Melbourne, Victoria, Australia, and Liverpool, England (Alfred Nixon & Co.). *Com. Perry*: Oct. 3 and 23, at 11; Liverpool. *Off. Ass.* Turner. *Sol.* Yates, jun. Fenwick-street, Liverpool. *Pet.* Sept. 20.

ROBINSON, WILLIAM, Grocer and Tea Dealer, Bradford. *Com. Ayrton*: Oct. 18 and Nov. 11, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Richardson, Old Jewry-chambers, London; or *Bond & Barwick*, Leeds. *Pet.* Sept. 18.

SPENCER, WILLIAM, & **BENJAMIN SPENCER**, Stage Carriage Proprietors, Stanley-street, Bury, Lancashire. *Com. Jemmett*: Oct. 16 and Nov. 13, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Hewitt, Manchester. *Pet.* Sept. 20.

WORMALL, JAMES, Licensed Victualler, Brierall Head, near Rochdale. *Com. Jemmett*: Oct. 15 and Nov. 5, at 12; Manchester. *Off. Ass.* Hornaman. *Sol.* Standring, jun., Rochdale. Sept. 23.

FRIDAY, Oct. 4, 1861.

BANKS, CHARLES WATERS, Printer & Publisher, Chapter-house-court, City, and 162, Dover-road, Southwark (R. Banks & Co.). *Com. Goulburn*: Oct. 14, at 2, and Nov. 14, at 11; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Mote, 33, Bucklersbury, London. *Pet.* Oct. 3.

BUTTERTY, CHARLES, Draper, Collier-gate, York. *Com. Ayrton*: Oct. 14 and Nov. 11, at 11; Leeds. *Off. Ass.* Hope. *Sols.* Sole, Turner, & Turner, Aldermanbury; or *Bond & Barwick*, Leeds. *Pet.* Sept. 20.

DUFF, CHARLES, Printer, Park-house, Park-road, Peckham, Surrey, and 11, Crane-court, Fleet-street, London. *Com. Evans*: Oct. 15 and Nov. 14, at 2; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Kemp, 40, Henrietta-street, Covent-Garden. *Pet.* Aug. 30.

GRAY, JAMES BREWSTER, Draper & Milliner, 3, Grundy-street, Bromley, Middlesex. *Com. Fane*: Oct. 17, and Nov. 8, at 1.30; Basinghall-street. *Off. Ass.* Whitmore. *Sols.* Prall & Nickinson, 19, Essex-street, Strand. *Pet.* Oct. 3.

KELLY, HENRY, Builder and Contractor, Dale-place, Wandsworth, Surrey. *Com. Evans*: Oct. 15, at 11, and Nov. 14, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Proudfoot, 24, John-street, Bedford-row. *Pet.* Oct. 1.

LEA, WILLIAM BROWN, Brewer, Bridge End Brewery, Leek, Stafford. *Com. Sanders*: Oct. 18, and Nov. 7, at 11; Birmingham. *Off. Ass.* Kinnear. *Sol.* Richardson, 15, Old Jewry-chambers, London; or *Southall & Nelson*, Birmingham. *Pet.* Sept. 28.

MANDERS, ROBERT, Tailor, Exeter. *Com. Andrews*: Oct. 17, and Nov. 21, at 12; Exeter. *Off. Ass.* Hirtzel. *Sol.* Willesford, Exeter. *Pet.* Oct. 2.

NOTT, JAMES, Silvermith and Jeweller, 28, Cheapside, London. *Com. Goulburn*: Oct. 19, at 12.30; and Nov. 14, at 1; Basinghall-street. *Off. Ass.* Pennell. *Sol.* Solomon, 22, Finsbury-place, London. *Pet.* Sept. 24.

PETERS, JOEL, Builder, Lee, Kent. *Com. Evans*: Oct. 17, at 11; and Nov. 21, at 1; Basinghall-street. *Off. Ass.* Johnson. *Sol.* Mote, 33, Bucklersbury. *Pet.* Oct. 3.

WILLIAMS, WILLIAM, Scrivener, Norwich. *Com. Goulburn*: Oct. 19, at 1; and Nov. 20, at 12; Basinghall-street. *Off. Ass.* Pennell. *Sols.* Sole, Turner, & Turner, 68, Aldermanbury, London; or *Miller, Son, & Bugg*, Norwich. *Pet.* Sept. 25.

BANKRUPTCIES ANNULLED.

FRIDAY, Oct. 4, 1861.

JAMES WILLIAM CONWAY, Tin-plate Manufacturer, Pontnewydd Tin Works, Llanyrechva Lower, Monmouthshire. Oct. 3.

ROBERTSON, ELEANOR PENGREX, Innholder & Vintner, Royal Hotel Spa, Gloucester. Sept. 23.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Oct. 1, 1861.

JOHN TURNER, Licensed Victualler, 5, Little Ormond street, Middlesex. Oct. 30, at 1.30; Basinghall-street.

FRIDAY, Oct. 4, 1861.

ELIAS MANSFIELD, Boat Wright, Timber Dealer, and Publican, Chertsey, Cambridgeshire. Oct. 31, at 2; Basinghall-street.—**THOMAS LEES**, Contractor, Norwood, Surrey. Oct. 18, at 11.30; Basinghall-street.—**ARTHUR DUFFIE KIDD**, Straw Hat Manufacturer, 19, Fore-street, and 11, Cripplegate-buildings, London (Archibald Duffie). Oct. 16, at 12; Basinghall-street.—**FREDERICK WARNE FITT**, Machinist, Selbourne, near Alton, Hants. Oct. 16, at 11; Basinghall-street.—**JOSEPH JOHN CONNIBAN**, & **MAXIMILIAN LINDT**, 140, Fenchurch-street, London. Oct. 22, at 11.30; Basinghall-street.—**NATHAN AARON JOSEPH**, Importer of Foreign Goods, 19, Vine-street, Minories, London (N. A. Joseph & Co.). October 16, at 2; Basinghall-street.—**JOSEPH SAMUEL PARSONS**, Watch Maker and Leather Seller, High-street, Brentford, and London-street, Uxbridge, Middlesex. Oct. 18, at 12; Basinghall-street.—**GEORGE BARNETT**, Butcher, 21, Felix-terrace, Liverpool-road, Islington, Middlesex. Oct. 18, at 12; Basinghall-street.—**WILLIAM JAMES EPPS**, Nursery and Seedsman and Hotel Keeper, Maidstone, Kent. Oct. 19, at 12.30; Basinghall-street.—**THOMAS EDGE**, Gas Meter Manufacturer, 89, Great Peter-street, and 39, Vincent-square, Westminster, Middlesex. Oct. 16, at 1; Basinghall-st.—**JAMES RANDALL**, Victualler, Byfleet, near Cobham, Surrey. Oct. 22, at 1; Basinghall-st.—**WILLIAM BUDDLE**, Builder, Delamere-terrace, Paddington, Middlesex. Oct. 29, at 12; Basinghall-street.—**ALFRED SPENCER**, Paper Manufacturer, Postford Mills, Chilworth, near Guildford, Surrey. Oct. 29, at 12; Basinghall-street.—**WILLIAM SETMOOR MARSHALL**, Cooper and Hardwareman, Durham. Oct. 22, at 11; Newcastle-upon-Tyne.—**JAMES BOLTON ROBERTSON**, Draper, South Shields, Durham. Oct. 21, at 11; Newcastle-upon-Tyne.—**JOHN WATSON HAMILTON**, Stock and Share Broker, Birmingham. Oct. 31, at 11; Birmingham.

We cannot notice any communication unless accompanied by the name and address of the writer.

* * Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, OCTOBER 12, 1861.

CURRENT TOPICS.

This day is signalised by the commencement of "The Bankruptcy Act, 1861," the time appointed in the Act being "from and after the eleventh day of October." Proceedings pending in the Court are not affected by this Act, and will be carried out under the previous law; but every petition filed on or after the present day will call into action the new law, and must be prosecuted accordingly. It may be useful on this occasion to recall to mind some of the principal matters under the new procedure, to which it will be necessary for practitioners, and all others interested in bankruptcy proceedings to direct especial attention. It should be remarked, once for all, that the new Act is an amendment of the law of Bankruptcy, and not the substitution of a new system; and therefore our readers who are already familiar with the law as hitherto administered, may confine their attention only to the changes which are now introduced. The system of insolvency is henceforth abolished altogether, and bankruptcy is now extended over the province previously occupied by that system; so that all debtors, whether traders or not, are now brought within the jurisdiction of bankruptcy. In its effects upon non-traders the Act will probably exhibit its most novel results in the eyes of the public. Non-traders thus rendered, for the first time, amenable to bankrupt law are, however, placed on a separate footing with respect to acts of bankruptcy and the process required to obtain adjudication. Acts of bankruptcy by a non-trader comprise departing the realm; remaining abroad; making a fraudulent conveyance of his estate; with intent to defeat or delay his creditors. But these acts can only be followed by adjudication upon certain conditions, providing that personal service of the petition shall be effected on the non-trader, or that the attempt to serve it should come to his knowledge and be evaded by him, and that sufficient time shall be secured to him to appear to it.

The acts of bankruptcy by a trader remain for the most part as defined in the Act of 1849, but in a few respects they are altered and modified. An act of bankruptcy made applicable to both traders and non-traders, consists in lying in prison, the former for fourteen days (previously the time was twenty-one days), the latter for two months. Another consists in filing a declaration in writing of inability to meet his engagements. A new act of bankruptcy is created for traders by suffering execution, by seizure and sale of goods upon a judgment debt exceeding £50. All judgment debtors for a debt of £50 are made liable to be summoned by their judgment creditors, and upon default of appearance or of settling, the debtor may be adjudged bankrupt without petition for adjudication or other proceedings.

A new provision is made for a species of gaol delivery of debtors in prison. The gaoler of every prison is to make a monthly return to the Court of the prisoners for debt and the particulars of their imprisonment; and the registrar of the court is to attend at the gaol and inquire into each case, with power to make an order of adjudication and to grant protection and order release. Besides this provision, pauper prisoners for debt are enabled to petition for an adjudication *in forma pauperis*. These provisions will go far to abolish prolonged imprisonment for debt.

As to the process of obtaining adjudication, every petition must be filed in the court within the district where the debtor has resided or carried on business for the previous six months, subject to a power in the London court to order the petition to be transferred to any district. The provisions relating to the petitioning creditors' debt have been entirely re-cast upon the same basis as before as to the amount of the debts, but with considerable alterations in the description and computation of the debts framed with a view of settling the law on many points, and increasing the facility of the creditor to petition. The non-trader can only be petitioned against in respect of debts contracted after the passing of the Act. Any debtor may petition for an adjudication against himself, and the filing of his petition is an act of bankruptcy without any previous declaration of insolvency.

The proceedings upon the petition and the adjudication are carried on for the most part under the previous law. So likewise with the surrender and examination of the bankrupt. The bankrupt is required before his last examination to prepare or file a statement of accounts, which is to be open to all the creditors. In preparing it, he is to be assisted and checked by the official assignee, who is also to report upon the state of the bankrupt's affairs.

At the first meeting of creditors the majority in number and value of the creditors present may transfer the proceedings into the county court; also at the same meeting or at an adjournment, a majority in number and of three-fourths in value of the creditors may agree to an arrangement with the bankrupt and stay proceedings in bankruptcy. Immediately upon adjudication the estate of the bankrupt vests in the official assignee, as before, but with a discretion in the court to leave possession in the bankrupt. At the first meeting of creditors the majority in value appoint the creditors' assignee, and immediately upon the appointment of the creditors' assignee all the estate of the bankrupt devests out of the official assignee, and vests in the creditors' assignee. It is the duty of the creditors' assignee to manage and realise the estate, and convert it into money; but with respect to debts not exceeding ten pounds in amount the official assignee remains sole assignee, and it is his duty to collect and recover them. Provisions are introduced for securing the accuracy of the accounts of the two assignees, chiefly by a system of mutual checks; the creditors' assignee may also be required to give security. The collection, management, and disposal of the bankrupt's estate, and the rights and duties of the assignees, remain regulated, for the most part, under the provisions of the Act of 1849, with the exception that instead of the assignees therein mentioned, the sole assignee appointed by the creditors is substituted, and with some minor exceptions in matters of detail. The transactions and dealings of the bankrupt, which have hitherto been exempted from the consequences of bankruptcy, also remain adjusted as before.

The application and distribution of the bankrupt's property is not materially altered, the charges made being directed to the amendment of certain recognised defects, such as the cases of debts due by instalments, future premiums on policies of insurance, apportionments of rent and other fixed payments, and claims for unliquidated damages, all which are now included as provable debts. Increased facilities are given for the formal proof of debts by the transmission of documentary evidence through the post-office and otherwise. Within four months of the adjudication a meeting of creditors is to be held for the purpose of examining the statement of accounts presented by the creditors' assignee and declaring a dividend; it is the duty of the official assignee to audit the accounts. Like proceedings for making-up and auditing the accounts are to be repeated at intervals of four months, until the estate is exhausted. Unclaimed dividends are to be transferred to "the unclaimed dividend account."

Certificates with their threefold classification are abolished, and in their place may be granted an "order of discharge." The Court may suspend the order of discharge, or may grant it subject to conditions touching after-acquired property. If any charges of misdeemeanour are made against the bankrupt in answer to his application for an order of discharge, provision is made to secure him a fair trial, which may take place before the Court with the consent of the bankrupt, but which may be referred by the Court to the ordinary criminal tribunals.

The order of discharge discharges the bankrupt from all debts and demands provenable under the bankruptcy, and may be pleaded in a general form to any such cause of action accrued before the bankruptcy.

The greatest improvement in the Act will perhaps be found in the increased facilities afforded to debtors and creditors to arrange their affairs by agreement without the intervention of the Court. The complicated arrangements under the Act of 1849 are entirely done away with, and are replaced by one simple mode of agreement. A simple deed or instrument of agreement may be made and becomes binding on all the creditors if it satisfies the conditions that a majority of three-fourths in number and value of the creditors shall signify their approval in writing; that the trustees, if any, shall execute it; that the execution by the debtor shall be attested by an attorney; and that the deed shall be registered. Upon registration the agreement is made public in the *Gazette*, and all parties interested become subject to the jurisdiction of the Court in order to secure and carry out its provisions. The ordinary proceedings in bankruptcy may, as we have already noticed, be superseded by an agreement of this kind between the bankrupt and three-fourths of his creditors.

The above are amongst the most material changes in the law and practice of bankruptcy introduced this day. We sincerely hope that they be found as beneficial an amendment of the procedure in bankruptcy as we have recently seen effected in the courts of common law. The jurisdiction in bankruptcy, unlike that of the common law courts, is administrative and not litigious, and constitutes a most important instrument in commercial affairs. The test of efficiency is, therefore, comparatively simple, as the result of its operations can be ascertained with precision. The last returns showed the very unsatisfactory result that the process of administration involved an expense of more than thirty per cent. of the sum administered. The returns for the next year will, after all, furnish the only reliable test of the success of the new measure.

The General Orders made in pursuance of the new Act not being published until to-day, we must defer any further notice of them until next week.

Our attention has been frequently called of late to the apparently increasing practice of toutting for law business by advertisements and circulars. We have always refrained as much as possible from any public discussion of this offensive subject, from a belief that such a course was most conducive to the true interests and dignity of the profession. What we are powerless to prevent we would willingly ignore. We have always been of opinion that the practice is comparatively unimportant as affecting the pecuniary interests of the profession, but that it is of vital consequence to its honour and social position. In order, however, to prevent the possibility of the practice in question deriving the least encouragement from even the semblance of toleration on our part, we deem it our duty, however unpleasant it may be, to call attention to the following specimen. We have selected it from amongst others forwarded to us, as being equal to any in infamy, and superior in pretension, and calculated especially to convey a downright insult to those members of the profession amongst whom it has been circulated, by sup-

posing them capable of countenancing such a practice. It seems superfluous to add that men who can thus openly display an utter disregard of the character both of themselves and of their profession prove themselves quite unworthy of being entrusted with business of any kind.

— street, London, E. C.
September, 1861.

Sir,—As a solicitor of 30 years' standing, at — in Suffolk, and in the metropolis (where I have acted as agent for several country attorneys), my attention has been more exclusively directed of late years, to the law of joint stock companies, bankruptcy and common law. Permit me to hand you the terms upon which I am transacting business for legally qualified country practitioners. My present place of business is most centrally situated, being within an easy distance of the Bank of England, Bankrupt and Insolvent Courts, Somerset House, Doctors Commons and the joint stock companies, chancery and other offices in and near the Temple. In the advocacy of several heavy and difficult cases as plaintiff in person, I have appeared both in banco and in the courts of equity on several occasions.

The agency fees will in no case exceed one third of the amount chargeable to the country attorney's proper client.

Apologising for thus troubling you, I am, Sir, most obediently yours.

s. d.

Writ of Summons, including the payment for signing, sealing, and transmitting to the country, whether above £20 or under that amount. If on a bill of exchange or note, a copy to accompany instructions	8	4
Appearance fee, including the payment.....	4	4
Attendance at any public office to make search, and bespeak extracts and afterwards, and for transmitting same	2	2
Attending counsel with, and several times for, case or papers, and transmitting	3	4
Attending and conducting hearing or opposition in Bankruptcy, local court, or where attorney entitled to appear, exclusive of omnibus fare to and from such court.	10	6

N.B.—No letters to country solicitors or term fees of any kind will be charged. In no case will the agency charges exceed one-third of those allowable between solicitor and client.

THE LIABILITIES OF RAILWAY COMPANIES AS CARRIERS.

The plain and simple principles of the common law have been severely tried in their application to the enormous extension of traffic and complicated transactions produced by the railway system. Contracts and wrongs, the two main branches of common law jurisdiction, appear in new shapes not easily recognised by the light of ancient rules and authorities. The law of carriers, occupying as it does an anomalous position with reference to this division of common law jurisdiction, not being exclusively assignable to either branch, or, in modern statutory language, "partaking of the character of both," was always, for this reason, a complex and embarrassing subject and required a liberal use of fictions and technicalities to preserve it from confusion in its administration. The native complexity of the subject, however, has been extraordinarily aggravated by the novel complications which have called for an application of the law; and in several instances extraordinary remedies have been devised to meet the emergencies which have arisen in the progress of railway traffic.

The duties and liabilities of railway companies as carriers of goods have been brought to something like a settlement by the Railway and Canal Traffic Act of 1854. Under this Act a quite new common law jurisdiction was instituted—not remedial, but mandatory, exercising a regulative supervision over the action of railway companies as carriers, for the purpose of securing to the public all reasonable facilities for traffic upon equal terms, and of preventing any undue favour or pre-

ference. The Act also restricts the common law right which carriers, by railway or canal, equally with the rest of the world formerly enjoyed of making what special contracts they might think fit, by annexing the statutory proviso that the terms of their contracts must be such as, if called in question, a judge shall deem to be just and reasonable. Their position, as goods carriers, may be described broadly as still resting on the basis of the common law, with the restrictive incidents thus imposed by the statute, that they must deal on equal terms with all, and that the limitations of their liability by special terms and conditions must be reasonable. One the whole, the system appears to act well, and certainly abundant liberty is reserved to the companies for the protection of their interests.

As carriers of passengers, the duties and liabilities of railway companies show similar deviations from the common law. It is remarkable that this branch of traffic was considered by the original projectors of railways of far less importance than the carriage of goods; but on the opening of railways was at once found to constitute their chief and most lucrative business. This unforeseen extension has given birth, in a corresponding manner, to unforeseen difficulties in its legal incidents, which have not yet been fully recognised or adequately provided for. The Railway and Canal Traffic Act applies equally to the traffic in passengers and to the traffic in goods; and its operation seems equally necessary and salutary in both cases. But besides this Act, Lord Campbell's Act for compensating the families of persons killed by accident, imposes a new and serious liability upon railway companies in regard to their passenger traffic. The recent fatal collisions on the London and Brighton and North London Railways have unfortunately given a wide field for the operation of this statute, and have directed an unusual degree of attention to its provisions. A few observations upon its policy and results will therefore, it is hoped, at this time be found not inappropriate.

The common law was not so stringent with carriers of passengers as with carriers of goods. The passenger carrier was bound to carry all comers who tendered themselves in a suitable state, both as to person and pocket, so long as he had accommodation to carry them; but beyond this there was no duty or liability except as provided by the terms of the contract. The carrier of goods was under a similar liability to carry, and was also an insurer of the goods received for carriage, which he was bound to make good if they were damaged or lost from any cause during the transit. The carrier of passengers was not an insurer, and was only liable for injuries to the passenger occasioned by the carrier's negligence; and in case of the death of the passenger all liability for negligence died with him. In theory the law remains unaltered in respect of the passenger carriers being liable for negligence only; but under the railway system the practical impossibility of a railway company escaping the imputation of negligence, combined with the extended consequences of negligence imposed by Lord Campbell's Act, render the railway carrier of passengers in effect an insurer; at least, every passenger may travel with a well-grounded confidence that in the event of accident his life is insured for the benefit of his family.

Lord Campbell's Act has now been tested by an experience which for a modern statute may be pronounced long. The result of this experience, and of much consideration of the statute itself leads us to the belief that however valuable it may have proved as a palliative for a pressing evil, it is not sufficiently complete and comprehensive for permanent use, or at least is capable of considerable amendment. We say this not in any spirit of disparagement of its late distinguished author, to whom is due the credit of having provided some practicable remedy for an evil of present urgency, but as a comment upon the Act considered as a piece of legal mechanism which we are induced to make

in the interests of law, and which we think will be found to be justified by fair argument and criticism. This statute, however, may be referred to in passing, as a characteristic specimen of the rough and ready, but not always scientific workmanship of its author, while the great popularity with which it has been received may be also noticed as an appreciation of his services. As, however, the tendency of the enactment is all in favour of the public and against railway companies, its popularity is sufficiently accounted for without accepting it as any proof of the strict equity of the measure, still less of its perfection as a specimen of jurisprudence.

In criticising the act as the work of the Legislator, common fairness requires that a due regard should be paid to the antecedent state of the law, and the occasion which called for it. It was professedly a substitution for the ancient system of deodands. By the ancient common law, in case of death by accident, the instrument of death was forfeited as a deodand, to be disposed of for the benefit of the soul of the deceased. The specific deodand was gradually converted into a pecuniary fine assessed by the jury as the value of the instrument, in place of which it was paid; and this fine became forfeited beneficially to the crown, or the lord of the manor, after the ulterior purpose to which it was formally applied had been declared superstitious. Juries, however, were naturally disinclined to inflict a fine in this manner and with this destination, and gradually took upon themselves to diminish the amount, until the practice prevailed of assessing the deodand at an amount merely nominal. Upon the introduction of railways, however, their feelings were excited in an opposite direction, and they vented their indignation at the supposed negligence of railway companies by an exercise of their long dormant power of assessing the deodand at a substantial amount. This attempt to revive deodands was found to be quite alien to the spirit of the age, and quite inadequate to the requirements of the occasion; and at the same time the novel apprehensions excited by railway accidents called urgently for some legislative interposition. Accordingly, deodands, which had become practically obsolete, were abolished by statute, and in their stead was enacted the statute, which now passes by the name of the late Lord Chancellor, which was thus inspired by the twofold intention of providing a suitable penalty in place of the deodand, for the cause of death, and of appropriating the amount of the penalty by way of compensation to the relatives of the deceased.

The statute is now no longer to be considered on historical grounds, and only with reference to the purpose which called it forth. It retains a prominent place in our statute book, and occupies a position of serious importance in our social system. It must stand or fall by its own merits or demerits with respect to the circumstances of the present day, and by its intrinsic capacity to fulfil the functions which it undertakes to discharge. In this view we propose to discuss it, and we may fairly take as a test its manner of dealing with the relation between railway companies and their passengers, which is by far the most important and frequent subject of its operation, and that which it was most particularly designated to regulate. As the subject, we find, is too extensive for our present limits, we must reserve our observation on the details of the measure for another week, and confine our attention at present to a single point. It is a point, however, of vital importance, as it touches the very groundwork and principle of the statute.

Before this act came into operation, the action for damages caused by negligence, which resulted in death, was barred by the maxim of the common law: "*actio personalis moritur cum personâ*." This maxim was originally universally applicable to all actions for wrongs, whether to person or property; but the superior wisdom of after ages appear to have interpreted it as exposing the deficiency rather than

expressing the policy of the common law, and to have arrived at the conviction that in common justice every vested right of action, so far as practicable, should pass to the representatives of the deceased party entitled. Rights of action in respect of injuries to property, real and personal, had already been thus secured to the deceased's estate by successive enactments; but rights of action in respect of injuries to the person had remained hitherto extinguished, as at common law, by the death. Was it then the policy of the statute to supply this defect of the common law in a similar manner in respect of rights of action for personal injuries? Does the statute in effect operate by transferring the deceased's right of action to his estate or representatives? or does the statute leave the common law untouched, and create an entirely new cause of action? The language of the enactment will be found most undecided and ambiguous upon this point, which nevertheless we venture to suggest is a point of serious importance, and one which goes to the very root of the claim. The question has on one occasion been incidentally mooted, but not in a manner to require a decisive examination. It may be safely predicted, however, that it will one day again present itself to the judges in a manner which will demand a solemn decision. We have only to suppose the very probable case, that a person injured in a railway accident should accept compensation from the company in satisfaction of the cause of action, and after receiving satisfaction should die of the injury, and that the claim under the statute in respect of his death should afterwards be preferred by his representatives against the company. The question might then be raised; would the right of action against the company for their negligence be wholly discharged by the satisfaction made to the deceased? or would the representatives of the deceased acquire a new and distinct cause of action notwithstanding the satisfaction?

In whichever way the point is decided, the results will be remarkable; if the action in question is that of the person injured, the company by a speedy adjustment of the claims for compensation may often avoid the more serious liability arising upon the death; if on the other hand the action is that of the representatives, the company may be actually compelled to pay full compensation to the deceased, and yet remain liable for damages to his relatives, who, at the same time, may be the very persons who have become entitled by the death to the previous compensation.

The fact that this question is left open to argument on the face of the statute is a conclusive proof that in framing its provisions their bearing upon the previous state of the common law did not receive a due measure of consideration. Attention appears to have been directed too exclusively to the avowed objects of replacing the ancient deodand by another form of penalty and providing for its distribution amongst the family of the deceased. It appears to have been overlooked, that the party injured, if he survived a sufficient time for the purpose, might himself have his action for the negligence of the company, and recover compensation, which, in case of serious injury might and probably would be greater in amount than that assessed upon his death. It could scarcely have been intended that the company should suffer the penalty for their negligence twice over; nor on the other hand that by a speedy settlement with persons slightly injured they should be enabled to escape the risk of ultimate liability to the family in case of death. The liability of the company ought at any rate to be adjusted on such terms as would avoid these uncertainties; and the statute requires a corresponding amendment. What particular form of amendment is expedient, and upon what principles the liability of the company should be finally adjusted, are questions to which we can only attempt an answer after a full consideration of all the provisions of the statute, which we are compelled by our present limits to postpone to a future occasion.

Correspondence.

USAGES OF THE PROFESSION.

I observed in the number of the *Solicitors' Journal* for the 28th ult., the Report of the Committee of the Incorporated Law Society, in which they mention that during the last year they have decided several points of practice and usage, such as the mortgagee's solicitor's charge for receiving notice of incumbrance and communicating it to his client, &c. These decisions are entered in a book, and may be inspected by members; but as very few members are likely to take the trouble to search this book when they are in doubt on any point of professional usage, or as to the proper charge for any business, and as the decision of the Committee would in most cases satisfy the parties to any dispute on the subject, the publication of these decisions would be very useful, not only to the members of the society, but to the profession at large.

Would you therefore permit me to suggest that in future the Committee should either print a short abstract of each point decided, along with their Report, or should furnish the *Solicitors' Journal* with a copy thereof, which I have no doubt you would be willing to print for the information of your readers.

Q.

[In the report of the Council of the Society for 1859 it is stated that as soon as a sufficient number of the above points had been collected to be generally useful to practitioners the Council would take into consideration the expediency of revising and publishing them. We have no means of access to the books alluded to by our correspondent, but should be glad to render any assistance to our readers on the subject by publishing abstracts of such cases, if favoured with them.—ED. S. J.]

GIFT OR SETTLEMENT OF PERSONALTY.

I think there can be no question that the deed of assignment mentioned by R. E. J. in your number for the 28th September last, would require to be registered pursuant to the 17 & 18 Vict. c. 36. It is clearly laid down in the case of *Fowler v. Foster*, Q. B., 23 Jur. 99, that the exception of a "marriage settlement" in sect. 7 of the 17 & 18 Vict. c. 36, does not apply to a post-nuptial settlement made in consideration of natural love and affection; and as the property would most probably remain in the possession of the assignor, the deed of assignment would be held to be in the nature of a "declaration of trust without transfer," which, by sect. 7 of that Act, is included in its provisions.

T. T. C.

The Provinces.

BRADFORD.—In addition to the salary of £800 per annum which Mr. Joseph Rayner, the newly-elected town clerk, will receive in that capacity, he is allowed to continue his private practice as a solicitor in offices provided by the corporation.

BRISTOL.—On the 23rd of September last, George Gale, collector of tolls at the White Ladies turnpike gate, Bristol, was summoned before the magistrates of that city by Mr. Shipton, solicitor, a member of the Bristol Volunteer Artillery Corps, for having demanded toll of him, he being in the uniform of a Volunteer Artilleryman, and being on his way to the practice ground of the corps, near the mouth of the Avon. Mr. Shipton was accompanied by other volunteers, but it was admitted that there was a civilian in the carriage with them, and owing to his presence the defendant insisted on the toll being paid. On the 5th inst., the magistrates delivered a lengthened judgment, in which, after having reviewed the points raised by the information, which depended mainly on the construction of the Act 24 & 25 Vict. c. 126, they came to the conclusion that exemption from toll for carriages conveying Volunteers could be claimed for carriages employed only in carrying or conveying Volunteers, and that for this reason the exemption claimed in the case before them could not be allowed. Judgment was therefore given for the defendant.

Mr. Robert Handsley, of Burnley, Lancashire, has been appointed a perpetual commissioner for taking the acknowledgments of deeds by married women, for the county of Lancaster.

Metropolitan and Provincial Law Association.

This Association held its ninth annual provincial meeting, in the lecture room of the Worcester Natural History Society, at Worcester, on the 8th and 9th inst., at which John Smale Torr, Esq., the Chairman of the Association, presided. The meeting was attended by a large and influential body of the profession practising in the provinces and the metropolis.

Among those present were Messrs. W. Shaen, P. Rickman, London; W. Matthews, Gloucester; J. Burrup, Gloucester; H. Harris, Gloucester; E. Banner, Liverpool; C. A. Smith, Greenwich; W. Radcliffe, Liverpool; J. Bulmer, Leeds; J. H. E. Gill, Liverpool; J. Eden, Liverpool; J. Rawlings, Birmingham; H. Holden, Worcester; G. Stallard, Worcester; R. A. Payne, Liverpool; T. Hodgson, York; E. Ball, Pershore; R. Wood, Worcester; T. Avison, Liverpool; R. T. Brockman, Folkestone; E. Benham, London; J. Case, Maidstone; J. R. Shaw, Leeds; T. P. Bunting, Manchester; H. G. Taylor, Saint Helena; J. Street, Manchester; J. Anderton, London; J. Jones, Worcester; A. Ryland, Birmingham; T. Dry, London; S. Tomba, Droitwich; G. Bower, London; J. Turner, London; H. T. Sankey, Canterbury; A. Harper, Worcester; T. Hyde, Worcester; A. Day, Kidderminster; J. G. Hepburn, London; G. Perry, Stourbridge; E. Corles, G. Clark, J. Parker, W. G. Goldingham, W. Allen, E. Gillam, S. M. Beale, W. Meredith, and W. C. Quarrell, Worcester; J. Ridley, Liverpool; G. Bower, London; J. W. Garrold, Hereford; J. H. Jones, Worcester; J. Anderson Rose, London; and J. Hill, Worcester. The proceedings were opened by the Chairman, who delivered the following talented and interesting address. He said—

Gentlemen,—In opening the proceedings of this, our ninth annual provincial meeting, I ought in the first place to congratulate the Association on the fact of our being now assembled at Worcester on the invitation of our professional brethren of this city and neighbourhood, because it seems to be an indication that the appreciation of the importance and necessity of the organization and union of our profession, which has for years actuated its members who practise in the great commercial towns, is extending itself to those whose lot is cast in the more agricultural districts of our country. The chief supporters and even organizers of our Society have been hitherto, as you are aware, the solicitors of the manufacturing and commercial localities. They, many years ago, shrewdly foresaw that the great changes which had taken, and were taking, place in the political and commercial worlds, and in our social system, must necessarily give rise to and be followed by important and possibly fundamental alterations in our laws, and in the administration of them. They felt that, unless the practical information and experience in connection with our legal system, which was possessed solely by the solicitors of England, could be imported into the arrangement of these alterations, all legislation on them must necessarily be crude, to a great extent impracticable, productive of mischief to the community at large, and in all probability needlessly injurious to our professional body; and they well knew that unless our profession itself cared for, and looked vigilantly after, its own interests in the course of these alterations, those interests and the prospects of the profession generally must be sacrificed; as the solicitors, although forming so important a body, and so influential in many instances as individuals, were comparatively unrepresented in the Legislature, and had no reason to expect sympathy or protection from those who were likely to be the promoters of the anticipated changes. They well knew, too, that the individual efforts of a member here and there of our profession, or even of a local law society, would avail but little where there was no unity of effort or action in the body generally, and that whilst the solicitors remained disunited, and, as it were, a mere rope of sand, the Legislature would not be likely to provide for or heed their interests or wishes. The promoters of this Association, therefore, determined on endeavouring to unite the scattered and unconnected members of the profession in an entire body, to the intent and in such manner that the force and influence of the whole should be collected and centred in one powerful focus of action. And they started this Association upon the principles and with the objects which are stated in our prospectuses—viz., that “The objects of the Association are to unite and organize the influence of practising attorneys and solicitors throughout England and Wales; to promote the better administration of the law; and to protect the rights, and increase the usefulness of, the

profession.” The success of the Association has fully justified the foresight and efforts of its founders. The benefits attained, the mischiefs averted, and the useful influence of the Association upon passing events connected with the enactment and administration of our laws, have been numerous and important in a variety of modes and directions, as proved by the contents of the several annual reports of the proceedings of this Association from the period of its foundation to the present time. Much, however, still remains to be accomplished; and there is great reason to apprehend that measures will in future years, and perhaps at an early period, be attempted in the Legislature which will require the most vigilant attention of the Association, and the utmost exertions of its members to resist or modify, and it is possible that some of those measures may affect as seriously, if not more so, our brethren of the agricultural districts as those of the commercial ones. It is, therefore, particularly satisfactory to see the just appreciation of the necessity and usefulness of the Association which some of our professional brethren of Worcester and its neighbourhood have shown in inviting us here on this occasion to explain the objects of the Association, and to state what it has succeeded in doing for the benefit of the profession, and what it proposes for the future. We gladly avail ourselves of the invitation, and trust that the result will be as satisfactory in the way of increasing our numerical strength and consequent usefulness and power as our provincial meetings have hitherto proved in other localities; and further that Worcester may prove an example which may be followed by the solicitors of other comparatively agricultural districts for their own benefit as well as that of the Association and of the profession at large.

I will now, then, proceed, with your permission, to discharge my principal duty in opening these proceedings—viz., that of narrating to you the operations of your Committee of Management since the last meeting, and their results, that all the members may, before proceeding to a discussion, be in full possession of all that has been done by the Committee since the meeting in April last up to the present time. You have all received, and, I doubt not, will be willing that I should assume that you have read and are acquainted with the contents of the Report which was presented at that meeting, and that you will not desire to have repeated now any of the facts and circumstances therein stated.

PROFESSIONAL EDUCATION.

I fully anticipate your approval in taking first in order our proceedings relative to the education of the future members of our profession, as it is a subject in which so much interest has been evinced by so many of our members, and one which is likely to affect to so important, and I trust beneficial an extent, the future of the profession to which we belong. You will be aware, from the report presented at the general meeting in April last, that the judges were then about to make regulations respecting preliminary examinations in general knowledge, and intermediate examinations in legal knowledge, in accordance with the provisions of the Attorneys, Solicitors, Proctors, and Certificated Conveyancers Act of 1860. It will be recollected by most, if not all, of you, probably, that in the regulations for conducting the examinations under the said Act, which were originally proposed to be submitted for adoption by the Council of the Incorporated Law Society to the judges, it was contemplated that all the examinations under it should be held exclusively in London, and none in the provinces. Your Committee were strongly of opinion that facilities should be offered for conducting the preliminary examination, before articles at least, as well in the country as in London, as they considered it would be highly objectionable, and attended with unnecessary expense and peril, to compel youths residing in the provinces of only sixteen years of age, and fresh from school, to take a journey to London merely for the purpose of passing the brief, simple, and non-legal preliminary examination proposed, which it was manifest could be conducted with equal efficiency at any place in England at which there happened to be a schoolmaster as in London. Your Committee consequently proceeded to consult the various provincial law societies and many individual solicitors of experience practising in the country upon the subject, and finding their opinions to coincide with those of your Committee, they proceeded to lay their views before the Council of the Incorporated Law Society, and at the same time suggested for consideration a simple and, as they believed, satisfactory method for conducting the provincial examinations. The suggestions of the Committee were so far approved that in the amended proposed regulations, which were framed by the Council on the 18th of April last, it was no longer declared that the preliminary examinations

should necessarily be held in London, but that they should be held "at such places as the examiners should from time to time appoint," and some other suggestions of your Committee were at the same time likewise adopted. To these amended regulations, however, was still appended the expression of the opinion of the Council that all the examinations had better be held in London, and it was proposed that the fee to be paid by each examinant on the preliminary examinations should be only £1. Your Committee apprehended that such a small fee might be found inadequate to defray the cost of an examination in the provinces, particularly if held by special examiners, and thereby prevent the examiners from appointing under the discretionary clause any "places" in the country for the holding of their examinations; and your Committee therefore wrote to the Council to suggest that power should be taken in the proposed regulations to double or treble this fee if found needful, and suggested that an account should be kept of the receipts and application of such fees, which should be open to the inspection of the profession, so that application might afterwards be from time to time made, if thought fit, to the judges to increase or diminish the amount of the same under the power given to them by section 20 of the Solicitors Act (23 & 24 Vict. c. 127). No decided answer was received to this communication; and at a meeting of the Committee held shortly afterwards, it was resolved that a memorial should be presented to the judges themselves, requesting them to order, by the regulations then about to be made by them, that the fee to be paid by each person on receiving his certificate of having passed the preliminary examination, should be sufficient to admit of the expense of a country examination being incurred, and suggested that it should be two guineas at the least, it being, in the opinion of the meeting and of all the provincial Law Societies and members of the association who had been consulted, most desirable that facilities should be offered to young men of passing such preliminary examination at or near their own homes, instead of being compelled, at such early ages, to travel to London for the purpose. A memorial to this effect was accordingly prepared and presented to the Lords Chief Justices, the Master of the Rolls, and the Lord Chief Baron, and a letter was afterwards written to the Master of the Rolls requesting him to receive a deputation of your Committee on the subject. For this his Honour immediately fixed a time, when he was waited on by Mr. T. H. Bower, Mr. Field, Mr. W. Shaen, myself, and your secretary, and the result of the somewhat lengthened conference that ensued was, that Sir J. Romilly appeared fully to approve of the above and other suggestions made to him by your Committee. The entire success of these efforts of the Committee will appear from the following extracts from the recently published regulations issued by the judges. The preliminary examination under the 8th section of the Act is thereby directed to be held at such times and places as the examiners shall from time to time appoint, "and either by themselves or under their direction, in case the examination shall be conducted in the country," and again "with respect to candidates residing in the country, their examination may be conducted by the transmission by the examiners of papers to some person or persons to be appointed by them for that purpose in certain towns to be selected in England and Wales, who shall call the candidates before them at convenient times, to be fixed by the examiners, and require them to give written answers in the presence of the persons so appointed who shall then seal up and send to the examiners in London the answers so written." This portion is nearly in the very words of the suggestion of the committee. Again, the regulations continue—"The persons so appointed to be remunerated out of the fees to be paid on receiving their certificates by the candidates examined in the country. Each person examined in London, on receiving his certificate, to pay the fee of £1, and each person examined in the country, on receiving his certificate, to pay the fee of £2, to the Council of the Incorporated Law Society." The intermediate examinations are also, as suggested by your Committee, to be conducted at such times and places as the examiners shall from time to time appoint. Other suggestions of your Committee of less importance are also found adopted in the judges' regulations. Your Committee have laboured for many years to obtain the adoption of a more perfect system of examinations, happily secured at last by the late Act, in which the views and wishes of your Committee were to so great an extent approved and adopted by the Legislature; and it is further gratifying to the Committee to find that their views on the details and practical working of the examinations under the Act have met with the approval of, and been adopted by, the judges in the regulations for carrying that Act into effect. Your Committee will watch

with great interest the development of these newly-established examinations, and not fail to endeavour to secure the adoption of any further measures relating to them which practical experience may show to be requisite.

THE CHANCERY FUNDS.

I will next touch upon the subject of the management of the chancery funds, which is one in which this Association has also for many years taken a great interest, and frequently petitioned the Legislature respecting it. The nature of the memorial which the Committee presented to the then recently appointed Chancery Funds Commissioners, at the very outset of their labours, as to the matters complained of in the practice of the Accountant-General's Office, was fully described in the last report. That memorial was received by the Royal Commissioners at their first meeting. It was immediately ordered by them to be printed, and the important suggestions which it contained were at once taken by them into consideration, and have since constituted, it is believed, a large share of the Royal Commissioners' labours, your Committee having stood somewhat in the light of prosecutors of the enquiry before them. I subsequently received a letter from the Secretary to the Commission, inviting me to procure, either from such individual members of the Association as might be willing to assist the Commission, or from a sub-committee, a further expression of their opinion in reference to the matters of complaint alleged to exist in connection with the Accountant-General's department, and the best means of remedying the same. Accordingly, I immediately convened a meeting of the sub-committee already appointed to consider this subject. It held numerous meetings, and discussed fully the details and mode of effecting the reforms which had been proposed by our memorial; and an elaborate paper of "observations and suggestions" was prepared by the sub-committee, and laid before the Royal Commissioners in July last, and which has also been ordered by them to be printed, and is now under the Commissioners' consideration. Your Committee anticipate with great confidence the adoption by the Royal Commissioners of many, if not all, of the important reforms proposed by the sub-committee.

PRACTICE AND COSTS.—PROBATE DISTRICT REGISTRIES.

Another subject of interest is that which relates to the recent changes in the practice and costs in the Probate Court District Registries. Your Committee have been for some time past endeavouring to discover means to get rid of the great anomaly of Probate Court District Registrars being permitted to practise in their own courts, and thus to be themselves the preparers of the evidence of which they were afterwards to be the *quasi* judges. On the 16th April last, in order to carry out a plan for payment of these registrars by salary instead of by fees (which were thenceforth to be taken in stamps and paid over to Government) enunciated in a previous treasury minute, drawn up in pursuance of the power given in the 111th section of the Probate Act of 1857 (20 & 21 Vict. c. 77), regulations were issued by the judge of the Probate Court, directing that from and after the 1st May last it should be part of the duty of the District Registrars of the Court of Probate to prepare affidavits and all other necessary documents for parties applying to them in person for grants of probate or letters of administration. To this order is appended a table of fees to be taken (in addition to the ordinary fees, and also in stamps, and for the use of Government) when applications are made by parties in person, and not through a proctor, solicitor, or attorney. These additional fees are considerably less than (in most cases about one-half) the fees directed by the rules and regulations of the court to be taken for their own use by attorneys, solicitors, or proctors, when applications are made through them. Thus, Government offices have, in effect, been established in all the district registries to compete, and at lower charges, by means of salaried lawyers, with the provincial solicitor for the whole of his common form probate business. The credit of the first move to obtain a remedy of this unfair proceeding on the part of Government is due to the Manchester Law Association. They first prepared a memorial to the judge of the Probate Court, setting forth the grievances of the country solicitors in the matter; and it was arranged that a memorial from this Association to a similar effect should be sent in, and also that memorials from the provincial law societies should be collected by your secretary, and forwarded with the Manchester memorial and our own *en masse* to Sir C. Cresswell. Accordingly, memorials from the Liverpool, Birmingham, Hull, Kent, Leicester, Lincolnshire, and Yorkshire, Law Societies, and from

eighty-five solicitors practising in Bristol, were presented with the two others to the judge of the Court of Probate, who appointed to receive deputations on the subject on the 29th of June last. He was accordingly waited upon by Mr. Street, the President of the Manchester Law Association, and Mr. Baker of Manchester; Mr. Jones, the Vice-President of the Birmingham Law Society; Mr. Hebb, of Lincoln; and Mr. T. H. Bower, Mr. W. Shaen, myself, and your Secretary. I will just notice *en passant* another instance and mark of the uniform courtesy and consideration which the representation of the interests of a large number generally procures, that Sir C. Cresswell had appointed to receive the deputations at the rising of his Court, which his secretary informed yours would (it being a Saturday) probably take place at 2.30, but a long case being on at that time, the judge very kindly suspended the proceedings in order to avoid detaining the members of the deputations, and retired with them to his private room, heard patiently all they had to set forth, and fully discussed the questions with them. His lordship admitted the force of the objection that those who prepared documents should not also be the judges of their sufficiency, and stated that before the issuing of the recent rules he had desired to prevent district registrars from practising in their own courts, but had not power to do so. He considered that the new regulations effected a great improvement in this respect, as the registrars would not, now that they are paid by salaries, have any pecuniary interest in the work, and, therefore ("being human," to use his words), would not be likely to seek it. He thought the change in 1857 had largely benefitted the solicitors, and that the public ought to be admitted to share in that benefit. He also mentioned that a similar arrangement would soon be adopted in London. We suggested that if the order could not be entirely rescinded, at least the fees to be taken by the Government should be raised to the same amount as those prescribed to be taken by solicitors, to get rid of the unfairness of the Government not only entering into competition with, but underselling a profession which it taxed beyond all others, and which was consequently rather entitled to protection than invasion of its rights and privileges. As to altering the fees, however, his Lordship intimated that any proposal for that purpose, to be successful, must receive the previous sanction of the Lords of the Treasury, who had suggested the present scale of fees, and who had made definite arrangements with the district registrars for the payment and amounts of their salaries out of them; and he intimated that the low scale of fees to be taken by the Government was fixed he believed, entirely without reference to the question whether it would or would not undersell or injure the solicitors, and only with regard to the amount that would probably remunerate the Government for the additional salaries which it was in future to pay to the district registrars. In accordance with this intimation a memorial setting forth the case of the provincial solicitors more fully, was presented to the Lords Commissioners of the Treasury by the Committee, after which it was printed and copies forwarded to all the provincial law societies, with a request that they would (if they approved) also address similar memorials to the Treasury. The memorials both to Sir C. Cresswell and the Treasury, were also published in the *Solicitors' Journal* and other law newspapers, which urged upon the profession generally a vigorous course of similar action. Further memorials have since been presented by the Committee to the Lord Chancellor and to Sir A. E. J. Cockburn, whom (his signature being appended to the order complained of) we thought it right also to put in possession of the facts shewing the grievance which the order had created. We have since received a letter from the Lord Chancellor's principal secretary, assuring us that the subject shall receive the careful consideration of his lordship. Memorials to the Treasury from the Liverpool, Hull, Birmingham, Yorkshire, Lincolnshire, and Gloucestershire Law Societies, and to Sir C. Cresswell from the Leicestershire Law Society, have been forwarded to your secretary, and presented by him. The Manchester Law Association memorialised the Treasury through Mr. Massey, M.P.; and Mr. Ingham, M.P., had an interview with Sir C. Cresswell to communicate the views of the Newcastle and Gateshead Law Society. The matter now awaits the decision of the Treasury and the other authorities.

AS TO CUSTODY OF WILLS.

It was lately brought under the notice of the committee that the wills and other documents deposited in one of the archdeaconal registries had not yet been transmitted to the proper registry in accordance with the provisions of the 89th section of the Probate Act of 1857 (20 & 21 Viet. c. 77); that the ecclesiastical registrar was pensioned off under the

Act, and that his deputy, who had the charge of such wills, &c., had died, whereby inconvenience was occasioned, and the safety of the wills, &c., endangered. The Committee lost no time in communicating with Dr. Bayford, the Principal Registrar of the Court of Probate, on the subject, and (it being understood that there were also other cases of documents untransmitted) suggested that requisitions, under the seal of the Court of Probate, might be at once issued to all persons having the custody of such documents, requesting them at once to transmit the same to be deposited and arranged as directed by the Act. In reply, Dr. Bayford stated that the reason why some of the wills which were to come to the Principal Registry had not already been transferred there was that the Government had not yet afforded accommodation for them, thus giving another instance of the gain which will be afforded to the public by the carrying out of the plan for the concentration of the metropolitan courts and offices; for, with this comprehensive scheme in view, it is not probable that Government can be induced to add to the already great number of sparsely situated offices by engaging an additional building for the deposit of testamentary papers. Dr. Bayford added that, saving as to the metropolitan district, all the wills, excepting some at York and Lichfield, were already lodged in their proper depositories.

USAGES OF THE PROFESSION—MORTGAGE COSTS.

A short time since the opinion of the Committee was sought by a member practising in a large provincial town, as to what other charges in cases of mortgages were made in London when the procuration fee was charged. Their reply was, that in London the procuration fee, when charged by the lender's solicitor, is supposed to cover all preliminary expenses for the negotiation of the loan, such preliminary expenses including all attendance and other charges up to the receipt of the abstract; the charge for perusing which should then form the first item of the mortgagee's solicitor's bill of costs, which is otherwise unaffected by the charge of the procuration fee.

The learned Chairman then proceeded to state to the meeting what had been the operations of the Association in connection with the several important parliamentary measures of last session affecting the interests of the profession, including the Bankruptcy and Insolvency Bill, the Excise and Stamps Bill, the Courts of Justice Building and Money Bills, the Parochial Assessments Bill, the East India High Courts, and the Income Tax Act.

REGISTRATION OF DEEDS OR TITLE.

On this subject the learned gentleman said—

Nothing has been attempted during the past session on the great subjects of deeds or title registries; but I fear we must not, on that account, lull ourselves into any fancied security against invasion of our present privileges, as the spirit of change in that direction is still alive, and as the new Lord Chancellor is supposed to be an advocate of a fundamental reform in the present system of conveyancing. Should we fail on other points, at least we shall lay claim to compensation as the proctors did, seeing how highly and exceptionally we are taxed for the privilege of practising. If the Government is charged with the care of all classes of her Majesty's subjects, surely it must not be allowed to ignore, and even injure a class of them, numbering 10,000 individuals, who have been expensively educated purposely for the work, which the Legislature would be asked to sweep away, and on whom the nation draws so largely in taxation. It ought to be kept well before the view of Government and the Parliament, that our existing body has already, in mere articles and admission stamps, contributed towards the general expenses of the country (and in exoneration to that extent, of course, of the general body of tax-payers) nearly a million and a half sterling; and that in addition we continue to pay above £50,000 a-year in certificate duty, besides bearing our full share in all other respects of the ordinary taxes of the Kingdom. If any class has earned a claim to compensation for losses which Parliament may think it for the general good to inflict upon it, ours has surely pre-eminently done so.

THE SECRETARY.

In alluding to this gentleman the Chairman said—

It will be a great satisfaction to you to know that a second year's experience of the services of your secretary enables the Committee to confirm the anticipations of his eminent qualifications for the office which were formed at our last provincial

meeting. His intelligence and vigilance, coupled with his earnest desire at all times to promote the welfare of the Association and guard the rights and interests of the profession, entitle him to the highest commendation, and make it a subject of congratulation to the Association that they have been so fortunate as to secure the services of so efficient an officer. In the financial department of your affairs the secretary has proved himself most valuable, for he has managed to reduce and keep the annual expenditure to a point below the amount of the annual income; so that there has been no necessity during the last year to call again in aid of our expenses any portion of our small remaining funded capital; and if the subscriptions keep up to only their present extent, the continuance of the existence of the Association is assured, though it would much increase its efficiency and means of usefulness if a great number of subscriptions could be procured, as considerations of expense frequently deter the Committee from undertaking that vigorous though more expensive course of action which it often appears to them would prove most conducive to the ends and objects of the Association. The great expense of printing and postages often deters the Committee from communicating with and endeavouring to rouse into action the members of the association and the profession generally, when danger to their interests happens to threaten; and occasionally mischievous measures of a minor character are allowed to pass, and have to be submitted to, because the Association cannot afford to print and circulate statements of the facts relating to them, and explain the necessity of opposition, to the professional body at large.

The learned gentleman concluded his long and able address with the following observations:—

I trust you will agree with me in thinking that the Association has effected some good and averted much mischief during the last year, and that the experience of the past, as well as apprehensions of the future, strongly call for and warrant our further and best exertions in uniting not only to keep the Association on foot, but in endeavouring to raise it to, and maintain it in, a still higher state of efficiency. To effect this, further funds are, above all things, requisite. These are to be obtained by an increase in the number of our members, and consequent augmentation of the aggregate amount of our annual subscriptions; and I would impress upon all of you present that one of the most effectual methods of promoting the usefulness of the Association that you can adopt is, each one of you to canvass in your respective localities for fresh members. The Committee, in order to act effectively, ought at all times upon measures of importance to possess the means of communicating to and with all the members of the Association at least, if not of the profession generally, and endeavouring to obtain their co-operation, through their members in the Legislature and otherwise, in the course which it may seem expedient for the interests of our profession to adopt; and I believe it would prove greatly for the benefit of every individual solicitor in the kingdom if this Association were raised to a state of greater efficiency. Let it be the object and effort, therefore, of each and all of you who are also of that belief, to do your utmost to assist in increasing the usefulness and practical influence of the Association in the way I have suggested, and to lose no opportunity of obtaining for it all the additional support which you believe it to merit and require.

Solicitors' Benevolent Association.

The half-yearly provincial general meeting of this institution was held in the lecture room of the Worcestershire Natural History Society, Worcester, on Wednesday last, the 9th inst., in the presence of a numerous body of solicitors from all parts of the kingdom.

Mr. J. Anderton, of London, Chairman of the Board of Directors, was called to the chair.

The Secretary (Mr. Eiffe) read the following report of the directors:—

"The directors have to state that the institution continues to increase its numbers, 85 members having joined since the general meeting in April last. The aggregate number of solicitors now enrolled in the Society is 1,090, of whom 408 are life members, and 682 are members from year to year, by annual subscription; amongst the former being eight gentlemen who, in addition to their payment as life members, subscribe annually. The entire receipts during the half-

year have amounted to £755 11s. 4d., out of which the directors have invested the sum of £500. The funded capital of the Society, standing in the names of the trustees, now amounts to £5,159 9s. 11d. Three per Cent. Consols, the annual dividend arising from which, being the only fund at present applicable to the purposes of relief, and necessarily limited to the claims of distressed members and their families, is £154 16s. In pursuance of the resolution of the last general meeting, the directors have made the necessary preliminary arrangements with respect to applications for aid from distressed members and their families, and have already awarded temporary relief in one case which seemed to be of an urgent character. The directors take this opportunity of renewing their earnest appeal to those members of the profession who, as yet, have borne no part in the promotion of the institution, to contribute their share of pecuniary assistance to its funds, in order that its benevolent objects may be carried out to their fullest extent."

A discussion took place on the subject of the investments of the society. It was said that it would be much better to obtain a higher rate of interest than that of the Three per Cent. Consols, and that this could be done by investing the funds on mortgage security, or in other ways yielding a higher rate of interest.

The Chairman said the directors had power to carry out this suggestion, and he had no doubt that at the next meeting of the Committee in London, the matter would receive their consideration. He impressed the claims of the society on the meeting, and called upon the gentlemen present to use their influence to obtain additional subscribers. The medical profession and the clerical body had institutions for the relief of indigent members, or their wives and families, and so had most bodies throughout the country. As the members of the legal body were likewise exposed to vicissitudes of fortune, it was their duty to provide for the support of any of their body who might not be so successful as the generality of the profession. He concluded by moving the adoption of the report.

Mr. Hope Shaw, of Leeds, seconded the resolution, which was put and carried.

Mr. E. Ball, of Pershore, moved the following resolution, which was seconded by Mr. Eden, of Liverpool, and carried: "That this meeting very earnestly commends the society to the support of every member of the profession."

Mr. Gill, of Liverpool, moved the next resolution: "That the present board of directors, with the exception of Mr. Bromehead, of Lincoln, who retires, be elected for the ensuing year."

Mr. Pidcock, of Worcester, seconded the resolution. He urged upon the directors to commence distributing the funds of the society, as he thought this would be one means of increasing the interest in the society. The resolution was carried.

Mr. Rawlins, of Birmingham, moved "That the name of Mr. Slater, of Princess-street, Manchester, be added to the Board of Directors, in the place of Mr. Bromehead."

Mr. Stallard, of Worcester, seconded the resolution, which was also carried.

The re-appointment of the auditors, Messrs. Stephen Williams and Henry Kimber, was carried on the motion of Mr. C. A. Smith, of Greenwich, seconded by Mr. Radcliffe, of Liverpool.

A vote of thanks to the directors and auditors was moved by Mr. Hodgson, of York, seconded by Mr. Ryland (Mayor of Birmingham).

Mr. W. Shaen, of London, acknowledged the compliment paid to the directors.

Mr. Banner, of Liverpool, moved the thanks of the meeting to the President and Council of the Worcester Natural History Society for allowing the meeting of the Association in that room.

Mr. Torr (of London) seconded the resolution, which was carried.

Mr. Case (of Maidstone) moved a vote of thanks to the Chairman for his kindness in presiding.

Mr. Bunting (of Manchester) seconded the resolution.

In acknowledging the compliment, the Chairman alluded to suggestions which had been made by the meeting as to canvassing the large towns for new subscribers. He said he should himself be happy to do something in that way himself, and it was agreed that he should visit the gentlemen of Worcester not subscribing, after the meeting, and he also volunteered to do the same in Oxford on Saturday.

THE TEMPLE CHURCH.

On Sunday morning last this magnificent church, which has been closed since the commencement of the long vacation, was re-opened for Divine service. There was a full congregation.

We extract the following article upon this interesting structure from a recent number of the *Building News* :—

Charles Lamb considered the Temple the "pleasantest spot in all London." With a purified, or rather unpolluted, river, it might still deserve the proud distinction. A crowd of pleasant memories press upon us immediately we pass through the low portals which divide it from Fleet-street. One bids us linger over the spot where Johnson lived, another on which old Goldie somehow rested. The banqueting hall recalls the memory of Shakespeare's play rehearsed there; the church reminds of the "poor Christian warriors" who owned nine thousand manors, who carved their names with their trusty swords in England's early history, and who, when poor, combined the best specimens of piety and valor. Yet

"All is great and all is strange,
In this boundless world of unending change."

The home which Heraclius founded for the warrior knights, on the north bank of the Thames, has been converted into a legal rookery. The cause thereof is well known. The modern templars have, however, shown a praiseworthy zeal in the conservation of the most valued relic of their predecessors. The church, which proclaims, by its half fortress appearance, the character of its founders—men who had to sleep in "complete mail," with their swords by their sides—has always been well maintained. Even when the wainscot screens, the Corinthian pilasters and whitewash were applied to it, the work was done to improve its condition, and no one knew better in those days. Twenty years ago they restored it in the best way then possible, and spared no funds to render the church worthy of its high renown.

On the north side the Norman porch, and a portion of the round church, was connected with a row of houses, which formed the eastern side of Inner Temple-lane. These buildings could not then be removed. Within the last few weeks the whole have, however, been demolished, to make room for new chambers. Goldsmith's house (No. 5) has soon followed that of Doctor Johnson. Fancy and agreeable associations lose something by the change, but it is compensated for by the enlarged view of the noble round church. The old brick houses, whatever their associations, were all virtually condemned when once a portion of them were pulled down to be re-erected on a more commodious plan. The better built and better arranged chambers were so eagerly sought after, that others were certain to be provided. The nine houses opposite Dr. Johnson's buildings have consequently been taken down; a new range of chambers has been built at right angles with those they have displaced, and facing the north walls of the Temple Church, and a large open terrace has been retained between them, opening a good north-west view of the church. The last of these nine houses projected over and completely hid the old porch of the church. The demolition has thus revealed the side wall and laid bare the vaulting. Two lovely capitals, one on either side the archway, still remain in good preservation, and the coping stones, marking the line of the gable, is visible on one side. A wheel window of rare beauty has also been exposed to view over the porch. It is curious, and it ought to be profitable, to remark that the stone sculptured seven hundred years ago—the God-stone fire-stone—is in splendid condition, with scarcely any traces of decay, whilst the Caen stone used twenty years ago in the restoration has in places gone literally to powder. Several coffins have been found in taking out the walls of the cellars of the demolished houses. A temporary roof has been thrown over the old porch, and this, with the unquestionably old half-ruinous walls beside and beneath it, and the half-demolished adjoining houses make a remarkably picturesque composition. It is doubly interesting also from the fact that no restoration has veiled the whole work, and we can see what the old masons actually did instead of copies of what they executed. A good deal must be done to prevent further ruin, but we trust the Templars—who apparently have not decided yet what to do—will not obliterate every trace of the old stones, either by cement as formerly or by new building stones, in their zeal for having it "well done" (which means overdone). The man who had first a new handle and then a new blade put to an old knife, and then insisted on its antiquity, finds plenty of church restorers of the same way of thinking. A trifling damage to a moulding, string-course, or piece of carving, is of no account. By removing it and substituting new, a

page is torn from the church's history. It should be borne constantly in mind that in restoring a church such works only should be executed as will keep the building from falling into ruin, or as consist in clearing it of inconsistent additions which hide its original beauties. We are even heretical enough to think that many of the old parish churches have been denuded of much picturesque beauty by the wholesale clearance which the modern restorers have made. What, then, we would urge on the modern Templars is to preserve the church as much as possible, and to disregard the wishes of those who would have it "restored" to such an extent that we might imagine the old knights still occupying it. We would not have one of those scars, which tell of its battles through seven centuries, effaced. What work is needed to ensure future stability should be done in the same kind of stone as the church is built with, and above all things the whole should not be flayed to one monotonous tone, obliterating the delicate and varied tints which form half the charm of many buildings.

A calendar of the wills and administrations of the year 1858 (at least, from the 10th of January) was published some short time since, and the Registrar-General has made some interesting calculations founded upon it, making an estimate for the omitted ten days, so as to complete the year. 210,972 adults died in the twelvemonth, and 30,823 persons left personal property behind them; 21,653 had made their wills; the other 9,170 had made none, and letters of administration had to be taken out. 89 persons with more than £10,000 (one worth above £100,000) died without making a will. The aggregate amount of property left by all these persons is estimated at £71,860,792, averaging £2,331 each. Distinguishing between the men and the women, we find that 102,049 adult men died in the year, and 21,454 left personal property—for one who left any four leaving none; 108,923 adult women died, and 9,369 left personal property. The average amount left by the men was £2,751; by the women, £1,371. Omitting now any estimate for the first ten days of the year, and dealing only with the actual wills and administrations of the rest of the twelvemonth, the personal property of those who died leaving any, 29,979 in number, amounted to £69,893,380, of which £57,396,350 was left by the men, and £12,497,030 by women. The stream of wealth flowed thus:—

Persons.	Dying Worth.	Left.
22,513 ..	Less than £1,000	£5,762,880
8,377 ..	£1,000, but less than £10,000 ..	30,010,300
1,020 ..	£10,000, but less than £50,000 ..	21,960,000
102 ..	£50,000, but less than £100,000 ..	7,100,000
67 ..	Above £100,000	15,060,000
29,979		£69,893,380

Only one property was sworn so high as £900,000 and under £1,000,000; 1,935 were under £20. The property divides nearly equally at £20,000. About £35,000,000 belonged to 29,392 persons, none having more than £20,000, and the other £35,000,000 belonged to 587 persons, fifty times fewer than the former company. Of those who left above £100,000, 37 were described as esquires, a term which would include men who had made their fortunes by trade or commerce; ten were titled personages, five were bankers, four merchants, three clergymen, one cotton manufacturer, one corn merchant, one hotel keeper, one was in the navy, one in the Indian army, one in the Indian Civil Service, one was a spinster. Three medical men left more than £50,000. A person described when he made his will as a commercial clerk left above £30,000; 17 "labourers and mechanics" above £1,000. Of 75 lawyers 15 died without making their wills. The foregoing statements, which must be taken as approximations rather than an absolute accuracy, relate to England alone. In the year ending March 31, 1859, legacy duty was paid in the United Kingdom on £65,441,611, but that does not include property passing from husband to wife or the converse, no legacy duty being then payable; succession duty on real property was paid upon £29,242,630, and estimating that to be taxed to the next successor at half its saleable value, it will amount to £58,485,260. On this assumption £123,923,871 passed by death to another generation of successors. It is certainly a remarkable fact, that (upon an average) on every death, including alike men, women, and children, more than £100 of property paying legacy duty, and perhaps £187 of property of every kind, is left for the benefit of the successors in the united kingdom.

Births, Marriages, and Deaths.

BIRTHS.

JACKSON—On Oct. 4, the wife of Joseph Jackson, Esq., of Gray's-inn, of a son.

MACPHERSON—On Oct. 10, at 48, Inverness-terrace, the wife of William Macpherson, Esq., Barrister-at-Law, of a daughter.

POTTER—On Oct. 4, the wife of H. Cipriani Potter, Esq., of 42, Torrington-square, of a son.

MARRIAGES.

BELL—SMITH—On Oct. 5, Harry Bell, Esq., of Bedford-row, to Charlotte Maria Wilhelmina, daughter of Samuel Smith, Esq., of Calcutta and Westbourne-terrace-road, London.

DAW—MERRIFIELD—On Oct. 3, the Rev. C. H. T. Wyer Daw, rector of Otterham, Cornwall, to Emily Katherine, daughter of John Merrifield, Esq., of Brighton, Barrister-at-Law.

HOWLETT—LEWIS—On Oct. 2, James Warnes Howlett, Solicitor, Brighton, to Marianne Elizabeth, daughter of Charles Carne Lewis, Esq., of Brentwood.

MOSES—SIMON—On Oct. 2, Samuel Henry, son of Henry Moses, Esq., of No. 2, Park-square west, Regent's-park, to Zillah, daughter of John Simon, Esq., of the Middle Temple, Barrister-at-Law.

WRIGHT—SUTTON—On Oct. 8, John Lawrance Wright, Esq., of South-square, Gray's-inn, to Elizabeth, daughter of the late William Sutton, Esq., of Mepal, Isle of Ely.

DEATHS.

BROWN—On Oct. 3, Sophia, the wife of William Brown, of Gray's-inn, Esq., Barrister-at-Law.

HART—On Oct. 5, the Rev. W. H. Hart, M.A., Demy of Magdalen College, Oxford, and Chaplain to the Hon. Society of Gray's-inn, aged 30.

MORRIS—On Oct. 4, John, son of John Morris, Esq., of the Old Jewry, aged 6 years and 3 months.

MURRAY—On Oct. 2, at Strachur-park, Argyleshire, Lady Murray, relic of Lord Murray, one of the senators of the College of Justice.

ROWE—On Oct. 2, at No. 6, Addison-terrace, Notting-hill, Mary, daughter of the late William Henry Rowe, Esq., Barrister-at-Law.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Party claiming the same, unless other Claimants appear within Three Months:—

CHARLEVILLE, CATHERINE MARIA, Dowager-Countess of, Widow, Cavendish-square, £5,708 : 4 : 6, 3½ per Cent.—Claimed by CATHERINE LOUISA AUGUSTA MARLAY, Widow, the surviving executrix.

EYRE, PRUDENCE BARBARA, wife of Daniel Eyre, Esq., late of Salisbury, £1,800 Consols.—Claimed by REV. DANIEL JAMES EYRE, the administrator.

WIGLESWORTH, THOMAS, Gent., Gray's-inn, and REV. JOHN HEADLAM, Wycliffe, Yorkshire, £691 : 10 : 3 Consols.—Claimed by MORLEY HEADLAM, acting executor of the said Rev. John Headlam, who was the survivor.

London Gazettes.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Oct. 8, 1861.

ACOME, JOHN, Alpha Villa, Russell-terrace, Leamington Priory, Warwickshire, Esq. Nov. 16. Sols. Haynes & Moore, Jury-street, Warwick.

DAVIS, THOMAS HENRY, 7, Hart-street, Duke-street, Grosvenor-square, Middlesex, Coach Lamp Manufacturer. Nov. 10. Sol. W. R. Buchanan, 13, Basinghall-street, London.

DRAFFAN, JOSEPH WRIGHT, 78, Cambridge-terrace, Hyde-park, Middlesex, Esq. Nov. 20. Sols. Bockett, Son, & Barton, 60, Lincoln's-inn-fields.

HOW, ELIZABETH, Anchor-inn, Liphook, Bramshott, Hants, Widow. Nov. 10. Sol. R. E. Mellersh, Godalming, Surrey.

PALMER, ANN, formerly of Jacob's Well Tavern, Jacob's-passage, Barbican, London, and late of Ropemaker-street, Finsbury, Middlesex, Widow. Dec. 4. Sols. Taylor & Jaquet, 15, South-street, Finsbury-square.

PICKIN, ELIZABETH, Coventry, Widow. Nov. 8. Sol. T. Browett, 23, Bayley-lane, Coventry.

RATHBONE, WILLIAM, Newbold-upon-Avon, Warwickshire, Builder and Grocer. Oct. 20. Sols. Wratislaw & Fuller, Rugby.

SCOTT, ELIZABETH, formerly of Norwich, and late of 47, Lansdown-crescent, Cheltenham. Nov. 1. Sols. Winterbotham, Bell, & Co., Cheltenham.

SMELLEY, RICHARD, Nottingham, Butcher. Oct. 30. Sol. J. T. Brewster, Nottingham.

TATE, LOUISA PINFOLD, 77, Wimpole-street, Cavendish-square, Middlesex, Spinster. Nov. 20. Sols. Bockett, Son, & Barton, 60, Lincoln's-inn-fields, London.

WALLACE, HILL, Camden Lodge, Cheltenham. Dec. 1. Sols. Winterbotham, Bell, & Co., Cheltenham.

WILLIAMS, THOMAS, Devonport, Victualler. Dec. 5. Sol. E. O. Gard, 20, St. Aubyn-street, Devonport.

FRIDAY, Oct. 11, 1861.

BROWN, Rev. HUMPHREY, Kirkheaton, Northumberland, Clerk. Nov. 18. Sol. R. R. Dees, Pilgrim-street, Newcastle-on-Tyne.

BUSHNELL, Mrs. CATHERINE, Westbourne-park, Paddington, Middlesex, Widow, sometimes called Madame Catherine Hayes Bushnell. Dec. 1. Sols. Baker, Baker, & Forder, 52, Lincoln's-inn-fields.

CLARK, JOHN CHORLEY, formerly of the City of Rome Public-house, Roman-road, Barnsbury, Middlesex, Licensed Victualler. Nov. 10. Sol. E. M. Dimmock, 2, Suffolk-lane, London.

CLIFFORD, RICHARD, 11, Park-street, Kennington-cross, Surrey, Laundryman. Nov. 23. Sol. J. Kempster, 1, Portsmouth-place, Lower Kennington-lane, Lambeth.

COLQUHOUN, WILLIAM JAMES HILLERSON, Elstow, Bedfordshire, Esq. Nov. 30. Sols. Paine & Layton, Gresham-house, London, E.C.

CULPECK, JOHN, Britannia Tavern, City-road, Middlesex, Licensed Victualler. Nov. 11. Sols. Morris, Stone, Townson, & Morris, Moorgate-street Chambers, Moorgate-street, London.

PICCO, WILLIAM, Broad-street, Birmingham, Blacksmith and Wheelwright. Nov. 3. Sol. W. Cottrell, 22, Bennett's-hill, Birmingham.

PLEWS, JOHN, 14, Grosvenor-place, Camberwell New-road, Kennington, Surrey, Gent. Nov. 30. Sol. R. Plews, 29, Mark-lane.

TURNER, HENRY, 2, Northumberland-street, Strand, and Stamford-hill, Middlesex, and formerly of Chigwell, Essex, Army Clothier. Nov. 11. Sols. Morris, Stone, Townson, & Morris, Moorgate-street Chambers, Moorgate-street, London.

WRIGHT, JOHN, formerly of Orchard-street, Sheffield, Scissors Grinder, and late of Handsworth, Woodhouse, York, Gent. Nov. 21. Sol. J. Dixon, 8, Norfolk-row, Sheffield.

Creditors under Estates in Chancery.

Last Day of Proof.

TUESDAY, Oct. 8, 1861.

COX, HENRY, Greville Cottage, Kentish-town, Middlesex, Gent. Cox v. Healey, V. C. Stuart. Nov. 7.

CRICKMORE, JOHN, Weybread, Suffolk, Farmer. Crickmore v. Crickmore, V. C. Wood. Oct. 30.

MARES, WILLIAM HENRY, Bath. Austin v. Cautle, V. C. Stuart. Nov. 14.

FRIDAY, Oct. 11, 1861.

SLATER, WILLIAM, Bentley Farm, Mavesyn Ridware, Staffordshire, Farmer. Slater v. Slater, M. R. Nov. 2.

Assignments for Benefit of Creditors.

TUESDAY, Oct. 8, 1861.

BOTTOM, DAVID, Paddock, Huddersfield, Grocer and Shopkeeper. Sept. 12. Sol. T. Robinson, Huddersfield.

BAWEN, JOHN, Marsden-street, Manchester, Dealer in China Clay. Sept. 20. Sol. R. W. Stend, Bank-chambers, Essex-street, Manchester.

FLETCHER, ROBERT, Whitehaven, Cumberland, Mercer and Draper. Sept. 25. Sols. Brockbank & Helder, Whitehaven.

HOLDWORTH, JOHN, Cleckheaton, Yorkshire, Woollen Cloth Manufacturer. Sept. 2. Sol. W. Lancaster, Bradford.

RODHAM, JOHN, Guilsbrough, North Riding, Yorkshire, Draper and Grocer. Sept. 27. Sols. Newby, Richmond, and Watson, Stockton-on-Tees.

FRIDAY, Oct. 11, 1861.

BUNTING, WILLIAM, King-street, Covent-garden, Middlesex. Oct. 1. Sol. A. Jones, 15, Sise-lane, London.

BUTCHER, JOHN, Dalton, Harrow, Lancashire, Grocer. Sept. 23. Sol. J. Park, Cavendish-street, Ulverston.

COWLSHAW, JOSEPH, Stratford-upon-Avon, Warwickshire, Corn and Coal Merchant. Oct. 4. Sols. Hobbes & Slatter, Stratford-upon-Avon.

GATE, JAMES, 129, Strand, Middlesex, Hosier. Sept. 26. Sols. Davidson, Bradbury, & Hardwick, Weavers' Hall, 22, Basinghall-street.

LANSDOWN, ISAAC, SENR., ISAAC LANSDOWN, JUNR., and WILLIAM CARTER LANSDOWN, Wootton Bassett, Wilts, Carpenters and Builders. Oct. 2. Sol. T. H. Smith, 1, Frederick's-place, Old Jewry.

MESSER, JOHN, Liverpool, Draper. Sept. 14. Sols. Evans, Son, & Sandys, Commerce-court, Liverpool.

MORLAND, ISAAC, Arthur-street, Penrith, Cumberland, Joiner and Builder. Oct. 1. Sols. Cant & Fairer, Penrith.

ROSS, JOHN CHAD, & JOHN HENRY COCHRANE, Torquay, Devonshire, Ironmongers. Oct. 4. Sol. W. Smith, Dartmouth.

WILLIAMS, FREDERICK, 1, Royal Oak-terrace, Rayswater, Paddington, Middlesex, Hosier and Glover. Oct. 9. Sol. T. H. Smith, 1, Frederick's-place, Old Jewry.

Bankrupts.

TUESDAY, Oct. 8, 1861.

CASE, RICHARD, 60, Bethnal Green-road, Middlesex, Builder. Pet. Oct. 7. Com. Goulburn: Oct. 21 at 1, and Nov. 20 at 1.30; Basinghall-street. Off. Ass. Pennell. Sol. J. F. Holmes, 8, Southampton-street, Bloomsbury, London.

CLOUGH, WILLIAM, 164, Cleveland-street, Birkenhead, Cheshire, Tailor and Draper. Pet. Oct. 5. Com. Perry: Oct. 21 and Nov. 8 at 11; Liverpool. Off. Ass. Turner. Sol. A. S. Samuel, Liverpool.

CORKE, HENRY, Taubridge Wells, Kent, Tailor and Clothier. Pet. Oct. 4. Com. Goulburn: Oct. 19 and Nov. 20 at 1; Basinghall-street. Off. Ass. Pennell. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London.

ELLIARD, WILLIAM, Bradford, Yorkshire, Stuff Merchant. Pet. Oct. 5. Com. West: Oct. 25 and Nov. 14 at 11; Leeds. Off. Ass. Young. Sols. T. A. Watson, Bradford, or Bond & Barwick, Leeds.

HOWARD, THOMAS, Ormskirk, Lancashire, Earthenware Dealer. Pet. Oct. 2. Com. Perry: Oct. 21 and Nov. 11 at 11; Liverpool. Off. Ass. Morgan. Sols. Forshaw & Goodman, Sweeting-street, Liverpool.

HULBERT, WILLIAM OLIVE, 29, Eastgate-street, Gloucester, Tailor and Draper. Pet. Oct. 4. Com. Hill: Oct. 21 at 12, and Nov. 16 at 11; Bristol. Off. Ass. Actman. Sols. Lovegrove & Son, Gloucester.

JONES, HENRY WILLIAM, Wrexham, Denbighshire, Draper. Pet. Oct. 4. Com. Perry: Oct. 21 and Nov. 8, at 12; Liverpool. Off. Ass. Bird. Sols. Evans, Son, & Sandys, Liverpool, and J. Buckton, Wrexham.
 MARRIOTT, WILLIAM EDWARD NEEVE, Swaffham, Norfolk, Tailor. Pet. Oct. 8. Com. Goulburn: Oct. 23 at 11, and Nov. 22 at 12; Basinghall-street. Off. Ass. Pennell. Sol. J. V. P. Plimsaul, 7, South-square, Gray's-inn, London.
 NELSON, EDWARD, Birmingham, Coal Dealer. Pet. Oct. 4. Com. Sanders: Oct. 18 and Nov. 7 at 11; Birmingham. Off. Ass. Whitmore. Sols. Southall & Nelson, Birmingham.
 PAICE, JOSHUA HENRY, 137, Fenchurch-street, London, Hosier and Shirt Maker. Pet. Oct. 5. Com. Evans: Oct. 17 and Nov. 15 at 2; Basinghall-street. Off. Ass. Johnson. Sol. Pook, Basinghall-street.
 TAYLOR, JOSEPH, Hanging Ditch, Manchester, Grocer and Tea Dealer. Pet. Sept. 28. Com. Jemmett: Oct. 19 and Nov. 22 at 12; Manchester. Off. Ass. Pott. Sol. J. Richardson, Manchester.
 TURE, WILLIAM FFWORTH, 2, St. Dunstan's-hill, London, Wine Broker. Pet. Oct. 5. Com. Fane: Oct. 19 at 11.30, and Nov. 15 at 12; Basinghall-street. Off. Ass. Whitmore. Sols. Crosley & Burn, 34, Lombard-street.
 WEBBER, BERNARD JAMES, Newton Abbott, Devonshire, Smith and Engineer. Pet. Oct. 4. Com. Andrews: Oct. 23 and Nov. 27 at 12; Exeter. Off. Ass. Hirtzell. Sol. M. Fryer, St. Thomas, Exeter.

FRIDAY, Oct. 11, 1861.

BOND, WILLIAM, Broad-street and Tower-hill, Bristol, Victualler, Engineer, and Iron Founder. Pet. Sept. 30. Com. Hill: Oct. 22 and Nov. 23 at 11; Bristol. Off. Ass. Miller. Sols. Clifton & Benson, Bristol.
 CHILD, WILLIAM HENRY, 7, Borough-street, Brighton, Builder. Pet. Oct. 10. Com. Fane: Oct. 24 at 11.30, and Nov. 22 at 12; Basinghall-street. Off. Ass. Cannan. Sol. F. W. Snell, 1, George-street, Mansion House.
 CULVERHOUSE, WILLIAM HENRY, 126, Banhill-row, Finsbury, Middlesex, Manufacturing Joiner. Pet. Oct. 11. Com. Goulburn: Oct. 23 at 1, and Nov. 27 at 12; Basinghall-street. Off. Ass. Pennell. Sols. Lawrence, Flew, & Boyer, 14, Old Jewry-chambers, Old Jewry, London.
 DAVIS, ISAAC NOAH, Brentford Distillery, Brentford, Middlesex, Distillers. Pet. Oct. 7. Com. Evans: Oct. 17 and Nov. 15, at 1; Basinghall-street. Off. Ass. Bell. Sol. Nicholson, 48, Lime-street, City.
 JUDD, FRANK, 11, Charing cross, Middlesex, Tobacconist. Pet. Oct. 1. Com. Fane: Oct. 24 and Nov. 22 at 11; Basinghall-street. Off. Ass. Whitmore. Sol. M. Abraham, 17, Gresham-street.
 MENGER, WILLIAM, Rossett, Denbighshire, Brewer and Malster. Pet. Oct. 10. Com. Perry: Oct. 23 and Nov. 11 at 11; Liverpool. Off. Ass. Bird. Sols. Evans, Son, & Sandys, Liverpool, or John Jones, Wrexham.
 RACCH, GUSTAVUS FREDERICK, Huggin-lane, Wood-street, London, Warehouseman. Pet. Sept. 26. Com. Goulburn: Oct. 23 at 12.30, and Nov. 22 at 11.30; Basinghall-street. Off. Ass. Pennell. Sol. M. Abraham, 17, Gresham-square, London.
 WADE, ROBERT, 11, Devonshire-terrace, Notting-hill, Middlesex, Grocer and Tea Dealer. Pet. Oct. 7. Com. Goulburn: Oct. 23 at 12, and Nov. 22 at 1; Basinghall-street. Off. Ass. Pennell. Sols. Mathews, Carter, & Bell, 102, Leadenhall-street, London.

BANKRUPTCY ANNULLED.

TUESDAY, Oct. 8, 1861.

RONALD, WILLIAM, Manchester, Warehouseman. Sept. 30.

FRIDAY, Oct. 11, 1861.

CANNON, EDWARD WILLIAM, 3, London-road, Croydon, Surrey, Auctioneer. Oct. 5.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Oct. 8, 1861.

JOSEPH RUSSELL, Larkhall-lane, Clapham, Surrey, Job and Fly Master. Oct. 31 at 11; Basinghall-street.—THOMAS LEWIS INGRAM, formerly of Bathurst, River Gambia, Western Africa, afterwards of 6, Moreton-place, Pimlico, and subsequently of 54, Lupus-street, Pimlico, Middlesex, Merchant. Nov. 7 at 1; Basinghall-street.—THOMAS DEAN, formerly of Staples-inn, Holborn, Middlesex, afterwards of St. Swithin's-lane, London, and now of Barnes, Surrey, and 7, King's Bench walk, Temple, London, Scrivener. Oct. 30 at 12.30; Basinghall-street.—JOSHUA LE MARE & WILLIAM CLOSE CURRIE, 9, Broad-street-buildings, London, Merchants and Commission Agents (J. Le Mare & Co.). Oct. 30 at 12; Basinghall-street. Separate estate of each.—CHARLES JACOB, Ingram-court, Fenchurch-street, London, Merchant. Oct. 30 at 12.30; Basinghall-street.

FRIDAY, Oct. 11, 1861.

HENRY HUBBARTON, 48, Friday-street, and also of 14, Watling-street, London, Merchant. Nov. 1 at 12.30; Basinghall-street.—RICHARD JURY BAYFIELD & JOSEPH VERNON NEEDHAM, Birmingham, Gun Manufacturers. Nov. 4 at 11; Birmingham.

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This Society holds itself responsible, under its fire policy, for any damage done by explosion of gas.

E. BLAKE BEAL, Secretary.

IN CHANCERY.—Burt and Others v. Burnham and Others.—LEASEHOLD ESTATES of the late John Burnham, Esq.—Messrs. DENT and SON are instructed to offer by AUCTION, at the AUCTION MART, Bartholomew-lane, on WEDNESDAY, the 6th day of NOVEMBER, 1861, with the approbation of his honour Vice-Chancellor Sir John Stuart, the following LEASEHOLD HOUSES and ESTATES, in Lots, viz.:—

No. 15, Spann's-buildings, St. Pancras, let at £30 16s. per annum (less taxes). Held for 29 years, at £3 2s. per annum ground rent.

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No. 12, Aldenham-terrace, St. Pancras, let at £35 per annum, held for 30 years, under the Brewers' Company, at £3 3s. per annum.

No. 17, High-street, Camden-town, let at £50 per annum, held for unexpired term of 28 years, under the Camden Estate, at a ground rent of £4 4s. per annum.

No. 5, Upper Grenville-street, Somers Town, let at £22 per annum, held for an unexpired term of 30 years, at a peppercorn.

An Improved Leasehold Ground Rent of £17 17s., secured upon Nos. 6, 7, and 9, Upper Grenville-street, held for an unexpired term of 29 years or thereabouts, at a peppercorn.

No. 8, Upper Grenville-street, let at £17 per annum, held for 29 years at a peppercorn.

No. 10, Upper Grenville-street, let at £13 per annum, held for 29 years at a peppercorn.

Five Messuages, 2, 3, 4, 5, and 6, Watford-street, St. Pancras, let at rents amounting to £113 per annum, held for 33 years, at £5 9s. 6d. each house.

No. 31, Perry-street, let at £22 per annum, held for 30 years, at £1 per annum.

An Improved Leasehold Ground Rent, on 20 and 21, Perry-street, of £32 10s. per annum, held for 29½ years at £5 per annum.

No. 35, Brewer-street, let on lease at £15, held for 30 years at £5 ground rent.

No. 36, Brewer-street, let at £26, held for 30 years at £5 ground rent.

No. 50, Brewer-street, let at £24, held for 30 years at £4 10s. ground rent.

Full particulars and conditions of sale to be had on the several premises, at the place of sale, at the Estate Exchange, of Messrs. FYSON, TATHAMS, CURLING, & WALLS, of No. 3, Frederick's-place, Old Jewry, and of Messrs. DENT & SON, 34, Great James-street, Bedford-row.

ALFRED HALL, Chief Clerk.

IN CHANCERY.—Burt and Others v. Burnham and Others.—FREEHOLD ESTATES of the late John Burnham, Esq.—Messrs. DENT & SON are instructed to submit by AUCTION, at the AUCTION MART, Bartholomew-lane, on WEDNESDAY, the 6th day of NOVEMBER, 1861, at TWELVE o'clock, with the approbation of his honour the Vice-Chancellor Sir John Stuart, the following FREEHOLD HOUSES:—

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THE SOLICITORS' JOURNAL.

LONDON, OCTOBER 19, 1861.

CURRENT TOPICS.

The new law of bankruptcy is now in full operation, and already several obvious points have arisen, chiefly relating to the transition state of the law, which do not reflect much credit on the machinery of legislation. Some of these points of especial importance seem worthy of notice.

The first question under the new Act involved the important point whether the Legislature had not inadvertently abolished the classification of the certificates which remain still to be granted under the old law, and left the certificates to be granted without any accompanying classification. Certificates were abolished in future by the simple and approved process of repealing the enactments under which they were granted, subject to the general reservation as to proceedings pending. The new system of orders of discharge were introduced by entirely new enactments. It would seem, therefore, to have been superfluous to make any further mention of certificates or their classification. But the section 157, one of the sections relating to the discharge of the bankrupt, contains the enactment that "From and after the commencement of this Act all classification of certificates shall be abolished;" and then proceeds to prescribe the modifications of form in the order of discharge analogous to the classification of certificates where the order of discharge is made subject to suspension or imprisonment. How is this unqualified abolition of the classification of certificates to be reconciled with the general reservation of the old law as applicable to pending proceedings, including, as it does, certificates, together with their classification. Is the enactment wholly inoperative and superfluous, or does it abolish the classification and leave only the certificate? This is the question which has embarrassed the commissioners. The real state of the case is plain. The whole of section 157 applies to the new order of discharge, and the abolition of classification appears to have been inserted as a mere introductory flourish, without any thought or regard for its possible consequences.

Another question of very extensive import has been left in doubt by the terms of the new Act. The 150th section enables persons entitled to rents and other payments falling due at fixed periods, to prove for an apportionment up to the day of adjudication; and the question has been raised, in the case of a claim by a landlord for rent, whether this section applies to the bankruptcies pending under the old law. The Commissioner thought it applicable, and admitted the proof; but this decision does not appear to be quite unexceptionable. The repeal of the old law, whether express or by matter inconsistent, it is provided shall not affect pending rights and proceedings. The new law on this point, it is true, is an extension rather than a repeal of the old law in respect of the admission of debts to proof, but does it not virtually repeal, and is it not inconsistent with, the old law which prohibited such proof. The language of the section, moreover, seems to be prospective; but in this, of course, lies the whole question, which, to say the least, has been left in some doubt by the framers of it. The same question, it appears, will arise with respect to all the new descriptions of debts admitted to proof by the new Act; and the judgment of the Commissioner apparently decides that they are all admissible under pending bankruptcies.

In the Insolvent Debtors Court an extraordinary number of petitions for protection were filed during the last days of its existence, with a view to secure the prosecution of them under the old law. The powers of the Court were in abeyance for some days for want of an order of the Lord Chancellor, required by sect. 23 of the new Act, to give authority to the Court to continue the pending business.

The able and interesting address of the Chairman of the Metropolitan and Provincial Law Association, published in our last week's impression, brought again to notice the grievance under which the profession throughout the country is at present suffering in consequence of the new regulations in the district registries of the Probate Court; enabling all persons applying in person to get their probate and administration business done for them by the officers of the Court at a reduced rate.

The Chairman recapitulated the exertions made on the part of the profession to obtain redress; and the various memorials presented to the authorities, all which have been recorded from time to time in this journal. He also gave an interesting account of the reception of the deputations from the profession by Sir Cresswell Cresswell, who supported the new regulations on the ground of the public benefit intended by them, and further intimated the speedy adoption of a similar arrangement in London. The Lord Chancellor and the Chief Justice appear to share the responsibility of the authorship of these regulations, while the Treasury have a voice in the matter of salaries and fees. Memorials have accordingly been presented to all these authorities, and the whole matter now remains under consideration.

All proper steps seem to have been taken by the profession in order to secure a fair attention to this question, and it is unnecessary to repeat the abundant arguments which have been brought to bear upon it. Our special object in returning to it, before it is too late, is to expose the fallacy that these regulations are conceived with a just appreciation of the real interests of the public. The scheme, indeed, bears a specious semblance of benefitting the public, which was probably deemed sufficient to satisfy the purpose it was designed to fulfil, and is certainly calculated to blind the eyes of the public to their own true interests. But we maintain that an enlightened regard for the true interests of the public in this matter is perfectly consistent and even coincident with a due and just regard to the claims preferred by the body of solicitors.

It may be remembered that in establishing the new Probate Court a strong feeling was expressed that the procedure should be so simplified as to bring it, if possible, within the capacity of the public without the intervention of professional assistance; and it was understood that the power of making rules and orders was to be exercised to the intent and purpose that the procedure and practice should be reduced to the most simple and expeditious character. The province of the practitioners, both old and new, and their relations to the Court and the public were at the same time settled, after great deliberation, by Parliament itself. The present scheme, however, goes much further than the mere regulation of procedure, and trenches widely on the province of the practitioners. It does not operate by simplifying the procedure to the level of the public; but it simply relieves the public altogether of their part of the business by doing it for them. Now, we would be the last to deny the liberty to every man of doing his own business for himself, if he wishes and thinks himself competent to do so. We admit that any restriction, other than such as arises from the inherent difficulties of the work, requiring skilled and professional assistance, would be an unnecessary obstruction, and would tend to a system of protection of the interests favoured by it. We further willingly agree that all law business should

be simplified as much as the process will admit, with a view of rendering it as plain and easy as possible to the public. Then let every person do his business for himself, or employ a solicitor, as he thinks fit. We do not dispute the principle in question, or deny the liberty of every man to do everything for himself if he is foolish enough to decline the assistance of those who can do it better. A man may make his own clothes if he is not particular about expense and appearance; or he may perform his journey on foot instead of travelling by train, if he is not particular about time. The fallacy consists in the pretence held forth to the public, that the present mode of doing business in the registries is a simplification of the business, or a performance of their own business by themselves.

It is no such thing; the same business is done for them just as completely and in the very same way that it would be done for them by a solicitor. The only difference is that the fees charged in the registries are only half in amount of those which are allowed as the fair and reasonable remuneration of a solicitor for doing the same business—that is to say, only half the real value of the services rendered. How, then, is the other half paid; for it is absurd to suppose that it is not paid for somehow. It necessarily follows that it is paid by the public in the shape of increased charges or diminished returns from the Court. It becomes a general charge on the public at large, to the relief of those individuals who require the services of the Court. Now, whatever ground there may be for the position that law costs should be a charge on the country in the case of courts of justice, properly so called, established for the settlement of the law and the peace of society, and which are for the benefit of all, there is not the least ground for such a contention in the case of a so-called Court, which is merely an administrative machine for the distribution of property. In common justice it should be remembered that the public revenue is drawn from all classes of the community for purposes common to all, while the gratuitous services thus rendered by the registry office, at the public expense, is for the exclusive benefit of those who have private property to administer. The arrangement, therefore, is unjust to the public, and violates the first principles of social jurisprudence. Like every violation of principle, it is unjust and unequal in all its practical bearings; and not the least flagrant manifestation of its injustice appears in its bearing upon the profession of solicitors, whose appropriate office it is to perform these services for the public. The gratuitous performance of them by the registry office virtually annihilates this branch of the business of the profession. It became, therefore, the especial duty of the profession to seek redress for this grievance, though the grievance is also a public one; and in fulfilment of this duty we offer the above observations to those who, we feel sure, will be influenced by public and political views of the matter while it is still under consideration.

The Lord Chancellor has caused the following answer to be returned to a memorial presented to him by the Liverpool Law Society, on the subject of the qualifications of persons to be appointed to the new offices created under the New Bankruptcy Act:—

House of Lords. Oct. 7, 1861.

Sir,—I am desired by the Lord Chancellor to acknowledge the receipt of the memorial from the Liverpool Law Society on the subject of new offices to be created under the Bankruptcy Act of 1861; and in reply to inform you that it is not the intention of his Lordship to make any new appointments under the said Act until it shall become manifest that the present staff of the officers of the Bankruptcy Court is insufficient to perform adequately the duties imposed on them by the new Act.—I have the honour to be, sir, your obedient servant,

To the President of RICHARD BETHELL, Prin. Sec.
The Liverpool Law Society.

THE LIABILITIES OF RAILWAY COMPANIES AS CARRIERS—LORD CAMPBELL'S ACT.

Before resuming the consideration of this statute we may recall to mind that in our previous notice of it, as forming an important item amongst the liabilities of railway companies as carriers, we pointed out the uncertainty of its relative bearing upon the rest of the law with regard to the title and foundation of the action defined by it—that is to say, whether the action under the statute is given by vesting the right of action of the deceased in his representatives, or whether it is the creation of an entirely new cause of action. We now proceed to consider the positive provisions of the statute.

The defective procedure of the common law which restricted the right of action for wrongs to the lifetime of the party injured, and gave no remedy after his death, as expressed in the maxim, *actio personalis moritur cum persona*, was open in most cases to the easy and obvious amendment of transferring the right of action to the representatives of the deceased for the benefit of his estate. This amendment was effected for injuries to personal property as early as the 4 Ed. 3; and, after a long interval, a similar amendment was supplied for injuries to real property by the Common Law Amendment Act, 3 & 4 Will. 4, c. 42. There is one case, however, in which, no doubt, some difficulty opposes the application of such an amendment—that is, where the death which extinguishes the right of action is the very damage complained of, for then the awkward question arises, how is a life to be dealt with as a measure of damage? and upon what principle is it to be estimated? Is the value of the life to the man himself, or to his estate, or to his relatives, to be accepted as the mode of valuation? The value to the man himself is, of course, out of the question; but there is no impossibility in forming an estimate of the value either to the estate or to the relatives. Now this is the very case which the statute operates upon and undertakes to provide for—namely, the recovery in an action of the damages caused by the death; and without adopting either of these principles of valuing, it combines all the difficulties which are comprised in both of them. The jury is called upon to assess, not the value of the life, but the pecuniary expectations of certain relatives from the life, an enquiry which necessarily involves an estimate not only of what the life was likely to produce, but also of the chances of participating in its produce. It has been held that funeral expenses cannot be claimed under the statute, so that these expenses may fall upon one person while another carries off the whole of the compensation. Nor can any damages be given as *solutum* for wounded feelings; but the damages are restricted to expectations of a pecuniary nature. These expectations, however, not being measured by any legal rights or subject to any legal rules of limitation, seem to admit of any degree of uncertainty or extravagance according to the fancy of juries—for example, a jury was allowed to give a father a large sum for the pecuniary expectations he entertained from his son's liberality, who was in the habit of giving his father occasional presents of tea and sugar, and other domestic luxuries. In another case a sum of £13,000 was exacted from a railway company in one verdict, chiefly in compensation for the expectations of children from realised property over which the deceased parent had a power of appointment, which he had not thought fit to exercise in their favour.

The Act further restricts the claim to the husband, wife, parent (including in this term grandfather and stepfather), and child (including in this term grandchild and stepchild) of the deceased; and the extraordinary result follows, that where there are no such relatives, and even where there are, but they cannot show any expectations of pecuniary advantage, no action lies, and the company escapes with impunity. A

remarkable instance of this occurred recently upon the death of Dr. Baly, the Queen's physician, by a railway accident, leaving no relatives entitled to claim. The life of an eminent physician would seem to be peculiarly assessable; an established professional position, a reputation fixed on the basis of professional skill and science, a certain professional income, give more certain data for calculation of the pecuniary loss than can generally be obtained. Yet if there be no relative within the statutory description with pecuniary expectations, however many other dependent relations there may be reduced to penury by the loss, no liability is incurred for the death, though occasioned by the grossest negligence.

We cannot discover any principle upon which the existence of a dependent family can properly be made the test of the liability of a railway company or other party guilty of negligence; but granting this for the moment, what possible ground can there be for drawing such an arbitrary line amongst the relations. If dependence alone was the test, or if relationship alone was the test, the motive of the statute would, at least, be intelligible; but what can have been the motive of restricting the claim to such peculiar classes only amongst the dependent relations. Has not a dependent sister as strong a claim for compensation as a grandfather or a stepfather; and what can make it right and expedient, as the statute says, to give it to the latter and to refuse it to the former?

But we have hitherto failed in discovering any legitimate principle on which to ground any claim by relatives at all, except indirectly through the estate of the deceased, and according to the proportions in which he has thought fit to provide for them either by will or distribution. No relation has any legal right to share in the property of a living person, which can properly be treated as infringed by his death. The support even of a child by a parent, or of a parent by a child, is a duty of moral or imperfect obligation only, and is not invested with the sanction of the civil law, nor has it ever been recognised before this Act, except to the limited extent required by the poor law on grounds of public policy. A man may, indeed, recover damages for an injury to his wife, son, or daughter, but this is admitted on the principle of his having a vested right to their services; and, upon the same principle, he may recover damages for an injury to a mere servant who is under contract to serve him.

Again, have creditors no expectations from the lives of their debtors, nor any dependence upon their exertions? Why should their claims be here set aside in favour of those of relatives, when, on every other occasion, where they conflict, the claims of creditors are preferred. Surely railway companies ought to be made to pay the debts of the passengers whom they have killed, before they are called upon to make a provision for their grandfathers and grandmothers.

The chief occasion of the Act was the protection of the public from the dangers of railway travelling, and therefore it is chiefly with reference to railway companies that its effects are to be considered. It seems probable, after all, although the interests of the public were most consulted in the matter, that the inequalities of the law just referred to fall more on the public than the companies. The pecuniary dependence of certain near relations as an essential ingredient of the right of action leaves it quite uncertain beforehand which among the passengers are insured and which are not; therefore no distinction can be made in the fares, or in the care with which the passengers are treated. A claim on behalf of railway companies to be informed of the exact particulars of the risk which they incur for the purpose of adjusting their precautionary arrangements accordingly would certainly not meet with much attention, for the public are entitled to all reasonable safeguards from danger under all circumstances. But on behalf of the public the distinction

of risk amongst the passengers seems not unimportant. The ordinary liabilities of the company, including compensations, have a direct influence on the fares, which the companies of course rate at a scale proportionate to their total expenses. The fares may thus be considered as partly consisting of the premiums for insurance which are assessed equally upon all, while the insurance is restricted to those who come within the description in the statute. As all the passengers contribute in equal proportion to the payment of the premium, it would seem fair that all should participate equally in the benefit of the insurance. It is true, they benefit equally in respect of the precautions against danger taken by the company, but a startling inequality of benefit appears in respect of the contingent provision for their families in the event of an accident. The individual who has no relations within the favoured degrees derives no benefit whatever, either to his family or estate.

A sufficient reason for the popularity of this law may, perhaps, be found in the fact that the working of it rests mainly in the hands of the public, through the medium of juries. The funds of a company are placed at the disposal of a jury to distribute very much as they please, and there is no individual pecuniary suffering to raise any misgivings as to the justice of their liberality. An impartial consideration of the matter, however, must compel the admission that there always is and always must be a certain amount of risk incidental to railway travelling, quite independent of negligence, either in the general management and regulations of the traffic or in any particular officer or servant. The public knowingly and deliberately incurs this degree of risk, and might fairly be held to stand by the consequences. Practically, however, the public is invested with the power of throwing it all off on the company.

On the whole it would appear that in settling the liability of railway companies as carriers of passengers, in case of death by accident, two points have to be considered and determined. First, on what occasions should the liability of a company arise? and, secondly, when their liability has arisen, for what should they be liable?—in other words, the cause of action, and the amount of damage. The cause of action has hitherto been, theoretically, negligence; but practically, it has been carried to the full extent of a contract of insurance. This practice being inevitable, consistency seems to require that the principle should be made to conform with the practice. The principle, moreover, works well with goods traffic: why should it not with passengers?

The advantages of such a change would certainly be not inconsiderable. There would at once be an end of those long and expensive civil trials turning on the causes of accidents, which occur whenever the cause is more than usually mysterious, and more than usually incapable of a satisfactory solution. What are familiarly known as "running down cases" on common roads, are proverbially recognised as nuisances in courts of justice in consequence of the accumulations of conflicting evidence; and the verdict of a jury in such cases is commonly regarded as a mere toss up, notwithstanding that juries are tolerably familiar with the rules of the road. In railway compensation cases juries have to deal with phenomena of which they are totally ignorant, and the evil is further aggravated by the complicated machinery of railway traffic, and the conflicts of scientific evidence. It is notorious that railway companies are always defeated, though the negligence imputed is often of the most artificial, or what lawyers would call constructive, character. The public are satisfied, with the practical conviction, that the companies are responsible, without inquiring particularly into the reason; the general impression being, that they are paid for the safety of their passengers, and in return undertake the responsibility. We may agree with the public that, on the whole, the companies may be justly held responsible, but would desire to see their responsibility placed on just and reasonable grounds.

The other point for consideration is the measure of damages. The loss of the passenger's life being the damage in fact, the value of the life, in some sense or other, must be the measure of damage. Under the present law, as we have seen, the pecuniary loss incurred by surviving relations is the measure of damage—a measure which involves, first, an assessment of the value of the life; secondly, an assessment of the expectations of the relations; so that whatever difficulty there might be supposed in assessing the value of a life has been already attempted, and has not proved insuperable. If, then, the value of the life were adopted as the sole measure of damage, and were given in all cases, whether the action be grounded on the principle of negligence or insurance, the matter would thereby, at least, be simplified by cutting off the second branch of the inquiry as to the expectations of relatives. The money value of a life, considered apart from any special expectations of advantage from it, is in reality a much simpler subject of valuation than many which juries are at present called upon to assess. Bodily pain and wounded feelings, for instance, seem to constitute a subject much less capable of a pecuniary estimate; yet their valuation by a jury is matter of every-day occurrence. In the case of a passenger losing a hand, the damage to him is compounded of two elements, both of which are the subject of compensation in law—the bodily pain suffered, and the loss of property; and the jury are called upon to grant a *solatium* for the one and to assess the other. If the passenger is killed, the first element is removed, and there only remains to assess the loss to his estate; and the value of a man's life to his estate is certainly quite as easily assessed as the value of his hand.

We may sum up our observations in the following results—that as railway companies are held, in fact, responsible in nearly all cases of accident, it would be more just and convenient to recognise fully this liability in law than to allow it to be imposed, as at present, at the arbitrary will of juries; that the liability should attach equally in respect of all persons injured, and not only upon the contingency of their having dependent relations; that upon whatever scale the amount of liability should be assessed, whether in proportion to the fare paid, or the loss to the estate, or on any other scale, it should depend only on considerations personal to deceased, and not at all on the dependence or expectations of relations; that the action should vest in the representatives for the benefit of the estate of which the compensation should form a part; that none of the relations should be disqualified from benefiting, but that the compensation, as part of the estate of the deceased, should be distributed under his will or according to the rules upon intestacy; that, in short, the railway companies should be made insurers of the lives of their passengers, either in respect of the money value of their lives to their estates, or in proportion to their fares, or upon some other scale, and subject to such limitations as to amount as might readily be devised and equitably adjusted, upon principles similar to those by which they have always been held insurers of the goods entrusted to them to carry. We think that the legal relations of railway companies as carriers of passengers might thus be settled on terms more certain and equal in their operation, and on a footing more satisfactory, both to the companies and to the public; that the principles of the law might thus be brought more in harmony with the practice, and material relief afforded in its administration, with little substantial variation in its actual results.

The chaplaincy to the Hon. Society of Gray's Inn has become vacant by the death of the Rev. William Henry Hart, who was only appointed last year in the room of the Rev. W. G. Watson, who was killed in the Pyrenees. The appointment is in the gift of the Society.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner GOULBURN.)

Oct. 12.—*Application for discharge*.—In the case of a petitioning trader who had this morning been adjudicated bankrupt, under the provisions of the Bankruptcy Act, 1861, Mr. Doria now applied for the discharge from custody.

The COMMISSIONER asked if the bankrupt had been brought up.

Mr. Doria replied in the negative. He referred to the 17th of the new Rules.

The COMMISSIONER said he had only just seen the Rules. It was very unusual to discharge a bankrupt immediately after adjudication.

Application adjourned.

The Bankruptcy Act.—At 2 o'clock there were eleven petitions presented under the Act of 1861, nearly the whole of which were the parties' own petitions. Adjudication was made in almost every case. The average number under the old law was less than three.

Oct. 14.—*The Jurisdiction of the Insolvent Debtors' Court*.—Mr. Sargood wished to ask whether the provisions of the Insolvent Act were still in force. It appeared to him that the old jurisdiction was at present vested in this Court.

The COMMISSIONER.—Do you mean in insolvency business? The Commissioner to wind up pending matters?

Mr. Sargood.—That is not so at present; the jurisdiction is at present in this Court. The first section appears to give us no alternative.

The COMMISSIONER.—By the 19th section the Commissioners of the Insolvent Debtors' Court are released from their duties, subject to the obligation of performing such duties and services as are thereafter provided; and by the 23rd section the Lord Chancellor may direct such unfinished matters to be proceeded with and completed by the Commissioner of such court.

Mr. Sargood.—Which direction has not been given. I should suggest that the jurisdiction of the Insolvent Court is vested in the Court of Bankruptcy.

The COMMISSIONER.—Well, it is very likely the Lord Chancellor has by this time authorised the Commissioners to proceed. I have no doubt the delay is accidental.

Mr. Sargood.—Under all the circumstances, I do not think it necessary to press the application which I have to make, which is to estreat recognizances and to grant a warrant to arrest an absconding insolvent.

Oct. 17.—The number of adjudications to-day was nine; being about seven in excess of the average number under the old law. It must not be inferred from this that the number of mercantile failures in the country has correspondingly increased. Many of the cases would have gone before the Insolvent Court, and are of the most petty character. One is noticed to be that of a dry fishmonger, who sets forth that his furniture, stock, and all other assets are of the value of £7 only; that books and papers he has none, and that his landlord is in possession of the £7 worth of furniture, &c., for arrears of rent.

COURT OF COMMON COUNCIL.

Oct. 17.—At a court holden this day, a letter, addressed to the Lord Mayor by Mr. Malcolm Kerr, the Judge of the Sheriff's Court, was read, requesting his Lordship to apply to the Council for their approval to his appointing a deputy-judge of the Court. He adverted to the fact that previous applications to the same effect had been made through the Lord Mayor, and that the statute constituting the Court contemplated the release of the Judge from duty for two calendar months annually. He had delayed making the application in order that he might be able to give his attendance on the committee now engaged on the inquiry relating to the duties of the officers of the Court.

The application was unanimously granted.

On the 11th instant Parliament was further prorogued to the 17th December.

Recent Decisions.

HOUSE OF LORDS.

SUCCESSION DUTIES ACT—16 & 17 VICT. c. 51.

Lord Braybrooke v. The Attorney-General, 9 W. R. 601.

A second point decided in the above case was as to the right of a successor, in estimating the amount of duty to which he is liable, to deduct from the value of the property to which he has succeeded, the amount of an annuity which has ceased, or of which he has ceased to enjoy the benefit, upon his succession.

The question turns solely on the application of the 38th section of the Act, which enacts that, "where any successor upon taking a succession shall be bound to relinquish or be deprived of any other property, the Commissioners shall, upon the computation of the assessable value of his succession, make such allowance to him as may be just in respect of the value of such property."

The earliest reported decision on this section is *Re Micklethwait* (1855), 11 Ex. 452. In this case one C. M. covenanted by deed to pay to a trustee an annual sum of £500 during the joint lives of the petitioner and E. M. his wife, and the life of the survivor; and there was a covenant on the part of the trustee to pay the same to the petitioner during his life, and after his death to E. M. for life; and if the petitioner should, by reason of the death of S. M., without issue, come into the possession of certain estates therein mentioned, then the said covenant on the part of C. M. should absolutely cease and determine. S. M. died on the 3rd of September, 1853, without issue. The petitioner came into possession of the estates, and thereupon the annuity ceased. He accordingly claimed from the Commissioners to have an allowance made to him under the above section, in respect of the annuity. His claim was resisted on the part of the Crown, but the Court of Exchequer held, without much difficulty, that he was entitled to make the deduction. They considered that the annuity was property either which he was "bound to relinquish," or of which he was "deprived."

Some doubt, however, was thrown upon this decision by the Chief Baron and Baron Bramwell, in the case of *The Attorney-General v. Sibthorp* (1858), 3 H. & N. 424. There, a tenant for life and his son, the remainderman in tail, executed a disentailing deed, and by a deed of appointment, executed the next day, the estates were granted to trustees in trust, subject to the payment of £1,000 per annum to the son during the joint lives of himself and his father, for the son for life, remainder to his sons in succession in tail. On the death of the father the son's annuity ceased, and the Court refused to allow him any deduction in respect of it. The Chief Baron drew this distinction between the case and that of *Re Micklethwait*. In this case, he said, the value of the annuity of £1,000, calculated with reference to the expectancy, could have been ascertained; and if the son had actually received less than the estimated amount, he might have been allowed an abatement in respect of the difference; if he had received more he might have been charged, but the Act was not in force during the whole time. In this case it so happened, owing to the death of the father taking place when it did, that the son would have had no claim to any abatement. This reasoning, however, did not apply to the case of *Re Micklethwait*, where the ceasing of the annuity depended not upon the dropping of a life, but upon an uncertain condition—namely, that of the annuitant coming into possession of certain estates. His Lordship did not overrule *Re Micklethwait*, but he declined to accede to the argument that the Court ought to consider itself bound by that decision, and suffer itself, if wrong, to be reversed by the Court of Error. He considered that Lord Wensleydale (then Parke, B.) and Baron Watson decided *Micklethwait's Case* on the ground that the Crown had not sufficiently made out their claim. Baron Bramwell agreed with the Chief Baron. He was of opinion that the statute does not contemplate the case of an annuity ceasing. He argued that a man cannot relinquish or be deprived of a thing unless it exists; and that the statute was intended to apply only in cases where a man is bound to relinquish, or is deprived of something which still remains for somebody else to enjoy. He put the supposed case of the father and son having exercised their power of appointment in such a way as to give the £1,000 annuity to the longest liver of the two, and subject thereto to the father for life, remainder to the son for life, &c. In such a case it would have been idle to contend that the son would not have had to pay succession

duty, both on the £1,000 and on the estate, less the £1,000. Why then should he be allowed an abatement in respect of an annuity which had actually terminated with the father's life, and was no longer a charge in the estate? Baron Watson was of the same opinion, on the grounds—first, that the son neither relinquished nor was deprived of this annuity. It was created for the life of the father only. There was no election here—no case such as the statute contemplated. Such an election, the learned judge considered, might have arisen in *Re Micklethwait*, which was, on this ground, distinguishable. He also thought that under the 12th section the annuity of £1,000 came under the class of dispositions made by the successor himself, who was, in this instance, the son. It was not charged under the will of the original settlor; therefore he concluded the son was chargeable at the same rate as he would have been if no such disposition had been made.

The decisions were in this state when the hearing of *The Attorney-General v. Lord Braybrooke* took place in the Exchequer (1860), 5 H. & N. 588, 8 W. R. 471. The circumstances were little else than a repetition of *The Attorney-General v. Sibthorp*. The father and son having executed a disentailing deed, afterwards appointed the estates to the use that the son should receive an annual rent charge of £1,200 during the joint lives of himself and his father, and subject thereto to the use of the father for life, remainder to the son for life, with remainders over. The Court shortly decided, for the reasons assigned in *The Attorney-General v. Sibthorp*, that no allowance could be claimed by the son on the annuity ceasing.

The House of Lords, on appeal, reversed this decision, and by their arguments, no less than by their judgment, confirmed the first case of *Re Micklethwait*, which the two intermediate authorities had somewhat shaken. The Lord Chancellor (Campbell) drew a distinction between the two expressions, "shall be bound to relinquish" and "shall be deprived of." He thought that the former expression could not be applied to property which did not continue to exist; but he could not say that the son in this case was not "deprived of" the annuity by its coming to an end at the moment when he succeeded to the estates. Lord Wensleydale concurred in supporting his own decision in *Re Micklethwait*; and Lord Kingsdown was of the same opinion. He thought that a person taking a succession under the Act was to pay a duty only upon its value, and that the value was to be computed by taking into account, not only what he gained but what he lost by the succession. Here the son had lost his annuity, in respect of which he (Lord Kingsdown) agreed with the Lord Chancellor in thinking that he was entitled to an allowance. Thus the elaborate reasonings of the Barons of the Exchequer fell to the ground, and the original view adopted in the year 1855 was supported.

The result seems to be, that in cases where an annuity is covenanted to be paid to A. on condition that if he should, by reason of the happening of a stated event, come into the possession of certain estates, the covenant shall cease and determine; or where lands are limited to the use that a son shall during the joint lives of his father and himself receive an annuity, and subject thereto to the use of the father for life, remainder to the son for life: in either case, on the annuitant coming into possession of the estates, or on the death of the father, he shall, in the estimation of the amount of succession duty to which he is liable, be allowed to deduct from the value of the estates the worth of the annuity of which he has "been deprived."

The above review of the decisions preceding and subsequent to *Lord Braybrooke v. The Attorney-General* would be incomplete, without reference to a judgment of the Court of Exchequer on the 6th of July last, *In re Sir H. Peyton*, 9 W. R. 838. The questions raised and decided on this occasion were different from those above mentioned; but there are points on which some of the above arguments have application to the circumstances under which the contest arose in *Sir H. Peyton's case*. The father, Sir H. Peyton, being seized in fee, settled the estate to himself for life, remainder to his first and other sons in tail male. A jointure of £1,000 a year was by the same deed secured to Lady Peyton. Shortly after the first son (now Sir H. Peyton, the petitioner) attained twenty-one, he joined with his father in barring the estate tail, and re-settling the property by giving his father an estate for life, then himself an estate for life, with remainder to his first and other sons in tail male, with an additional rent-charge of £1,000 a year to his mother, Lady Peyton, after her husband's death, and a joint power of appointment to his father and himself. This joint power of appointment was exercised—first, in making a joint mortgage by the petitioner and his father as for money lent to

them jointly, with joint and several covenants for repayment; secondly, in creating a charge of £2,000, of which £1,500 remained due, for a debt of the father, with a covenant or obligation on the son for its repayment; and thirdly, in securing an annuity of £500 to Algernon, the eldest son of the petitioner, for the joint lives of Algernon and of the survivor of the petitioner and his father. Upon the death of his father Sir H. Peyton claimed a deduction of duty in respect of these four incumbrances, all of which had been disallowed by the Commissioners. The 34th section enacts that, "in estimating the value of a succession, no allowance shall be made in respect of any incumbrance thereon created or incurred by the successor, not made in execution of a prior special power of appointment, but an allowance shall be made in respect of all other incumbrances; provided that upon any successor becoming entitled to real property subject to any prior principal charge, an allowance shall be made to him in respect only of the yearly sums payable by way of interest or otherwise on such charge as reducing the annual value *pro tanto* of such real property."

First, as to Lady Peyton's jointure, counsel for the Crown were instructed to say, that on the above section taken alone, the jointure must be considered an incumbrance created by the successor, and that the present baronet was liable to pay it; but that on reading the 2nd, 5th, 12th, and 34th sections together, they were of opinion Lady Peyton was the person properly chargeable. The Crown therefore conceded to the petitioner an allowance on this incumbrance, and on this point the Court gave no opinion.

Secondly, as to the mortgages and the annuity of £500, the Court held, that as Sir Henry Peyton had taken a succession under a disposition made by himself—that, as he was entitled at the date of the disposition to the property expectant on the death of his father, and his father had died after the commencement of the Act, and during the continuance of the disposition, the petitioner was chargeable with duty under the 12th section, at the same rate as if no such disposition had been made. Up to this point *Lord Braybrooke v. The Attorney-General* was an authority in point. But then came the question as to the incumbrances and annuity, to which the 34th section seemed to apply. First, were they incumbrances created by Sir H. Peyton? The Court held that they were. In form they were created, no doubt, by both Sir H. Peyton and his father; but they were, in reality and substance, created solely by the petitioner. They were, therefore, incumbrances created by the successor. Secondly, were they made in execution of a prior special power of appointment? The Court thought they were not; and that this particular clause of the 34th section was introduced to protect successors against the hardship of being compelled to pay a tax in respect of an incumbrance which it may have been their duty to have created. The 5th section was held not to apply to the £500 annuity, and accordingly any deduction in respect of either of the three incumbrances was disallowed.

The only member of the Court who dissented from these conclusions was Baron Bramwell. The point on which he differed was with regard to the question whether the incumbrances were created by the successor, Sir H. Peyton? The learned judge said, "that no doubt they were made by Sir H. Peyton in the sense that he was one of the parties making or incurring them; but as they were also made and incurred by the father, in truth they must be considered as having been made or incurred by both. The arguments in favour of the petitioner being the sole maker of these charges are—first, that they could not have been created without his consent; therefore, he alone in substance creates them; secondly, he could have created a power by virtue of which the father could create those charges; in which case he would himself have created them, for limitations created in execution of a power must be read as if they were introduced into the deed creating the power; and *Lord Braybrooke v. The Attorney-General* is an authority to show that the tenant in tail takes under his own disposition, and consequently is his own predecessor. It is unnecessary to examine the objections to this reasoning which were raised by the learned judge, inasmuch as they did not prevail with the Court; they may be studied, however, as an exercise of argumentative subtlety; 9 W. R. 839.

It only occurs, in conclusion, to observe three points. One, that the judgment in *Lord Braybrooke's case*, on the above question as to the annuity, has this remarkable bearing on *Sir H. Peyton's case*; it decides that Algernon Peyton, on the death of the survivor, will be entitled to deduct for the cesser of the annuity of £500, although no abatement in respect of the same has been allowed to his father, the present petitioner.

Secondly, an argument of very specious appearance has been completely demolished by the judgment in *Sir H. Peyton's case*—namely, that it is a great hardship to compel the successor to pay duty on a larger amount of property than he succeeds to. But why does he succeed to a less amount of property than that on which he is charged? If he has assigned the property the assignee must pay, and he escapes; if he has mortgaged the property, he has simply anticipated it, and cannot justly be said to be exempt from the consequence of his own act. In the present case, also, the petitioner was already liable in respect of the mortgages, and the succession only gave him increased means of paying them. Thirdly, on the other hand, it is going too far to say that it was the intention of the Legislature to charge a successor not only upon that part of the succession which comes to him beneficially, but also upon all property which might have come to him but for his own acts. Had this been so, Sir H. Peyton would have been liable to duty for the annuity created in favour of Lady Peyton; but this claim was abandoned by the Crown as untenable.

[See further on the subject of the Succession Duties Act, a decision of *The Attorney-General v. Deane*, by the Irish Court of Exchequer, on 7th June last, Ir. Jur.

REAL PROPERTY AND CONVEYANCING.

VOLUNTARY DEEDS—SETTING ASIDE AT INSTANCE OF VOLUNTEERS—DUTY OF SOLICITOR.

Anderson v. Elsworth, V. C. S., 9 W. R. 888.

This case affords a good example of the sort of mistake that is rectified in equity. The suit was instituted to set aside a deed by which A. B., without reserving to herself a life estate or power of revocation, conveyed all her property at once to her niece. It was alleged in the bill and relied upon in the argument on behalf of the plaintiffs, that A. B., who was seventy-five years old, was of weak mind, and had been, in fact, subjected to undue influence on the part of the niece, to whom she had, as far back as 1843, bequeathed all her property. The deed in question was prepared by a solicitor, who, on being asked by A. B. to point out the difference between a deed and a will, replied that a will was revocable but that a deed was not; and that as to expense, they were much the same in the first instance, but that the costs incurred for probate rendered a will ultimately the most expensive. The Vice-Chancellor considered that the solicitor had not fully explained to A. B. the further distinction between a deed and a will; that she would by the latter have been left in possession of her property during her life, but that by a deed she would be thrown upon the bounty of her niece. His Honour accordingly ordered that there should be a reconveyance to the heir-at-law or such persons as he should direct—the ground of this decision being that the solicitor had not sufficiently explained the nature of the instrument.

The principle upon which his Honour rested his decision precludes any necessity for our noticing the rules observed by a court of equity in setting aside instruments obtained by means of undue influence. All the important cases under this head of equity are given in the notes to *Huguenin v. Baseley*, 2 W. & Tud. Lead. Cas. p. 406. It is remarkable in the present case, that his Honour did not endeavour to rectify the instrument so as to correspond with the intention of A. B., rather than wholly set it aside in favour of a volunteer. A. B. had resolved to leave her niece all her property, and to leave the plaintiffs nothing. The instrument which she used for this purpose should, no doubt, be set aside, so far as it was in excess of her intention—viz., in not leaving herself a life interest and a power of revocation; and if A. B. had made a subsequent disposition of her property in her lifetime, under the impression that the deed to her niece was revocable, the grantee under the former deed would doubtless have a clear equity against the niece, so as to have a power of revocation inserted in the deed to the latter. But it appears to be a hard case that a deed, which was intended to give almost all, gives nothing. It would appear open to question whether a deed should have been wholly set aside upon the ground of a *partial* mistake, which only applied to a single clause, and not to the whole instrument. Of course A. B. could indirectly have avoided it wholly, if she so chose, by a sale to a purchaser without notice. The purchaser could then avoid the voluntary grant—not, however, on the ground of mistake, but by force of the statute 27 Eliz. c. 4. A purchaser from the devisee of one who had made a voluntary conveyance in his lifetime is not entitled under that statute to avoid the voluntary conveyance; *Newman v. Ruskam*, 17 Q. B. 723. An heir-at-law or next of kin is not more favoured in equity than a devisee.

It is not easy, therefore, to perceive the ground upon which the plaintiffs' claim in the present case can be sustained, so as wholly to defeat the voluntary instrument. Is a testator or grantor to be informed of every single legal consequence of the instrument which he is going to execute before the deed can acquire any validity? In the present case the deed actually corresponded with the intention of the grantor. His Honour suggests this difficulty as existing in the case, but does not overthrow it. He rests his decision upon the general ground that a deed, of which the grantor does not fully understand the effect, is inoperative to transfer a right of property. The maxim *ignorantia legis neminem excusat*, though often pushed rather far, is not without its use, and this maxim the decision in the present case tends strongly to neutralize. The Court will not assist a vendor in defeating a prior voluntary settlement made by himself; *Smith v. Garland*, 2 Mer. 123. The case of *Villars v. Beaumont*, 1 Vern. 100, appears to support somewhat the claims of the defendants in the present case, although it is not reported as mentioned in the arguments or judgment. That case establishes the rule that if a voluntary deed be made to a stranger—that is to say, a person not standing in any confidential or fiduciary relation towards the donor—equity will not set it aside, however improvident it may be, if it be free from the imputation of fraud, surprise, and undue influence, and made by the donor with a full knowledge of the facts. In the present case, as already observed, his Honour did not entertain the question of undue influence. In *Gibson v. Russell*, 2 Y & C. 104, a deed of gift of real estate from an aged and infirm person to his medical attendant was set aside for fraud, one of the circumstances in proof of fraud being that the deed stated, contrary to the truth, a money consideration. These cases, however, are readily distinguishable from the present, inasmuch as those decisions rested upon the ground of fraud or of undue influence having been exercised over the grantor. In *Blackie v. Clark*, 15 Beav. 595, on the other hand, the grant of annuities by a married woman to her confidential medical attendant was held good against her separate estate. It was held, in the same case, that the onus of proving the invalidity of the grant rested on the grantor or his representatives. It appeared, indeed, in the last-mentioned case that the grantor understood perfectly the nature of the grant. But the main question in *Anderson v. Elsworth* appears to have been whether a mistake, which did not go to the gist of a transaction, but only applied to the insertion of a particular clause in the instrument used, should be allowed to deprive the deed of all operation, and render it completely void.

It does not appear that the deed in *Anderson v. Elsworth* was sought to be supported in the argument for the defendants as having a testamentary nature; and yet such a position is perhaps sufficiently tenable. In the case of *Habergum v. Vincent*, 2 Ves. Jun. 204; s.c. 4 B. C. C. 355, an instrument in the form of a deed poll, whereby the grantor professed to execute a power which he had reserved to himself in a previous will, was held to be of a testamentary nature. Mr. Justice Buller in that case said that the cases had established that an instrument in any form, whether a deed poll or indenture, if the obvious purpose is that it should not take place till after the death of the person making it, shall operate as a will. In one of the cases there were express words of immediate grant; but as, upon the whole, the grantor intended that its operation should be postponed until after his death, it was considered as a will. In the case of the *Attorney-General v. Jones*, 3 Price 368, the doctrine *ut res magis valeat* was carried perhaps too far. In that case the instrument used had almost all the characteristics of a deed as distinguished from those of a will. The instrument, nevertheless, was held to be testamentary. The Prerogative Court used frequently to grant probate of the most irregular documents, such as the assignment of a bond by indorsement; *Musgrave v. Down*, T. T. 1784, cit. 2 Hagg. 247; receipts for stock and bills indorsed; *Sabine v. Goate and Church*, T. T. 1782, cit. 2 Hagg. 247; marriage articles; *Marnell v. Watton*, T. T. 1796, cit. 2 Hagg. 247. For striking illustrations of the rule that a deed will sometimes be considered as a will, we refer the reader to *Masterman v. Maberly*, 2 Hagg. 235, and *In re Knight*, 2 Hagg. 354. The questions which arose in those cases are not precluded by the statute 1 Vict. c. 26. Thus, in *Jones v. Nicolay*, 2 Rob. 288, a paper in the form of a bill of exchange was held entitled to probate as a codicil. Also in the case of *Doe d. Cross v. Cross*, 8 Q. B. 714, a power of attorney was held to be testamentary in certain respects. The Court seemed disposed to think that there was no objection to an instrument operating partly in *presenti* as a deed, and partly in *futuro* as a will.

It would appear, therefore, that there was room to contend that the deed in *Anderson v. Elsworth* could be supported as a will, as the grantor did not intend to deprive herself of all control over her property during her life, and, at the same time, was resolved upon providing for the defendants. The Vice-Chancellor appears to have considered the mistake made by the grantor of the deed in this case to be such as that no interest whatever passed under it—that the deed was wholly void. It would appear, however, open to doubt whether an interest did not at all events pass under it, no matter whether that interest was or was not liable to be overhauled by a bill in equity. Surely, a sale to a purchaser for valuable consideration would have extinguished the plaintiffs' claim, if any. Even if the deed had been confessedly obtained by means of undue influence, it would become good in the hands of a purchaser for value without notice, *Blackie v. Clark*, *ubi sup.*; *Corbett v. Brock*, 20 Beav. 524. The current of decisions appears to be in favour of the proposition that an interest passes in every such case, subject, however, to be defeated by the Court upon a proper case. The decision in *Anderson v. Elsworth* is, however, opposed to such a doctrine.

Correspondence.

LANDLORD AND TENANT.

I shall be glad to know whether any of your readers have heard and can give any particulars of a case of *Wardle v. Usher*, which I am informed was an action brought by a landlord against his tenant for removal of trees, &c., planted by the tenant for ornament in the ground attached to a private suburban residence, and tried at Nisi Prius two or three years ago. The tenant was not a nurseryman or gardener. The judge is stated to have left it to the jury to determine whether the tenant planted the trees, &c., with the intention of removing them; and thereupon the jury gave a verdict in favour of the tenant. It is laid down that a tenant, in the absence of an agreement, has no such right of removal. Query: whether the planting with the intention to remove makes any difference? B. A.

POWER OF ATTORNEY—FOREIGN COUNTRY.

I should be glad to learn through your columns what formalities (if any) are necessary to render a power of attorney given by a person in this country to be acted upon in a foreign state or colony, a valid legal instrument; in other words, is the city seal necessary, or a notarial verification of the document, or will an ordinary attestation be sufficient? A LAW CLERK.

SUCCESSION DUTY.

In the commentary contained in your number of the 5th inst. on the recent judgment of the House of Lords in the case of *Lord Braybrooke v. The Attorney-General*, 9 W. R. 601, you draw the conclusion that a "tenant in tail in remainder, when he has the entail, may, if he pleases, alienate the estate, and no succession duty will be payable by him." And the judgment of the late Lord Chancellor warrants this conclusion; but it is at variance with the opinion of the Comptroller of Succession Duties who insists that a tenant in tail in remainder cannot, by any means, defeat the succession duty expectantly payable by him on the decease of a tenant for life, and who, upon the decease of the tenant for life, requires payment of succession duty, although he and the tenant in tail in remainder may have disentailed the estate, and conveyed it to a purchaser. J. W.

JOINT STOCK COMPANIES FRAUDS.

At the recent meeting of the National Association for the Promotion of Social Science at Dublin, Mr. D. C. Heron, Q.C., read the following paper on this subject:—

The principle of association has been repeatedly characterised as the most prominent test of an advanced civilisation. The incapacity to combine is at once the cause and effect of a low development of humanity. The faculty of association has received its latest extension in the institution of joint stock companies, enabling communities to accomplish enterprises beyond the means of private capitalists. Adam Smith, more

than eighty years ago, named the trades which it seemed to him possible for a joint stock company to carry on successfully without an exclusive privilege. He correctly defined them as those in which all the operations are capable of being reduced to routine, or to such a uniformity of method as admits of little or no variation. He enumerated four trades—banking, insurance, canal companies, and water companies, or the supply of water to a large city. The wonderful progress in material prosperity of the nations which inhabit the British islands has developed during the present century other trades which joint stock companies can carry on with success. Railway companies, steam-boat companies, gas companies, mining companies, companies to supply public amusement, such as the Crystal Palace Company, companies to facilitate communication, like the Electric Telegraph Company. These companies in themselves are only modifications of the principle enounced by Adam Smith, that joint stock companies can carry on successfully those operations in trade which are capable of being reduced to a routine where the capital required is beyond the means of private individuals. Wherever the capital required is within the means of private individuals the trade cannot be carried on successfully by joint stock enterprise. The result of the extraordinary success of the joint stock principle within the last twenty years has been that numbers of persons of humble origin, of indifferent moral principles, have been brought into contact with enormous sums of money, the appropriation of which has been extremely easy, and these persons have appropriated enormous sums, careless about detection and ready to pay the penalty of their liberties or their lives if detection should follow. The first case to which I think it right to call attention is the case of Walter Watts—he was a clerk in the Globe Insurance Company in London, at a salary of £200 per annum. Between the months of August, 1844, and February, 1850, he abstracted £70,000. When he commenced the system of defalcations he was only twenty-five years of age, but the life he led during his six years of public plunder was remarkable. In 1844 the name of Walter Watts suddenly became associated with fashionable and Corinthian life in London. He became a patron of art and pleasure in its most extravagant form; he kept an establishment at the West End and a country house at Brighton; he had one of the best cellars in London, stocked with the rarest vintages; he had some of the best horses in London; he was a devoted attendant at the theatres. During all this time he was only a check clerk in the cashier department of the Globe Assurance Office, with a salary of £200 per annum, having been placed there by his father, who had for forty years filled a subordinate position in the Globe Office. Not content with the extravagance unavoidable in such a course of life, he started as a theatrical manager of two theatres. In 1847 he became lessee of the Marylebone Theatre, and during that year the celebrated Mrs. Warner appeared there as the star of the unsuccessful legitimate drama. During the season of 1848 and 1849 Mrs. Mowatt and Mr. Davenport, two American artists, played at Watt's Theatre. Watts spared no expense. Mrs. Mowatt's dressing-room beneath the stage was fitted up like a bower of the Genii in the Arabian Nights. In fact, the brilliancy of the expenditure on the Marylebone Theatre was the subject of conversation all over London during the year 1849. The only persons who knew nothing about it appeared to be the directors of the Globe Office, in which Watts, spending £10,000 a year, was a clerk at £200 a year. In 1849 he opened the Olympic Theatre, but the extravagant and splendid management of this beautiful temple of 'Thespis' only lasted a few months before his frauds on the insurance office were detected. It is to be regretted that the company published no complete account of the mode in which the frauds were carried on. The first report which was laid before the board, somewhere about the close of the month of March, 1850, is presumed to have been merely of a preliminary character; but it is said to have contained the important facts that the defalcations during the year 1849 alone amounted to upwards of £18,000; that in the receipt department of the office there was no effective check against fraud, although, owing to the integrity of the officials, no fraud had taken place; and that, in the accountant's office, in which Watts was employed, the lax practice prevailed of making the bankers' pass-book the foundation of the entries in the books of the company, instead of the documents referring to the payments ordered; so that if the persons having the custody of the pass-book chose to falsify it, the false entries were transferred to the general books of the office, and thus made to cover abstractions effected through the bankers. Watts, being tried and convicted, committed suicide. The next case of a similar

character to which I wish to direct attention is that of John Sadleir. It illustrates another of the two great classes of joint-stock frauds. In one, the servant with the greatest facility embezzles hundreds of thousands of the property of his employers. In the other, the director, entrusted by the shareholders to manage the property, with the greatest facility appropriates it to his own use. John Sadleir, in the year 1836, was admitted as an Irish attorney, and practiced with success in the country and in Dublin. In 1847 he was elected a Member of Parliament. In 1853 he was appointed Lord of the Treasury under Lord Aberdeen. He looked forward to be Chief Secretary for Ireland or Chancellor of the Exchequer, and had a fair chance of either of these great offices. All this splendid position he owed to the fact of being enabled to use the money of the Tipperary Joint Stock Bank. He himself was a man of simple and inexpensive habits, and the only relaxation he took was hunting, which he did not carry on in any extravagant manner. His resignation of his place at the Treasury, and retirement from the Government, were followed by his resignation of the post of chairman of the London and County Bank. His credit was then gone in London. His forgery of the title deeds of the Irish Incumbered Estates Court was detected; and on the 16th of February, 1856, John Sadleir committed suicide at the age of forty-two. From the Tipperary Bank John Sadleir abstracted over £200,000. As chairman of the Royal Swedish Railway Company he issued false shares to the nominal amount of £150,000, the whole proceeds of which he appropriated. The most singular part of John Sadleir's frauds is this—that over a quarter of a million of the money he received is unaccounted for—that there is no tangible method of explaining how the money was spent, or who received it from him. The Royal British Bank was started in the year 1850, with a capital of £100,000, one-half of which was paid up. The board managed its affairs in the way every dishonest board in every joint stock bank can do if they please. Mr. Cameron, the manager, became indebted to the amount of £30,000; Mr. McGregor, £8,000; Mr. Mullins, £7,000; Mr. Gwynne, another of the old directors and original projectors, £13,000, of which no account was rendered to the shareholders, and of which it is extremely problematical whether the creditors have recovered one penny; and one of the auditors, who, it may be presumed, was a little too prying, found it more convenient to accept an advance of £2,000 than to enter into disagreeable questionings of vouchers and cheques. Mr. Humphrey Browne, member of Parliament, on the day he opened his account, paid in £18 14s., and he drew money until he was debtor to the company to the amount of £70,000. The bank stopped on the 3rd of September, 1856. During its existence of six and a-half years it exhausted the whole of the £158,000 subscribed by the shareholders, and left them beside half a million in debt. The British Bank directors were tried for a conspiracy to defraud, and they were convicted. But the heaviest sentence pronounced was imprisonment for one year. Lord Campbell, in pronouncing sentence, said—"I acquit you of having originated this bank with the fraudulent intent to cheat the public; but it is now demonstrated that for years you have carried on a system of deliberate fraud, and have fabricated documents for the purpose of deceiving the public, for your own direct or indirect benefit. It would be a disgrace to the law of any country if this were not a crime to be punished. It is not a mere breach of contract with the shareholders or customers of the bank, but it is a criminal conspiracy to do what inevitably leads to great public mischief, in the ruin of families, and reducing the widow and orphan from affluence to destitution. I regret to say that in mitigation of your offence it was said that it was a common practice. Unfortunately a laxity had been introduced into certain commercial dealings, not from any defect in the law, but from the law not being put in force; and practices have been adopted without bringing a consciousness of shame, and, I fear, without much loss of character among those with whom they associate. It was time a stop should be put to such a system, and this information was properly filed by her Majesty's Attorney-General, and the jury have properly found you guilty. I hope it will now be known that such practices are illegal, and will not only give rise to punishment, but that no length of investigation, no intricacies of accounts, and no devices, will be able to shield such practices." Still, the heaviest sentence was only twelve months' imprisonment. And there are thousands of persons who would submit to twelve months' imprisonment for £50,000. William James Robson has immortalised himself in the annals of crime by his frauds on the Crystal Palace Company. In 1853 he obtained a situation there at £1 per week, and in June, 1854, he

was appointed chief clerk in the transfer department at a salary of only £150 per annum. But Robson was a well-educated, refined, and gentlemanlike man, thirty-four years of age, with literary tastes, the author of several plays, and having a large circle of expensive acquaintances in London. The simple plan by which he obtained £27,000 by false pretences was this—Robson directed a Mr. Clement, a stock-broker, to sell one hundred shares in the company, and the broker accordingly sold them, fifty to a Mr. Joseph Lowe, and fifty to another person. For these shares the broker received £295, which he paid over, less commission, to Robson. The document by which these shares were transferred purported to convey the shares from Johnson to the purchasers. The signature to the deed where the name of the transfer should be was that of Henry Johnson, nominally of course written by that gentleman, who, however, had no existence, the whole thing being a forgery on the part of Robson. Opposite to this name were the seal and signature of the attesting witness, "William James Robson, of No. 3, Adelaide-place, London-bridge" (the office of the Crystal Palace Company). Like Watts, Robson lived in a most extravagant style. It is unnecessary to go into details—he was tried and sentenced to be transported for twenty years. Leopold Redpath commenced his career as a lawyer's clerk; he then was appointed a clerk in the Peninsular and Oriental Steam Company. Leaving this office he set up business as an insurance broker, but shortly afterwards failed for £5,000. About the age of thirty-five he obtained the appointment of clerk in the service of the Great Northern Railway Company, and in that office exhibited one of the most extraordinary instances of successful swindling combined with high moral reputation and a truly benevolent career. Redpath's simple plan was, like Robson's, to create fictitious shares; and all this while the directors, though they found themselves paying dividends which they could not account for, appeared to entertain no suspicion of the fact that they were daily being robbed to a large extent; nay, so far duped were they, that some three years after Redpath had commenced his swindling, the following document was actually placed upon record by the auditors of the company:—"Accountants' Department, August 7, 1856. To the Chairman and Directors of the Great Northern Railway Company, Gentlemen,—The accounts and books in every department continue to be so satisfactorily kept, that we have simply to express our entire approval of them, and to present them to you for the information of the shareholders, and with our usual certificate of their correctness.—We have the honour, &c. (Signed) John Chapman, J. Cattley, Auditors." Redpath was a public subscriber to all the great charities of London. He had a splendid house at Weybridge, with a noble park and pleasure grounds, fifteen servants, including a courier and a French cook. The anecdote of the occurrence that led to his discovery is remarkable. Mr. Denison, the chairman of the company, was standing on a station platform conversing with Lord D—, when Redpath happened to come up, and lifted his hat to Mr. Denison. The nobleman, however, was on easier terms. Taking Redpath by the hand, "Ah, my dear fellow," said he, "how are you?" Having parted, the Chairman turned to Lord D— and asked what he knew of their clerk? "Oh," said he, "he is the jolliest fellow in life; he gives the most sumptuous dinners and capital balls that I know of." Redpath was tried in January, 1857, and sentenced to be transported for the term of his natural life, stock to the amount of £220,000 having been fraudulently issued by him. Numerous other instances might be given; but the result is this—that nothing appears more easy, either for a dishonest servant or a dishonest director, than to rob a joint stock company. Robson and Redpath's frauds were effected by the manufacture of fictitious shares. In all probability there is this moment in existence a vast quantity of fictitious shares in joint stock companies. In fact, for the last ten years every species of robbery and fraud has been practised on the shareholders and creditors of these bodies. The evil is increasing. The London and Eastern Banking Company was instituted in 1854, on the principle of extending the joint stock banking system to England. Colonel Waugh was one of the first directors, and in two years he, without security, drew £244,000, almost the entire subscribed capital of the company. The bank failed in 1857. Waugh's case resembled Sadleir's in this—there was no tangible account of what became of the money. Many other cases might be given in detail for the last ten years—Pullinger's frauds on the Union Bank to the amount of over £400,000, and divers others. The most recent is the fraud on the Commercial Bank of London, discovered only in February, 1861, and in consequence of which the business of the Com-

mercial Bank was transferred to the London and Westminster Bank. It was discovered that a person named Durden, one of the ledger clerks, at the only branch possessed by the Commercial Bank—namely, that in Henrietta-street, Covent-garden—had defrauded it to the extent of about £60,000. Durden had been twelve years in the bank's service, and during eleven years he acted as ledger keeper. It is believed that he had been robbing his employers during nearly the entire period. It is a remarkable fact that, like Pullinger, he was most assiduous in the performance of his duties, and that during a period of eleven years he had not a single holiday. The iron frame of this man—who, whilst he was a good husband and father, and enjoyed in every way public esteem, was still, for twelve years, daily robbing his employers—succumbed at last. He was seized at his desk with a paralytic fit, and when his duties were temporarily entrusted to another officer of the Bank, it was at once discovered that the sum possessed by the bank was £60,000 less than it purported to be by the books. This is the last instance I shall give. The evil, I repeat, is increasing. How is it to be diminished? Severity of punishment will have very little effect. For a career like Watts' or Robson's many men would cheerfully submit to six or ten years' penal servitude. To any person not supported by a sense of morality, religion, and a consciousness of doing one's duty to God and man, nothing can be more miserable than the situation of a mercantile clerk, with the wretched salary which competition compels him to accept. On the other hand, men like Watts or John Sadleir will commit suicide when detected, so that even death has no terror for the commercial swindler on a grand scale. Joint stock companies received from the Legislature important privileges, which enabled them to accumulate vast capital under the present system. It is very easy to plunder these companies, and the punishment of the swindler is very little consolation for the persons who lose their money. I propose, therefore, that all joint stock companies should be subject to the inspection and audit of a public office, which might be made one of the permanent departments of the Board of Trade. The companies themselves recognise the principle of publicity by holding half-yearly meetings and publishing half-yearly balance-sheets. There could be no sound objection that these should be audited and verified by a Government officer, responsible to the Government for the proper discharge of his duties. Unless some such means be adopted joint stock frauds will increase with the number of joint stock companies. The misery caused by the failure of a bank like the Royal British, the London and Eastern, and the Tipperary Bank cannot ever be estimated. John Sadleir, in his letter written an hour before he swallowed poison, feebly portrayed it:—"I find myself the author of numberless crimes of a diabolical character, and the cause of ruin, misery, and disgrace to thousands—aye, tens of thousands. I weep and weep, but what can that avail?" It is the high function of this great Association to suggest measures to prevent, if possible, the recurrence of such misery and ruin. Prevention is better than punishment. In the words of Mill, speculative philosophy, which to the superficial observer appears a thing so remote from the business of life, is in reality the thing on earth which most influences it, and in the long run overturns every other influence save that which it must itself obey. And I bring this suggestion before the statesmen whom I have the honour to address, hoping it may receive some consideration from them and from the society.

Births, Marriages, and Deaths.

BIRTHS.

- ADYE—On Oct. 6, at the Retreat, Hull, the wife of Arthur Abye, jun., Esq., Solicitor, of a son.
EDWARDS—On Oct. 15, the wife of John Edwards, Esq., Solicitor, of 14 and 15 St. Swithin's-lane, London, of a son.

MARRIAGES.

- EDMISTON—LAY—On Oct. 17, G. D. Edmiston, Esq., of Glengall-terrace, Old Kent-road, to Sarah Amelia, daughter of James Lay, Esq., of 44, Poultry, Solicitor.
JAMES—OVERTON—On Oct. 6, Henry Vale James, Esq., Surgeon, son of Henry James, Esq., Solicitor, of Leominster, to Maria Dorothea, daughter of John Overton, Esq., Surgeon, of Coventry.
JOHNSTON—LUCK—On Oct. 16, Thomas Johnston, Esq., of Raymond-buildings, Gray's-inn, to Mary Bridget, daughter of E. T. Luck, Esq., of The Hermitage, West Malling.
LAWRENCE—SMART—On Oct. 15, John Compton Lawrence,

Esq., of Dunsby Hall, in the county of Lincoln, Barrister-at-Law, to Charlotte Gerorgiana, daughter of Major Smart, of Tumby Lawn, in the same county.

DEATHS.

BURT—On Oct. 15, Ann Rebecca, relict of Augustus Henry Burt, Esq., Solicitor, formerly of Essex-street, Strand, aged 57.

COPPINGER—On Oct. 13, at Dublin, aged nine years and seven months, Josephine, daughter of the late Stephen Coppinger, Esq., Barrister-at-law.

LEONARD—On Oct. 10, Robert Leonard, Esq., jun., Solicitor, Bristol, aged 44.

REVEL—On Oct. 10, at Turin, Emily, Widow of Count Adrian Thacon de Revel, Sardinian Minister at the Court of Vienna, and daughter of the late Basil Montagu, Esq., Q.C.

ROBINSON—On Oct. 14, at The Terrace, Settle, Yorkshire, Elspet, wife of Henry Robinson, Esq., Solicitor, aged 44.

SHEE—On Oct. 11, aged 45, Mary, wife of William Shee, Esq., one of her Majesty's Serjeants-at-Law.

TALBOT—On Oct. 9, Frederic Talbot, Esq., of Bedford-row, and John-street, in the 66th year of his age.

London Gazettes.

Windings-up of Joint Stock Companies.

TUESDAY, Oct. 15, 1861.

LIMITED IN BANKRUPTCY.

DISTRICT SAVINGS' BANK (LIMITED).—Order to wind-up. Oct. 10.

FRIDAY, Oct. 18, 1861.

LIMITED IN BANKRUPTCY.

CRYSTAL PALACE PRINTING AND PUBLISHING COMPANY (LIMITED).—Petition for winding-up presented Oct. 16, will be heard before Com. Fonblanque, on Oct. 30.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Oct. 15, 1861.

BOTS, JOHN, Margate, Kent, Esq., formerly a Solicitor. Nov. 26. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London.
LOWTHER, ANN, 7, South-street, Brompton, Middlesex, Widow. Jan. 3. Sol. E. Rye, 16, Golden-square, Westminster.
MORLEY, THOMAS, Barking-side, Essex, Jobber. Dec. 11. Sol. G. Brady, 5, Mitre-court, Fleet-street, London, or Barking, Essex.
STEELEY, RICHARD (and not Shelley, as advertised in *Gazette* of Oct. 8), Nottingham, Butcher. Oct. 30. Sol. J. T. Brewster, Nottingham.
STYKE, JAMES, Delph-street, Halifax, Yorkshire, late Manager of the Halifax Weighing Machine, and General Dealer. Dec. 16. Sols. Robson & Suter, 16, George-street, Halifax.

FRIDAY, Oct. 18, 1861.

BALDON, WILLIAM, St. Paul, Deptford, Kent, Surgeon. Nov. 30. Sol. W. Kinsey, 9, Bloomsbury-place, London.
COLVER, MARY, Bolsover, Derbyshire. Dec. 1. Sols. Hoole & Yeomans, Meeting House-lane, Sheffield.
COOK, WILLIAM, Kensington, Liverpool, Gent. Dec. 1. Sol. J. B. Lloyd, 34, Castle-street, Liverpool.
FERREMAN, JOHN, Framden, Suffolk, Farmer. Nov. 30. Sol. C. Steward, Museum street, Ipswich.
GILL, THOMAS, Burley, near Otley, York, Esq. Dec. 14. Sols. Wells & Ridehalgh, Bradford.
GILL, WILLIAM, Burley, near Otley, York, Esq. Dec. 14. Sols. Wells & Ridehalgh, Bradford.
HIGGINBOTHAM, JOSEPH, 21, Delamere-street, Ashton-under-Lyne, Attorney-at-law and Solicitor. Jan. 31. Sols. Darnton & Greaves, 45, Old street, Ashton-under-Lyne.
JONES, DAVID, 33, Sherborne-street, New North-road, Middlesex. Dec. 17. Sol. Broughton, 48, Finsbury-square.
JONES, ELIZA, Bedford-place, Old Kent-road, Surrey, Spinster. Dec. 17. Sol. F. Broughton, 44, Finsbury-square.
LEES, THOMAS, Beachfield, Birkdale-park, Southport, Lancaster, Gent. Dec. 10. Sols. J. B. & E. Whitworth, 2, St. James's-square, Manchester.
OAKES, ANN, Bridgnorth, Salop, Spinster. Dec. 1. Sols. Potts, Gordon, & Nicholls, Bridgnorth, Salop.
PONSONBY, Right Hon. WILLIAM Baron, Imokilly, Cork, and lately residing at Rostach, near Tegernsee, Bavaria. Nov. 20. Sols. Walker, Grant, & Martineau, 13, King's-road, Gray's Inn, Middlesex.
RUSSELL, JOHN, Marton, Warwickshire, Gent. Nov. 19. Sol. W. Russell, Leamington Priors.
SCOTT, JOHN, Clinton-place, Sheffield, Book-keeper. Dec. 1. Sols. Hoole & Yeomans, Meeting House-lane, Sheffield.
TURNER, WILLIAM, Slatter-Farm, Billinghamurst, Sussex, Farmer. Nov. 30. Sol. Mant, Storrington.

Assignments for Benefit of Creditors.

TUESDAY, Oct. 15, 1861.

ALLDER, EDWARD Louis, Chertsey, Surrey, Draper. Sept. 26. Sols. Sole, Turner, & Turner, 68, Aldermanbury, London.
BROWN, THOMAS, St. Helen's, Lancashire, Clogger, and Boot and Shoe Maker. Oct. 5. Sol. H. G. Taylor, St. Helen's.
EDGE, JOHN, Alexandria, Egypt, Merchant. Oct. 4. Sols. Ashurst, Son, & Morris, 6, Old Jewry, London.
ETHEARDON, THOMAS, Bristol, Brewer. Sept. 19. Sol. C. Ryan Bristol.
FRAYER, JAMES, Wincanton, Somersetshire, Common Brewer. Sept. 28. Sol. Y. Cooper, Wincanton.

GUMRELL, HENRY, Cranley, Surrey, Shopkeeper. Sept. 19. Sol. T. A. Curtis, Guildford, Surrey.
PERRY, JOHN, Southwold, Suffolk, Butcher. Oct. 12. Sol. J. R. Gooding, Southwold.
PHIPPS, JAMES, Cheltenham, Gloucestershire, Linen Draper. Sept. 16. Sols. Sole, Turner, & Turner, 68, Aldermanbury, London, agents for A. Henderson, Bristol.
SPINDLOE, JOSEPH, Kingston, Ashbury, Berks, Miller. Sept. 28. Sol. C. J. Barnes, Lambourne, Berks.
WILLIAMS, HENRY, Redminster Parade, Bristol, Chandler and Grocer. Sept. 16. Sols. Brittan & Son, Albion Chambers, Bristol.

FRIDAY, Oct. 18, 1861.

BENNETT, WILLIAM, Bishopscotlighton, Devonshire, Limeburner. Sept. 30. Sol. R. W. Templar, Fore-street, West Teignmouth, Devonshire.
CURTIS, ALFRED, Romsey, Hants, Mop, Yarn, and Whiting Manufacturer. Sept. 23. Sol. T. Waters, Winchester.
EALEY, JOHN JOSEPH, Brightlingsea, Essex, Shopkeeper. Sept. 21. Sol. F. Bloomfield, Philbrick, Colchester.
LEATHER, AMOS, Huddersfield, Manufacturer. Oct. 16. Sol. J. Sykes, Market Walk, Huddersfield.
LEVICK, WILLIAM, and **FREDERICK POYZER**, Nottingham, Stone Masons. Sept. 25. Sol. S. Doubleday, Low-pavement, Nottingham, Conveyancer.

Bankrupts.

TUESDAY, Oct. 15, 1861.

CURTIS, WILLIAM, Great Berkhamstead, Hertfordshire, Rag and Woollen Cutter and Puller. Pet. Oct. 14. Registrar, Abrahall: first meeting, Oct. 28, at 12; Basinghall-street. Off. Ass. Bell. Sols. Rhodes, Sons, & Duffet, 63, Chancery-lane.
EUSDEN, JOHN, Broad-street, Ely, Cambridgeshire, Builder and Hatter. Pet. Oct. 14. Registrar, Higgins: first meeting, Oct. 28 at 12; Basinghall-street. Off. Ass. Cannan. Sol. C. Richardson, 15, Old Jewry-chambers.
HADLEY, GEORGE, Birmingham, Wholesale and Retail Fruiterer. Pet. Oct. 2. Com. Sanders: Oct. 28 and Nov. 18 at 11; Birmingham. Off. Ass. Whitmore. Sols. C. Pemberton, Liverpool, or J. Smith, Birmingham.
HEKETH, THOMAS PEARSON, 3, Newman's-row, Lincoln's-inn-fields, Middlesex. Pet. Oct. 12. Registrar, Abrahall: first meeting, Oct. 26 at 1; Basinghall-street. Off. Ass. Bell. Sol. Badham, 37, New Bridge-street.
HICKS, ROBERT, 47, Mortimer-street, Cavendish-square, Middlesex, and 13, Simes-villas, Lewisham, Kent, House and Estate Agent and Surveyor. Pet. Oct. 12. Registrar, Winslow: first meeting, Oct. 26 at 11; Basinghall-street. Off. Ass. Pennell. Sols. Lawrance, Flews, & Boyer, 14, Old Jewry-chambers, London.
HIRST, WILLIAM, Golcar, Huddersfield, Yorkshire, Woollen Manufacturer. Pet. Oct. 7. Com. Ayrton: Oct. 25 and Nov. 25, at 11; Leeds. Off. Ass. Hope. Sols. Jenson & Drake, Huddersfield, or Bond & Barwick, Leeds.
INGRAM, THOMAS, late of 2, Tower Royal, London, but now of 46, Gloucester-street, Finsbury, Middlesex, Merchant and Commission Agent. Pet. Oct. 12. Registrar, Higgins: first meeting, Oct. 26 at 12; Basinghall-street. Off. Ass. Cannan. Sols. Linklaters & Hackwood, 7, Walbrook, London.
JENKINS, EDWARD, Stroud, Gloucestershire, Outfitter. Pet. Oct. 12. Com. Hill: Oct. 28 at 11; Bristol. Off. Ass. Miller. Sols. Ravan, Gosling, & Press, Bristol.
LARGE, WILLIAM, Tunstall, Staffordshire, Grocer and Tea Dealer. Pet. Sept. 27. Com. Sanders: Oct. 28 and Nov. 18 at 11; Birmingham. Off. Ass. Whitmore. Sols. Lawrence, Smith, & Fawdon, 12, Broad-street, London, or James & Knight, Birmingham.
MASON, JAMES, Ware, Hertfordshire, Malster. Pet. Oct. 12. Registrar, Winslow: first meeting, Oct. 26 at 12; Basinghall-street. Off. Ass. Pennell. Sol. G. B. Batchelor, 1, Guildhall-chambers, Basinghall-street, London.
NICHOLSON, EDWARD, 28, Cornhill, London, Stock and Share Broker. Pet. Oct. 4. Com. Fane: Oct. 25 at 12, and Nov. 22 at 1; Basinghall-street. Off. Ass. Cannan. Sols. Greville & Tucker, 26, St. Swithun's-lane.
ORMOND, FRANCIS, Ouston, Leicestershire, Cattle Jobber. Pet. Oct. 10. Com. Sanders: Oct. 31 and Nov. 28 at 11; Nottingham. Off. Ass. Harris. Sol. S. Maples, Nottingham.
PARTRIDGE, FREDERICK ROBERT, & HENRY EDWARDS, King's Lynn, Norfolk, Attorneys and Solicitors (Goodwin, Partridge, & Edwards). Pet. Oct. 14. Registrar, Winslow: first meeting, Nov. 1 at 12; Basinghall-street. Off. Ass. Pennell. Sols. J. & J. H. Linklater & Hackwood, 7, Walbrook, London.
ULMANN, JOSEPH, 10, Great Russell-street, Bloomsbury, Middlesex, and 4, Walbrook, London, Merchant. Pet. Oct. 12. Registrar, Abrahall: first meeting, Oct. 26 at 12; Basinghall-street. Off. Ass. Johnson. Sols. Linklaters & Hackwood, Walbrook, London.

FRIDAY, Oct. 18, 1861.

ALABASTER, HENRY, Stratford New Town, Essex, Baker. Pet. Oct. 9. Com. Fane: Nov. 1 at 1.30, and Nov. 29 at 11; Basinghall-street. Off. Ass. Whitmore. Sols. Lawrence, Flews, & Boyer, 14, Old Jewry-chambers.
ALLAN, JOHN, Durham, Iron and Steel Merchant and Grease Manufacturer. Pet. Oct. 10. Com. Ellison: Oct. 29 at 11, and Nov. 20 at 12; New-castle-upon-Tyne. Off. Ass. Baker. Sol. W. Brignal, Durham, or Hartley, 14, Gray's Inn-square, London.
ARMSTRONG, WILLIAM, 42, Eastcheap, London, Dealer in Colonial Produce. Pet. Oct. 12. Registrar, Abrahall: first meeting, Oct. 26 at 2; Basinghall-street. Off. Ass. Johnson. Sol. J. Rae, 9, Mining-lane.
ASTLES, FREDERICK WILLIAM, Smethwick, Staffordshire, Schoolmaster and Agent. Pet. Oct. 14. Registrar, Waterfield: first meeting, Oct. 28 at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, Birmingham.
BLACK, ANDREW, 1, Melbourn-place, Cambridge-road, Bethnal-green, Middlesex, carrying on business there as a Dry Fishmonger, under the name of John Stewart, and having a workshop at No. 9, Helmet-row, Old street, Middlesex, Carpenter and Dry Fishmonger. Pet. Oct. 16. Registrar, Hazlitt: first meeting, Oct. 30 at 12.30; Basinghall-street. Off. Ass. Graham. Sol. W. W. Eaden, 9, Gray's Inn-square, London.
BURHOUSE, SIDNEY, Brown Mill, Meltham, Yorkshire, Yarn Spinner and Manufacturer. Pet. Oct. 16. Registrar, Wilde: first meeting, Oct. 31 at 11; Leeds. Off. Ass. Hope. Sols. Heap & Owen, Huddersfield, or Bond & Barwick, Leeds.

BUSHBY, JAMES, Aldershot, Hants, Corn and Coal Dealer. Pet. Oct. 16. Registrar, Hazlitt: first meeting, Oct. 30 at 12; Basinghall-street. Off. Ass. Stansfeld. Sol. J. F. Ensley, 10, Lombard-street, London.

CLARKE, OWEN, 1, Lindsay-cottages, Lower-road, Islington, Middlesex, Printer and Publisher, carrying on business at 107, Dorset place, Fleet-street, London. Pet. Oct. 15. Registrar, Higgins: first meeting, Oct. 29 at 11; Basinghall-street. Off. Ass. Cannan. Sols. Treherne & Wolfertan, 17, Gresham-street.

COOPER, WILLIAM, 10, Essex-street, Forest gate, Essex, formerly of the Lion and Lamb Inn, Brentwood, Essex, Licensed Victualler. Pet. Oct. 14. Registrar, Winslow: first meeting, Oct. 31 at 2; Basinghall-street. Off. Ass. Pennell. Sol. W. R. Preston, 15, Broad-street-buildings London.

COWMAN, ROBERT, 9, Lyon-street, Caledonian-road, previously of Hornsey-road, Middlesex, Grocer, Tea Dealer, & Cheesemonger. Pet. Oct. 15. Registrar, Abraham: first meeting, Oct. 29 at 12; Basinghall-street. Off. Ass. Bell. Sol. T. Heard, 10, Basinghall-street.

DAVIS, ISAAC NOAH, Brentford Distillery, Brentford, Middlesex, Distiller. Pet. Oct. 7. Com. Evans: Oct. 30 at 12, and Nov. 28 at 1, instead of Nov. 15, as already advertised; Basinghall-street. Off. Ass. Bell. Sol. Nicholson, Lime-street.

DEAKINS, FRANCIS HENRY, Feathers Hotel, Ledbury, Herefordshire, Licensed Victualler. Pet. Oct. 14. Registrar, Waterfield: first meeting, Oct. 28 at 11; Birmingham. Off. Ass. Kinnear. Sols. East & Parry, Birmingham.

DREMAN, WILLIAM, 2, Three Colts-lane, Cambridge-road, Middlesex, Baker. Pet. Oct. 17. Registrar, Higgins: first meeting, Oct. 31 at 1; Basinghall-street. Off. Ass. Cannan. Sol. W. H. Waller, 2, Duke-street, Adelphi.

DONSON, WILLIAM, 1, Old Gravel-lane, St. George's in the East, Middlesex, Builder. Pet. Oct. 15. Registrar, Winslow: first meeting, Oct. 29 at 3; Basinghall-street. Off. Ass. Pennell. Sols. Brown & Goodwin, 21, Finsbury-place, London.

DOD, WILLIAM EDWARD, 99, Raynor-street, Goswell-street, Clerkenwell, Middlesex, and 42, Great, James-street, Bedford-row, Holborn, Middlesex, Architect and House and Estate Agent. Pet. Oct. 12. Registrar, Abraham: first meeting, Oct. 29, at 11; Basinghall-street. Off. Ass. Johnson. Sol. Buchanan, 13, Basinghall-street.

EVENNETT, JAMES, Corn Dealer, High-street, Poplar, Middlesex. Pet. Oct. 15. Registrar, Higgins: first meeting, Oct. 29 at 1; Basinghall-street. Off. Ass. Whitmore. Sol. Hall, 1a, Basinghall-street.

FINLAY, JOHN, Grocer and Cheesemonger, 47, Henry-street, Portland-town, Middlesex. Pet. Oct. 17. Registrar, Hazlitt: first meeting, Oct. 31 at 12; Basinghall-street. Off. Ass. Stansfeld. Sols. Stevens & King, 6, Gray's Inn-square, London.

GIBSON, NICHOLAS WILLIAM, Ship and Insurance Broker, 4, Austin-friars, London. Pet. Oct. 16. Registrar, Miller: first meeting, Oct. 30 at 11; Basinghall-street. Off. Ass. Edwards. Sols. Gibbs & Tucker, 17, Clement's-lane, London.

GLASS, GEORGE MICHAEL, Sen., Brandon-street, Waltham, Surrey, Chemist, and Gelatine Manufacturer. Pet. Oct. 18. Registrar, Abraham: first meeting, Oct. 29 at 1.30; Basinghall-street. Off. Ass. Bell. Sol. Wells, 47, Moorgate-street.

GOODCHILD, JOSEPH, 239, High-street, Shoreditch, Middlesex, Ham and Beef Dealer. Pet. Oct. 16. Registrar, Abraham: first meeting, Oct. 30 at 11; Basinghall-street. Off. Ass. Johnson. Sol. Beard, 10, Basinghall-street.

GORNLEY, WILLIAM, Portugal-street, Oldham-road, Manchester, Screw, Bolt, and Nail Manufacturer. Pet. Oct. 14. Registrar, Simons: first meeting, Oct. 30 at 12; Manchester. Off. Ass. Pott. Sols. Slater & Myers, Fountain-street, Manchester.

GREEN, CHARLES, 185, Western-road, Brighton, Gas-fitter. Pet. Oct. 12. Registrar, Higgins: first meeting, Oct. 28 at 1; Basinghall-street. Off. Ass. Whitmore. Sols. Harrison & Lewis, 6, Old Jewry, London.

GRIFFITHS, THOMAS, Grocer, 50, Lower Rosoman-street, Clerkenwell, Middlesex, also carrying on business at 125, Golden-lane, St. Luke's, Middlesex, Grocer, Cheesemonger, and Chandler. Pet. Oct. 16. Registrar, Higgins: first meeting, Oct. 30 at 11; Basinghall-street. Off. Ass. Cannan. Sol. Harcourt, 2, King's Arms-yard, Coleman-street.

HANNIBALL, ALFRED, Boot Maker, 35, Great Portland-street, Middlesex. Pet. Oct. 16. Registrar, Abraham: first meeting, Nov. 3 at 11; Basinghall-street. Off. Ass. Bell. Sol. Stophor, 36, Coleman-street.

HOBBS, JAMES, Watch Manufacturer, Liverpool. Pet. Oct. 16. Registrar, Lee: first meeting, Oct. 30 at 11; Liverpool. Off. Ass. Morgan. Sols. Holt & Rowe, 2, Chapel-walk, South Castle-street, Liverpool.

INGRAM, JAMES GEORGE, 198, Tottenham court-road, Middlesex, Woollen Draper (Nesbitt & Co.) Pet. Oct. 14. Registrar, Higgins: first meeting, Nov. 7 at 11; Basinghall-street. Off. Ass. Whitmore. Sols. Linklaters & Hackwood, 7, Walbrook.

JEALOUS, GEORGE JAMES, 335, Strand, Middlesex, Manager to a Printer, and late of 27, Chichester-place, Gray's Inn-road, Middlesex, Printer. Pet. Oct. 17. Registrar, Miller: first meeting, Oct. 31 at 11; Basinghall-street. Off. Ass. Edwards. Sol. C. Harcourt, 2, King's Arms-yard, Mortgate-street, London.

JURY, GEORGE, & FREDERICK JURY, Maidstone, Kent, Tailors and Undertakers (Jury & Son). Pet. Oct. 18. Registrar, Abraham: first meeting, Nov. 1 at 2; Basinghall-street. Off. Ass. Bell. Sols. Lawrance, Pews, & Boyer, Old Jewry-Chambers, London.

KETLEY, JONATHAN, Birmingham, Coke Merchant and Railway Carriage Builder. Pet. Oct. 16. Registrar, Waterfield: first meeting, Oct. 30 at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, Birmingham.

LEAVER, JOSEPH CHRISTOPHER, 2, Briar-villas, Shepherd's-bush, Middlesex, Shipbroker and Shipowner. Pet. Oct. 15. Registrar, Abraham: first meeting, Oct. 29 at 2; Basinghall-street. Off. Ass. Johnson. Sols. Leahey, Chapman, & Clarke, 24, Lincoln's Inn-fields.

LOCKWOOD, JOHN, Stowmarket, Suffolk, Innkeeper. Pet. Oct. 1. Com. Goulburn: Oct. 30 and Nov. 27 at 1; Basinghall-street. Off. Ass. Pennell. Sols. Cree & Last, 13, Gray's Inn-square, London.

LOVEBROVE, JOSEPH, Newton House, Vicarage-place, Kensington, Middlesex, Surgeon. Pet. Oct. 15. Registrar, Higgins: first meeting, Oct. 29 at 12; Basinghall-street. Off. Ass. Whitmore. Sol. W. Philip, 36, Bucklersbury.

MCMANARD, EDWARD KINGETT, Pavilion Hotel, North Woolwich, Kent, Hotel Keeper. Pet. Oct. 16. Registrar, Winslow: first meeting, Nov. 6 at 11; Basinghall-street. Off. Ass. Pennell. Sol. T. Beard, 10, Basinghall-street, London.

NELTHORPE, JAMES, 3, Clarence-terrace, Wandsworth-road, Surrey,

formerly of 1, Victoria-road, Islington, Middlesex, Flour Factor. Pet. Oct. 17. Registrar, Abraham: first meeting, Oct. 31 at 11; Basinghall-street. Off. Ass. Johnson. Sol. Holt, 35, Bucklersbury.

PRESTON, JAMES, formerly of the Kingsland-gate Bazaar, Kingsland-road, Middlesex, Tobacconist, and Road Director of the London General Omnibus Company (Limited). Pet. Oct. 16. Registrar, Miller: first meeting, Oct. 30 at 1; Basinghall-street. Off. Ass. Edwards. Sol. H. Pook, 27, Basinghall-street, London.

REYNOLDS, THOMAS, 42, Henry-street, Pentonville, Middlesex, Hosiery and Shirt Maker. Pet. Oct. 15. Registrar, Winslow: first meeting, Oct. 29 at 2; Basinghall-street. Off. Ass. Pennell. Sol. W. R. Buchanan, 13, Basinghall-street.

RIGBY, EDWARD BEVAN, & ENOCH ERASMUS HOLDEN, Widnes, Lancashire, Commission Agents. Pet. Oct. 16. Registrar, Brougham: first meeting, Oct. 30 at 12; Liverpool. Off. Ass. Bird. Sols. Evans & Co., Liverpool, or T. Haddock, St. Helens.

SAYKELL, JOHN DABBY, 11, Blundell-street, Caledonian-road, Islington, Middlesex, Draper. Pet. Oct. 15. Registrar, Higgins: first meeting, Nov. 6 at 12; Basinghall-street. Off. Ass. Cannan. Sols. Bennett & Paul, 1, Size-lane.

SILVERTHORNE, JOHN, Gillingham, Dorset, Corn Dealer. Pet. Oct. 4. Com. Evans: Oct. 28 at 11, and Nov. 28 at 12; Basinghall-street. Off. Ass. Bell. Sols. Flux & Argles, 9, Mincing-lane, London; or H. W. Dickinson, Poole, Dorset.

SMITH, WILLIAM TAYLOR, & WADE HAMPTON SMITH, Sedgley, Mine Drainers. Pet. Oct. 14. Registrar, Waterfield: first meeting, Oct. 28 at 11; Birmingham. Off. Ass. Kinnear. Sols. Hodgson & Allen, Birmingham.

SPIESBURY, HENRY, Birmingham, Licensed Victualler. Pet. Oct. 16. Registrar, Waterfield: first meeting, Oct. 30 at 11; Birmingham. Off. Ass. Kinnear. Sols. East & Parry, 48, Ann-street, Birmingham.

STEADMAN, ROBERT, 2, King street, Finsbury-square, Middlesex, and Manchester, Hull, and Bradford, Boot and Shoe Warehouseman. Pet. Oct. 18. Registrar, Hazlitt: first meeting, Nov. 1 at 3; Basinghall-street. Off. Ass. Graham. Sols. Lawrance, Plewa, & Boyer, 14, Old Jewry-chambers, London.

STEAKES, HENRY CATON, 24, Lambeth-walk, Surrey, Cheesemonger. Pet. Oct. 12. Registrar, Higgins: Oct. 28 at 11; Basinghall-street. Off. Ass. Whitmore. Sol. W. R. Preston, 15, Broad-street-buildings, London.

TAYLOR, THOMAS, Hanlith, Kirkby Malhamdale, Yorkshire, Farmer and Dealer in Cattle. Pet. Oct. 15. Registrar, Payne: first meeting, Oct. 29 at 11; Leeds. Off. Ass. Young. Sol. Robinson, Settle; or Benjamin Carras, Leeds.

WELLING, WILLIAM, 6, Clipstone-street, Fitzroy-square, Middlesex, Chimney. Pet. Oct. 15. Registrar, Abraham: first meeting, Oct. 29 at 1; Basinghall-street. Off. Ass. Johnson. Sol. Wells, 47, Moorgate-street.

WESTON, HENRY, Eastwood, Nottinghamshire, Dealer in Small Wares and Millinery. Pet. Oct. 15. Registrar, Waterfield: first meeting, Oct. 29 at 11; Nottingham. Off. Ass. Harris. Sol. J. Ashwell, Middle Pavement, Nottingham.

WORMAN, ELIZABETH WILLARD, 129, Sloane-street, Middlesex, also late of Erith, but now of Old Charlton, Kent, Widow. Pet. Oct. 14. Registrar, Higgins: first meeting, Oct. 28 at 11; Basinghall-street. Off. Ass. Cannan. Sols. Linklaters & Hackwood, 7, Walbrook.

WRIGHT, RICHARD, Hunters-lane, Birmingham, Polisher and Greengrocer. Pet. Oct. 14. Registrar, Wilson: first meeting, Oct. 29 at 12; Birmingham. Off. Ass. Kinnear. Sols. East & Parry, Birmingham.

BANKRUPTCY ANNULLED.

FRIDAY, Oct. 18, 1861.

BRADBURY, ASA, Old Church-lane Mill, Oldham, Lancashire, Cotton Spinner and Doubler. Oct. 15.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Oct. 15, 1861.

GEORGE HARRIS, Woking, Surrey, Tailor. Oct. 26 at 11; Basinghall-street.—**WILLIAM SMITH AND WILLIAM FRANCIS PATIENT**, Bermondsey New-road, Surrey, Tanners and Leather Merchants (Smith, Patient, & Smith). Oct. 25 at 11; Basinghall-street.—**WILLIAM NATHAN STOKES**, 49, Wellington-street, Goswell-street, Middlesex, and Pelham-street, Nottingham, Wholesale Tobacconist and Cigar Merchant. Oct. 29 at 11; Nottingham.—**JOHN GREENWOOD**, Sheffield, Stone Sawyer and Stone Dealer. Oct. 26 at 10; Sheffield.—**JOSEPH HOLLINGS**, 42, Charles-street, Hampstead-road, Middlesex, Cowkeeper, Carman, and Contractor. Nov. 5 at 11.30; Basinghall-street.—**WILLIAM LEVETT**, 89, Union-street, Southwark, and 79, Blackfriars-road, Surrey, Patent Wadding Manufacturer. Nov. 7 at 12; Basinghall-street.—**MARY ANN PITON JONES**, Widow, 2, Buckingham-street, Strand, Middlesex, Licensed Victualler. Nov. 7 at 11; Basinghall-street.—**JOSEPH MOSS**, 149, Houndsditch, London, Wholesale Clothier. Nov. 7 at 11.30; Basinghall-street.—**PATRICK BROWN**, 3, Paddington-green, and 7, West-place, Islington-green, Middlesex, Lead and Glass Merchant. Nov. 7 at 11; Basinghall-street.—**ALBERT ARNOT**, 3, Tudor-street, Blackfriars, London, Drysalter and Colourman. Nov. 7 at 11.30; Basinghall-street.—**JOHN KING WESTROP**, Stanning-lane, London, Glove Manufacturer and General Commission Agent. Nov. 7 at 12; Basinghall-street.—**NATHAN MITCHELL**, Leeds, Cloth Manufacturer. Nov. 12 at 11; Leeds.—**ROBERT JERRAM**, Nottingham, and Lambley, Nottinghamshire, Innkeeper and Cattle Dealer. Nov. 12 at 11; Nottingham.

FRIDAY, Oct. 18, 1861.

JAMES NICHOL & ROBERT FRAZIER NORTH, 27, Bishopsgate-street Within, London, Tallow Brokers (Nicholl & North). Oct. 29 at 12; Basinghall-street.—**WILLIAM SWORD**, Dewsbury, York, Draper. Nov. 1 at 11; Leeds.—**WILLIAM BARNES & SAMUEL PICKERING**, 83, Gracechurch-street, London, late of 127, Brick-lane, Bethnal Green, Middlesex, Wholesale Boot & Shoe Manufacturers. Nov. 14 at 11; Basinghall-street.—**THOMAS BURGIN & WILLIAM BURGIN**, 26, Great Winchester-street, London, Upholsters and Cabinet Makers (Burgin Brothers). Nov. 8 at 11; Basinghall-street. Joint estate, and separate estate of each.—**JOHN BLACKWOOD WILSON**, 22, John-street, Penton-street, Pentonville, Middlesex, Draper and Hawker. Nov. 8 at 11; Basinghall-street.—**WILLIAM ADAM**, 34, Great Tower-street, Merchant, and also of Lloyd's, Underwriter, London. Nov. 8 at 11; Basinghall-street.—**GEORGE AMES**, Sible, Heddingham, Essex, Cattle and Sheep Salesman. Nov. 14 at 11.30; Basinghall-street.—**GEORGE PATRICK ROONEY**, Liverpool, Licensed Victualler and Builder. Nov. 8 at 11; Liverpool.

LAW STUDENTS' DEBATING SOCIETY, AT THE LAW INSTITUTION, CHANCERY LANE.

Members are requested to supply the Committee with Questions for Discussion.

QUESTIONS FOR DISCUSSION.

For Tuesday, October 29th, 1861. President—Mr. BRADFORD.

278.—Should the decision of the Court of Exchequer Chamber, that an action for malicious prosecution will not lie under the circumstances of the case of *Pitjohn v. Mackinder*, 9 W. R. 477, s. c. on appeal, 30 L. J. C. P. 257, be upheld?

Affirmative—Mr. ALLEN and Mr. LUCAS.

Negative—Mr. PEACHEY and Mr. NEWBON.

For Tuesday, November 5th, 1861. President—Mr. HEWITT.

XCIX.—Should recent foreign events be considered as strengthening the position of Conservatism?

Mr. DOWSE is appointed to open the debate, and Messieurs ANDERSON, A. H. MILLER, and BELLANT to speak on the question.

For Tuesday, November 12th, 1861. President—Mr. WINGATE.

279.—Will a parol license when executed pass an incorporeal hereditament as if granted by deed?

Winter v. Brockwell, 8 East 308; Taylor v. Waters, 7 Taunt. 373; Hewlins v. Shippam, 5 B. & C. 221; Liggins v. Inge, 7 Bing. 682; Cocker v. Couper, 1 C. M. & R. 418.

Affirmative—Mr. EYLES and Mr. BEAL.

Negative—Mr. RIDDLE and Mr. OLIVER.

For Tuesday, November 19th, 1861. President—Mr. GREEN.

280.—Ought the decision in *Wild v. Harris*, 18 L. J. N. S. C. P. 297, that a married man may be sued for breach of promise of marriage to a female, who, at the time of making the contract with him, was ignorant of his being married, to be upheld?

Cooper v. Witham, 1 Sid. 375, 2 Keb. 399; Liverpool Association v. Fairhurst and Wife, 18 Jur. 191.

Affirmative—Mr. POWELL and Mr. ATWOOD.

Negative—Mr. ROOKS and Mr. SHERRING.

For Tuesday, November 26th, 1861. President—Mr. PEACHEY.

C.—Is it desirable to establish a Legal University, exercising the powers of the Inns of Court and the Incorporated Law Society?

Mr. WATERS is appointed to open the debate, and Messieurs SPENCER, BAKER, and GILL, to speak on the question.

THE CHAIR WILL BE TAKEN AT SEVEN O'CLOCK.

Gentlemen requiring Books from the Library are requested to apply for them in the Arbitration Room five minutes before Seven o'clock on the Evenings of Debate.

Copies of the Rules and all requisite information will be furnished by the Secretary, with whom Gentlemen desirous of becoming Members are requested to communicate.

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GEO. L. WINGATE, Secretary,
9, Copthall-court, E.C.

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SPECIAL BONUS NOTICE.

Third Septennial Investigation and Division of Profits to 1st July, 1861. The cash bonus varies from £21 6s. 8d. to £32 6s. 8d. per cent. on the premiums paid in the last seven years on policies of 7, 14 and 21 years' duration.

The equivalent addition to each policy ranges from £28 10s. to £59 13s. 4d. per cent. of such premiums; or from 19s. to £2 7s. per cent. per annum on the sum assured.

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	£ s. d.	£ s. d.		£ s. d.	£ s. d.
25	1 19 8	2 0 4	45	5 12 8	4 1 8
30	2 5 8	2 12 10	50	4 7 8	4 18 6
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A medical officer in attendance daily, at half-past 12 o'clock.

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THOS. FRASER, Resident Secretary.

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No. 8, WATERLOO PLACE, Pall Mall, LONDON, S.W.

The Hon. FRANCIS SCOTT, CHAIRMAN.

CHARLES BERWICK CURTIS, Esq., DEPUTY CHAIRMAN.

Fourth Division of Profits.

SPECIAL NOTICE.—Parties desirous of participating in the fourth division of profits to be declared on policies effected prior to the 31st of December, 1861, should make immediate application. There have already been three divisions of profits, and the bonuses divided have averaged nearly 2 per cent. per annum on the sums assured, or from 30 to 100 per cent. on the premiums paid, without the risk of co-partnership.

To show more clearly what these bonuses amount to, the three following cases are given as examples:

Sum Insured.	Bonuses added.	Amount payable up to Dec., 1854.
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1,000	379 10	1,379 10
100	39 15	139 15

Notwithstanding these large additions, the premiums are on the lowest scale compatible with security; in addition to which advantages, one-half of the premiums may, if desired, for the term of five years, remain unpaid at 5 per cent. interest, without security or deposit of the policy.

The assets of the Company at the 31st December, 1860, amounted to £730,665 7s. 10d., all of which had been invested in Government and other approved securities.

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We cannot notice any communication unless accompanied by the name and address of the writer.

* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, OCTOBER 26, 1861.

CURRENT TOPICS.

Considering how often British juries are told that they are the Palladium of British liberty and the glory of the constitution, they must be rather surprised now and then at the speeches which fall from the minor judicial bench—by which we mean such functionaries as recorders and commissioners at the Old Bailey. The present week furnishes two instances in point, one of which certainly ought not to be overlooked. On Tuesday last a case came before Mr. Kerr, the judge of the city Sheriffs' Court, and who in that capacity is named a commissioner of the Central Criminal Court. The facts were very simple. A young man named Hayes, who was shooting birds in the fields adjoining the London and Brighton Railway line, near Rotherhithe, fired in the direction of a train, and wounded an engine-driver in the face—fortunately, without doing him any serious harm. There could be little doubt that the injury was the result of carelessness, and not of any intention on the prisoner's part. When these facts were proved to the jury, Mr. Kerr expressed an opinion that the case ought not to be proceeded with, because it was manifest that the casualty was the result of accident. Counsel for the prosecution, however, was desirous of "having the opinion of the jury upon it;" upon which slender provocation Mr. Kerr thinks himself justified in casting a universal slur upon English jurymen. We quote from the report:—

"Mr. Commissioner KERR: A British jury can do anything.

"Mr. Sleigh insisted that the case should be proceeded with."

Then arose between the counsel and the judge a curious discussion as to whether the act of the prisoner was criminal or not: the former maintaining that if the prisoner had killed a man under the circumstances the act would amount to the crime of manslaughter; the latter insisting that it would not, as it was clearly an accident. For the conclusion of this interesting case we cannot do better than refer to the report in the morning journals, which is as follows:—

After some further discussion between the learned counsel and the court,

Mr. Commissioner KERR told the jury that they had already heard his opinion on the matter, and he should give them no directions, but they might deal with the case as they liked.

Mr. Sleigh, suggested to the Court that it was a point for the jury that, in fact, at the time of the occurrence the prisoner was trespassing on the company's line.

Mr. Commissioner KERR.—Then bring your action for trespass.

The jury then turned round in their box, and, after a consultation of about a quarter of an hour, returned a verdict of guilty on the second count of the indictment, which charged the prisoner with a common assault.

Mr. Sleigh said he was instructed by the company not to press for heavy punishment, their only object being to protect the public.

Mr. Commissioner KERR remarked that he should like to know, after the great flourish he had heard as to the motives of the company, whether they meant to bear the expenses of this prosecution.

Mr. Sleigh replied that he had no answer to make on that point.

The learned COMMISSIONER (addressing the prisoner) said, the justice of the case would be met by fining him 20s.; and in the propriety of that judgment he was fortified by the opinion of the worthy alderman (Phillips) who sat by his side.

Now without at all entering upon the knotty point whether the prisoner might have been found guilty of manslaughter or not, or even considering whether the jury were warranted in their verdict, it is plain that the judge in this case, in the first place offered a gratuitous insult to the jury upon the smallest possible amount of provocation, not from them, but from the prosecuting counsel; and, in the next place, that instead of the judge offensively pitching the case at the jury without comment or explanation of the law, he was bound by his duty to inform their minds, not only by what dropped from him in his *rencontre* with the counsel, but by such a statement both of fact and law as is usual on such occasions. We presume that the act alleged against the prisoner would be clearly criminal if it could be shown that he had fired at a bird, although he knew a train was coming, and might reasonably have supposed that his doing so would involve risk to the persons in it; and this, as a question of fact, was wholly for the jury. But from the first the judge desired to stop inquiry, and ridiculed the notion of the interference of the jury. It is by no means unlikely that his conduct had an effect with the jurors the very opposite of what he intended; although we are bound to say, that in our opinion the verdict is one which commends itself to all reasonable men. We can hardly say as much, however, for the *judgment*, although the judge was "fortified by the opinion of the worthy alderman who sat by his side."

The *Times* of Tuesday last contains another account, in which one of our minor criminal judges takes a fling at "a British jury," and such is the heading of the paragraph in question. The report, however, does not enter into any details, except that a jury at Portsmouth acquitted a prisoner against clear and strong evidence, and after a "lucid" summing up of the recorder; and thereupon the report proceeds:—

"The learned Recorder, in discharging the jury, said that he should have done so with much greater satisfaction had their verdict in the last case (the case referred to) been a different one. There was another case, the learned gentleman said, for stealing lead from the dockyard, which had been postponed until the next sessions, but had that case come before him he certainly should have found it necessary to swear in a fresh jury."

We do not intend to be so unfair as to consider this case as at all identical with that at the Old Bailey. A judge has a right, no doubt, to express dissatisfaction with the conduct or the verdict of the jury, although he has no mission to prevent them from exercising their proper functions or to insult them while they are properly discharging them. We append some account of this second case, only because it turns up so close in point of time to the other, and is certainly an illustration of the growing tendency of our lower judiciary to affect the province of both judge and jury, and to forget the respect which is owing to juries, who discharge their onerous duties without fee or reward, and who are, after all—to use phrases which may be heard any day at the Old Bailey—the bulwark of our constitution and the Palladium of our liberties.

Many more injurious and terrible crimes than that for which Vincent Collucci was convicted at the Central Criminal Court on Wednesday last have, even within the last few months, been committed in this country; but few that have ever been brought under the public notice have called forth greater indignation and disgust at the conduct of the prisoner than in his case; meanness, duplicity, unmanliness, ingratitude, and some other of the lowest and basest qualities of human nature existed, without one relieving virtue, in the character of this scoundrel; and it would have been a disgrace to English law if it was so far divorced from public sentiment as to have allowed him to get free upon such evidence as was tendered at the trial. Under

these circumstances, Mr. Keane, the counsel for Collucci, undertook, in defending him, a very onerous and puzzling task. It is no wonder, then, that he pertinaciously urged a great number of legal objections of a technical character, which were at once overruled. Apart from his chances on these grounds, it was clear enough that he could make nothing upon what lawyers are in the habit of calling the merits of the case. Nevertheless, he did deliver himself of what the reporter characterizes as "a most able address to the jury on behalf of the defendant." He introduced his speech by stating that it would certainly be a "subject of regret if any person charged with a criminal offence was not permitted to lay his own answer to the charge before the jury who were called upon to decide his guilt or innocence." Mr. Keane then informed the jury that he wished them "distinctly to understand that the defence he should attempt to set up was the prisoner's own defence;" that the prisoner "positively insisted upon it being made, and that he alone was responsible for it." Now, this proceeding on the part of counsel, raises a very interesting and important question which we shall take an early opportunity of discussing in the manner in which it deserves; but, meanwhile, so far as Mr. Keane is concerned, there can hardly be any question that he ought to have been more cautious in charging upon the prisoner the entire responsibility of his speech. Indeed, in the reports of it which have appeared in the morning journals, it is not easy to draw the line between the professed assertions of the prisoner and the suggestions of counsel. Notwithstanding the extraordinary exordium of Mr. Keane, the defence of the prisoner was simply that he did not give the prosecutrix any parcel on the 3rd of August, as alleged by her, and that no bargain was ever made between him and the prosecutrix for the delivery of the letters to her; and he declared that the money was given him, not upon the condition that he should restore the prosecutrix's letters, but as a compensation to him for her refusal to marry him. All the remainder of counsel's speech, as it appears to us, is of the ordinary character, except the latter part, in which he argues upon the supposition of the truth of the prisoner's statement. It was scarcely fair, therefore, for the advocate to attempt to divest himself of the entire responsibility of his defence. But suppose it were otherwise, the question remains whether it is the duty of counsel to make themselves the mouth-piece for the statements of the prisoner, which under any circumstances, are only received by a stretch of tolerance on the part of the judge, and which ought never to influence the minds of judge or jury, except so far as they suggest the probability of a state of circumstances inconsistent with the prisoner's guilt. It is the common practice of criminal courts for counsel to suggest all these probabilities, without calling in aid any alleged assertions of the prisoner. At all events, to our minds it does not appear to be either a dignified or useful course for any counsel to present a defence which he himself in the plainest terms, repudiates, and from any imputation of the folly of which he manifests a somewhat too eager desire to be saved.

STATUTE LAW REVISION.

The general repealing Act of the last session (24 & 25 Vict. c. 101) may be regarded as an earnest of the work now in progress for the systematic revision of the statute law.

We have already more than once explained that the series of experiments in statute law reform which had been going on for years had led to the conclusion that the first object to be aimed at was the publication of a complete expurgated edition. It is unnecessary to dwell on the benefits which such an edition would confer on the public, and particularly on the practitioners and

administrators of the law. Its direct utility

is obviously great; and it would, besides, be a point for a safe and comprehensive code on LIFE.—

Expurgation would be very incon- forfeiture or to extra-
limited to the omission of such enactments, every purpose.
expressly and specifically repealed in the ordinary course
of legislation. To be satisfactory, expurgation must go
much further than this; all such enactments as have in
any way ceased to be in force must be discovered and
eliminated.

The scrutiny of the Statute Book, as far as it has gone, seems to have shown that such enactments as have ceased to be in force, without having been expressly and specifically repealed, may be classed under six heads. The division is stated and illustrated in a note prefixed to the Statute Law Revision Bill (No. 2) introduced by the Lord Chancellor at the end of last session. The six classes comprise such enactments as are—

1. *Expired*.—That is, enactments which having been originally limited to endure only for a specified time, have not been either made permanent or kept in force by continuance:

2. *Spent*.—That is, enactments exhausted or spent in operation by the complete accomplishment of the purpose for which they were passed, at the moment of their first taking effect, or on the happening of some specified event, or on the doing of some act authorised or required; as for instance, the "Statutum de Justiciariis assignatis; quod vocatur Rageman," 4 Edw. 1, which provides for justices going throughout the land to inquire, hear, and determine all the complaints and suits for trespass committed within twenty-five years then past, before the Feast of St. Michael in the fourth year of King Edward:

3. *Repealed in general terms*.—For instance, by the repeal (5 Eliz. c. 4. s. 2), of "as much of all the statutes heretofore made, and every branch of them, as touch or concern the hiring, keeping, departing, working, wages, or order, of servants, workmen, artificers, apprentices, and labourers, or any of them:"

4. *Virtually repealed*.—Where an earlier enactment is inconsistent with, or is rendered nugatory by, a later one; as for instance, 20 Hen. 3, Stat. Merton, c. 7, relating to the refusal of heirs to marry at the request of their lords, is virtually repealed by 12 Car. 2, c. 24, s. 1, taking away tenure by knight service, and the fruits and consequents thereof:

5. *Superseded*.—Where a later enactment effects the same purposes as an earlier one, by repetition of its terms or otherwise; as for instance, the provision of 20 Hen. 3, Stat. Merton, c. 8, "writs of novel disseisin shall not pass the first voyage of our sovereign lord the King that now is into Gascoigne," is superseded by the provision of 3 Edw. 1, Stat. Westm. 1, c. 39, "that a writ of novel disseisin, of partition which is called nuper obiit, have their limitation since the first voyage of King Henry, father to the King that now is, into Gascoigne:"

6. *Obsolete*.—(i.) Where the state of things contemplated by the enactment has long ceased to exist; as for instance in the case of 13 Edw. 1, Stat. Westm. 2, c. 43, which prohibits Hospitallers and Templars bringing any man into plea before the keepers of their privileges for matters cognizable in the King's Court;

(ii.) Where the enactment is of such a nature as to be no longer capable of being put in force, regard being had to the alteration of political or social circumstances; as for instance, 4 Edw. 3, c. 12, providing "that a cry shall be made that none be so hardy to sell wines but at a reasonable price . . . and that assay shall be made of such wines two times every year . . . and all the wines that shall be found corrupt shall be poured out, and the vessels broken. . . ."

Now, except as to the first two of these classes (namely, the *expired* and the *spent*) it would be perhaps scarcely justifiable for any expurgators, on their own authority and responsibility, to strike out and omit from the new edition such enactments as have in these various ways ceased to be in force. But an express declaration or enactment by the Legislature itself that enactments of these various classes are not in force would solve all difficulty of this kind. And it is such a declaration or

* As to the use of the term *spent*, see 1 Blackst. Comm. 44., 2nd Report of the late Statute Law Commissioners, p. 7, and Warren v. Windle, 3 East, 206.

ment that is embodied in the general repealing Act, Revision Act, 1861,) to which we cannot not name and address. Any error or a Journal should be. lateral advantage derived from this should not be overlooked. Such is not only of immediate service for the edition in direct connection with which it is prepared, but it has also a permanent usefulness. It not only stamps the particular edition in aid of which it is passed, with the authority of the Legislature, as far as in the nature of things that can possibly be done, but it also saves all revisors or expurgators who may come afterwards from the labour of going again over the ground which has been once effectually cleared. It concludes absolutely and for ever all question as to the enactments with which it deals being in force or not.

We shall make some observations at another time on the extent and particular nature of the Act which has been passed, the first, probably, of a long series.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner GOULBURN.)

Oct. 21.—*In re Osborne*.—The bankrupt petitioned the Court in *forma pauperis*. Adjudication was made. He was now brought up from prison to receive his discharge. The gaoler applied for the payment of his fee for so bringing him up. The bankrupt submitted that under the 98th section of the new law he was entitled, as petitioning in *forma pauperis*, to be excused payment of the fee.

The COMMISSIONER said he could not consider that debtors were to be excused payment of these fees. If they were, gaolers would refuse to incur the cost of bringing them to the court.

The gaoler said that under the Bankruptcy Consolidation Act, the fee was 10s. 6d.; in insolvent cases the fee was 3s. He was willing to accept 3s., the case being one that but for the new bankruptcy law must have gone to the Insolvent Court.

The COMMISSIONER thought the officer took a right view of the case, and that 3s. might properly be understood to be the usual fee in all similar cases.

The fee having been paid, the bankrupt applied for his discharge.

The COMMISSIONER said, notice of the application not having appeared in the *Gazette*, he must decline to hear it.

The bankrupt then asked that he might be excused the advertisement expenses.

The COMMISSIONER.—No. The salary of the messenger of the court has been reduced to £500 a-year. It is impossible that he can pay these charges out of his own pocket. No fee to the messenger need be paid, but the cost of the advertisement must be paid.

Mr. Pennell (official assignee).—I had four petitions on Saturday. The four estates will not produce £4.

Correspondence.

STATUTE LAW REVISION.

In a note on the Statute Law Revision Act, 1861 (see *Solicitors' Journal Statutes*, p. 88), objection is taken to the repeal of the first part of 6 & 7 Will. 4, c. 101, s. 3.

If any one will examine the enactments mentioned in the note, with the addition of s. 101 (the interpretation clause) of 6 & 7 Vict. c. 18, we think he must come to the conclusion that the objection is in both its branches unfounded; that the first part of 6 & 7 Will. 4, c. 101, s. 3 is virtually repealed by 17 & 18 Vict. c. 57; and that the suggested practical difficulty under 6 & 7 Vict. c. 18 can never arise.

As to the first branch of the objection: we conceive it is plain that the first part of 6 & 7 Will. 4, c. 101, s. 3, is overridden by 17 & 18 Vict. c. 57. The first enactment provides, in effect, that in the case of a vacancy in the office of returning officer for a borough, the sheriff of the county shall appoint a deputy to perform the duties. The second enactment provides,

in effect, that in all cases whatever, whenever there shall be, either from temporary vacancy or from some other cause, no person duly qualified to perform the duties of returning officer, the sheriff of the county shall in all respects perform the duties of and incidental to the office of returning officer. There seems no ground for contending that the second enactment is narrower in its application than the first, though it must be admitted that both enactments are obscurely framed.

But, independently of the operation of the second enactment as thus generally overriding the first, the case as to the supposed practical difficulty, which forms the second branch of the objection, will be found to stand as follows:—

(1.) Under 6 & 7 Vict. c. 18, where there is no town clerk or similar officer the provisions of that Act relative to the town clerk extend to the returning officer of the borough or his nominee or deputy.

(2.) By the same Act, the returning officer is defined to be any person to whom by virtue of his office under any law, custom, or statute the execution of a writ for the election of a member of Parliament doth or shall belong.

(3.) By 17 & 18 Vict. c. 57, the sheriff of the county is in terms charged with the execution of a writ for the election of a member of Parliament for the borough, where there is no person legally qualified and competent as returning officer to execute the same.

(4.) It follows, that the sheriff of the county stands in the like position as the town clerk, or ordinary returning officer, for the purposes of the annual revision of the borough list of voters, and for all the other purposes of 6 & 7 Vict. c. 18.

It may be added that, notwithstanding the generality of its terms, 6 & 7 Will. 4, c. 101, s. 3, would appear to have had no application to many of the new parliamentary boroughs created by the Reform Act; for by that Act (2 & 3 Will. 4, c. 45, s. 11) express provision is made for the nomination by the sheriff of the county of a new returning officer in case of the death or incapacity by sickness or otherwise of the returning officer of any of such boroughs (and see as to Birkenhead, 24 & 25 Vict. c. 112, s. 10). In this way, again, as to this large and important class of boroughs, the supposed practical difficulty is clearly obviated.

FRANCIS S. REILLY.

Lincoln's Inn, Oct. 17, 1861.

ARTHUR JOHN WOOD.

TOUTING, PROFESSIONAL AND OTHERWISE.

One of our country clients, for whom we have been very many years concerned as London agents, a short time ago received, from the Suffolk solicitor of thirty years' standing, a letter and card similar to those which appeared in your number of the 12th inst. In forwarding the documents to us, our client, after making a few remarks on such an unprofessional way of getting business, adds that he is "not to be caught by such angling."

We enclose, for insertion in your paper, if you think proper to give it space, a circular which a town client of ours a few days ago received from a "non-professional touter." In sending you the document we merely wish to observe that the estate for which so much is offered to be done for so very small a fee as one guinea is not by any means an inconsiderable one.

A. B. & C.

P.S.—Can you form any idea as to how it can be necessary for the Suffolk solicitor, who boasts "of thirty years' standing" in the profession, to have recourse to the toutting system?

The following is a copy of the circular referred to in our correspondents' letter:—

— Street, London, E.C. Oct. 2, 1861.

Gentlemen,—In consequence of the death of Mr. —, and the necessity of administering to his estate, and passing the requisite accounts at Somerset House, I beg to offer my services for that purpose, as well as for transferring all stocks from the deceased's name to the legatees.

My fee is £1 : 1 : 0.

It is scarcely necessary for me to mention that should you employ a solicitor to transact the business referred to you will probably incur a heavy bill of costs—quite unnecessarily.

I add at foot the names of my referees, and shall be happy to supply you with any information you may require free of charge.—I am, your obedient servant,

To the executors of the late —.

Referees: Rev. A. — B. —; and Rev. Dr. E. —.

RAILWAY LIABILITIES.

I put some household goods on the C. line of rail, which line transferred them to the S. D. line, which latter line transferred them to the N. D. line. When delivered by the N. D. line they were much damaged. The C. line say that the

damage was not done by them, and the other lines refuse to answer my letter respecting it. Will any of your numerous readers tell me which line to sue?
J. T. S.

COMMON LAW CHAMBERS.

I am desirous of being informed why all the summonses need be returnable at the same time. Could not twenty be granted for 11 and twenty for each successive hour till counsel attend, and then, allowing an hour exclusively for them, twenty for each succeeding hour till 3? The judge seldom arrives before 11.30, and then takes the adjourned summonses. If the whole twenty appointed for 11 were not brought before him (rather unlikely) he would have enough to employ him till 12, and the same might be said up to 3 o'clock.

AN ATTORNEY'S CLERK.

REG. v. COLLUCCI.

This trial having excited some interest not only in the public mind, but also in the legal world, I beg to draw your readers' attention to one point arising in it. I observe that the prisoner's counsel impressed on the jury that the defence he set up was the prisoner's own; that he positively insisted on its being made; and that he alone was responsible for it. (I am here quoting from the *Times* report.) He went on to say that where a prisoner insisted upon a particular course being taken, it was no part of the duty of an advocate to interfere with that desire. He, therefore, should merely state the answer the prisoner himself would have made to the charge. Now it occurs to me, as it evidently did to the Lord Chief Baron, whether the inevitable inference from this is not that the counsel himself thought the defence a very injudicious one—and even further than that, I think he conveyed that impression to the jury. I think if I had been on the jury, I should have said to myself "the prisoner's counsel himself actually admits the defence he puts forward is none at all, and therefore I shall find him guilty." Now, did the counsel—a very able one, no doubt—properly discharge his duty? Does it not look a little like an attempt to prevent his being taken for a fool, to say (as he really does) that he would have made a better defence if he could? Why could he not have made the defence insisted upon without letting it be seen that he considered it futile? Was he paid for doing what may have decided the case against his client? *LEOATIS.*

POWER OF ATTORNEY.—FOREIGN COUNTRY.

In answer to the letter of your correspondent "A Law Clerk," in your number of last week, I would observe that a power of attorney given by a person in this country to be acted upon in a foreign state or colony must be verified by a notarial attestation of the document.

The attesting witness should make a declaration before a notary as to the execution of the power of attorney, and such notary will thereupon give his certificate. Forms of the declaration and certificate are given at pages 754, 755, "*Hughes' Pleadings in Conveyancing*," vol. 3.

Neither the city seal nor an ordinary attestation are of themselves sufficient.

The declaration may be dispensed with if the chief magistrate of a place attest the power, but his signature must be verified by a notarial attestation. *W. S.*

In reply to the inquiry of "A Law Clerk," I beg to state that in order to prove the due execution of a power of attorney to be acted upon in the colonies, it is necessary that a declaration should be made by the attesting witness.

If this is done before the lord mayor, the city seal is requisite, certifying the declaration, or if made before a notary public his seal is requisite. But where there are colonial commissioners (as there are here for New South Wales and Victoria,) the power can be executed before them and no declaration is requisite. And of course neither the city nor notarial seal is required.

It is hardly necessary to say that the usual mode of execution alone renders a power "a valid legal instrument," but ninety-nine persons out of a hundred require proof that it is really executed by the person by whom it purports to be executed.

P. J. GORDON,

Commissioner for New South Wales.

18. Old Broad-street.

THE NEW BANKRUPTCY ACT.

What is the interpretation to be put upon sects. 73 and 74 of the Bankruptcy Act, 1861. Does it mean that the judgment recovered must exceed £50; or that so long as the sum of £50 was sought to be recovered by the action or suit brought, it does not matter whether judgment goes for a less sum.

INQUIRER.

ON FRAUDULENT TRADE MARKS.

The following Paper was read by JOHN MORRIS, Esq., at the recent meeting of the Metropolitan and Provincial Law Association, Worcester:—

The Trade Marks Bill, which passed the House of Lords in the last session of parliament, was withdrawn by the President of the Board of Trade when it came into committee in the Commons, with notice that it would be re-introduced "the first thing next session, and referred to a select committee."

The object of this paper is to indicate some of the points to which attention will have to be directed in dealing with any bill to be hereafter introduced in lieu of that so recently withdrawn.

The late bill dealt with two very distinct offences—the first relating to fraudulent trade marks; the second to false labelling. At first sight the two may appear to be, if not identical, at all events intimately connected, but upon closer examination the principles applicable to each will be found to be widely different.

Trade marks refer wholly to ownership, or to that property which arises from manufactures. False labelling includes many cases in which no question of trade mark or peculiar ownership is involved; as, for instance, the false marking of goods as to quantity or length. For reasons which I shall afterwards explain I would limit the offence of false labelling to cases in which there is a false indication as to quantity, length, or the name of the manufacturer or owner.

Trade marks are not confined to the name of the manufacturer or owner, but extend, as we shall presently see, to the use of signs and marks of every conceivable kind, as to the right to use which there may be, and often are, disputed questions.

There can rarely be any dispute as to the right to use the name of the manufacturer or owner, where it is the name of a living person actually engaged in the production of the article; and, therefore, in such cases, I would put the name under the same protection as the quantity and length, because so far as the fraudulent use of the name is concerned (which will include most of the flagrant offences in this class of cases) you thereby get rid of many of the difficulties which arise as to trade marks.

The distinction between cases of false labelling and of trade marks is most important: the former is an offence against the public, and may, therefore, come under the head criminal law, while the latter partakes of the nature of a civil wrong; the former can be dealt with at once by legislation, but before the latter can be made the ground-work of criminal proceedings you must, by registration or otherwise, provide for settling preliminarily the two essential questions, what is a trade mark? and who, in any given case, is entitled to its exclusive use?

Whether it will be wise to deal with both these subjects of false labelling and trade marks by one Bill may be open to question.

A trade mark is a species of private property, and there certainly seems no more reason why that should be protected by the criminal law than copyright, patents, or designs.

On the other hand, no one doubts the propriety of checking the false marking of goods as to lengths or quantity, or as to the name of the manufacturer or owner.

I will now proceed to examine in detail some of the provisions of the late bill; and first, as to false labelling:—Section 6 applied to cases where there should be "any false indication, statement, or description of the quantity, quality, measure, substance, or material of such chattel or article or any part thereof, or of the manner or place in or at which, or of the person by whom, such chattel or article was made, manufactured, produced, or was, or is, dealt in."

The words "quality," "substance," "material," "manner or place," are (thus applied) all objectionable. They are not required to meet any admitted mischief, while they will give rise to all sorts of disputed questions, like the one now often raised—what is paper? Can carpets, known as

"Brussels" be sold under that designation when it is notorious they are not made at Brussels? What are "superfine," "firsts," "seconds," and all such terms applied to quality? Now, the mischief complained of is not that the public are misled by the use of any such terms as these, because as to them purchasers can and should exercise their own judgment, the real cause of complaint is, that the public are misled by misrepresentations as to quantity, length, and the name of the manufacturer or owner, as to which no skill or care on the part of a purchaser can protect him.

But even in those cases of false labelling to which I have said the criminal law might be properly applied, there is a clear distinction which should always be borne in mind between the case of the maker of goods so falsely marked and the vender—the latter may innocently sell a reel of cotton marked 100 yards and containing only fifty; but the manufacturer cannot innocently make and mark it. It is impossible that the dealer can test the lengths and quantities of a large mass of articles dealt in, such as cotton, ribbons, lace, &c. Such articles are necessarily sold to the public in precisely the same state in which they leave the manufacturer's hands. Some protection, therefore, should be extended to the innocent vender of falsely-labelled goods. This might be done by requiring proof of *knowledge and intent to defraud*, while in the case of the maker (the source of the mischief) less stringent provisions as to proof might be required.

A marked distinction is made by our law between the manufacturer and the dealer in the case of gold and silver wares having forged or counterfeited marks; such marks are *well known*, and if in any case the dealer ought to be held responsible for what he sells, it should be in that case, —yet, while the maker is liable to transportation, the dealer escapes with a fine, and even that he can get off from by giving up the name of the manufacturer. (See 7 & 8 Vict. c. 22. ss. 3, 4.)

In order to protect the innocent vender from vexatious charges under any Act to be passed, some provisions should also be made for a preliminary notice before commencing proceedings, where the selling or exposing for sale complained of shall take place at the shop or warehouse of the alleged offender; the same being his usual known and established place of business. This will not, of course, prevent immediate proceedings in the case of those who have no settled place of business, and who would use any protection of this kind as a means of escaping altogether from the operation of the law; while, on the other hand, if some protection, such as is here suggested, be not thrown around the innocent vender, traders will be liable to be dragged before magistrates by evil-disposed persons, and it need scarcely be observed that the right to an acquittal is not all the protection which is required. If a new class of cases like this is to be made subject to the criminal law, protection must be taken against its being abused, or the Act will become a nuisance instead of a benefit. Any protection of the kind suggested should provide for vendors being at liberty, on receiving the preliminary notice, to give up the name of the manufacturer or person from whom they purchased; and if the prosecutor should after this proceed against the vender it should be at the risk of costs, if not also of a penalty in case he failed. This will protect innocent vendors, and at the same time facilitate the reaching of the real offenders—the manufacturers of the falsely labelled goods.

These remarks apply to false labelling. I now come to the trade marks portion of the late Bill.

By admitting that the fraudulent use of the name of the manufacturer or owner may be punished criminally, quite apart from any question of trade mark, much difficulty which would otherwise arise under this head is got rid of. The objections to this part of the late Bill cannot be better stated than in the words of a petition against the Bill from wholesale houses in Manchester, which alleged as follows:—

"That the said Bill defines a trade mark as including 'any name, word, letter, mark, device, figure, sign, seal, stamp, label, or other thing lawfully used by any person to denote any chattel; and makes the sale, or exposure for sale, of any chattel or article, together with any counterfeited trade mark, or any fraudulent addition to or alteration of a trade mark, or with any imitation of a trade mark so resembling such trade mark as to be likely to deceive; or with any trade mark, whether the same be a genuine trade mark or not, which shall have been applied without lawful authority or excuse, the proof whereof shall lie on the party accused,' a misdemeanour, and render

the guilty party liable to imprisonment for 'two years, with or without hard labour, or by fine or both, as the Court shall award.'

"That your petitioners deal in goods which are so variously marked that it is utterly impossible to ascertain, in most cases, whether any trade mark, or alleged trade mark, is interfered with, or even whether the mark is intended as a trade mark or not; and yet, at the instance of interested or malicious persons, your petitioners might be subject to criminal proceedings, not only before the person claiming the trade mark has publicly established his right to use it, but, contrary to the principles of English law, with the proof of the non-infringement thrown upon the accused.

"That, in the opinion of your petitioners, no proceedings ought to be taken under this Bill, until the person claiming an exclusive right to use any trade mark has publicly established and notified that right; and that the persons against whom criminal proceedings ought to be directed are those who are guilty of the overt act of fraudulently counterfeiting such mark, or falsely marking or labelling any article, and not the vendors of such articles, who may have purchased them in the ordinary course of business."

Even if the criminal law should be applied to trade marks generally, still the whole principle on which that part of the late bill was founded must be reconsidered in order to frame provisions which, while correcting the admitted mischief, shall not vex and harass trade.

The difficulties of registration I admit; and have always seen, from the nature of the "marks," their number and complexity, it would be impossible, even with the aid of photography, to enable traders to be kept informed by means of an index of the registered marks, which would extend in number to thousands; but the difficulties in that direction would be lessened by requiring a preliminary notice before making a party liable to criminal proceedings. This idea of a preliminary notice, not before commencing proceedings, but before a party shall be subject to be charged at all, was suggested by the present Attorney-General, on the occasion of a deputation to the President of the Board of Trade on the subject of the late Bill. Such preliminary notice should contain a reference to the serial number in the register, and if the right to register be disputed, it would, of course, be open for any party receiving the notice to take steps to question such right, as is now done in the case of copy-right, &c.

This, and perhaps nothing but this, would afford protection against unfounded and malicious prosecutions in the case of trade marks.

It may be urged that any preliminary notice is inconsistent with a criminal offence. In answer I may draw attention to the fact that in Prussia, where there is no over sensitivity about imprisonment, the vending of a forged trade mark is for the first offence punishable by fine only, and it is only in case of repetition that it is made liable to imprisonment. See Mr. Ryland's paper on "Trade Marks," p. 232, of the Transactions of the Social Science Association, 1859.

In France trade marks are, by a recent law, protected by registration; and the exclusive enjoyment of a mark thus established is limited to fifteen years, but it is renewable.

What is entitled to the protection of our law as a trade mark is a delicate and difficult question in disputed cases—so delicate and difficult that the Court of Chancery rarely ever grants an injunction until the legal right to the trade mark has been established by an action or issue at law.

As the law at present stands long and exclusive use is an essential condition to the establishment of a trade mark.

What construction would be put on the words, in the late Bill, "*lawfully used*," taken in connection with the words which followed in the interpretation clause, it is impossible to say. Taken literally, several persons at the same time may lawfully use any given mark, whilst none of them is entitled to the exclusive use of it.

It may be said that no one would venture to take criminal proceedings in case of disputed right.

I am not so sure of this. It is easy to deter traders from dealing in particular goods merely on the threat of civil proceedings for an infringement of a patent. Still more will this be the case if the alleged offence be made a criminal one, against which no indemnity, as in a patent case, can protect them. A preliminary notice in such cases would (without registration or some other means of settling disputed rights) operate as a snare rather than a protection—

it would legalise the threat of criminal proceedings which, from the small interest they may have in any particular case, would deter parties from dealing in the goods in question, entirely apart from the question of right; so that the practical effect of the notice of threatened proceedings would, in such cases, be to put it in the power of any particular manufacturer to get a monopoly to which he may not be legally entitled. Wholesale houses, dealing in thousands of different kinds of goods, will not run risks of civil, much less of criminal, proceedings, and into the merits of disputed questions of legal right they have neither time nor inclination to enter.

It has been said that magistrates will not grant summonses against houses of high standing unless previously satisfied that there is *prima facie* a good case. To this doctrine I take entire exception. Houses, however high their standing, ought to be exposed to the equal operation of the law, and the remark, if it has any value at all, is a strong argument against this part of the late Bill, whereas if proper protection were inserted in the Bill against vexatious proceedings it would make the law all the more potent against the real offenders.

It has been said, again, that any one is exposed to be charged with stealing, say a pocket-handkerchief, and it is argued that therefore traders should not complain of being liable to be charged even falsely with the offence in question; but there is no analogy between the two cases. A pocket-handkerchief is tangible property and easily identified, whereas a trade mark is a claim rather than a right, and should itself be legally established before it is used for the purposes of prosecution.

First establish the right to a trade mark, and then the suggested analogy may apply, but not before.

Having said thus much on the subject of applying the criminal law to trade mark cases generally, and the difficulties which arose thereon under the late Bill, I now suggest whether such cases ought not to be left to the civil courts.

In the discussion on Mr. Ryland's paper before referred to, Mr. Thomas Webster, the well-known patent lawyer, said that "the true remedy for the frauds complained of was to give a copyright in trade marks." He advised mercantile men to unite in obtaining an Act for this purpose rather than any criminal enactment." (See p. 270 of the Social Science Transactions, 1869).

The following is an extract from an opinion of Mr. Alfred Wills, of the Midland Circuit, on this part of the late Bill:—

"After all, however, the best corrective would be to turn the clause creating the offence of selling, &c., an article with a counterfeited stamp into one giving a penal action, such as is given in the case of patented articles by 5 & 6 Will. 4, c. 83, s. 77, because then the party charged is a competent witness for himself, and in a case bordering so closely as this must often do either upon a mere civil infringement of right or upon a mere accident even the question of intention is all important. I remember very well a case tried at Warwick under that section, in which had it been framed upon the penal basis of clause 3 of the bill in question, two respectable men in a good way of business might have had a most narrow escape, if they would not have been convicted; but where their own evidence satisfied the Court, and every one who heard them, that what was complained of had been done most innocently."

He afterwards wrote further thereon as follows:—

"When I mentioned the case tried at Warwick, in the remarks I wrote two days ago, I forgot to mention one of the most instructive parts of the case, which was, that the plaintiffs in that action had employed a firm in London to order from the defendants the goods stamped in the very way which they thought would bring them within the Act of Parliament, and having, as they thought, caught them in a trap, they then sued them for penalties; and it turned out that the defendants were actually ignorant of the very existence of the patent of which they were charged with counterfeiting the designation."

If it still be thought that the criminal law shall be applied to check and punish flagrant offences, then I suggest that the first offence as to trade marks might be made liable to a penal action, and a repetition of it the subject of criminal punishment. This would assimilate our law to that of Prussia. In the penal action any disputed question of right could be tried and settled before any question of criminal liability could be raised.

In conclusion I would suggest—

1st. That false labelling as to quantity, length, or name of

manufacturer or owner be punished criminally in the case of the maker, and that the vendor be also criminally responsible if he sells or exposes for sale, knowing of the false labelling and with intent to defraud.

2nd. That the fraudulent use of trade marks, not coming under what I have defined as false labelling, shall be made liable to a penal action, and that if it be subject to the criminal law at all, then that for the first offence it be made liable to a penal action, and for any repetition thereof, after judgment shall be recorded against the defendant in the penal action, it shall be subject to criminal punishment.

3rd. That proper provisions be made for conventions with foreign countries upon this subject.

THE NEW BANKRUPTCY ACT.

The following important circular has been issued by the committee of the Manchester Association for the Protection of Trade in reference to the new Bankruptcy Act:—

To the Members of the Manchester Association for the Protection of Trade.

Gentlemen,—The new Bankruptcy Act having come into operation, we beg to call the attention of the members of this association and of the mercantile public generally to one or two points of very serious import arising out of the changes introduced into the administration of the law of debtor and creditor.

By the new Act the relative positions of the creditors' assignee and the official assignee are completely changed; and, before accepting the office of assignee, persons ought to make themselves acquainted with the responsibilities they will incur.

The clauses referring to the duties and responsibilities of the creditors' assignee, and which provide that every three months his accounts shall be verified upon oath, and submitted to the audit of the official assignee; shall find security if a majority of the creditors and the Court require it; shall be liable to dismissal by a majority in value of the creditors; and may at any time be called upon by one-fourth in value of the creditors to show cause why he should not be dismissed—will operate as a serious impediment in the way of any mercantile man undertaking the office, and therefore will have a tendency to throw the management of the estate into the hands of the bankrupt's friends.

The changes introduced by what are known as the "Deed Clauses" are most important, and demand the earnest attention of all persons interested in the settlement of insolvent estates.

These clauses stand in the act as sects. 192 to 199 both inclusive, and they were specially intended, as was said, for the benefit and advantage of the commercial classes, but we fear that in practice they will prove not only no boon, but a positive injury.

The object of the 192nd section is to bind a minority of creditors to an arrangement which has been accepted by "a majority in number representing three-fourths in value of the creditors." The importance of making deeds so binding is self-evident, because it is so notorious that scarcely a case arises without one or more creditors standing out with a view to obtain a preference.

The following are the conditions which must be fulfilled before any deed can be made so binding:—

1. A majority in number representing three-fourths in value of the creditors must assent to the deed.
2. Any trustees appointed must execute the deed.
3. Execution by the debtor must be attested by a solicitor.
4. Deed must be registered within twenty-eight days.
5. On so doing, an affidavit by the debtor, or some person able to depose thereto, or a certificate by the trustees that the required majority have, in writing, assented to or approved of such deed or instrument, and also stating the value of the debtor's property and creditors comprised in such deed, must be left with the deed.

6. The deed must be stamped (as required by sect. 195) with an *ad valorem* duty of 5s. per cent on the sworn or certified value of the estate and effects, in addition to the ordinary stamp duty.

7. Immediately on the execution of the deed by the debtor, possession of all the property comprised therein, of which the debtor can give or order possession, shall be given to the trustees.

As the result of a considerable experience we would say that in many, if not in most, cases it is practically impossible to obtain the consent of "a majority in number representing

three-fourths in value of the creditors" above £10 within the twenty-eight days given for registration.

That in the case of large estates, no trustee, and certainly no solicitor, will—at the risk of not being repaid—advance the stamp duty, which, in addition to the former duty, is to be impressed on the deed before registration, and which may reach £200.

That the debtor cannot be relied on to make an affidavit, as required, of his creditors and estate, because in many cases an insolvent is afterwards advised that he has done wrong in executing the deed.

And that there will be great and perhaps insuperable difficulty in a trustee obtaining in the twenty-eight days all the information to enable him to certify "the amount in value of the property and creditors of the debtor comprised in such deed." In cases of estates comprising considerable assets abroad it is clearly impossible to do this.

Again, how is a trustee conscientiously to certify to the assent of the requisite number and value of creditors to the deed? Is he personally to obtain their signatures, or is he to take for granted that a number of signatures shown to him are the genuine signatures of the creditors?

It does not appear whether, if any error is made in such certificate or in the calculation on which it is based, it will vitiate the registration; but if it will, then an unintentional error may upset everything; and if it will not, then a false certificate may be given in a fraudulent case, and the creditors will be bound thereby.

But the most important objection is to the condition that—"Immediately on the execution thereof (the deed) by the debtor, possession of all the property comprised therein, of which the debtor can give or order possession, shall be given to the trustees." Now, the essence of an arrangement, in case of composition, generally is, that it is considered for the benefit of all parties that the debtor shall remain in possession of his property and carry on his trade, but that the creditors shall have power to take possession on default of payment of an instalment, or other circumstances making it expedient to do so.

No such arrangement will, under the new statute, be binding on any creditor who shall not execute the deed, because such a deed would not comply with the seventh condition of sect. 102.

Possession by the trustees would frustrate the whole arrangement; and therefore, we presume, in nearly all cases of composition, there will be the same opportunity as heretofore of an unscrupulous creditor obtaining a preference over the others, or throwing the estate into the *Gazette*.

We have before incidentally noticed the stamps on deeds, and the commercial community, who have been such special objects of the Lord Chancellor's care, should understand that after having made bad debts their dividends are to be lessened by a stamp duty (in addition to the 35s. formerly impressed) of 5s. per cent. on the value of the property to which they must resort for their dividends; the maximum amount of duty being £200. This stamp is double the present stamp on mortgages.

Deeds of assignment are now placed in a peculiar position.

Sect. 194 requires that every deed (of course, whether it be a deed under sect. 192 or otherwise) executed by a debtor for the benefit of creditors, shall be registered within twenty-eight days from its execution by the debtor, "and in default thereof it shall not be received as evidence."

Sect. 198 provides that a certificate of the registration of such deed shall be a protection to the debtor against any process of common law, unless by "leave of the Court;" and that it "shall be available to the debtor for all purposes as a protection in bankruptcy." Now, as a protection in bankruptcy is absolute, the creditor could not avail himself of the "leave of the Court" to proceed, even if obtained.

Sect. 199 provides that, pending the time allowed for registration, proceedings in bankruptcy, if commenced, shall be stayed, "and if the deed be duly registered the petition shall be dismissed."

The combined effect of these clauses will be that in future no deed of assignment can be relied upon as an act of bankruptcy, because if not registered it cannot be received as evidence, under sect. 194; and if registered it is a bar to proceedings in bankruptcy under sect. 199, and is a protection at common law under sect. 198.

It seems to us that this will open the door to great frauds, perpetrated under the protection of an Act of Parliament, and against which the creditors will have no remedy.

A fraudulent assignment to a man of straw will, if registered

(and there is nothing to prevent registration), act practically as an absolute protection against all further inquiry; and glaring exposures, like those which have taken place in recent bankruptcies, will probably in future be avoided by the judicious selection of a friendly trustee, who will make all things smooth and comfortable. As the law stood previously, an assignment could have been upset, because it was an act of bankruptcy; but now, although it may still continue an act of bankruptcy, in a technical sense, it is one which is incapable of proof, or which itself defeats the issue of a fiat.

We have thus pointed out the bearing of the Act on the ordinary mode of settlements by deed, which, in a large majority of cases, are either by deeds of composition or deeds of assignment; and we have shown that the former are excluded from the benefits of the Act though not from the taxation clause, and that the latter are rendered dangerous instruments.

These defects, amongst others, were pointed out during the discussions in Parliament, but the clamour was for "the bill, the whole bill, and nothing but the bill," and although the House of Lords, after a very patient consideration, amended or struck out most of the objectionable clauses, they were nearly all restored subsequently, and now form part of the law of the land.—We are gentlemen, yours respectfully,

PHILIP GILLIBRAND, Chairman.

CHAS. WATSON.

FRANCIS TAYLOR.

WM. BUTTERFIELD.

ROBERT M. SHIPMAN.

Manchester, October 19th, 1861.

TESTIMONIAL TO MR. URQUHART, OF MANCHESTER.

On Friday the 18th instant, a large number of the members of the legal profession assembled at the Queen's Hotel, Manchester, to present a testimonial to Mr. Urquhart, the late deputy-registrar to the Manchester Court of Record, and author of several works upon the practice and costs of the Salford Hundred Court of Record during his deputy-registrarship of that Court; he being about to take up his residence in the metropolis as a partner in a legal metropolitan firm. The testimonial consisted of a silver salver, claret jug, and two goblets, value 100 guineas, subscribed by the bar and attorneys of Manchester and Salford. The claret jug bore Mr. Urquhart's initials, and upon the salver there was the following inscription:—"This salver, with a claret jug and goblets, was presented to John Urquhart, Esq., on his retirement from the office of deputy-registrar of the Manchester Court of Record, by the bar and attorneys of Manchester. 28th September, 1861."

Mr. R. B. B. Cobbett presided, and Mr. Austin, deputy town clerk, occupied the vice chair.

After the usual loyal toasts had been given and duly honoured, Mr. Higgin, barrister, rose to make the presentation. He said he considered it was a compliment to himself to be appointed to make the presentation, and he embraced the opportunity of presenting the testimonial with great personal satisfaction to himself. It was some years since Mr. Urquhart first came amongst them to take the management of the Salford Court of Record. They would all remember the ability which he brought to bear upon the proceedings of that court, and he was quite sure that he spoke the sentiments of both branches of the profession when he said that they were all indebted to Mr. Urquhart for his energetic and persevering conduct in bringing that court into the position which it now occupied. When Mr. Urquhart came to take the management of the Manchester Court of Record, it was not too much to say that he found it in an utter state of confusion, and by his personal exertions he converted that which had been a nuisance into a boon to the community of Manchester. He considered both branches of the profession were much indebted to Mr. Urquhart for his urbanity on all occasions; and expressing a hope that he might succeed in the new position into which he was about to enter, he begged to present to him the testimonial on behalf of both branches of the profession.—Mr. Urquhart, who spoke with emotion of the many friendships he had made in Manchester, returned thanks in suitable terms, and said that in leaving Manchester, it was a source of pleasure to know that the gentleman who succeeded him in the office of deputy-registrar to the Manchester Court of Record (Mr. Mountain) was equal to the position, and would give satisfaction to all.

Other toasts were afterwards proposed and responded to, and an agreeable evening was spent.

Law Students' Journal.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY, 1861-62.

Three courses of lectures will be delivered in the hall of this society during the months of November, December, January, and February next. For particulars respecting the times of meeting and the nature of the lectures we refer our readers to the society's advertisement in our present number. The first lecture will be given by Mr. Thomas Henry Haddan, on Equity, Friday, Nov. 1.

MIDDLE TEMPLE LIBRARY.—The new library of this society will be open for public use next Michaelmas Term. A ceremonial of inauguration to commemorate the event will take place, under the auspices of his Royal Highness the Prince of Wales. It is intended to celebrate the occasion by a banquet to his Royal Highness, to which all the members of the society will be invited. The inauguration will take place on Thursday, the 31st inst. We understand that the Guard of Honour to be furnished by the Inns of Court Corps to receive his Royal Highness on the occasion will be formed of those members of the Middle Temple who should have put down their names for the purpose at the orderly room, Inns of Court Rifle Volunteers, by 12 o'clock on the 25th inst. If sufficient names should not have been sent in the deficiency will be supplied from members of the corps of the other inns. The Guard of Honour are invited by the Masters of the Bench to the *déjeuner* given on the occasion, and are not required to appear otherwise than in uniform. The tickets of admission for members to the banquet will be ready for distribution on Tuesday, the 29th inst. Members intending to be present must signify their intention not later than this day [Saturday], when the list closes.

CRYSTAL PALACE SCHOOL OF ART, SCIENCE, AND LITERATURE.—The establishment of Classes and Lectures, which should in a proper manner utilize, for educational purposes, the vast and unequalled resources of the Crystal Palace, is now no longer a matter of conjecture, but a tested fact. The school was commenced last year, and the result at the close of the first term has been highly satisfactory. The regulations and announcement, for the new term, which commences on the 1st of November next and continues till July 31st, 1862, have just been issued. Classes for water colour painting, figure drawing and modelling have been established. English, French, German, Italian, Latin, history, physical geography, botany, physiology, and chemistry will also be taught; as well also the pianoforte, singing, part-singing, and dancing.

Births, Marriages, and Deaths.

BIRTHS.

COLLIER—On Oct. 23, at Elm-Lodge, Putney, the wife of John F. Collier, Esq., Barrister-at-law, of a daughter.

MANT—On Oct. 12, at 5, Great James-street, Bedford-row, the wife of George F. Mant, Esq., Solicitor, of a son.

SEGAR—On Oct. 19, the wife of Wm. Fras. Segar, Esq., of the Middle Temple, Barrister-at-law, of a son.

MARRIAGES.

CAVE—MARTIN—On Oct. 19, William Henry Cave, Esq., Solicitor, of Newbury, Berks, to Elizabeth Lucy, daughter of the late Alderman Martin, of the same place.

CHAPPELL—ELLIS—On Oct. 22, Thomas P. Chappell, Esq., of George-street, Hanover-square, to Marian Ellis, widow of the late William Ellis, Esq., Barrister-at-law, Middle Temple.

WATTS—WEBB—On Oct. 23, John Onslow Watts, Esq., of Lincoln's-inn, Barrister-at-law, to Caroline Mary, daughter of Major Vere Webb, of Bath.

DEATHS.

BARBER—On Oct. 18, at 37, Half Moon-street, Piccadilly, suddenly, Ann Howard, widow of the late Charles Henry Barber, Esq., Q.C., aged 67.

CARR—On Oct. 18, in the 48th year of his age, George Sweet Carr, Esq., Barrister-at-law.

NORTON—On Oct. 18, at Lowestoft, Edmund Norton, Esq., Solicitor, aged 63.

WILLIAMS—On Oct. 21, at 31, Alfred-place, Bedford-square, aged 71, Frances, widow of Wm. Williams, Esq., Solicitor.

Court Papers.

Chancery Sittings.—MICHAELMAS TERM, 1861.

LORD CHANCELLOR.

At Westminster.

Satur., Nov. 2 { App. mtngs., ptns., and appeals.

At Lincoln's Inn.

Monday, Nov. 4 }
Tuesday 5 } Appeals.
Wednesday .. 6 }

Thursday .. 7.. App. mtngs. & apps.

Friday 8..

Saturday 9..

Monday 11.. Appeals.

Tuesday 12..

Wednesday .. 13..

Thursday .. 14.. App. mtngs. & apps.

Friday 15..

Saturday 16.. Appeals.

Monday 18..

Tuesday 19..

Wednesday .. 20..

Thursday .. 21.. App. mtngs. & apps.

Friday 22.. Appeals.

Saturday .. 23.. Ptns. & appeals.

Monday 25.. App. mtngs. & apps.

MASTER OF THE ROLLS.

At Westminster.

Satur., Nov. 2.. Motions.

At Chancery-lane.

Monday, Nov. 4 }
Tuesday 5 } General paper.
Wednesday .. 6 }

Thursday .. 7.. Motions.

Friday 8.. General paper.

Saturday .. 9 { Ptns., sht. caus., adj. sums., and general paper.

Monday 11..

Tuesday 12.. General paper.

Wednesday .. 13..

Thursday .. 14.. Motions.

Friday 15.. General paper.

Saturday .. 16 { Ptns., sht. caus., adj. sums., and general paper.

Monday 18..

Tuesday 19.. General paper.

Wednesday .. 20..

Thursday .. 21.. Motions.

Friday 22.. General paper.

Saturday .. 23 { Ptns., sht. caus., adj. sums., and general paper.

Monday 25.. Motions.

N.B.—Unopposed petitions must be presented and copies left with the Secretary, on or before the Thursday preceding the Saturday on which it is intended they should be heard; and any causes intended to be heard as short causes must be so marked at least one clear day before the same can be put in the paper to be so heard.

LORDS JUSTICES.

At Westminster.

Satur., Nov. 2.. Appeal motions.

At Lincoln's Inn.

Monday, Nov. 4 }
Tuesday 5 } Appeals.
Wednesday .. 6 }

Thursday .. 7.. App. mtngs. & apps.

Friday 8.. Ptns. in lunacy & bankruptcy, appeal petitions, & apps.

Saturday .. 9.. Appeals.

Monday 11..

Tuesday 12.. App. from the City.

Wednesday .. 13.. Ptn. of Lancaster & appeals.

Thursday .. 14.. App. mtngs. & apps.

Friday 15.. Ptns. in lunacy & bankruptcy, appeal petitions, & apps.

Saturday .. 16.. Appeals.

Monday 18..

Tuesday 19.. Appeals.

Wednesday .. 20..

Thursday .. 21.. App. mtngs. & apps.

Friday 22.. Ptns. in lunacy & bankruptcy, appeal petitions, & apps.

Saturday .. 23.. Appeals.

Monday 25.. App. mtngs. & apps.

NOTICE.—The days (if any) on which the Lords Justices shall be engaged in the Full Court, or at the Judicial Committee of the Privy Council, are excepted.

V. C. Sir R. T. KINDERSLEY.

At Westminster.

Satur., Nov. 2.. Motions.

At Lincoln's Inn.

Monday, Nov. 4 }
Tuesday 5 } General paper.
Wednesday .. 6 }

Thursday .. 7.. Mtns. & gen. pap.

Friday 8.. Petitions.

Saturday .. 9 { Sht. causes, adj. sums., & gen. pap.

Monday 11..

Tuesday 12.. General paper.

Wednesday .. 13..

Thursday .. 14.. Mtns. & gen. pap.

Friday 16.. Petitions.

Saturday .. 16 { Sht. causes, adj. sums., & gen. pap.

Monday 18..

Tuesday 19.. General paper.

Wednesday .. 20..

Thursday .. 21.. Mtns. & gen. pap.

Friday 22.. Petitions.

Saturday .. 23 { Sht. causes, adj. sums., & gen. pap.

Monday 25.. Mtns. & gen. pap.

N.B.—Any causes intended to be heard as short causes must be so marked, at least one clear day before the same can be put in the paper to be so heard.

V. C. Sir JOHN STUART.

At Westminster.

Satur., Nov. 2.. Motions.

At Lincoln's Inn.

Monday, Nov. 4 }
Tuesday 5 } General paper.
Wednesday .. 6 }

Thursday .. 7.. Mtns. & gen. pap.

Friday 8.. Ptns. & gen. pap.

Saturday .. 9 { Short causes and general paper.

Monday 11..

Tuesday 12.. General paper.

Wednesday .. 13..

Thursday .. 14.. Mtns. & gen. pap.

Friday 15.. Ptns. & gen. pap.

Saturday .. 16 { Short causes and general paper.

Monday 18..

Tuesday 19.. General paper.

Wednesday .. 20..

Thursday .. 21.. Mtns. & gen. pap.

Friday 22.. Ptns. & gen. pap.

Saturday .. 23 { Short causes and general paper.

Monday 25.. Motions.

N.B.—Any causes intended to be heard as short causes must be so marked, at least one clear day before the same can be put in the paper to be so heard.

V. C. Sir W. P. WOOD.

At Westminster.

Satur., Nov. 2.. Motions.

At Lincoln's Inn.

Monday, Nov. 4 }
Tuesday 5 } General paper.
Wednesday .. 6 }

Thursday .. 7.. Mtns. & gen. pap.

Friday 8.. General paper.

Saturday .. 9 { Ptns., sht. causes, & general paper.

Monday 11..

Tuesday 12.. General paper.

Wednesday .. 13..

Thursday .. 14.. Mtns. & gen. pap.

Friday 15.. General paper.

Saturday .. 16 { Ptns., sht. causes, & general paper.

Monday 18..

Tuesday 19.. General paper.

Wednesday .. 20..

Thursday .. 21.. Mtns. & gen. pap.

Friday 22.. General paper.

Saturday .. 23 { Ptns., sht. causes, & general paper.

Monday 25.. Motions.

N.B.—Any causes intended to be heard as short causes must be so marked, at least one clear day before the same can be put in the paper to be so heard.

Queen's Bench.

Sittings at Nisi Prius, in Middlesex and London, before the Right Honourable Sir ALEXANDER EDMUND COCKBURN, Bart., Lord Chief Justice of Her Majesty's Court of Queen's Bench, in and after Michaelmas Term, 1861.

IN TERM.

Middlesex.	London.
1st Sitting....Monday....Nov. 4	1st Sitting....Tuesday....Nov. 12
2nd Sitting....Thursday....Nov. 14	2nd Sitting....Monday....Nov. 18
3rd Sitting....Wednesday....Nov. 20	

For undefended causes only.

AFTER TERM.

Middlesex.	London.
Tuesday.....Nov. 26	Monday.....Dec. 9

The Court will sit at ten o'clock every day.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Common Pleas.

Sittings at Nisi Prius, in Middlesex and London, before the Right Honourable Sir WILLIAM EBLE, Knt., Lord Chief Justice of her Majesty's Court of Common Pleas at Westminster, in and after Michaelmas Term, 1861.

IN TERM.

Middlesex.	London.
Tuesday.....Nov. 5	Tuesday.....Nov. 12
Thursday.....Nov. 14	Monday.....Nov. 18

AFTER TERM.

Middlesex.	London.
Tuesday.....Nov. 26	Monday.....Dec. 9

The Court will sit during and after term at ten o'clock.

The causes in the list for each of the above sitting days in term, if not disposed of on those days, will be tried by adjournment on the days following each of such sitting days.

Exchequer of Pleas.

Sittings at Nisi Prius, in Middlesex and London, before the Right Honourable Sir FREDERICK POLLOCK, Knt., Lord Chief Baron of her Majesty's Court of Exchequer, in and after Michaelmas Term, 1861.

IN TERM.

Middlesex.	London.
1st Sitting....Monday....Nov. 4	1st Sitting....Tuesday....Nov. 12
2nd Sitting....Thursday....Nov. 14	2nd Sitting....Monday....Nov. 18
3rd Sitting....Wednesday....Nov. 20	

AFTER TERM.

Middlesex.	London.
Tuesday.....Nov. 6	Monday.....Dec. 9

The Court will sit in and after term at ten o'clock.

The Court will sit in Middlesex at Nisi Prius, in term, by adjournment from day to day, until the causes entered for the respective Middlesex sittings are disposed of.

SITTINGS IN BANCO.—MICHAELMAS TERM, 1861.

Saturday, Nov. 3	Motions and peremptory paper.
Monday, Nov. 4	Errors, peremptory paper, and mins.
Saturday, Nov. 9	Criminal apps. Lord Mayor sworn.
Monday, Nov. 11	Special paper.
Tuesday, Nov. 13	Sheriffs nominated.
Wednesday, Nov. 13	
Monday, Nov. 18	Special paper.
Wednesday, Nov. 20	

London Gazettes.

Professional Partnerships Dissolved.

TUESDAY, Oct. 22, 1861.

WRIGHT, N. C. & ALFRED FEREADAY, Attorneys and Solicitors, 10, Bloomsbury-square, Middlesex (Wright & Fereaday). Oct. 1. By mutual consent.

FRIDAY, Oct. 25, 1861.

DEAN, JAMES WILLIAM, & THOMAS DEAN, 23, Bloomsbury-square, Middlesex, Attorneys, Solicitors, and Conveyancers (Dean & Sons). Aug. 31. By mutual consent.

Windings-up of Joint Stock Companies.

TUESDAY, Oct. 22, 1861.

UNLIMITED IN CHANCERY.

BRITISH EXCHEQUER LIFE ASSURANCE COMPANY (REGISTERED). Vice-Chancellor Wood, on Monday, Nov. 11 at 2, will proceed to settle the list of contributories of this Company. Creditors to meet on Monday, Nov. 11 at 1.30 for the purpose of appointing creditors' representatives.

FRIDAY, Oct. 25, 1861.

UNLIMITED IN CHANCERY.

ENGLISH AND IRISH CHURCH AND UNIVERSITY ASSURANCE SOCIETY.—Petition for winding-up presented Sept. 10, will be heard before V. C. Wood, on Nov. 9. Sols. Gibbs & Tucker, 17, Clement's-lane, London.

LIMITED IN BANKRUPTCY.

DISTRICT SAVINGS BANK (LIMITED).—On Oct. 10, Herbert Harris Carman, 36, Basinghall-street, London, was appointed official liquidator.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Oct. 22, 1861.

BADGER, ISAAC, Dudley, Worcester, Esq. Nov. 21. Executor, T. Badger, The Hill, Dudley.
DABBS, JAMES, Kingston Cottage, Kingston, Southampton, Gent. Nov. 20. Sol. C. H. Binastend, Portsmouth.
DENT, THOMAS WILKINSON, 14, Leinster-terrace, Hyde-park, Middlesex, Captain in her Majesty's Forces, India. Dec. 21. Booty & Butt, 1, Raymond buildings, Gray's-inn, London.
GRIFFITH, RICHARD, 22, Bedford-street, North, Liverpool; and Senior Partner in the Firm of Griffith, Sons, & Palethorp, Liverpool, Brokers. Dec. 25. Sol. J. L. Bromfield, 23, Newgate street, Chester.
HART, JOHN GEORGE, Stowmarket, Suffolk, Gent. Dec. 17. Sols. Jocelyn & Son, Ipswich.
HASELDINE, WILLIAM, 10, Bell-yard, Gracechurch-street, London, Oilman. Dec. 2. Sol. T. Price, 24, Abchurch-lane, London.
OAKES, ANN, Bridgnorth, Salop, Spinster. Dec. 1. Sols. Potts, Gordon, & Nicholls, Bridgnorth, and J. Broughall, Shrewsbury.

FRIDAY, Oct. 25, 1861.

BRACHER, WILLIAM, Wincanton, Somerset, Cheese Dealer and Farmer. Dec. 23. Sol. E. Y. Cooper, Wincanton.
BRYDEN, WILLIAM ALEXANDER, Mayfield, Sussex, Doctor of Medicine and Surgeon. Dec. 31. Sol. W. Sprott, Mayfield.
BULGER, MARY ANNE, Granby-hill, Clifton, Bristol, Spinster. Dec. 1. Sol. F. Schultz, 4, Dyer's-buildings, Holborn, E.C.
CORFIELD, WILLIAM, Little Stretton, Salop, Farmer. Nov. 16. Sol. S. H. Kough, Shrewsbury.
GROVE, SOPHIA CATHERINE, Duke-street, Portland-place, Middlesex, Spinster. Dec. 21. Sols. Boys and Tweedie, 6, Ely-place, Holborn, Middlesex.
HUDSON, WILLIAM HECTOR, Lightcliffe, Halifax, Solicitor. Jan. 6. Sol. Rawson, George, & Wade, Kirkgate, Bradford.
JOHNSON, JOHN, Aspull, Lancashire, Coal Minor and Coal Merchant. Jan. 14. Sol. R. Leigh, Wigan.
JOHNSTON, ANDREW, Carlisle. Nov. 5. Sol. J. C. Wannop, Carlisle.
LEAKE, FREDERICK, 22, Golden-square, Westminster, and also of 3, Alexander-square, Brompton, Middlesex, Architect and Builder. Dec. 16. Sols. Taylor & Hoare, 28, Great James street, Bedford-row.
MARTIN, JOHN HOLMAN, Enfield Lock, Middlesex, Beer Retailer. Dec. 28. Sols. Jessopp and Siddall, Waltham Abbey, Essex.
MENDES, WILLIAM FISHER, Island of Barbadoes, Deputy Commissary General to her Majesty's Forces. Jan. 1. Sols. Boys & Tweedie, 6 Ely-place, Holborn.
MILNER, ELIZABETH, Wade-lane, Leeds, Widow. Dec. 6. Sols. Butler & J. E. Smith, 4, Park-row, Leeds.
MOORHOUSE, EDWIN, Ashton-under-Lyne, Lancashire, Reed Manufacturer. Dec. 26. Sols. J. H. Dearden, 34, Cooper-street, Manchester.
OLDFIELD, ANN, Horton, Bradford, Widow. Dec. 16. Sols. Rawson, George, & Wade, Kirkgate, Bradford.
READ, THOMAS, 9, Portland-place, Leamington Priors, Warwickshire, formerly of Bedford-street, Leamington Priors. Dec. 18. Sols. James & Curtis, 23, Ely-place, London.
SILLA, CATHERINE, Fishery, Maidenhead, Berks, Widow. Nov. 30. Sols. C. & J. Allen & Son, 17, Carlisle-street, Soho-square.
WADDINGTON, JOSEPH, Grosvenor House, Upper Marine-terrace, and 14, Cecil-square, Margate, Kent, Surgeon. Jan. 20. Sols. Brooke, Mertens, & Hughes, Margate, Kent.
WARD, JAMES, Ollerton, Nottingham, Farmer. Dec. 9. Sols. Woodcock, Mansfield, Notts.

Deeds registered pursuant to Bankruptcy Act, 1861.

TUESDAY, Oct. 22, 1861.

JOHN DICKINSON, Alnwick, Northumberland, Tailor and Innkeeper. Oct. 14. Composition. Reg. Oct. 18.

FRIDAY, Oct. 25, 1861.

BAILEY, HENRY JOHN, Coventry, Professor of Music. Oct. 21. Assignment. Reg. Oct. 25.
GRIEVES, JAMES, 17, Gracechurch-street, London, Merchant. Oct. 12. Composition. Reg. Oct. 22.
PAXMAN, WILLIAM, THOMAS WOODGATE, and ANTHONY BENNETT ROBINSON, Dyers and Finishers, Althorp House, Church-street, Battersea, Surrey, and 10, Staining-lane, London (Paxman, Woodgate, and Company). Oct. 14. Assignment. Reg. Oct. 23.
VACCHAN, WILLIAM DAVID, Liverpool, Soap Boiler. Oct. 21. Assignment. Reg. Oct. 24.
WEST, WILLIAM, Weston-super-Mare, Somersetshire, Plumber and Glazier. Oct. 16. Assignment. Reg. Oct. 22.

Assignments for Benefit of Creditors.

TUESDAY, Oct. 22, 1861.

DURANT, JOHN POPE, of Ventnor, Isle of Wight, Watchmaker. Sept. 26. Sol. J. W. Matthews, Plymouth.
HUNT, JAMES, Sheffield, Plumber and Glazier. Sept. 24. Sol. B. Wake, Sheffield.
LAWRENCE, WILLIAM, Much Hadham, Herts, Builder. Oct. 15. Sol. J. M. Richardson, Much Hadham, Herts.
WELSFORD, ARTHUR, Upper Paul-street, Exeter, Printer. Oct. 1. Sol. W. J. Sparkes, Crediton, Devon.
WILSON, CHARLES ROBINSON, 1, Skinner-street, Snow-hill, London, Boot and Shoe Manufacturer. Sept. 26. Sol. W. J. Scott, 4, Skinner-street, Snow-hill, London.

FRIDAY, Oct. 25, 1861.

HASLER, JOHN, Paul's-wharf, Thames-street, London, Lighterman. Oct. 4. Sol. J. Hooker, Jun., 30, Bartlett's-buildings, London.
SWINOCK, ARGENTUS, 99, Adde-street, London, Shirt-front and Stock Manufacturer. Oct. 1. Sols. Wild & Barber, 104, Ironmonger-lane, London.
WEBB, JAMES, Stockport, Cheshire, Draper. Oct. 2. Sol. W. Smith, Stockport.

Bankrupts.

TUESDAY, OCT. 23, 1861.

ATKINS, JAMES, 29, Archer-street, Kensington-park, Notting-hill, Middlesex, Butcher. Pet. Oct. 15. Registrar, Winslow: first meeting, Nov. 1 at 3; Basinghall-street. Off. Ass. Pennell. Sol. T. Wells, 47, Moorgate-street, London.

AUSTIN, RICHARD BARNES, Berrington-house, Tenbury, Worcestershire, Gent. Pet. Oct. 18. Registrar, Wilson: first meeting, Nov. 1 at 11; Birmingham. Off. Ass. Kinnear. Sols. Hodgson & Allen, 13, Waterloo-street, Birmingham, or T. Palm, Banbury.

BALDWIN, GEORGE, Chesterton, Cambridgeshire, Farmer. Pet. Oct. 17. Registrar, Winslow: first meeting, Nov. 2 at 12; Basinghall-street. Off. Ass. Pennell. Sols. W. B. Farrant, Bond-court, Walbrook, London, or Whitehead & French, Cambridge.

BARWICK, EDWARD, 9, Union-court, Old Broad-street, London, Lithographer and General Printer. Pet. Oct. 18 (in form pauperis). Registrar, Abrahall: first meeting, Nov. 1 at 12; Basinghall-street. Off. Ass. Bell.

BOOTH, WILLIAM, late of Fordham, Cambridgeshire, but now of Worthington, Suffolk, Farmer. Registrar, Miller: first meeting, Nov. 4, at 1; Basinghall-street. Off. Ass. Edwards. Sol. C. Richardson, 15, Old Jewry-chambers, London.

CARROLL, CLEMENTINA, 34, The College, Bromley, Kent, Widow. Pet. Oct. 18. Registrar, Winslow: first meeting, Nov. 4 at 12; Basinghall-street. Off. Ass. Pennell. Sol. G. T. Davies, 43, Mincing-lane, London.

CRIBB, WILLIAM, a Prisoner in the Queen's Prison, and lately carrying on business at 41, Moorgate-street, London. Pet. Oct. 15 (in form pauperis). Registrar, Abrahall: first meeting, Nov. 2 at 12; Basinghall-street. Off. Ass. Johnson.

DICKY, EDWARD JAMES STEPHEN, late of Boulogne-sur-Mer, France, previously thereto of 19, Golden-square, Middlesex, and now of 373, Strand, formerly a Director of a Joint Stock Company. Pet. Oct. 22. Registrar, Hazlitt: first meeting, Nov. 5 at 11; Basinghall-street. Off. Ass. Graham. Sols. Lawrance, Plews, & Boyer, 14, Old Jewry chambers, London.

DUMMLES, ALBERT, 2, Grove Hill-terrace, the Grove, Camberwell, Surrey. Pet. Oct. 18. Registrar, Winslow: first meeting, Nov. 4 at 2; Basinghall-street. Off. Ass. Pennell. Sols. Linklaters & Hackwood, 7, Walbrook, London.

EVANS, JOSEPH, 15, Ridgway-place, Wimbledon, Surrey, and Myrtle Villa, Bedford-road, Clapham, Surrey, Builder. Pet. Oct. 12. Registrar, Winslow: first meeting, Nov. 2 at 1; Basinghall-street. Off. Ass. Pennell. Sol. S. A. Kirch, 8, Lancaster-place, Strand, London.

GOODHEIM, SAMUEL, Manchester, Cloth Cap Manufacturer. Pet. Oct. 17. Registrar, Simons: first meeting, Nov. 6 at 12; Manchester. Off. Ass. Hernaman. Sols. Slater & Myers, Fountain-street, Manchester.

HALL, SAMUEL WILLIAM, Grove, East Dulwich, Surrey, Gent. Pet. Oct. 21. Registrar, Hazlitt: first meeting, Nov. 4 at 3; Basinghall-street. Off. Ass. Graham. Sols. Surr & Gribble, 12, Abchurch-lane, London.

HAWTHORN, JOHN, Burdlem, Stafford, Builder. Pet. Oct. 19. Registrar, Wilson: first meeting, Nov. 2, at 11; Birmingham. Off. Ass. Whitmore. Sol. J. Smith, Waterloo-street, Birmingham.

HENDRY, WILLIAM THOMAS, 71, Cannon-street, West, London, Ironmonger, and Commission Agent. Pet. Oct. 15. Registrar, Winslow: first meeting, Nov. 1, at 2; Basinghall-street. Off. Ass. Pennell. Sol. B. Rodman, 18, Cannon-street, London.

HOWELL, JOHN WILSON, Tottenham, Middlesex, Builder. Pet. Oct. 15. Registrar, Winslow: first meeting, Nov. 1, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Shaen & Roscoe, 8, Bedford-row, London.

IVER, JOHN, Water Eaton, Bletchley, Bucks, Farmer and Cattle Dealer. Pet. Oct. 19. Registrar, Higgins: first meeting, Nov. 2, at 2; Basinghall-street. Off. Ass. Cannan. Sols. Messrs. Field, 40, Ely-place, Holborn.

JENES, LUCISA, Lewisham-hill, Kent, Widow. Pet. Oct. 18. Registrar, Abrahall: first meeting, Nov. 1; Basinghall-street. Off. Ass. Bell. Sol. Wells, Moorgate-street.

KNIGHT, WILLIAM, 10, Baker-street, Walworth-road, Camberwell, and late of 7, Bishopgate-buildings, Bishopgate-street, London, Hair Dresser. Pet. Oct. 18 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 2, at 2; Basinghall-street. Off. Ass. Stansfeld.

LEA, JOHN, formerly of Sewardstone, and now of 4, Essex-street, Forest Gate, Essex. Pet. Oct. 15. Registrar, Winslow: first meeting, Nov. 2 at 1; Basinghall-street. Off. Ass. Pennell. Sols. Linklater & Hackwood, 7, Walbrook, London.

LEIGH, HENRY JONES, 78, Leather-lane, Holborn, Middlesex, Draper. Pet. Oct. 18. Registrar, Miller: first meeting, Nov. 4 at 3; Basinghall-street. Off. Ass. Edwards. Sols. Solc, Turner, & Turner, 68, Aldermanbury, London.

MATTHEWS, MILLS, Navigation-street, Birmingham, Licensed Victualler. Pet. Oct. 14. Registrar, Wilson: first meeting, Nov. 2, at 11; Birmingham. Off. Ass. Whitmore. Sols. East & Parry, Ann-street, Birmingham.

MILLER, JOHN, 56½, Golden-lane, Barbican, Middlesex, Baker. Pet. Oct. 21. Registrar, Abrahall: first meeting, Nov. 4 at 1; Basinghall-street. Off. Ass. Bell. Sol. Harcourt, 2, Kings Arms-yard, Coleman-street.

MORECRAFT, EDWIN, 31, Burlington-arcade, Piccadilly, Middlesex, Picture Dealer. Pet. Oct. 18. Registrar, Winslow: first meeting, Nov. 4 at 2; Basinghall-street. Off. Ass. Pennell. Sol. W. Philp, 26, Bucklersbury, London.

OSBORN, WILLIAM HENRY, late of 40, Broad-street-buildings, London, Accountant and Commission Agent. Pet. Oct. 18. Registrar, Higgins: first meeting, Nov. 2 at 12; Basinghall-street. Off. Ass. Cannan.

PAUL, JOSEPH, Sexley Farm, Upper Clatford, Hants, Farmer. Pet. Oct. 17. Registrar, Miller: first meeting, Nov. 2 at 12; Star Hotel, Andover. Off. Ass. Edwards. Sols. Paterson & Sons, 7, Bouverie-street, London; or W. H. Mackey, Southampton.

PELL, JONATHAN, Cefn-Gwyn, near Aberystwith, Llanbarlarnfawn, Cardigan, Mining Agent. Pet. Oct. 18. Nov. 1 at 11; Bristol. Off. Ass. Acraman. Sol. P. Vaughan, Lampeter, Cardigan; or Clark, Fussell, & Pritchard, Clare-street, Bristol.

SMITH, JOSEPH, 33, Lombard-street, London, Tailor and Draper. Pet. Oct. 17. Registrar, Higgins: first meeting, Nov. 8 at 11; Basinghall-street. Off. Ass. Cannan. Sols. Brown & Godwin, 21, Finsbury-place.

SMITHIES, CHARLES, 4, Warwick-place, Leeds, Commercial Agent. Pet. Oct. 19. Registrar, Wilde: first meeting, Nov. 5 at 11; Leeds. Off. Ass. Hope. Sol. B. C. Pullan, Leeds.

SOFTLEY, JOHN TEASDALE, 2 Camden-row, Camden-town, Middlesex, afterwards of 1, Somerset-terrace, South-fields, Wandsworth, and now of High-street, Wandsworth, Surrey, Plumber, Glazier and Becceller. Pet. Oct. 17. Registrar, Miller: first meeting, Nov. 1 at 11; Basinghall-street. Off. Ass. Edwards. Sol. R. H. Munday, 43, Barton-crescent, London.

SOWERBY, JOSEPH, & CHARLES THOMAS TATTON, 273, Regent-circus, Oxford-street, Middlesex, Drapers (Sowerby, Tatton, & Co.). Pet. Oct. 17. Registrar, Miller: first meeting, Nov. 2 at 11; Basinghall-street. Off. Ass. Edwards. Sols. Ashurst, Son, & Morris, 6, Old Jewry, London.

STEVENS, JOHN, 1, Castle-terrace, New Hampstead-road, Kentish Town, and 3, Lonsdale-road, Bayswater, Middlesex, Builder and Contractor. Pet. Oct. 19 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 2 at 3; Basinghall-street. Off. Ass. Stansfeld.

STONEHOUSE, RICHARD CARA, Darlington, Darham, Corn Factor and Agent, and Corn Miller. Pet. Oct. 17. Registrar, Gibson: first meeting, Nov. 1 at 11:30; Newcastle-upon-Tyne. Off. Ass. Baker. Sol. H. Stony, Newcastle-upon-Tyne.

SUMPTON, JOSEPH, Uxbridge-road, Ealing, Middlesex, Corn Chandler and Seedsman. Pet. Oct. 17. Registrar, Winslow: first meeting, Nov. 1 at 11; Basinghall-street. Off. Ass. Pennell. Sol. C. J. Mander, 9, Lincoln's-inn, London.

TOMLINSON, JOHN, and JOHN SHARPLES, Granby-row, Manchester, Joiners and Builders (Tomlinson & Sharples). Pet. Oct. 12. Registrar, Simons: Nov. 6, at 12; Manchester. Off. Ass. Fraser. Sol. E. Storer, Fountain-street, Manchester.

URIE, ROBERT, Manchester, Joiner and Packing Case Maker. Pet. Sept. 20. Com. Jemmett: Nov. 7 and 28 at 12; Manchester. Off. Ass. Hernaman. Sol. W. L. Welsh, Manchester.

WATSON, RICHARD, Belle Vue Tavern, Windmill-hill, Gravesend, Licensed Victualler. Pet. Oct. 21. Registrar, Abrahall: first meeting, Nov. 4 at 11; Basinghall-street. Off. Ass. Bell. Sols. Harrison & Lewis, Old Jewry, London.

WILMHURST, GEORGE, Birmingham, Surgeon and Apothecary. Pet. Oct. 18. Registrar, Wilson: first meeting, Nov. 1, at 11; Birmingham. Off. Ass. Whitmore. Sols. East and Parry, 45, Ann-street, Birmingham.

WILLIAMS, JOHN, formerly of Swansea, Glamorgan, Printer, Bookseller, and Stationer, late of Paris, France, and now of 21, King-street, Bloomsbury, Middlesex. Pet. Oct. 18. Registrar, Higgins: first meeting, Nov. 1, at 12; Basinghall-street. Off. Ass. Cannan. Sol. T. Keene, 71, Lower Thames-street.

WILSON, JOHN, 19, Edgeware-road, Middlesex, Refreshment and Coffee-house keeper. Pet. Oct. 18. Registrar, Miller: first meeting, Nov. 1, at 1; Basinghall-street. Off. Ass. Edwards. Sol. J. T. Treherne, 17, Gresham-street, London.

WOOD, GEORGE, Monkwearmouth, Sunderland, and East Boldon, Timber Merchant. Pet. Oct. 18. Registrar, Gibson: first meeting, Nov. 5, at 12:30; Newcastle-upon-Tyne. Off. Ass. Baker. Sol. Ralph Somers, Sunderland.

FRIDAY, OCT. 25, 1861.

BARNES, JOSEPH WALTON, Ouseburn, Newcastle-upon-Tyne, Fire Brick Manufacturer. Pet. Oct. 22. Registrar, Gibson: first meeting, Nov. 5 at 11; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. T. W. Stewart, Newcastle-upon-Tyne; Sham & Crossman, 3, Kings-road, Bedford-row, London, W.C.

BENNETT, THOMAS, formerly of 22, Ann-street, Birmingham, and 1 Victoria street, Holborn, Middlesex, and now of 14, Albert-street, Surrey Gardens, Surrey, and 11, Poultry London, Sewing Machinist. Pet. Oct. 22. Registrar, Miller: first meeting, Nov. 6 at 10; Basinghall-street. Off. Ass. Edwards.

BICKNELL, JOSEPH, 49, Moorgate-street, and 147, Fenchurch-street, London, Merchant. Pet. Oct. 22 (in form pauperis). Registrar, Higgins: first meeting, Nov. 6 at 10; Basinghall-street. Off. Ass. Cannan.

BIRD, ROBERT, Marsh-street, Ashford, Kent, Plumber, Painter, and Glazier. Pet. Oct. 23. Registrar, Abrahall: first meeting, Nov. 6 at 12; Basinghall-street. Off. Ass. Johnson. Sols. Nichols & Clark, Cook's-court, Lincoln's-inn.

BOLT, GEORGE, 1, Clarendon-street, Paddington, Middlesex, Tailor. Pet. Oct. 16. Registrar, Hazlitt: first meeting, Nov. 5 at 2; Basinghall-street. Off. Ass. Graham. Sol. W. C. Hall, 49A, Lincoln's-inn-fields, London.

BOWEN, SAMUEL, West Bromwich, Staffordshire, Glass Dealer. Pet. Oct. 12. First meeting, Nov. 11 at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, and E. Sargant, Birmingham.

BRAHAM, HENRY JAMES, 17, Thavies-inn, Holborn, Middlesex, and 4 Chatham, Commission Agent. Pet. Oct. 22 (in form pauperis). Registrar, Winslow: first meeting, Nov. 7 at 12; Basinghall-street. Off. Ass. Pennell.

BROWN, THOMAS, Ekestone, Derbyshire, Contractor and Higglie. Pet. Oct. 23. Registrar, Ingle: Nov. 6 at 11; County Court, Belper, Derbyshire. Off. Ass. Ingle. Sol. J. Shaw, Derby.

BURROWS, WILLIAM, jun., Westow-street, Upper Norwood, Surrey, Furniture Dealer and Mattress Maker. Pet. Oct. 24. Registrar, Abrahall: first meeting, Nov. 7 at 3; Basinghall-street. Off. Ass. Bell. Sol. Marshall, Hatton-garden.

CLARK, JOHN, 41, Princess-street, Stamford-street, Lambeth, Surrey, Carman and Contractor. Pet. Oct. 14. Registrar, Hazlitt: first meeting, Nov. 11 at 11; Basinghall-street. Off. Ass. Graham. Sol. F. Norton, 10, Clifford's inn, London.

CLARK, WILLIAM OBADIAH, 1, Gate-street, Upper North-street, Poplar, Middlesex, Baker and Corn Dealer. Pet. Oct. 24. Registrar, Miller: Nov. 7 at 1; Basinghall-street. Off. Ass. Edwards. Sol. J. T. Eames, 10, Lombard-street, London.

CLARKE, WILLIAM HENRY, 3, Vernon-place, Bloomsbury-square, Middlesex, Engineer and Contractor for Army Field Kitchen Cooking Apparatus and Appurtenances, and Accountant. Pet. Oct. 21. Registrar, Miller: first meeting, Nov. 5 at 11; Basinghall-street. Off. Ass. Edwards.

CLARKE, JOHN, Norfolk-square, Glossop, Derbyshire, Tailor and Draper. Pet. Oct. 17. Registrar, Wilde: first meeting, Nov. 8 at 12; Manchester. Off. Ass. Pott. Sol. E. Storer, Fountain-street, Manchester.

CHAUNCEY, REGINALD, 24, Sussex-street, Pimlico, Middlesex, a Retired Officer of the Honourable East India Company's Service. Pet. Oct. 21 (in form pauperis). Registrar, Higgins: first meeting, Nov. 4 at 1; Basinghall-street. Off. Ass. Cannan.

CRAB, JOHN ACQUATUS, Trevor-terrace, Knightsbridge, Portman-place, London, and Tonbridge, Kent, Watchmaker, Perfumer, Stationer, and

- Dealer in Fancy Goods. Pet. Oct. 22. Registrar, Miller: first meeting, Nov. 5 at 12; Basinghall-street. Off. Ass. Edwards.
- CURTEIS, EDWARD, Bloxworth, Dorsetshire, Coal and Coke Merchant. Pet. Oct. 22. Registrar, Carew: first meeting, Nov. 5 at 1; Exeter. Off. Ass. Hirtzel. Sols. J. H. Terrell, Exeter, or G. Symonds, Dorchester.
- DAUBENT, ROBERT CLAYTON, 10, Upper Fitzroy-street, Fitzroy-square, Middlesex, late an Officer in the Mercantile Marine Service. Pet. Oct. 23. Registrar, Higgins: first meeting, Nov. 6 at 12; Basinghall-street. Off. Ass. Cannan. Sol. W. J. Hutchinson, 6, Vernon-street, Pentonville.
- DONE, EDWIN, Callender-street, Manchester, Heasian Dealer. Pet. Oct. 23. Registrar, Wilde: first meeting, Nov. 6 at 12; Manchester. Off. Ass. Pott. Sols. Atkinson & Hertford, Manchester.
- DEFAUR, ANTONINE, a Pauper, formerly an Attorney and Solicitor at 3, Bedford-row, Holborn, Middlesex. Pet. Oct. 23. Registrar, Abraham: first meeting, Nov. 7 at 2; Basinghall-street. Off. Ass. Johnson.
- EDWARDS, JOHN, 33, Upper North-place, Gray's-inn-road, Middlesex, Tailor. Pet. Oct. 23. Registrar, Winslow: first meeting, Nov. 5 at 10; Basinghall-street. Off. Ass. Pennell. Sol. J. Rae, 9, Minding-lane, London.
- FARRAR, CHARLES, 17, Moor-terrace, Park-road, Old Kent-road, Surrey, Manufacturing Chemist. Pet. Oct. 21. Registrar, Miller: first meeting, Nov. 4 at 2; Basinghall-street. Off. Ass. Edwards.
- FOSTER, CHARLES THOMAS, Northumberland Arms Public-house, Fashion-street, Spitalfields, Middlesex, Licensed Victualler. Pet. Oct. 24. Registrar, Abraham: first meeting, Nov. 7, at 1; Basinghall-street. Off. Ass. Bell.
- FRANKS, THOMAS, 9, Oak-village, Kentish-town, Middlesex, Baker. Pet. Oct. 18 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 5 at 1; Basinghall-street. Off. Ass. Graham.
- FOSTER, HENRY, 26, Albion-place, Hanley, Burslem, and Tunstall, Stoke-upon-Trent, Staffordshire, Insurance Agent. Pet. Oct. 18. Registrar, Challinor: Nov. 6 at 10; County Court, Lamb-street, Hanley. Off. Ass. Challinor. Sol. R. W. Litchfield, Newcastle-under-Lyme.
- GILLER, JAMES, 23, Little Marylebone-street, Marylebone, Middlesex, Painter. Pet. Oct. 31. Registrar, Hazlitt: first meeting, Nov. 6 at 1; Basinghall-street. Off. Ass. Stansfeld. Sol. J. Wyatt, 11, King's-road, Bedford-row, London.
- GILES, JOHN, Ringleston, near Hollingbourne, Kent, Licensed Victualler and Farmer. Pet. Oct. 23. Registrar, Miller: first meeting, Nov. 6 at 2; Basinghall-street. Off. Ass. Edwards. Sols. Langford & Marsden, 39, Friday-street, Cheapside, London.
- GODFREY, GEORGE, 24, Brompton-terrace, Brompton, Middlesex, Grocer and Tea Dealer. Pet. Oct. 23. Registrar, Winslow: first meeting, Nov. 7 at 11; Basinghall-street. Off. Ass. Pennell. Sol. H. E. Voles, 16, Gresham-street, London.
- GRAGG, ROBERT ARTHUR SABSFIELD, Woodburn House, Woodburn-park, Bucks, Schoolmaster. Pet. Oct. 23. Registrar, Miller: first meeting, Nov. 6 at 11; Basinghall-street. Off. Ass. Edwards. Sol. S. Smith, jun., 6, Barnard's-inn, London.
- GREEN, SAMUEL, 7, Wilton-terrace, Park-road, Dalston, Middlesex, late a Clerk in the Inland Revenue Office. Pet. Oct. 19. Registrar, Miller: first meeting, Nov. 5 at 11; Basinghall-street. Off. Ass. Edwards. Sol. J. Leete, 35, Lincoln's-inn-fields, London.
- HALL, GEORGE, 16, Barker-street, Longton, Stoke-upon-Trent, Staffordshire, Tailor. Pet. Oct. 15. Registrar, Keary: Nov. 5 at 10; County Court, Stoke-upon-Trent. Off. Ass. Keary. Sol. R. N. Litchfield, Newcastle-under-Lyme.
- HARRIS, BARRETT, 46, Porter-street, Kingston-upon-Hull, Cabinet Maker. Pet. Oct. 23. Kingston-upon-Hull. Off. Ass. Carrick. Sol. F. F. Ayre, Kingston-upon-Hull.
- HAMMESLEY, GEORGE, 32, Gloucester-street, Clerkenwell, Grocer, Cheesemonger, and General Dealer. Pet. Oct. 23. Registrar, Miller: first meeting, Nov. 6 at 11; Basinghall-street. Off. Ass. Edwards. Sol. N. C. Gold, 2, Whitefriars-street, London.
- HEARNE, ALGERNON JOHN, 13, Nicholl-square, Falcon-square, London, Printer. Pet. Oct. 23 (in form pauperis). Registrar, Higgins: first meeting, Nov. 6 at 1; Basinghall-street. Off. Ass. Cannan.
- HOGAN, ROGER, 48, Upper Marylebone-street, Marylebone, Middlesex, Taylor and Lodging-house Keeper. Pet. Oct. 24. Registrar, Higgins: first meeting, Nov. 7 at 1; Basinghall-street. Off. Ass. Cannan. Sol. S. Tripp, 2, Danes-inn, Strand.
- HORWITZ, BENNHARD, 67, Newgate-street, London, Importer of Foreign Goods. Pet. Oct. 23. Registrar, Hazlitt: first meeting, Nov. 6, at 1; Basinghall-street. Off. Ass. Graham. Sol. J. S. Salaman, 29, St. Swithin's-lane, London.
- HUTSON, GEORGE, 34, King-street, Regent-street, Middlesex, Licensed Victualler. Pet. Oct. 24. Registrar, Higgins: first meeting, Nov. 7, at 12; Basinghall-street. Off. Ass. Cannan. Sol. B. Brooke, 1, New-inn, Strand.
- JENKINSON, JOHN, 3, Wellington-row, Bethnal Green, Shoemaker. Pet. Oct. 23 (in form pauperis). Registrar, Higgins: first meeting, Nov. 6 at 2; Basinghall-street. Off. Ass. Cannan.
- JERRAM, JOHN, Nottingham, Honier's Assistant. Pet. Oct. 23. First meeting, Nov. 5 at 11; Nottingham. Off. Ass. Harris. Sol. J. Ashwell, Middle pavement, Nottingham.
- JONES, WILLIAM, 41, Gloucester-street, Commercial Road East, Middlesex, Carpenter and Builder, 2, Prospect-place, Mile-end-road, Fancy Stationer. Pet. Oct. 23. Registrar, Hazlitt: first meeting, Nov. 5, at 2; Basinghall-street. Off. Ass. Graham. Sols. Linklaters and Hackwood, 7, Walbrook, London.
- JONES, WILLIAM CARDEN, Queen's Prison. Pet. Oct. 21 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 7 at 3; Basinghall-street. Off. Ass. Graham.
- KNOTT, JAMES, Atlas Glass Works, Emerson-street, Bankside, Surrey, Glass Manufacturer. Pet. Oct. 23. Registrar, Higgins: first meeting, Nov. 5 at 3; Basinghall-street. Off. Ass. Cannan. Sol. H. Waller, 2, Duke-street, Adelphi.
- LAWTON, JOHN, 40A, Mount-street, Middlesex, Foreign Agent. Pet. Oct. 17. Registrar, Higgins: first meeting, Nov. 4 at 11; Basinghall-street. Off. Ass. Cannan. Sol. J. Jones, 15, South-square, Gray's-inn.
- LEE, JOSEPH, Billiter-square, London, News Agent and Bookseller. Pet. Oct. 18. Registrar, Abraham: first meeting, Nov. 4 at 10; Basinghall-street. Off. Ass. Johnson.
- LEVI, BARNIT, & GEORGE LEVI, 57, Great George-street, Liverpool, Watchmakers (B. Levi & Son). Pet. Oct. 23. Registrar, Lee: first meeting, Nov. 6 at 11; Liverpool. Off. Ass. Morgan. Sols. Dodge & Wynne, 7, Union-court, Castle-street, Liverpool.
- MASKY, JAMES, Weston-super-Mare, Somerset, Builder. Pet. Oct. 23. Registrar, Orme: first meeting, Nov. 5 at 11; Bristol. Off. Ass. Acraman. Sols. Clifton & Benson, Broad-street, Bristol.
- McCAUGHRIS, GEORGE, 18, Trafalgar-terrace, Mortimer-road, De Beauvoir-square, Kingsland, Middlesex, Commercial Traveller. Pet. Oct. 22. Registrar, Abraham: first meeting, Nov. 5 at 1; Basinghall-street. Off. Ass. Johnson. Sol. Stocken, 61, Cornhill.
- MILES, CHARLES, Frome Selwood, Somerset, Innkeeper. Pet. Oct. 23. Registrar, Orme: first meeting, Nov. 4 at 12; Bristol. Off. Ass. Miller. Sols. S. Wittey, Devizes, or Abbott, Lucas, & Leonard, Bristol.
- NEWMAN, WILLIAM, 9, Dyer's-buildings, Holborn, London, Attorney-at-Law. Pet. Oct. 23 (in form pauperis). Registrar, Winslow: first meeting, Nov. 7 at 3; Basinghall-street. Off. Ass. Pennell.
- NICKLIN, THOMAS, Newcastle-street, Burslem, Staffordshire, Pianoforte and Cabinet Maker, and Upholsterer. Pet. Oct. 21. Registrar, Challinor: Nov. 6 at 11; County Court, Hanley. Off. Ass. Challinor. Sol. D. S. Sutton, Burslem.
- PARRY, OWEN, 2, Walbrook, London, Mining Agent. Pet. Oct. 22 (in form pauperis). Registrar, Higgins: first meeting, Nov. 6 at 10; Basinghall-street. Off. Ass. Cannan.
- PLASTER, ROBERT, Bampton, Oxfordshire, Builder. Pet. Oct. 21. Registrar, Winslow: first meeting, Nov. 7 at 11; Basinghall-street. Off. Ass. Pennell. Sols. Harrison & Lewis, 6, Old Jewry, London.
- POTTER, THOMAS GREVILLE, 11, Oxford-street, Middlesex, and 6, Granby-street, Hampstead-road, Dealer in Lamps. Pet. Oct. 23. Registrar, Abraham: first meeting, Nov. 6 at 3; Basinghall-street. Off. Ass. Bell. Sol. Dubois, 39, Moorgate-street.
- PRITCHARD, WILLIAM, High-street, Acton, Middlesex, Carpenter, Joiner, and Undertaker. Pet. Oct. 24. Registrar, Winslow: first meeting, Nov. 7 at 12; Basinghall-street. Off. Ass. Pennell. Sol. J. J. Holt, Quality-court, Chancery-lane, London.
- QUARREY, WILLIAM, Ashton-under-Lyne, Bookseller. Pet. Oct. 23. Registrar, Simons: first meeting, Nov. 5 at 12; Manchester. Off. Ass. Hernaman. Sols. Brooks, Marshall, & Brooks, Manchester, and Ashton-under-Lyne.
- RADCLIFFE, JOSEPH, Liverpool, Ale and Porter Merchant. Pet. Oct. 24. Registrar, Lee: first meeting, Nov. 7 at 11; Liverpool. Off. Ass. Morgan. Sols. Woodburn & Pemberton, Royal Bank-buildings, Liverpool.
- RENDER, RICHARD, Willington, Durham, Draper. Pet. Oct. 18. Registrar, Gibson: first meeting, Nov. 6 at 12.30; Newcastle-upon-Tyne. Off. Ass. Baker. Sol. H. Story, Newcastle-upon-Tyne.
- RICHARDS, MARTHA AUGUSTA ARTHUR, 13, Chester-street, Belgrave-square, Middlesex, Spinster. Pet. Oct. 21. Registrar, Higgins: first meeting, Nov. 4 at 12; Basinghall-street. Off. Ass. Cannan. Sol. H. Braddon, 5, Dane's-inn, Strand.
- RICHARDS, JOHN RICHARD, 20, West-street, Bermondsey, Surrey, Grocer and Pork Butcher, and late of 36, King-street, Margate, Kent. Pet. Oct. 23. Registrar, Abraham: first meeting, Nov. 8 at 1; Basinghall-street. Off. Ass. Johnson. Sol. Buchanan, 13, Basinghall-street.
- ROSE, JAMES REGENT, Buccleugh-road West, Dulwich, Surrey, Commission Agent. Pet. Oct. 23. Registrar, Winslow: first meeting, Nov. 7 at 2; Basinghall-street. Off. Ass. Pennell. Sol. J. Appleyard, 10, Symond's-inn, London.
- HOWBOTHAM, SAMUEL, late 324, Queen's-road, Chelsea, Middlesex, Soap Botler and Physician. Pet. Oct. 22 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 4, at 3; Basinghall-street. Off. Ass. Stansfeld.
- SAWYER, JOSEPH, 152, High Holborn, Middlesex, Licensed Victualler. Pet. Oct. 22 (in form pauperis). Registrar, Winslow: first meeting, Nov. 5, at 3; Basinghall-street. Off. Ass. Pennell.
- SALMON, HENRY, 67, Haymarket, Middlesex, late Tobacconist and Billiard Table Proprietor. Pet. Oct. 22. Registrar, Abraham: first meeting, Nov. 5, at 3; Basinghall-street. Off. Ass. Bell. Sol. H. M. Sidney, Circus-place, Finsbury.
- SCHOFIELD, JOHN, Nottingham, Bootmaker. Pet. Oct. 22. First meeting, Nov. 5, at 11; Nottingham. Off. Ass. Harris. Sol. J. Coope, Fletcher-gate, Nottingham.
- SANISTER, JOSEPH, Manchester, Baker and Confectioner. Pet. Oct. 22. Registrar, Simons: first meeting, Nov. 5, at 12; Manchester. Off. Ass. Pott. Sol. W. H. Partington, Manchester.
- SNOW, WILLIAM GEORGE, 2, Ponona-place, Staines-road, Hounslow, Middlesex, Carrier's Clerk. Pet. Oct. 21. Registrar, Winslow: first meeting, Nov. 6 at 2; Basinghall-street. Off. Ass. Pennell. Sol. H. D. Rushbury, 32, Coleman-street, London.
- STEVENSON, JOHN, & ROBERT STEVENSON, Walsden, Lancaster, Cotton Manufacturers (John & Robert Stevenson). Pet. Oct. 19. Registrar, Wilde: first meeting, Nov. 7 at 12; Manchester. Off. Ass. Hernaman. Sols. Richardson & Hinnell, Manchester and Bolton.
- TART, ROBERT, Skipton, Yorkshire, Clog Maker. Pet. Oct. 22. Nov. 5 at 11; Leeds. Off. Ass. Hope. Sols. Terry & Watson, Bradford; or Bond & Barwick, Leeds.
- THORN, THOMAS, 7, Highfield-terrace, Gloucester-place, Kentish-town, Middlesex, Clerk to an Attorney. Pet. Oct. 24. Registrar, Miller: first meeting, Nov. 7 at 2; Basinghall-street. Off. Ass. Edwards. Sol. G. F. Mant, 5, Great James-street, Bedford-row, London.
- TWISCLIFF, CHARLES, Tamworth, Draper. Pet. Oct. 24. First meeting, Nov. 7 at 11; Birmingham. Off. Ass. Kinnear. Sols. Powell & Son, Birmingham; or W. Knight, Birmingham.
- WARDLEWORTH, ABRAHAM, Crumpsall, Manchester, Dyer. Pet. Oct. 27. First meeting, Dec. 20 at 12; County Court, Manchester. Off. Ass. Kay.
- WARHURST, GEORGE, Leigh, Lancashire, Ironmonger and Factor. Pet. Oct. 14. Registrar, Simons: first meeting, Nov. 4 at 12; Manchester. Off. Ass. Hernaman. Sol. J. Miller, Nicholas-street, Bristol.
- WALKER, WILLIAM, 62, Marsh-street, Hanley, Staffordshire, Beerhouse Keeper, and Grocer and Provision Dealer. Pet. Oct. 23. Registrar, Challinor: Oct. 6 at 10; County Court Office, Lamb-street, Hanley. Off. Ass. Challinor. Sol. E. Tennant, Hanley.
- WEBBER, RICHARD, King's Head-street, Harwich, Essex, Baker. Pet. Oct. 23. Registrar, Miller: first meeting, Nov. 5, at 11; Basinghall-street. Off. Ass. Edwards. Sol. W. W. Duffield, 71, King William-street, London, and Chelmsford, Essex.
- WELCH, JAMES, 260, City Road, Middlesex, and 28, St. Mary-at-hill, Eastcheap, London, Builder and contractor. Pet. Oct. 21 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 4 at 10; Basinghall-street. Off. Ass. Stansfeld.
- WELTON, HAZEL, Ditchingham, Norfolk, Journeyman Machinist. Pet.

Oct. 22. Registrar, Fiske: first meeting, Nov. 5, at 11; County Court, Beccles, Suffolk. Off. Ass. Fisher. Sol. A. Kent. Beccles.
WESTBROOK, EDWARD, Hanley, Staffordshire, Grocer and Tea Dealer. Pet. Oct. 23. First meeting, Nov. 9, at 11; Birmingham. Off. Ass. Kinnear. Sols. R. W. Litchfield, Newcastle-under-Lyme, or James and Knight, Birmingham.
WHITLEY, CHARLES, Manchester, Engineer and Tool Maker. Pet. Oct. 21. Registrar, Simons: first meeting, Nov. 4 at 12; Manchester. Off. Ass. Fraser. Sol. D. Boote, Brown-street, Manchester.
WILLIAMSON, JOSEPH, Chilvers Coton, Warwickshire, Manager of Iron-works, formerly of Hazel-grove, Cheshire, Ironfounder. Pet. Oct. 24. First meeting, Nov. 7 at 11; Birmingham. Off. Ass. Whitmore. Sols. Dewes & Norton, Nuneaton; or W. H. Reece, Birmingham.
YOUNG, JOHN MARSHAL, Manchester, Merchant. Pet. Oct. 16. Registrar, Wilde: first meeting, Nov. 7 at 12; Manchester. Off. Ass. Fraser. Sols. Higson & Robinson, Cross-street, Manchester.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Oct. 22, 1861.

GEORGE HILLIER Trowbridge, Wilts, Marine Store Dealer. Nov. 4, at 11; Bristol.—**WILLIAM WHITE**, 18, Wolsey-terrace, Kentish Town, St. Pancras, Middlesex, Builder. Nov. 1, at 12; Basinghall-street.—**OSCAR FITZALLAN OWENS**, 7, Sussex-terrace, Westbourne-grove, Paddington, Middlesex, Bookseller and Stationer. Nov. 2, at 12; Basinghall-street.
JAMES WINTER, Rosslyn-terrace, Hampstead-road, Middlesex, Surgeon and Apothecary. Nov. 15, at 11. 30; Basinghall-street.—**FREDERICK CAPLIN**, 125, Drury-lane, Middlesex, Hosiery and Haberdasher. Nov. 15, at 11; Basinghall-street.—**JOSEPH TREVEATHAN**, 7, Oak-lane, Church-row, Limehouse, Middlesex, now 32, Lombard-street, London, Cooper and Packing Case Manufacturer. Nov. 14, at 12; Basinghall-street.—**FRANCIS TAYLOR**, Cradley Heath, Rowley Regis, Stafford, Grocer and Provision Dealer. Nov. 15, at 11; Birmingham.—**WILLIAM FRANCIS LAWRENCE**, West Bromwich, Stafford, Draper. Nov. 22, at 11; Birmingham.—**GEORGE MOORHOUSE**, **THOMAS MOORHOUSE**, **WILLIAM MOORHOUSE**, & **ROBERT MOORHOUSE**, Barley and Byerden Mills, near Burnley, Lancaster, Cotton Manufacturers. (George Moorhouse and Co.) Joint and separate estate. Nov. 20, at 12; Manchester.—**ROBERT FREELAND**, Manchester, and **JOHN FREELAND**, Kirkintilloch, Dumbarton, Scotland, trading at Manchester, Merchants. (Robert Freeland & Bros. Nov. 19, at 12; Manchester.—**JOHN HEATH BARBER** and **WILLIAM HENRY ELLIS**, Liverpool, Iron Merchants. (J. H. Barber and Co.) Nov. 12, at 11; Liverpool.

FRIDAY, Oct. 25, 1861.

SIMONS, EDWARD, 115, Newgate-street, London, and of 36, Bull-street, Birmingham, Lamp Dealer and Italian Warehouseman. Nov. 6 at 12.30; Basinghall-street.—**GREGORY, EDWARD HENRY**, & **LESLEY ALEXANDER GREGORY**, 32, Great Saint Helens, London, African Merchants and Shipping Brokers (Gregory Brothers). Nov. 6 at 1.30; Basinghall-street.—**DULLENS, HUGO**, 27, Fore-street, Cripplegate, London, General Merchant (Dulless, Grogan, & Company). Nov. 7 at 11.30; Basinghall-street.—**SMITH, JOHN**, Bradford, Stuff Manufacturer. Nov. 14 at 11; Leeds.—**UNDERWOOD, CHARLES**, 1, James-street, Covent Garden, 174, Drury Lane, and 44, Long Acre, Middlesex, Grocer. Nov. 21 at 12; Basinghall-street.—**TOWNSON, THOMAS**, Leamington Priors, Warwick, Chemist & Druggist, Sauce & Pickle Manufacturer. Nov. 20 at 11; Birmingham.—**DAY, JOHN, JUN.**, Coventry, and of 1, Noble-street, London, Ribbon and Trimming Manufacturer. Nov. 18 at 11; Birmingham.—**BROWN, WILLIAM**, Cannock, Miller. Nov. 20 at 11; Birmingham.—**CARRUTHERS, ROBERT**, & **GEORGE CARRUTHERS**, Liverpool. Nov. 21 at 11; Liverpool.

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* Any error or delay occurring in the transmission of this Journal should be immediately communicated to the Publisher.

THE SOLICITORS' JOURNAL.

LONDON, NOVEMBER 2, 1861.

CURRENT TOPICS.

Michaelmas Term opens to day, when the new Lord Chancellor holds his first levee, which will, no doubt, be well attended both by judges and counsel; and he need not be in any great hurry to get early to Westminster Hall, so far as the business of his court is concerned. For some reason or other the long vacation seems to have produced an unusually small amount of business, except applications for injunctions to V. C. Wood, the vacation judge, of which there were a large number. Whether the present low state of the cause list is owing to the paucity of arrears at the rising of the Court in August last, or to the actual falling off of business, we are unable to say. The former cause, however, is sufficient to account for the fact to some extent. We subjoin a statement, shewing the number of causes set down for hearing at the sitting of the Court twelve months ago, and to-day.

Causes before the Court, Michaelmas Term:—

	1860	1861
Appeals	26	23
Master of the Rolls	89	62
Vice-Chancellor Kindersley	53	38
Vice-Chancellor Stuart	95	64
Vice-Chancellor Wood	159	124
	422	311

The common law courts seem to be somewhat better off. In the Queen's Bench there are 12 enlarged rules, and 27 demurrers, special cases, and county court appeals for argument, besides 26 cases on the new trial paper, which, altogether, is more than there was in the same court for Michaelmas Term last year. In the Court of Exchequer there are 15 cases of error or appeals for argument, and 12 demurrers and special cases. This is an improvement on last year. The paper of the Court of Common Pleas also presents a fair show of work for the new Term; and, upon the whole, the courts at Westminster appear to be in a more prosperous condition than those at Lincoln's-inn.

Our contemporary, the *Law Times*, in days of yore used to contain some amusing articles, intended for the special benefit of those who wanted to become "advocates," and still more recently, has been trying to teach unfortunate law-students whose manners have been neglected, the importance of polite enunciation, and the misfortune of speaking through their nose; together with much more of such like instruction, which, no doubt, will be duly appreciated by the majority of these young gentlemen. The same schoolmaster is now abroad amongst those unhappy writing clerks who fain would scramble over the barrier which an examination throws up between them and the dignity of the shorter robe. Last week this accomplished instructor of the ignorant in our profession addresses these aspirants for professional rank, in language calculated to make a deep impression, if not upon their minds, certainly upon the minds of all who know something more of the Latin grammar from which he quotes than the scraps of Latin which it contains. After informing his readers that it is for the interest of the community that the duties of solicitors should be performed by "well-educated gentlemen, fitted for good society, and giving to the world the pledge of honour,

for which social position is the best security," this "well-educated gentleman" and ambitious instructor in all the graces of delivery and arts of composition thus betrays his own want of acquaintance with one of the first and plainest rules of the grammar, not only of the language about which he talks so glibly, but of every other in the civilized world:—"A writing clerk," he says, "who should qualify himself for the profession by acquiring *all this*, who should educate himself in the '*ingenuas artes*,' which the Latin grammar tells us '*emollit mores*,' and who had held the social *status* assigned to a solicitor, would be welcomed into the profession as cordially as if he had been crammed at college." Now, although after this specimen of editorial instruction we are rather shy of giving our friends, the writing clerks, any advice about the approaching examination, we can hardly help advising such of them as have not yet learned the Latin grammar, when they do so, to occupy themselves more with the *rules* that are there laid down than with those bits of Latin which are given by way of examples, and which a certain class of men who know nothing of the grammar itself are very fond of quoting. Legal maxims in the Latin tongue are much more safe, because they seldom require to be taken to pieces in a conversational kind of way; but any one who has got a few of those other aphorisms in his head and nothing else of the language, is sure to be trying to apply them, and then it is very possible that, even with print before his eyes, he may be unable to see that in attempting to shew his knowledge he only betrays a degree of ignorance which those who know him best would hardly suspect to be possible.

Since the new Bankruptcy Act came into operation, it will be seen that we have devoted an unusually large portion of our space to reports of cases interesting to the profession, on account of the points of practice which they decide; and it is our intention to do so until the law under the new Bankruptcy Act shall have become pretty well settled. Up to the present time, the greater part of the business in Basinghall-street, has consisted of the winding-up of old matters to which the Act of 1849, still applies. Those clauses of the Act which are repealed by the recent Act are still in force "as to any proceeding pending, or any right that has arisen or may arise . . . in respect of any transaction, matter, or thing done or existing prior to, or at the commencement of" the Act of 1861, under any provisions of law formerly existing. As the new business increases, however, abundance of points, touching both the law and the procedure of the new court, will turn up, and it shall be our care to report the decisions, not only of the several London commissioners, but of the Court of Appeal. The latter will be carefully reported in the *Weekly Reporter*, and will also receive notice in these pages.

The last number of the *Law Magazine* contains an article upon martial law in Australia, and therein discusses a very interesting question—as to the power not only of governors of colonies, but of the Queen herself, to enforce martial law amongst her subjects, whether at home or abroad. The question has been raised by the disturbances which have taken place at the gold fields in Australia, and the writer mentions several instances in which a colonial governor has proclaimed martial law. Some of the conclusions at which he arrives, and which are given below, are rather startling. They are as follows:—

1. The Queen of England has no power or authority to exercise martial law either in Great Britain or in the colonies.
2. Within the limits of the Queen's dominions the army and all persons belonging thereto, and under military authority, are to be governed by the Mutiny Acts and the Articles of War.

3. This military law is distinct from, and therefore not to be confounded with, what is called martial law, which is illegal.

4. When the Queen's troops are in the field in a foreign country and *flagrante bello*, they are to be governed by the royal prerogative.

5. These rules do not extend to civil persons not amenable to military authority.

6. The Queen cannot impart to a colonial governor powers which she does not possess, and she has not done so.

7. The governor of a colony is not the general representative of the Queen, and can only exercise the powers lawfully delegated to him by the Queen's commission.

8. Hence:—the exercise of martial law by the governor of a colony is illegal, and would even be so if such power were included in his commission. Not being so included, its exercise amounts to a double usurpation.

The force of flunkeyism could no further go than it did in the *Times* of Thursday last, in its leader upon the visit of the Prince of Wales to the Middle Temple, as the following extract will abundantly show:—

"That he has long been a student of law in a better sense than that implied by eating dinners in any Inn of Court is known and appreciated by the people of this country. He is probably more intimately acquainted with the history of our legal system, and has a better appreciation of the strange medley produced by feudalism, civil law, and modern jurisprudence, than the majority of the students who will emerge from pleaders' and conveyancers' chambers to cheer him."

Now everyone knows that no care or expense has been spared in the education of the Prince of Wales, and assuming that he is possessed of average abilities, the probability is that he is as well educated as most young men of his age; but the statement that he is probably more *intimately acquainted* with English Law in its history and actual condition than the majority of law students, is so gross an absurdity that it is to be accounted for only as a piece of mendacious flattery. The Prince of Wales, however, has now arrived at an age when he might, with advantage to himself, commence, under proper tuition, the study of our system of English jurisprudence, not for the purpose of qualifying himself for the discharge of the professional duties for which, on Thursday, he was supposed to be already fit; but that it becomes one who is so likely, at some future day, to be the ruler of this country, to have some acquaintance with its laws, and with their history and operation. With such toadies, however, as the writer in the *Times* for his advisers it is not likely that his Royal Highness will think it necessary to acquire much more information on the subject than he may have acquired in the nursery.

A circular has been issued from the Office of the Registrar of Attorneys and Solicitors: it states that the Forms of Declaration and Duplicate, under the 23 & 24 Vic. c. 127 may be had on application at the office; and the members of the profession are requested to be particular in filling them up, either by themselves, their partners, or their London agents; to send them to the office on as early a day as possible; and to attend to the following

REGULATIONS:

1. Every declaration and duplicate must be delivered at the office six days before a certificate can be granted.

2. No certificate will be delivered out till Wednesday, November 20th.

3. In the first six days, commencing on November 20th, certificates will be delivered only to such London agents as shall in due time previously have sent in the declaration of themselves and their country clients, accompanied by a list thereof arranged in alphabetical order, and written on foolscap paper bookwise.

4. These six days to be appropriated among the LONDON AGENTS, in the following order:—The letters refer to the initial of the AGENT's surname, or that of the senior partner in the case of a firm.

Those commencing with—

A or B	Nov. 20
C, D, E, or F	" 21
G, H, I, or J	" 22
K, L, M, N, O, or P	" 23
Q, R, or S	" 25
T, U, V, W, X, Y, or Z	" 26

5. On every day subsequent to November 26th, the certificates will be delivered to the rest of the profession.

6. The fee of 5s., for issuing each certificate, is to be paid on delivery of the same.

Mr. Bagshawe, Q.C., for many years past of the Chancery Bar, and who did a large business as a junior counsel, has been appointed Judge of the County Court of Cardiganshire. Circuit number 31. The appointment is a very good one, and highly creditable to the County Court Bench, since Mr. Bagshawe has been long known as an able and accomplished lawyer.

THE LAW OF BLOCKADE—ITS ORIGIN, NATURE, AND INCIDENTS. NO. I.

The law of blockade is a corollary to the more general international laws that relate to belligerent rights. As soon as a state of war was considered capable of being regulated by certain rules, and subject to them, the law of blockade could not fail to be soon developed. Belligerents could not, of course, have desired to interfere with the ordinary privileges of the subjects of those nations with whom they continued at peace; nor would these have succumbed to every demand that could be put forward by belligerents upon plausible grounds. The line should be drawn somewhere; and the principle of the restraints imposed upon neutrals is, that the restriction in all such cases is indispensable to render the operations of the belligerents effective or operative in their full natural force. Such being the origin and foundation of belligerent rights against neutrals, it should be carefully remembered; for the same necessity which originally introduced restraints upon neutral commerce continues to be the guiding rule for determining all doubtful cases in their relations to the belligerent branch of the international code. It cannot be necessary formally to prove that a blockade by a belligerent would be futile, if neutrals were allowed to maintain a communication with the place blockaded. As it is impossible for the besieging force to know what articles the besieged most require, the international law that we are now discussing forbids traffic of every kind, and all intercourse with the inhabitants of the place invested; (Bynkershoek *Quest. Jur. Pub. Lib. 1, cap. 2*). It is only the class of articles termed contraband of war that a belligerent can seize upon the high seas; but the law of blockade applies alike to articles of every description. This law, it thus appears, was necessarily coeval with the first rise of a belligerent code. Indeed, it is implied in it; and the actual records of contests between civilised states prove that it has been always considered to be of the highest importance.

Many writers deny that international law is entitled to the rank of a positive code, inasmuch as, if one nation violates the rights of another, there is no superior who may decide between them. Thus, Mr. Austin, in his celebrated work,* considers that an international rule is merely a law set by opinion and enforced by moral sanctions only. We do not propose formally to refute this proposition, which is contradicted by innumerable decisions in courts of Admiralty. It is also opposed to the theory of the balance of power, or rather denies that such a balance was ever contemplated by statesmen. But the foundation of this erroneous statement is to be found in the fact that international law more nearly corresponds with natural law than municipal codes do; that it is

* "The Province of Jurisprudence Determined, p. 206."

more directly derived from natural and moral principles; and that whenever precedent is silent, first principles and analogy are usually invoked to solve the difficulty. But municipal law is generally so copious in its positive provisions that there is not much room left for arguments founded upon theoretical or moral considerations. Although international law has thus, in all its branches, the nature rather of a deductive and rational science than that of a positive code, nevertheless, it is as strictly enforced as if all its rules were settled by treaty. International law is usually divided into two branches—natural or necessary law, and positive or instituted law. Other writers consider custom to be the sole foundation of the international code. For our part, we consider it to be entirely deducible from first principles, and that if the reason of a certain international rule be not apparent upon first consideration, it is because we do not always readily take into account all the circumstances which led to its establishment. Nations are properly described by Vattel as so many free persons in a state of nature. The natural rules of justice and veracity are equally as applicable to nations as to individuals. But as the municipal code does not enforce imperfect rights, so neither does international law enforce the observance of similar obligations. The portion of natural law that is enforced by the international code is found to be defined not so much by the importance of the precepts as by custom. There is thus no practical difference between the writers who rest the obligation of international law on natural morality, and those who derive it solely from usage. Whatever may be said of the origin of an international law, it has no place in international jurisprudence, until it has been sanctioned by custom evidenced by decided cases or by express treaty. The origin of an international rule, however, is important as regards its interpretation and the classes of persons to whom it is to be considered as applicable. Thus, belligerent rights, such as the law of blockade, which have never been questioned, would, doubtless, be more strictly enforced by courts of Admiralty than those which have been the growth of modern customs. Prior to the Paris Congress of 1856, Mahometans were not considered to be bound by the customary law of nations. But Lord Stowell held, in *The Hurtime Hane*, 3 Rob. 324, that they were bound by the natural branch of the international code, and, as a consequence, were liable to the usual penalties for having committed a breach of blockade.

A blockade may be defined to be the forcible prevention by a belligerent of all commercial intercourse on the part of neutrals with the enemy; and the law of blockade is that branch of the international code which regulates the conditions to which a blockade should conform, and which also prescribes the jurisdiction and procedure appropriate to the investigation of breaches, and the penalties attached to the same. "There are two sorts of blockade," says Lord Stowell, "one by the simple fact only, the other by a notification accompanied with the fact;" *The Neptunus*, 1 Rob. 171. As to the former, when the actual blockade ceases, the virtual blockade is likewise at an end; but in cases of the second class, as the blockade is proclaimed by a public notification, so likewise it should be put an end to in a similarly public manner. This is reasonable enough. *Nihil est enim magis conveniens naturali equitati quam unum-quodque ligamen eo dissolvi quo ligatum est.* But a blockade," says Bynkershoek, "is virtually relaxed *si segnius ora observata sint.*" A blockade of the second class, it thus appears, may be put an end to by a cessation or long interruption of the blockade. The intermission of the belligerent's vigilance, however, must be of some long duration to warrant a presumption that the blockade is relinquished in cases in which it has been notified by proclamation. It is important to bear in mind that a blockade may take place by the simple fact only. This international rule generally

precludes any demurrer founded upon the allegation of an alleged insufficiency of power on the part of the person proclaiming or making the blockade, because the supreme authority in the belligerent state may adopt a blockade, just as if it had been originally authorised by it: *Omnis rati habitio retrotrahitur et mandato priori æquiparatur.* The object of a blockade being to cut off all commercial communication with the blockaded port, an act of egress is, *ceteris paribus*, as culpable as an act of ingress. A ship coming out of a blockaded port is, in the first instance, liable to seizure; the onus of proving the innocence of intention on the part of the party who has *primâ facie* so committed a breach of blockade resting upon him (*Bynk. Q. J. Pub. tit. 1, c. 4*; *The Frederiche Molke*, 1 Rob. Rep. 72; *The Neptunus*, 1 Rob. Rep. 144; *The Vrouw Judith*, 1 Rob. Rep. 126). A breach of this law is also very severely punished. Vattel, however, is hardly warranted in stating,* as he does, that the offending party may be treated as an enemy. The jurisdiction and remedies available for the punishment of breaches of blockade will form the subject of a separate article. We will only here observe, in respect to this point, that the violation of blockade by the master affects, as a general rule, the ship only, and not the cargo, unless a direct knowledge of the intended breach be proved to have existed on the part of the owner (*The Mercurius*, 1 Rob. 80). Although the law of blockade is severe, nevertheless the usual immunity of the cargo is a temptation to owners to introduce their goods into the blockaded port, which is likely to give a price for them considerably beyond the ordinary rate and the value of the risk.

"On the question of a blockade," says Lord Stowell, in *The Betsy*, 1 Rob. 92, "three things must be proved. 1st, the existence of an actual blockade; 2nd, the knowledge of the party; and 3rd, some act of violation." As regards the last point, the time of shipment is material. After the commencement of a blockade a neutral is not allowed to purchase anything in the blockaded port; but he may retire with a cargo if it be already laden.

The United States Government have been always remarkable for their persevering efforts to disengage neutral commerce from the thralldom in which it has been held by the settled belligerent code. That Government, however, did not subscribe the Paris manifesto of 1856, the fourth clause of which provides that blockades, to be legal, must be effective. The States are, therefore, only bound by the common law rule of nations as to questions relating to the effectiveness of a blockade. But with regard to the time of shipment, it appears from a letter published in the *Times* of the 28th October, by the solicitors for the ship *Hiawatha*, upon the Admiralty case relating to which we shall presently offer a few comments, that the Government of the United States have waived all right to found any belligerent claim in respect of the time of shipment. The substance of the ordinance in question is given in the letter mentioned in the form of an extract from a letter written by Lord Lyons, our minister at Washington, to Mr. Moore, the British consul at Richmond. The rule is thus stated to be, that "Neutral vessels will be allowed fifteen days to leave port after the actual commencement of the blockade, whether such vessels are with or without cargoes, and whether the cargoes were shipped before or after the commencement of the blockade." The owners of the ship *Hiawatha* had been cautioned by Mr. Moore that the ship could legally depart only in ballast. The master, being dissatisfied with this announcement, addressed himself to Lord Lyons, from whom Mr. Moore received the foregoing notification. The owners then tried to run the blockade with a cargo; but the ship was seized and libelled as prize in the Admiralty Court. The owners have set up

six grounds of defence. These are as follows:—A denial of notice of the blockade; a denial of the existence of a state of war adequate to support the claim of the captor; a denial of the existence of a State of blockade; a denial that states of the Union are enemies within the meaning of that term as understood in international jurisprudence; and a denial of the power of the president to declare war or proclaim a blockade without the consent of Congress. These grounds of defence may be ranged under three general heads—a general demurrer; a traverse of the fact of blockade; and a traverse of the allegation of notice.

Two very unusual questions are raised in these pleas—first, the power of the President to proclaim a blockade, even assuming that the state of facts would warrant such an intervention by the executive head of the United States; second, the existence of a proper state of facts whereon to found a blockade. Although the *Times* of the 24th of October, in a leading article upon the case of *The Hiawatha*, appears to consider the negative of these positions as tenable, we confess that we are of a very different opinion. It is an adventurous plea that implicitly denies that the United States have, or ever had, a competent executive. As Congress is not always in session, unless the President is the person who is to superintend the execution of the laws of the United States, we shall look in vain for a permanent representative of the sovereignty of the States. Furthermore, the President is bound, by his oath of office to "preserve, protect, and defend the constitution." Incidental to this is, doubtless, the right of proclaiming a blockade upon a fitting occasion. At all events, Congress may adopt and so ratify the act of the President. As to the second constitutional objection—that the Southern States are not enemies in the sense in which the term is juristically understood, as they are not recognised as belligerents by the United States, we consider that British subjects are estopped from controverting that fact since our own Government have by a public notification admitted the contrary. If the owners of *The Hiawatha* allege that they have aided rebels and not belligerents; such a plea, if held valid, would doubtless overthrow the jurisdiction of the Admiralty Court; but the second branch of the dilemma would not be very profitable to them, inasmuch as by aiding rebels they were guilty of a still greater offence than a violation of an international rule, which is certainly not punishable capitally. We consider that the defence made by the owners of *The Hiawatha*, so far as it is based upon loopholes in the constitution of the United States, is visionary, and that the apparent encouragement given to such defences by our great cotemporary is not unlikely to have a mischievous effect. But such of the questions raised in the defence mentioned as are founded upon the common law of nations as declared by the decisions of admiralty courts, offer a more interesting and important field for investigation. It will be the object of the subsequent papers which we shall give on the law of blockade to elucidate this branch of the international code by reference to decided cases, and to show what constitutes an effective blockade; what is a breach thereof; and what are the jurisdiction and remedies appropriate to the punishment of such breaches.

The Courts, Appointments, Promotions, Vacancies, &c.

COURT OF BANKRUPTCY.

(Before Mr. Commissioner HOLROYD.)

Oct. 26.—*In re Denny*.—This bankrupt, having petitioned under the new Act, against himself, had obtained an adjudication. He subsequently filed his statement of debts and liabilities, pursuant to the 93rd section of the Act, and the fourth rule, and he now applied for his discharge from custody.

The application was opposed on behalf of a detaining cre-

ditor. It appeared that on the 15th of June last the bankrupt filed his petition in the Insolvent Debtor's Court, pursuant to the 1 & 2 Vict. c. 110; and on the 24th of June an order was made vesting his property in the provisional assignee; and a question was raised whether the Court would, by discharging the bankrupt, adopt the proceedings in this court.

The COMMISSIONER asked the bankrupt why he did not file his schedule in the Insolvent Debtor's Court.

The bankrupt said the petition to that Court was filed without his authority, and he had not sufficient means to continue the proceedings.

The COMMISSIONER said he would speak to Mr. Commissioner Evans before coming to any decision.

Oct. 29.—His Honour said he had spoken to Commissioner Evans, and he agreed with him in opinion that the bankrupt had no *locus standi* in this court until the petition in the other court was in some way disposed of. He referred particularly to the 24th section of the Bankruptcy Act, 1861, providing for the setting and winding-up of all petitions, matters, and things presented to or depending in the said court.

The application was accordingly refused.

Oct. 28.—In a case from Hereford, which came before his Honour to-day, he decided that upon the true construction of the 88th and 89th sections of the Bankruptcy Act of 1861, it was not competent for this Court, in a case where the debts are below £300, and where the debtor resides or carries on business beyond 20 miles from the General Post Office, to direct that the petition be prosecuted in this court.

In re J. Owen Clarke.—In this case it appeared that the bankrupt had failed to comply with the 93rd section of the Bankruptcy Act, 1861, and the fourth Order, which requires a bankrupt to file a list of his creditors within three days of adjudication. It was asked that the accounts should be filed *nunc pro tunc*.

His Honour said he could not allow this, as it might be made a precedent. The petition was dismissed.

(Before Mr. Commissioner GOULBURN.)

Oct. 28.—*Re a trader debtor summons*.—Mr. Commissioner GOULBURN held in this case that in a trader debtor summons where the debt and costs in the action are paid, but before the petition in bankruptcy is presented, the Court has no power to award costs unless the application for costs be made upon the return of the summons.

The particulars of demand, and a writ of summons were served on or about the same day. The summons in bankruptcy was served on the 18th instant, and was returnable on the 24th instant. The defendant paid the debt and costs in the action on the day the summons was returnable, but refused to pay the costs consequent upon the proceedings in bankruptcy.

The plaintiff applied to the Court for the costs of these proceedings.

Mr. Bannister (solicitor), for the summoning creditor, asked for the costs of the proceedings in bankruptcy under the 85th section of the Bankrupt Law Consolidation Act, 1849. The defendant did not take any notice of the proceedings in bankruptcy, and, consequently, committed a contempt of court. The Court had power to award costs under the 85th section of the Bankrupt Law Consolidation Act, 1849, and the 213th section of the Bankruptcy Act, 1861. He cited *Webb v. Hewitt*, 6 Exch. 105.

Mr. Ferrin (solicitor), for the defendant, contended that the application for costs was made too late. If the plaintiff was entitled to costs at all, he should have applied for them on the return of the summons. He also submitted that the Court had no power to award costs, there being no creditor before the Court, and the costs in the action were taxed without any reference to the bankruptcy costs.

Mr. Commissioner GOULBURN decided that the plaintiff was not entitled to the costs of the bankruptcy proceedings, and held that he was too late in his application. If the plaintiff were entitled to costs at all, he should have applied for them on the day that the summons was returnable, and he might then have given costs under the 213 section of 24 & 25 Vict. c. 134.

Application refused.

Oct. 31.—*In re* —.—In this case the debtor petitioned in *forma pauperis*.

The attention of the Court was called to the 26th section of the New Bankruptcy Act, with a view to the debtor being ex-

cused payment of the gaoler's fees for bringing him to this court, and also advertisement charges incidental to bankruptcy. The section sets forth that, "All moneys and Government securities which shall, at the commencement of this Act, stand in the Bank of England to the credit of the account of the Commissioners of the Court for the relief of Insolvent Debtors in England shall be carried to the account of the Accountant in Bankruptcy;" and "shall be applicable as at present, or in such manner as the Lord Chancellor shall by order direct, towards defraying the salaries of the clerks and other persons hereby transferred from the Insolvent Court to the Court of Bankruptcy, and towards defraying the expenses of, and incidental to, the discharge of pauper prisoners hereinafter provided," &c.

The fund referred to in the Bank of England is of small amount.

His HONOUR said that no order had yet been made by the Lord Chancellor pursuant to the above section. The gaoler's fee and the fees out of the messenger's pocket must be paid.

INSOLVENT DEBTORS' COURT.

(Before the CHIEF COMMISSIONER.)

Oct. 31.—*In re William Squires*.—In this case, which was heard and adjudicated upon at Lancaster some months since, an application was made for the appointment of an assignee.

The CHIEF COMMISSIONER asked what power he had to make any appointment.

It was stated that the application could only be made to this Court, upon the ground that it was a matter pending on the 1st of October, when the new Bankruptcy Act came into force.

The CHIEF COMMISSIONER stated that his view of "pending business," which alone this Court had been directed by the Lord Chancellor to dispose of, did not include cases which had been finally adjudicated before the 12th of October. If that were not so the 250 cases which had been disposed of by the Court during the period of its existence might be regarded as pending business, and as applications respecting property might be made after any lapse of years, this Court would live for ever.

The Lord Chancellor has appointed Henry Ridgard Bagshawe, Esq., Q.C., to be judge of the county court of Cardiganshire, Circuit No. 31, in the place of John Johnes, Esq., recorder of Carmarthen, who has resigned the office.

Recent Decisions.

COMMON LAW.

REAL ACTION UNDER COMMON LAW PROCEDURE ACT, 1860—DOWER, PLEAS IN.

Woodward v. Dodds, C. P., 9 W. R. 870.

This case is noticeable as being the first real action which has occurred, or, at least, been reported, since the changes introduced in that class of actions by the Common Law Procedure Act, 1860. The previous Common Law Procedure Acts did not expressly refer in any of their clauses to real actions; while, on the other hand, by far the larger portion of their provisions were expressly confined to *personal* actions. The Court of Common Pleas, however, held (in *Marshall v. Bishop of Exeter*, 6 C. B. N. S. 716), that two of the clauses of the Act of 1859 (ss. 81, 22, which regulate the practice as to pleading double) did apply to real actions; but the main features which used to distinguish these from personal actions, such as the commencement by *original* instead of by writ of summons, were admitted to remain as before; and this being inconvenient, as causing an unnecessary deviation with regard to the actions of dower and *quare impedit*, from the ordinary course of common law proceedings, clauses were introduced into the Procedure Act of 1860, which were intended to obliterate any distinction between real and personal actions, either as regards the writ by which they are commenced or the manner in which they are carried on. The sections on this head of the 23 & 24 Vict. c. 126, are the 26th and 27th, which, in substance, provide that whenever the proper remedy is an "action of dower" or "*quare impedit*," an action may be commenced in the *Common Pleas* by an ordinary writ of summons, on which is to be endorsed a notice that the plaintiff intends to declare in dower or *quare impedit*, as the case may

be; and that the subsequent proceedings (including costs) on such writ shall be subject to the same rules and practice, as nearly as may be, as the proceedings in personal actions.

The present case is a useful reading upon these provisions, and shows that it was not thereby intended to change in any respect the law of real actions as distinct from the manner of using the remedy; for it is one of the ancient pleas (given by 13 Ed. 1) to an action of dower—that is to say, an action brought by the widow (usually as against the heir or devisee) to recover her thirds of the lands and tenements of which her late husband was seised in fee or in tail, at some time during the coverture, and of which her issue might have been heir—that the plaintiff eloped from her husband and lived in adultery with another person (see *Hetherington v. Graham*, 6 Bing. 135); and a plea to this effect was accordingly relied on in the present case; but the plaintiff sought to reply to it by alleging that she had been forced to leave her husband by reason of cruelty such as would entitle her to a judicial separation in the new Divorce Court; and if this replication had been held valid it would have overturned the ancient law of dower. But the Court said that the whole question still turned upon the construction of the Statute of Westminster the second, which allowed the plea; and that under it, though a wife is not barred of her dower merely by leaving her husband (as she may do if cruelly treated), she cannot both leave him and commit adultery without the penalty of the statute attaching; and they therefore gave judgment on the demurrer for the defendant. It may be useful here to recapitulate the most usual pleas in this action, as it is (from this case) clear that they are still available. These are—1, the plea of adultery; 2, the plea, that the plaintiff and her supposed husband were never joined in lawful matrimony; and 3, the plea, that from the death of the husband, the defendant has always been, and still is, ready to render the widow the lands and tenements in question.

EFFECT OF DECREE NISI FOR DISSOLUTION OF MARRIAGE—INTERPLEADER ISSUE.

Shingler v. Holt, Ex., 9 W. R. 871.

This case raises but does not decide a point as to the *status* of a woman whose marriage has been dissolved, as it exists between the date of the decree *nisi* and the decree absolute for such dissolution. An interpleader issue had been ordered to try whether certain goods seized in execution were, on the day of seizure, the goods of the execution debtor or of another claimant. The goods in question had been seized in the house of the execution debtor; but were claimed by a female who lived in the same house, and whose title was established, subject to the question, whether, as she was still a married woman, (though a decree *nisi* for the dissolution of her marriage had been obtained), the goods in question did not rather belong to her husband. The case was decided on the principle that it is not competent for an execution creditor to set up a *jus tertii* to defeat the claimant's title, if against the execution creditor such title is good; but the Court refused to entertain the question of *status* pending the decree for dissolution becoming absolute—observing that the proper manner of obtaining relief on any ground arising from the husband's possible interest in the goods, would have been by an application to the judge, by whom the issue was directed, to compel the husband to become a party to the issue.

LAW OF LIGHTS—RIGHT ACQUIRED UNDER 2 & 3 WILL. 4, C. 71—ALTERATION OF WINDOWS.

Hutchinson v. Copestake, Exch. C., 9 W. R. 896.

Out of this case, the special facts of which could scarcely be made intelligible without the aid of plans, a useful general principle may be deduced with regard to the right to the "access or use of light to and for any building;" the uninterrupted enjoyment of which for twenty years constitutes, under 2 & 3 Will. 4, c. 71 an absolute and indefeasible right to it. For the judgment shows that an action for obstructing such light is not maintainable, if the plaintiff by his own act confuses the *indicia* of the light in question and of the extent of its enjoyment. The plaintiff, having a house with certain windows therein, more than twenty years before the obstruction complained of, pulled it down and rebuilt it with other windows; which, though the same in number and general position, did not occupy precisely the same sites as the previous ones. The defendants afterwards erected a building which partially obstructed the due access of light to the plaintiff's house so rebuilt; but the Court of Common Pleas decided that, under the circumstances, the plaintiff had acquired no right to light under the Prescription Act; and the Court of

Exchequer Chamber unanimously confirmed the judgment. The judgment of this last Court proceeded chiefly on the authority of the case of *Renshaw v. Bean*, 18 Q. B. 112, which established that an alteration in a window will destroy the right to light therefrom previously acquired, unless the new window is *substantially* the same as the old one; while in the present instance it was otherwise.

Correspondence.

STATUTE LAW REVISION.

From the letter in your last week's impression, signed "Francis S. Reilly and Arthur John Wood," I presume that those gentlemen prepared the 24 & 25 Vict. c. 101, and though they cannot, of course, remove the responsibility of that Act from their employers, yet, in consequence of such avowal, they render themselves liable to be reproached for any slip which may have been committed therein.

Now, with all due deference to the compilers of that statute, I am still of opinion that it would have been better to have left the 6 & 7 Will. 4, c. 101, s. 3, alone; and to establish this I conceive it to be only necessary to show that its repeal may occasion a *doubt* even as to what the law now is.

As to the first branch of my objection (to adopt Messrs. Reilly and Wood's own analysis of my note) the 6 & 7 Vict. c. 18, may be altogether left out of the question, as it does not in any way refer to the 6 & 7 Will. 4, c. 101, s. 3, and as this last enactment is treated by the subsequent statute, 17 & 18 Vict. c. 57, as being then in full force and operation.

"But" (say Messrs. Reilly and Wood) "it is plain that the first part of 6 & 7 Will. 4, c. 101, s. 3, is over-riden by 17 & 18 Vict. c. 57, for the first enactment provides in effect that in the case of a vacancy in the office of a returning officer for a borough the sheriff of the county shall appoint a deputy to perform the duties; while the second enactment provides in effect that in all cases whatever, whenever there shall be, either from temporary vacancy or from some other cause, no person legally qualified to perform the duties of returning officer, the sheriff of the county shall in all respects perform the duties of and incidental to the office of returning officer."

Now, in my opinion, the *effect* of these two enactments is not here fairly stated, but should rather have been as follows:—

The first part of the first enactment (6 & 7 Will. 4, c. 101, s. 3) provides "in effect" that if there shall happen to be any vacancy in the office of returning officer for a borough during the time when certain acts with regard either to the execution of an election writ or to the registration of voters, are required by law to be done, the sheriff may appoint a person to perform such acts. And the second enactment (17 & 18 Vict. c. 57) "in effect" provides in reference to the duties of the returning officer *with regard to the election writ* that where there is no returning officer qualified to perform any of such duties, they shall be performed by the sheriff. Now, if the above is an accurate account of these two enactments (and I invite your readers to examine for themselves whether it be so or not) it is clear that the 17 & 18 Vict. c. 57, has nothing whatever to do with the registration duties of the returning officer as the substitute in certain cases for the town clerk. Indeed (as appears from the preamble to that Act itself) it was passed to remedy a difficulty occasioned by a change in the direction of the election writ by 16 & 17 Vict. c. 68, and no mention whatever is made in it of the 6 & 7 Vict. c. 18, which contained the then as now existing law with regard to registration of voters. Moreover, Messrs. Reilly and Wood themselves say that "by 17 & 18 Vict. c. 57, the sheriff of the county is in terms charged with the execution of a writ for the election of a member of Parliament for the borough" where there is "no returning officer to execute the same." Not a word here about his being by this Act charged with the duties of the returning officer as the substitute of the town clerk in registration matters.

But if this be so, then what becomes of the second branch of my objection—viz., that the repeal of 6 & 7 Vict. c. 101, s. 3, might possibly occasion a practical difficulty? Suppose there happened in the month of July, when the town clerk has different registration matters to attend to, to be a vacancy from death or otherwise in the office of the relieving officer of some borough, where (as for example, at *Taunton*) he is the person to attend to such matters, there being no town clerk or other officer executing such duties as usually devolves on the town clerk. The 17 & 18 Vict. c. 57, as I have already shown, refers only to the substitution of the sheriff for the relieving

officer *with regard to the election writ*, and therefore now that Messrs. Reilly and Wood have repealed the provision for this contingency which was previously in force, what is to be done?

One word more and I will conclude this defence of the validity—or, at all events, the reasonableness, of my objection. I am content to rest it by an appeal to the candour of those gentlemen. At the time they repealed section 3 did they or did they not notice the difference between it and the subsequent provision in 17 & 18 Vict. c. 57—or rather had they the Registration Act in their minds? Were they not (as perhaps was natural) satisfied by observing that two of the sections of 6 & 7 Will. 4, c. 101, were temporary only, while the 3rd was referred to, and in part re-enacted, without being repealed by 17 & 18 Vict. c. 57? If they committed this error the only advice I would venture to give them in consequence, is to weigh still more deeply than, I doubt not, they already do, the extreme difficulty and delicacy of their task, more especially when they deal with the enactments of our own times.

The Temple, Oct. 29, 1861.

JAMES STEPHEN.

ANDERSON v. ELSWORTH.

I have perused your report and opinion on this case as contained in the *Solicitors' Journal* of the 19th instant,* and take leave to state that when I took the instructions for the conveyance from Mrs. Marston I fully explained to her the difference between a deed and a will, after which she gave me instructions to prepare the deed in order to make a final settlement of her affairs, and to put Mrs. Elsworth into the immediate possession as absolute owner of the property. I then fully explained to her that a deed so prepared would leave her solely dependant upon Mrs. Elsworth for her future maintenance; in answer to which she expressed her full reliance upon Mrs. Elsworth for her future support. When she afterwards came to my office to execute the deed I again cautioned her, before she executed it, that she was thereby parting with all her interest absolutely to Mrs. Elsworth, without any provision for her future maintenance; and that if she signed the same she could not afterwards revoke the deed. She appeared vexed at my repetition of such cautions, and informed me that she had come expressly to execute the conveyance of the property to Mrs. Elsworth; that she did not wish to have any power to revoke the deed in any manner, as she wished Mrs. Elsworth to become owner of the property immediately; and several times inquired if I had made it perfectly safe to her, and stated herself satisfied that Mrs. Elsworth would provide for her during her life. I explained all this in my instructions for preparing the affidavits to Mr. Bacon, and on the hearing, when Mr. Malins stated that I had allowed Mrs. Marston to leave my office a penniless pauper without caution, I then explained to him that what he was stating to the Court was contrary to the truth, as I had acted quite the reverse. I also offered myself as a witness to Mr. Bacon, to explain and contradict such misstatements, which he declined to act upon.

Under these circumstances I feel myself professionally injured, and am apprehensive that the Vice-Chancellor, for want of a more perfect explanation, and under a misconception of the real facts, determined this case as he did, when, in fact judgment ought to have been given for the defendants.

Knaresborough, Oct. 26, 1861.

P. TAYLOR.

RAILWAY LIABILITIES.

In reply to the inquiry of "J. T. S." I think it is only necessary to refer him to the following quotation from "The Law of Carriers of Goods and Passengers":—"Where railway companies hold themselves out as carriers, and receive goods to be carried to places beyond the limits of their own line, and even beyond the realm, they are responsible for a loss of, or injury to the goods, although the same may not have happened on their own line of railway;" and the reports of *Muechamp v. Lancaster and Preston Junction Railway Company*, 8 M. & W. 421; and *Watson v. Ambergate, Nottingham, and Boston Railway Company*, 15 Jur. 448.

AN ARTICLED CLERK.

The law is now well settled, that where a railway company receives goods for carriage beyond the limits of its own line, and the goods are forwarded by other companies to their destination, the contract to carry is with the first company, and the other companies are their agents only to complete the contract. It follows, in the case put by "J. T. S." in your last

* See ante, p. 810.

number, p. 819, the remedy must be pursued against the C. company, although in fact the damage may have happened on S. D. or N. D. line. The cases which establish this are *Crouch v. The Great Western Railway Company*, 26 L. J. N. S. Ex. 418; s. c. in Ex. Ch. 6 W. R. 391; *Collins v. Bristol and Exeter Railway Company*, in House of Lords, 29 L. J. N. S. Ex. 41; *Cozon v. Great Western Railway Company*, 29 L. J. N. S. Ex. 865. Before suing C. company it will be necessary to examine the terms of the contract note, which is usually signed by the consignor of goods, and see that it contains no special condition limiting the company's liability to their own line of railway. If there be such a condition it is difficult to see what remedy the consignor has. The first company would be relieved by their special contract; and with the other companies the cases show there is no contract. This was the state of things in *Cozon v. Great Western Railway Company*, which called forth the following remark from Bramwell, B., in his judgment in that case:—"It is certainly a very inconvenient thing that persons should be met with such a defence as this, if they have a good cause of action at all; and it might not be unwise to provide, by an Act of Parliament, that where a right of action exists under similar circumstances, either of the railway companies might be sued, leaving the companies afterwards to adjust the matter among themselves."

In *Mytton v. The Midland Railway Company*, 28 L. J. N. S. Ex. 385, it was suggested by Martin, B., that the railway company which first receives the goods might be looked upon as contracting as principals for the carriage on its own line, and beyond its limits as agents for undisclosed principals, so as to give the consignor a right of action against the company on whose line the damage happens; but the Court repudiated that view on the ground of there being but one contract, which could not be split up into several. As companies have the power, by the introduction of a special condition into the contract note, of defeating claims for compensation when the damage does not occur on their line, the law on this head cannot be regarded as on a very satisfactory footing; and until some such legislative enactment is made as suggested by Bramwell, B., cases will probably arise in which the principles which now govern the courts may work injuriously. B.

Your correspondent "J. T. S." does not mention any express contract on the part of the C. line of rail limiting its liability to damage occurring on its own line. Had there been such express contract, on the authority of *Fowles v. The Great Western Railway Company*, 22 L. J. Exch. 76, the C. line would have been exempt from any damage proved to have been sustained beyond its limits. Otherwise, as decided in *Muchamp v. The Lancaster and Preston Railway Company*, 8 M. & W. 421, and many other cases, the C. line are liable up to the door of the address to which the goods are destined. See "Addison on Wrongs," p. 320. A. J. D.

COMMON LAW JUDGES' CHAMBERS.

Can nothing be done to improve these bear-gardens? They must be as unpleasant to the judges as to the counsel, pleaders, attorneys, and their clerks. Why cannot the Masters hear all the applications for time to plead? I can bear witness that at present the system is insufferable. I would consent to almost anything sooner than go. Do pray cleanse this Augean stable, or try, at all events. The author of "Pickwick" exposed it years ago, and I should like to know what improvement there has been since. I witnessed last week something very like a personal combat between two learned counsel alike anxious to get before the judge. A COMMON LAW CLERK.

The time occupied in attending summonses at chambers has long been a grievance. Why should not the Masters of the common law courts have a similar power to hear and adjudge as is given to the registrars in bankruptcy by the Bankruptcy Act, 1861, sect. 52 and seq. J.

TRANSMISSION OF BANK NOTES BY POST.

The recent frauds committed by servants of the Post Office have suggested to me the expediency of some scheme for rendering the transmission of Bank of England notes secure from loss through the dishonesty of officials; this might easily be effected if Bank of England notes were allowed to be crossed in the same manner as cheques with the name of the banker of the payee. The adoption of this plan would also be of great service in other transactions in which payments by

money are required, and especially to solicitors, who often are under the necessity of carrying about with them large sums to complete purchases or for other purposes, and who in all such cases incur at present considerable risk from the accidents of loss or robbery. The plan I have indicated, would, I think, have the beneficial effect of providing a means of security from loss, and of diminishing what has been proved to be a fertile source of fraud; and I consequently venture to submit it to the consideration of your readers. J. C. T. S.

Review.

The Game Laws of the United Kingdom, comprising the whole of the Law on the Subject; with Introduction, Cases, Notes, and Index. By JAMES PATERSON, Esq., M.A., of the Middle Temple, Barrister-at-Law. London: Shaw & Sons. 1861

This work is, as it professes to be, a complete, as it is also a very interesting, work on the game laws of the United Kingdom. It is thus more extended in its applicability than the recently-published "Handy-book" of Mr. Oke, which treats only of the game laws of England. The introduction to the present work contains a lively disquisition upon the philosophy, as well as upon the policy, of the game laws. Mr. Paterson is an advocate of the plenary rights of property, and dissents from the report sought to be adopted by Mr. Bright, in 1845-6, when the question of the game laws was referred to a select committee of the House of Commons. The policy of the game laws, we think, commends itself to every one who will take the pains of distinguishing between the principle of those laws, and the numerous clumsy expedients by which they have been sought to be declared. A general consolidation of the Game Acts is the obvious remedy for the defects of the present state of this branch of law.

Mr. Paterson considers that the term "game" has received a statutory definition in the 1 & 2 Will. 4, c. 32, s. 2; so that only "hares, pheasants, partridges, grouse, heath or moor game, black game and bustards," are comprised in the word game. Mr. Oke* is of the same opinion. It appears to us, however, doubtful, whether the section of the Act mentioned is intended to give a complete and exclusive definition of the word. The 13th section of the 9 Geo. 4, c. 69, "The Night Poaching Act," contains a similar definition of the term game. That statute enacts, that the word game "shall be deemed to include" the species of birds that we have mentioned; but it does not exclude any others which may have been recognised as such either at common law or by statute. There is room, therefore, to contend, that, as regards civil actions, pigeons, deer, and rabbits, are likewise comprised in the term game, since they have been recognised as such by statute. The law of game being interwoven with the law of trespass, of which, indeed, apart from fiscal considerations, it constitutes a mere variety, Mr. Paterson has given (pp. 44-64) a very accurate, and even interesting, account of the law of trespass, both generally and in respect to the game laws; nor do we think that twenty pages of his work could be more appropriately applied. Mr. Oke is not, we think, sufficiently copious on the law of trespass. It is obvious that a sportsman should be informed not only as to what is game and what is not, but also as to the degree of restraint which he must impose upon himself and his canine attendant. Mr. Paterson shows that a dog may occasionally enter a close without rendering his master a trespasser; although his master could not do so with equal impunity. These, and other like pertinent bits of information which are interspersed throughout the work, we consider very useful in respect of the class for whom the work is especially intended.

The treatise before us gives an account of the game laws applicable to Ireland and Scotland, as well as of those applicable to England. Mr. Oke does not allude to the game laws of those countries, except once (p. 13), where he mentions their respective seasons of sporting. This is a great defect in his book, which is otherwise so comprehensive. The sportsman, therefore, who is possessed only of Mr. Oke's handy-book, will, if he intends proceeding into either of the sister kingdoms, require to be provided likewise with the still more complete treatise of Mr. Paterson. This suggestion is the more important as regards Scotland, lest the sportsman should find himself involved in a suit arising out of the Act "anent hunting and hawking," in reference perhaps to a deed of tailzie with irritant and resolute clauses, the irritant portion of which he might

* "Handy-book of the Game and Fishery Laws," p. 14.

be disposed to consider vastly to preponderate. Mr. Paterson gives the series of enactments in respect of game applicable to Scotland from the year 1621 down to the present time. He traces the Irish corresponding series, which commences as far back as the Act 13 Ric. 2, c. 130 (the Irish Qualification Act). The statutory law of game is, in substance, nearly the same for the United Kingdom. There are, however, points of difference sufficiently numerous between the respective game codes of the three kingdoms to involve an unwary sportsman in litigation. It appears that a property qualification is still necessary to entitle a person to pursue game either in Ireland or in Scotland. The period of close time, also, is not the same in the three kingdoms. The 6th section of the Irish Act, 27 Geo 3, c. 35 (the Irish Game Act), does not define game in the same terms as are used in the English Act, 1 & 2 Will. 4, c. 32, s. 2; while the 3rd section of the Scotch Act, 13 Geo. 3, c. 54, comprises snipes within the definition of the term game, and so far differs from the corresponding English and Irish Acts. The common law of Scotland, as regards the rights of landlord and tenant, is different from the corresponding branch of English law, and the law of trespass is different in each of the three kingdoms. It is to be regretted that Mr. Oke did not mention in his book that there were many other points of difference between the game codes of the three kingdoms than as regards the seasons, which alone he noticed. We now see that this omission is important, as it is apt to mislead the sportsman with the notion that the United Kingdom has, as it ought to have, a common game code, except as to the periods of the sporting seasons.

Mr. Paterson's treatise indicates a great familiarity with its subject on the part of the author. Its diction and style are very good, and if its tone is somewhat more lively than is usually to be observed in a legal treatise, we may set down this exuberance of animation to the exciting nature of the subject, which he appears to have pursued with the zest of a sportsman. Perhaps, he also desired to accommodate his work to the lively tastes of those for whom he has written. This treatise is, on the whole, a very creditable performance, and, while eminently adapted to suit the requirements of the sportsman, is, also, likely to be found equally useful to the practitioner. Its main defect is to one of method. It proceeds upon a basis of statutory fact, whereas its parts should be arranged in their natural, rather than in their logical, sequence. This is a great advantage possessed by Mr. Oke's Handy-book. The remarks which we offered upon this latter work (*ante* p. 738), shows that the game laws may be readily digested into a set treatise possessing a due collocation of its parts, and constructed with a sufficient regard to all the unities of a legal treatise. The work before us, on the other hand, after giving an introduction, which is speculative merely, and has more of a political than of a juristic character, gives a bold collection of statutes, with notes. These statutes are arranged in the order of their importance, and not according to their dates. If a preference is to be made of one injudicious method over another, the order or arrangement observed by Mr. Paterson is to be deemed better than if he ranged the statutes according to their priority of date. The method adopted by him, however, is apt to invert the rule which the practitioner should observe in order to ascertain the legal definition of a disputed term. This is, as a general rule, to be learned by reference to prior enactments on the same subject. An arrangement of the game statutes, therefore, according to their dates, is not without its advantage, which is to some extent lost by the method pursued in the treatise before us. This shows that an author should seldom attempt to construct his treatise upon a statutory basis, unless there be some leading consolidation statute, which renders such a proceeding safe. A piece-meal commentary upon statutes is apt to leave some of them unnoticed. This, we fear, is the case as regards the present treatise. Mr. Oke gives a voluminous list of statutes, to which he refers in his Handy-book. But Mr. Paterson treats only of twenty-two statutes altogether, five of which relate to Scotland and six to Ireland. Mr. Oke, indeed, has treated of the fishery laws, as well as of those relating to game. Nevertheless, we fear that Mr. Paterson's list does not exhaust the series of statutes relating to game. We do not think, however, that our author has omitted any point of game law of importance. He ought not to have omitted a survey of the fishery laws, which are so intimately connected with the laws relating to game, especially as the duties of an author on the fishery laws have been greatly facilitated by the recent Salmon Fishery Consolidation Act, 24 & 25 Vict. c. 109. Although the method of giving the game statutes with notes, as adopted in the treatise before us, is inferior to that of a work, the parts of which would be found

arranged in a regular order, such as obtains in Mr. Oke's Handy-book, nevertheless, the very good index, which Mr. Paterson's work possesses, tends, so far as the requirements of the practitioner are concerned, to neutralise any defect in point of method. The treatise before us contains a still greater number of cases than are to be found in Mr. Oke's Handy-book. This superiority of Mr. Paterson's work, however, may be referable to the fact that his treatise is intended to describe the game code of the whole United Kingdom.

The Criminal Law Consolidation Statutes of 24 & 25 Vict. caps. 94 to 100, edited with notes, critical and explanatory. By JAMES EDWARD DAVIS, Esq., of the Middle Temple, Barrister-at-law. London: Butterworth.

The six Criminal Law Consolidation Statutes of the last session, received the Royal assent on the 1st of August, and came into operation on the 1st of this month. The consolidation of the statutory laws, with which these Acts deal—namely, those relating to offences against the person; larceny and similar offences; malicious injuries to property; forgery; coin-ing; and accessories, although far from complete, embraces nearly the whole of the statute law upon those subjects, and a considerable portion of the criminal law of this country. It would, therefore, be unreasonable to expect that Mr. Davis's edition of these statutes, published within three months from the publication of the Acts themselves, and the production of his unassisted labour, should contain the same amount of information and practical utility as might be expected to be found in a work prepared and matured at leisure. In the edition before us the public are provided with the Acts themselves, in a convenient form, with an index; and by means of reference to the corresponding clauses of those statutes upon which the work of consolidation has proceeded, the professional man is furnished with a clue by means of which he may ascertain what the law in any analogous case was up to the passing of these Acts. The Acts are printed in the order in which they received the Royal assent, and an attempt has been made to distinguish by brackets those provisions which are introduced for the first time. It would, however, it is conceived, be unsafe for a practitioner to assume that the only alterations in the law made by these Acts are such as are made by the provisions marked as described; for in many instances, where no brackets occur, the subjoined note informs the reader that the section is *nearly verbatim*, or that it is *framed upon one or more statutes*; and, obviously under such circumstances new words must occur, the operation of which upon the construction of the clause it must be extremely difficult to foretell. These distinguishing marks, however, though they may not be placed with perfect accuracy, materially contribute to the value of the book. The book also contains a table of offences and an introduction. Of the explanatory notes, except so far as they contain references to other analogous Acts as above noticed, we cannot speak with satisfaction. No method appears to have been pursued in the manner in which the matter contained in them is introduced. Sometimes cases in illustration of the text of the section are inserted; and sometimes, though there is an equal necessity for the insertion of such illustrations, and equal facility for supplying them, the editor, either from indolence or caprice, entirely omits them. It is unreasonable, perhaps, to expect to find, in a work published as this is, a history of the multifarious laws digested by the Acts, or a complete compilation from reports and text-books, of the leading decisions with reference to analogous legislation, or a description of the evidence and procedure in relation to the offences provided against; but though full information upon these points might not have been expected, it is only reasonable to suppose that such a work as the present will systematically point out those channels wherein such information may be readily obtained. To have furnished references to such sources of information would have been an easy task, and would have added greatly to the practical utility of the book. It is a task, however, which Mr. Davis has not undertaken. With the exception, therefore, of the words on the title-page, "*with notes critical and explanatory*," the book neither contains any express promise that the task undertaken by its editor shall be performed in any particular manner, nor statement that it has been prepared for any definite purpose and no one who may be disappointed by its contents can complain that more has been promised by its editor than has been performed. In the introduction it is stated that the Acts are merely new editions of "Peel's Acts," introduced for the purpose not of consolidating the criminal law, but mainly to get rid of the perplexities

in which the punishment for the offences dealt with, was involved before these Acts became law; and to assimilate the law of England and Ireland. In this part of the book the editor, in drawing attention to the great difficulties in the way of the consolidation of the statute law, remarks upon the "disheartening spectacle" exhibited by the repealing Act of the session. It repeals, either wholly or in part, no less than 106 statutes; but the work of destruction is necessarily so incomplete, that the mangled remains of a very considerable portion of the Acts must still continue to encumber the statute book, and add to the complications of consolidation. Indeed, judging from the example furnished by these Acts, the complete consolidation of the criminal law is a very remote possibility, and the consolidation of the whole statute law utterly hopeless.

JUSTICE AND ITS MISCARRIAGES.

At the recent meeting of the Metropolitan and Provincial Law Association at Worcester, the following paper on this subject was read by JOHN TURNER, Esq. :—

At the meeting of the Society at Newcastle, in October last year, I ventured to submit for your consideration a few facts illustrative of the miscarriages of justice under our present judicial systems, and the necessity which existed, and still exists, for appointing a minister of justice. In doing so I briefly alluded to the distrust of suitors arising from the want of uniformity in judicial decisions; to the evils of a system which permits the laws which regulate the rights of parties to vary, and be in conflict, according to the court in which the matter in dispute may chance to be heard; to the endless changes in the law, which render it impossible for mankind to regulate their dealings by any known principle or standard; to the imperfect nature of remedial statute laws passed, and constantly passing, through the efforts of over zealous and unskilful law reformers; and to the injury sustained by the public and the profession consequent thereon; to the evils arising from judicial appointments being given as the reward of political servitude, instead of eminent professional ability and spotless integrity of life and conduct; to the injustice evinced to the public interest and to the profession of attorneys and solicitors by the appointment of barristers as taxing masters in the superior courts; and by the appointment of barristers as solicitors to the public departments of the State; and also to the claim which the colonists in our colonial dependencies had upon the Sovereign and the Government to the enjoyment and protection of the laws of England in common with every British subject.

I omitted, however, to notice another evil, not of unfrequent occurrence, which arises when courts of justice assume to themselves the functions of legislators, and by judicial decision either unsettle or overturn existing law which has been recognised by a long series of decisions; or when, with more boldness, they satirise from the judgment seat the legislative acts of the country, and under professed inability to understand an Act of Parliament, or by professing to understand its provisions in a sense different from the real meaning, they decide contrary to the intention of the Legislature and practically annul the statute law of the land. Instances of this kind are probably within the memory of most of my hearers; and as it has been my endeavour to avoid reflecting upon any particular court, I abstain from more pointed reference to such decisions. It would, however, be a false delicacy on my part if, in resuming the consideration of the necessity for the appointment of a minister of justice, I were to abstain from noticing instances of miscarriage of justice in our colonies, to be found in reported cases which are open to every professional reader, the more especially as such cases affect the interest of members of the profession as attorneys. In referring to such cases I wish it to be distinctly understood that I impute no misconduct to colonial judges, and I presume that they acted and decided according to the best of their ability, but subject to those failings of erring humanity adverted to by Lord Brougham in his Lordship's judgment in *Cattle's Case* (2 House of Lords Cases, 667).

There are two classes of reported cases to which I desire to draw attention, the one relating to the power exercised by colonial governors to suspend or remove judges, and the other to the power of colonial courts to suspend and disbar barristers and attorneys, the functions of barrister and attorney being in some colonies united. The exercise of

this last-mentioned power is often arbitrary and productive of individual suffering and wrong, and tends to pervert the course of justice. Some of these cases appear to have originated in ill-feeling between a particular practitioner and the judge, the result of local disputes, newspaper reports, or political feelings.

In *Re Downie and Arrundell* (3 Moore's P. C. Ca. 414) two advocates were suspended by two orders of the Court at British Guiana for having, as counsel, been concerned in and advised the service of a petition upon the judge which had been presented to her Majesty, praying her Majesty to stay proceedings in an action brought by the judge in his own court against a newspaper proprietor for alleged libel, and that he might be interdicted from presiding at the trial or from proceeding in any manner directly or indirectly with the action. The alleged libel consisted in an allegation that the judge had been guilty of delays in postponing the sittings of the Roll Court, and keeping that court shut at his pleasure to the injury and prejudice of her Majesty's subjects in the colony. These orders of disbarment were, upon an appeal to the Queen in council, reversed.

In the case of the *Representatives of the Islands of Grenada and Sanderson* (6 Moore's P. C. Ca. 38), the judge fined two magistrates for taking depositions in the third instead of the first person. It appears from the report of this case that several charges were made against the chief justice, which were in substance as follows:—

First. Exhibiting habitually on the bench a harsh and offensive demeanour towards the bar, the magistracy, and the grand juries, and addressing them in intemperate and violent language, and using expressions unbecoming his dignity as a judge.

Second. Denying the co-ordinate and co-equal jurisdiction of the puisne judges as established by statute, and taking constant occasion to assume a superior and independent authority.

Third. Refusing to carry the statute law into effect, for which he was suspended, and only restored upon his undertaking to enforce it.

Fourth. Disbarring a barrister, without notice given to him, or any opportunity afforded him of justifying or defending himself.

Fifth. Ordering another barrister to be committed for one month to gaol for two high contempts—viz., first, for moving to have the previous order of disbarment rescinded, notice of which had been given to the chief justice; and, secondly, for insisting upon his right, as a barrister, to be heard when desired by the chief justice to sit down and keep silence, notwithstanding that the other judge of the court, who had a co-ordinate jurisdiction, objected to such order being made.

Sixth. Procuring from the governor of the island the suspension of Mr. Justice Wells, for rescinding the above-mentioned order of disbarment, a suspension which was revoked by her Majesty under the advice of the law officers of the Crown in England.

Seventh. Making, without the knowledge or concurrence of the puisne judges, two rules of court, by which the puisne judges were forbidden to transact any business at chambers, rules which were rescinded by order of her Majesty under the advice of the Judicial Committee of the Privy Council.

Eighth. Sentencing, summarily and without trial, one, Andrew Lambie, a witness for the defence on the trial of an indictment, to a month's imprisonment in gaol and a fine of £10 for alleged prevarication and falsehood, which fine was directed, by order of her Majesty's Secretary of State for the Colonial Department, to be repaid to him, and the remaining portion of the term of imprisonment remitted.

Ninth. At an adjourned session of the court, illegally and without trial, issuing a writ of attachment against John Ross McCombie, and imprisoning him for three months, and imposing a fine of £100 for animadverting in a newspaper upon the committal of Andrew Lambie, an imprisonment which was likewise in great part suffered before it could be remitted by the governor, though the fine was, by his order, never demanded.

Tenth. Ordering, at the April sessions of the Court in 1839, one Daniel McLean, a prisoner on his trial for an assault, out of court during the examination of the witnesses for the defence, and confining him in one of the upper rooms of the same building, whereby he was precluded from questioning the witnesses either by himself or his counsel, and was otherwise prevented from assisting his counsel in his defence.

Eleventh. Fining two magistrates, in opposition to the

opinion of the puisne judges sitting with him, for having taken depositions in the third person instead of the first person.

The chief justice also presented a memorial, objecting to the matter being investigated.

Both memorials having been referred to the Privy Council, their lordships made the following report to her Majesty:—

"The Lords of the Committee, in obedience to your Majesty's order of reference, have taken the said petition into consideration, and having heard counsel on both sides, do this day agree humbly to report to your Majesty as their opinion, that in the course of the fourteen years during which the Chief Justice has held his office, several instances of intemperate, and in some cases of illegal, conduct appear to their lordships to have been established against him; but having regard to the length of time which has elapsed since all such acts, except one, have been committed without any allegation of misconduct on his part in the meantime, and considering that the last of such acts—viz., fining of two magistrates in the year 1844—appears to their lordships, though erroneous and improper to have been committed in the execution of what the chief justice thought his duty, the Lords of this Committee do not think that *sitting judicially* their lordships can say the chief justice ought to be removed."

In *Montague v. The Lieutenant-Governor of Van Diemen's Land* (6 Moore's P. C. Ca. 489), it appeared that the judge was deeply embarrassed, and that the local court over which he presided was the only court in which actions against him could be brought, and that an action brought against him in such court was decided not to be maintainable, and that no judgment could be obtained so long as he remained judge, so that the creditor was without remedy according to law as administered in the colony.

In *Smith v. The Justices of Sierra Leone* (3 Moore's P. C. Ca. 361) an attorney and advocate practising in the courts of the colony of Sierra Leone was fined, imprisoned, disbarred, and struck off the rolls for asserting, when applying for a new trial, that the judge had misdirected the jury, and declining to answer a question put to him as to the particular words used; and upon the Privy Council reversing the orders the Court again, upon his return to practice, made an order to disbar him upon another ground, which order was also reversed by the Privy Council upon appeal. (See 7 Moore's P. C. Ca. 174.)

In *Graham v. Lafitte* (3 Moore's P. C. Ca. 382) the Governor of St. Lucia illegally suspended a judge, and appointed another in his stead; and all the acts done by the Court, so illegally constituted, were void, and the consequences were most disastrous to the public. The Lords of the Privy Council, upon the facts being drawn to their attention, to prevent the hardship upon the suitors, made orders declaring valid the proceedings and judicial acts of the Court while so improperly constituted.

In *Coette v. The Queen* (8 Moore's P. C. Ca. 484) the Governor and Executive Council at Port Natal, by an order suspended from his office the recorder of the district of Natal for alleged misconduct in having permitted an affidavit to be reformed instead of rejecting it altogether, or treating it as a contempt of court. This order was rescinded by the Privy Council, who advised the Crown that the salary attached to the office should be paid to the recorder as if no order of suspension had been made.

As the remedy in these cases relating to barristers and attorneys is, by the indulgence of the Judicial Committee of the Privy Council acting under statutory powers, to allow an appeal to the Queen in council, or by a reference from the colonial office to that tribunal to entertain a petition, and the costs of such a form of proceeding is very heavy, and attended with great delay, the appointment of a minister of justice appears necessary to whom an application could be made direct for relief, and the authority of such an officer is also required to mitigate the consequences of illegal removals of colonial judges.

In addition to these reported authorities my attention has been directed to the case of a judge in one of our principle colonies, who had been an ironmonger by trade in this country, and was adjudged a bankrupt. He had, however, political interest, and became a barrister, and was appointed a colonial judge. His decisions proved to be very unsatisfactory to the colonists over whom he was sent to preside, and they thought that the best remedy for the evils he caused was to petition the Home Government for his removal, which they did, and so far succeeded that two additional judges

were appointed, whose ability in the discharge of their duties and courteous demeanour removed further ground for complaint. Had there been a minister of justice responsible to the country for all judicial appointments, both at home and abroad, or if the benchers of the various inns of court had any voice in such appointments, it is not likely that a person who had been a bankrupt trader, unless possessing high legal attainments, would have been made a judge, and the complaints of the colonists would have been unnecessary.

The time allowed by the rules of this society for reading papers will not permit me to refer to other cases, nor is it desirable that I should do so, as it might create opposition instead of support to the creation of such an office as I have indicated.

At the meeting of the society last year, the question was asked whether a minister of justice, if appointed, should be a cabinet minister, and whether he should go out of office upon a change of administration, and what would be the extent of his authority. I think that such an office, if created should be filled by a cabinet minister possessing high legal attainments, and that he should go out of office on a change of administration.

There are serious objections to be considered before such an officer can be constituted.

Admitting that there are many grave evils under our present systems, it has been doubted whether the appointment of a minister of justice is the proper remedy. The very name is foreign to our country, and forcibly reminds us of the despotism of foreign courts and the assumed sovereign right which is said to exist in some foreign states under which the ordinary laws of the country may be suspended. A minister of justice in this country giving sanction to such a doctrine would be a fearful evil, and it is sufficient to say, that no such power is sought to be conferred, and in this land of freedom would never be tolerated. The office which I suggest, by whatever name it may be called, is one which should be filled by a cabinet minister having in the House of Lords equal judicial authority with the Lord Chancellor and taking rank after him, and by virtue of his office he should be a Deputy Speaker in the House of Lords. He should superintend the preparation of all laws affecting the administration of justice or the rights of property. He should investigate complaints of injustice from and superintend the administration of justice in the colonies, and on his recommendation the Crown should have authority to remove any judge for incompetency or judicial misconduct. He should be responsible for all legal appointments, and all officers in courts of justice and all consular agents should be appointed with his approbation, and such appointments should be declared to be a public trust, to be exercised solely for the benefit of the country, and not by way of patronage. The responsibility of appointing judges of the superior courts should still remain with the Crown upon the recommendation of the cabinet ministers. It should also be the duty of such an officer to watch and find a remedy for every application of the law involving dangerously erroneous principles.

To prevent political favoritism, I think that no direct power of appointment should be placed in the hands of a minister of justice, and that colonial judgeships should be made from persons approved of by the benchers of the inns of court.

It may be contended that all the duties which I have indicated as necessary to be performed by a minister of justice are already adequately provided for, and that the Lord Chancellor, the Attorney-General, and the Secretary of State for the Home Department, are the persons to perform such duties. If this be so I have already shown that many of their most important duties are neglected, and although it may be true that these three state officers to some extent perform the duties of a minister of justice, yet the division of labour is either so apportioned as to cause the neglect of such duties, or that they are so onerous as to render them impossible of performance without further assistance. The Lord Chancellor is supposed to be responsible for all legal appointments both at home and in the colonies, but I will venture to say from the high character of the judges who have held the office of Lord Chancellor, that they cannot be held responsible for colonial appointments; and I shall be greatly surprised to find that any of the judges whose decisions I have referred to received their appointment on the recommendation of the Lord Chancellor for the time being. It is impossible for any Lord Chancellor now to perform those varied duties which might, without public incon-

venience, have been and probably were performed in the reign of William III., and which at that period comprised all the duties necessary from a minister of justice. The total change in the population and circumstances of the country have so far increased the duties as to render a reconsideration of the best means of securing their adequate performance necessary, and, according to the best consideration I have been able to give to the subject, I think that a state department of justice should be formed, and that a minister of justice should be appointed.

THE REGISTRATION OF TRADE MARKS.

The following paper by ARTHUR RYLAND, Esq., Solicitor, Birmingham, was also read at the recent meeting of the Metropolitan and Provincial Law Association at Worcester:—

The piracy of trade marks, which was taken up by the Government during the last session, as one of the subjects on which Parliament ought to legislate, but which the Government failed in their efforts to deal with, will, if the intentions expressed by them at the close of the session are to be relied upon, form the subject of inquiry before a Committee of the House of Commons during the coming session.

It therefore appears to me to be a proper subject for discussion at this meeting, as the knowledge and practical experience of the members of our Society may enable them to make some valuable suggestions upon it.

Although much disappointment was felt by the Chambers of Commerce, who brought the subject before the Board of Trade two years ago, at the neglect of the Government in allowing its Trade Marks Bill to die out from want of care, I think they may find more than a compensation in the improvement of the measure which will result from the increased opportunities thus afforded for further consideration.

I would remind you that the Bill declared that the following offences should be misdemeanors, namely—the forging or imitating a trade mark, or the applying any such mark to any chattel or article with intent to defraud; the selling or exposing for sale any chattel or article bearing a forged or false trade mark with intent to defraud, the making or selling, or exposing for sale, any chattel or article, or the cover, bottle, reel, &c., containing it, with a false indication of its quantity, quality, measure, substance, or material; the forging, imitating, or falsely applying the names and marks of artists to any picture, engraving, sculpture, &c., or other work of art. And it was proposed to be enacted that no proceeding under that Act should affect any remedy which aggrieved persons may be entitled to at law or in equity.

These provisions are declaratory of the common law. It appears to me that the case of the *Queen v. Closs*, 27 L. J. M. C. 54, leaves no room for doubt that the offences described in the Bill are, without the aid of any statute, indictable. In that case Lord Chief Justice Cockburn is reported to have said—"We have carefully examined the authorities; and the result is that we think that if a person, in the course of his trade, openly and publicly carried on, put a false mark or token on an article so as to pass it off as a genuine one, when in fact it is only a spurious one, and the article is sold and the money is obtained by means of that false mark or token, that will be a cheat at common law: as for instance, if a man sold a gun with the mark of a particular manufacturer upon it, so as to make it appear to be the genuine production of the manufacturer, that would be a false mark or token, and the party would be guilty of a cheat, and therefore liable to punishment if the indictment were fairly framed to meet his case."

There are many reasons, nevertheless, why it is desirable to have a declaratory statute on the subject, and the Government and Parliament have recognised the necessity for such legislation; but unless it is clear and precise in its terms, and unless it provides the proper machinery for its easy administration, it would, in my opinion, be better to remain as we are a little longer. I am persuaded, however, that such a statute may, without much difficulty, be framed, provided those who prepare it will possess themselves of what has been done in this respect in other countries, and of what has been done here in matters analogous to trade marks, and will also make themselves thoroughly conversant with the difficulties with which the manufacturers have now to contend.

I do not propose in this paper to go into any critical examination of the Bill of last session, but to confine myself chiefly to the question, whether a Bill having for its object

the punishment of the piracy of trade marks as a misdemeanour can be complete without providing for a registration of marks.

We must first understand in what sense the term trade mark is to be used.

By a trade mark I do not understand a manufacturer's name, nor his label describing the quality of his wares, but a device used to indicate the person by whom, or the works where, the article bearing it was made or sold. What a crest or coat of arms is to a gentleman the trade mark is to the manufacturer.

The Bill of last session erred in not making this distinction. I do not mean in subjecting the fraudulent use of a name or label to the same punishment as the piracy of a mark that all such offences ought to be equally punished; but the error was in including them under the term trade mark.

The Bill declares that the expression trade mark shall extend to and include any name, letter, mark, device, figure, sign, seal, stamp, label, or other thing lawfully used by any person to denote any chattel to be of the manufacture, workmanship, production, or merchandise of such person.

This definition appears to me to make complicated and difficult what would otherwise be simple and easy; and it would also work great injustice and inconvenience.

Would it not be much simpler to apply the penalties of the Act to the fraudulent marking of goods offered for sale with the name or the trade mark of another, and declare that the so marking the wrapper, case, or other thing containing or holding goods, shall, for the purposes of the Act, be deemed to be a marking of the goods? I here suggest the description of the offence. I do not offer it as a complete definition; for, of course, provision must be made in it for fraudulent imitation of a name or mark, and for excluding the use of single letters as marks.

No description or definition of the name of another can be needed, nor need it be described what is meant by fraudulent marking. No manufacturer can need to have it explained that if he has the authority of another person to mark goods with his name, to do so is not fraudulent.

The only term requiring a definition is *trade mark* and this must be so defined as not to include the other terms *name* and *label*; and the definition I would suggest for such a Bill as I contemplate would be, that the term trade mark shall, for the purposes of the Act, be deemed to be a device used to indicate the person by whom, or the works at which, the article bearing such mark was made or sold.

It may be objected that this definition would exclude all terms merely descriptive of the article as "glacé thread," "Persian thread," "medicated balm," "solid-headed pins," &c. I reply, that I think it just and wise to exclude all such names. It appears to me unfair and contrary to public policy to allow to any one house the exclusive right to an adjective. In Prussia such a monopoly is forbidden. I would propose not to include them amongst those trade marks, the piracy of which is to be indictable as a misdemeanour. The present remedies by injunction, and action for damages will remain untouched, and parties who have established their right to the exclusive use of such words must remain content with those remedies.

Then arises the question, have we, in thus affording additional protection to the public and to the manufacturers, being the owners or users of trade marks, sufficiently provided against exposing other manufacturers to the danger of unwittingly incurring the penalties of the new statute?

We must not lay traps for the unwary. To render persons liable to punishment by imprisonment for offences hitherto classed amongst injuries, for which it was deemed, although erroneously, that the only remedies were by a suit in chancery or an action at law, is a change demanding the utmost caution. The statute by which it shall be effected ought to provide every means for giving publicity to the change, and for warning the trading community against the offence to be punished.

These observations do not apply to the piracy of another's name—because no one could do that innocently. The mere fact is evidence of fraud. Not so with a mark. A manufacturer desiring to use a trade mark may adopt a device which is already in use by another, without knowing that it is so. It may be said, that as he does this ignorantly, it would not be fraudulent, and consequently not punishable under the Act. True! But he may be indicted: the fact of his using another's mark would induce the grand jury to find a true bill. He might have the annoyance of having to prove

before a jury the absence of fraud—not always an easy thing for the most innocent to do.

Larger to innocent manufacturers may be avoided by providing in the statute for a *Registration of Marks*, and by excluding from the operation of the Bill the piracy of all marks not registered.

The registry would be open to inspection to all on payment of a moderate fee; and with this means of knowledge no excuse would remain for those who incurred the pains and penalties attached to the piracy of trade marks.

In addition to this advantage a registry would be valuable to the owners of marks in the increased certainty, and the decreased cost, in proving their title to their respective marks—and this would be no small advantage. The statute would of course declare that the registrar's certificate should be conclusive evidence of the title of the registered party, and this might be extended to the proceedings in the civil courts.

Without a registry a person has, in every case in which he complains of a piracy of his trade mark, to prove, often by several witnesses, that he has exclusively used the mark for a long period; and however frequently he may have to maintain his title to his trade mark, the same kind of evidence must be produced. With a registry, all that he would have to do in this respect would be to produce a certificate of the registrar. Of course he would have to prove his title previously to registering his mark, but this would be once for all.

In making provision for a registry we may be much assisted by a reference to the registry of designs—the work there done is analogous to what would have to be done in a registry of trade marks. I would propose to have the work done under the management of the same chief officer. It would not be difficult to increase the staff so as to do the additional work—the fees would well pay for such an arrangement.

The mode of proceeding in Prussia affords valuable hints to us. There the person desiring to register applies to a public officer, delivering to him three copies of the mark. This officer, known as the Trades or Manufactory Justice, gives public notice of the application, so that all persons objecting to the use of the mark by the claimant may be heard against the claim. It is the duty of the justice to hear and decide on those objections, and also to compare the mark claimed with those already on the register; and if he find that it is distinct from the marks already registered, and it does not infringe upon the rights of any of the opponents, and is in accordance with the requisitions of the ordinance, he allows the claim and enters it on the roll. This roll is open to search without charge. Each mark is connected with a particular trade, and cannot be transferred except to the proprietors of that trade; if the trade is discontinued then the right to the mark ceases.

In the establishment of a registry it would be necessary to require the applicant to send to the registrar two copies of the proposed mark in a given form; together with his name or the name of his firm, his place of business, and the descriptive name of the manufacture or goods on which he proposes to use his mark; and that the registrar should, on receiving such application, first ascertain whether the mark claimed is already on the registry for that manufacture, and if it be, to return the claim, and if it be free from such an objection, then the registrar should give notice in the *London Gazette*, and some paper published at or near the claimant's place of business, stating the particulars of the claim, and within what time notices of objection are to be sent in. On the expiration of that time, if there be no notice of objection, the claim would be enrolled, and a certificate attached to one of the copies of the mark sent to the claimant. If any notices of objection were received, then a copy of the claim, and one of the copies of the mark with the objection, might be sent to the county court within whose jurisdiction the claimant's business is carried on.

It should be the duty of the county court judge to hear and decide upon the claim and the objections, and remit the papers, with a certificate of his judgment, to the registrar; and the claim should either be allowed and enrolled, or refused, according to that judgment. I do not think it necessary to provide for any appeal; but this may easily be done if desired; and if a new court be created for patent causes, the appeals might be heard by that court.

A scale of fees and charges must be settled by the Board of Trade or the Treasury, and each claimant must send with his papers the proper amount. The payment of the costs

incurred in the county court must be decided by that court on hearing each case.

The Treasury settles the scale of fees under the Copyright of Designs Act (5 & 6 Vict. c. 100, s. 18), and in order to show that such modification of the fees first settled, necessarily rather speculative, as experience may shew to be necessary will be made. I may mention that recently some of the fees for registering designs were reduced, on the representation of the Birmingham Chamber of Commerce that they were unnecessarily high. The superintendence of such departments would appear more properly to belong to the Board of Trade; but this is a matter of secondary importance.

Objections to claims must be founded upon the objector's superior title to the mark claimed; and he must be required to state in his notice, in addition to his name and place of business, how long he has used the mark claimed, and in connection with what goods he has so used it.

The proceedings in the county courts could be governed by a few simple regulations, requiring the bailiff to give notice to the claimant and objectors of the day of hearing; and subjecting the proceedings to such of the rules of practice in those courts as may be applicable.

The forms of claim, objections, advertisements, registry, certificates of registrar, and of county court, would of course be prescribed in the Act, and the working of the system would be an easy and inexpensive matter.

I mention the form of advertisements as a matter to be provided in the Act. Much expense would be saved by adopting a schedule form with headings, similar to those adopted in the parliamentary and burgess rolls. I am surprised that this has not occurred to those who are responsible for the conduct of the business of the bankruptcy and insolvency courts. How much more easy would it be to read down a schedule of names and dates than to weed them out of the unnecessary and oft repeated jargon of their advertisements, and the amount of money saved would be very great.

In the *Gazette* and other papers the registrar would have his schedule of claim somewhat in this form:—

Claimant.	Where business carried on.	Manufacture or goods to which mark to be applied.	Mark.	Day before which notice is to be sent.
Elkington & Mason	Birmingham	Gold and silver and plated goods and medals	A Crown	
Smith & Wright	Birmingham	Metal and ornamental buttons	A Butterfly	
William Aston	Birmingham	Metal buttons	A Lion	
Millward & Son	Redditch	Needles	A Globe	
Dain, Watts, & Manton	Birmingham	Buttons	A Swan	
British Iron Company	Corngreaves, Haleson	Iron bars	A Lion	
Philip Williams & Sons	Wednesbury	Iron bars	A Mitre	

I have gone into this detail because I know that some have objected to the scheme of a registry from the apprehension of difficulties which would arise from the number of notices to be given and the entries to be made.

It is mere clerks work. If the notices be required to be sent by post, and the fees remitted by post office orders, how simple and easy would be the operations. The registrar would require only two books and two indexes, one for registering claims in the same form as the advertisement, with the addition of columns for writing the names of objectors, when and to what county court sent, what judgment given, and when certificates thereof received, and a reference to the number of the registry or roll on which claim entered, when allowed. The other book would be the registry for enrolling the claims allowed, answering to the first four columns of the advertisement. An index of manufactures and marks would be necessary, but I think not of names. A person searching the index would desire to know what marks would be used in connection with certain trades; his object being to learn what marks in his manufacture are registered, so that, in selecting a mark for himself, he may avoid any already registered. And in the searches to be made by the registrar, the mark or the manufacture would be the only thing to be ascertained.

Provision must be made as to the transfer of marks. They should pass with the trades with which they are connected.

and the right to each mark cease when its trade ceases to be carried on; and the proprietor must be required, on each devolution of ownership, to send particulars, to be under the penalty of losing the exclusive right to the mark.

In France the ownership of the mark continues for fifteen years, but may be renewed at the end of each period for another of the like duration.

The plan of registration may be objected to from its novelty, which in some minds always raises doubts and fears, and much good results from this wise dislike of change; but it must be borne in mind that it is proposed as a protection against the inconveniences of a change decided upon. And we have experience to guide us. Such a registration exists in France, Russia, Belgium, and Prussia; and in our country we have a somewhat analogous registration, under the copyright of Designs Act. This is carried on with satisfaction and success; and I cannot understand that greater difficulty would exist in the registry of trade marks—indeed, I do not believe there would be nearly so much to be done in this case as in the former. The objectors to a registration must, I think, have expected that it would necessarily include the names of manufactures. This would, indeed, render a registry too unwieldy to be attempted: such a plan would be as impracticable as it would be useless.

Some objection may be entertained by houses which are now in the undisputed enjoyment of trade marks from an apprehension that they might lose those marks by unscrupulous persons obtaining a title to them by getting a registry certificate of the same. Such attempts could scarcely be successful, and the improbability of success would operate to prevent them; but the owners of recognised marks may themselves prevent such dangers by immediately registering their marks; and if they take the trouble to understand the effect of its provisions they must be amongst the first to seek the protection of the statute; not so much to prevent a robbery of their mark, as to have a simpler and less costly means of supporting their title in legal proceedings and a more efficacious check against piracy.

The establishment of a registry of trade marks was urged upon the attention of the Board of Trade more than two years ago by the principal chambers of commerce; and subsequently the Birmingham chamber, on the request of that Board, submitted an outline of clauses for this purpose; and the then Board decided that the plan should not be adopted. What objections prevailed to its rejection we do not know.

Since that time the Sheffield Chamber of Commerce has prepared a Bill which included registration as a part of its scheme. Mr. Roebuck, the member for Sheffield, gave notice of amendments upon the Government Bill, embodying the provisions of the Sheffield Bill in reference to registration and convention with foreign countries.

I have not in this paper noticed the provisions of the Bill relating to sales by false indications of quantity or material, or the counterfeiting of an artist's name or mark on any work of art. These objects are properly within the purview of the Bill. The sale of goods by false tokens is the general title, including all the objects proposed to be provided by the Bill.

The systematic frauds of this class both in this and other countries are so extensive that it is necessary that some strong check should be provided; and I believe that when it is understood that the practice will be regarded no longer as a venial offence, but as a crime punishable with imprisonment, it will be deemed too dangerous or too disgraceful to be used.

THE OPENING OF THE MIDDLE TEMPLE LIBRARY.

The New Library of the Middle Temple was opened on Thursday last with great pomp and ceremony by his Royal Highness the Prince of Wales. During the early part of this week the usually silent courts of the Middle Temple were quite alive with the hum of preparation for the ceremonial which was to take place on the occasion. How briefs found their way through the confusion to their rightful owners it is difficult to say; and but that Term was so near at hand, one might have thought that all business was at a standstill. The benchers spared neither trouble nor expense to do proper honour to the occasion, and to accommodate all who had claims to be present. The demand for tickets was much greater than was anticipated, for members of the society came up from all parts of the country, and as the hall, spacious as are its proportions, would not contain a third of the expected company, the whole area of Fountain-court had been included in a handsome pavilion, which accommodated nearly 500 guests. In the small garden

round the fountain arcades of evergreens and other floral decorations were raised, and when illuminated in the evening by the lime light, had a very beautiful appearance. New arrangements had been made, too, for lighting the interior of the hall, which showed off its fine oak ceiling and panelling to the greatest advantage.

The first stone of the new building was laid by Sir Fortunatus Dwarria, in 1858. It is in the collegiate style of the 15th century, built from the design of Mr. Abraham, the architect. The lower portion is occupied by chambers. The cost of the building is stated to be under £14,000. The library, which is a room of handsome proportions, 96 feet long, 42 feet wide, and 70 feet high, occupies the upper portion, and is approached by a winding staircase in an octagonal tower at the side. The roof, which is not unlike that of Westminster Hall, except that it is two-centred, is of American pitch pine—the first time this wood has been used for the purpose in this country. The floor is of Portland stone, in panels, with Portland cement in the centre compartments. There is a stained glass window at each end; the oriel at the south is illuminated with the arms of the Royal Princes, from the time of Richard Cœur de Lion down to the present Prince of Wales; and the window at the north, which is one of the finest specimens of stained glass in the country, represents the shields of all who have been Benchers during the time of its erection. There are five windows at each side, which cast a dim studious light through silvered glass. Over the door is hung the portrait of the founder of the old library, Robert Ashley. Altogether, it is really a noble room, and even those who are most disposed to criticise the exterior, when they get inside cannot but admit that it is a credit to the Inn.

About half-past one o'clock the guard of honour of eighty rank and file of the Inns of Court Volunteer Corps appointed to receive the Prince, took up their position in the Vestibule. Punctually at two o'clock his Royal Highness arrived. The Treasurer, Mr. Anderson, Q.C., and the Attorney-General, Sir W. Atherton, Q.C., were awaiting him in the vestibule, and conducted him to the new Parliament Chamber, where the Benchers had already assembled, the guard of honour presenting arms and the band playing "God save the Queen." In attendance on his Royal Highness were Major-General Bruce and Major Teesdale, C.B. Here the Benchers were first presented in due form; and afterwards two representatives of the barristers, and two representatives of the students, together with the architect of the Library, had also the honour of being presented. A Parliament was then formed of the Masters of the Bench present. The proceedings here were very short. The Master Treasurer moved, and the Lord Chancellor seconded, first, "that his Royal Highness be admitted a member of the Middle Temple," and next, "that his Royal Highness be called to the degree of the outer bar, and that the oath, on publication of the call, be dispensed with." Both motions were carried unanimously, and the Prince was invested with the bar gown and subscribed the call-book. The next motion, also by the Treasurer, and seconded by the Lord Chancellor, was "that his Royal Highness be invited to the Bench." This motion was also agreed to, and the Prince assumed the Bencher's gown, and took his seat as a Master of the Bench, at the right hand of the Treasurer. The new Master next moved, "that the parliament do adjourn, and proceed to open the Library." This concluded the ceremony in the Parliament Chamber, and a procession was then formed to the library, the Prince of Wales and the Treasurer leading the way. Arrived in the library, the Prince took his station on the dais in the bay window, and the Treasurer read the following address:—

"May it please your Royal Highness,—We, the Treasurer and Masters of the Bench, barristers, and other members of the Society of the Middle Temple, gladly avail ourselves of this opportunity to express our warmest thanks for the honour which has been conferred on this Society by your Royal Highness having graciously consented to become one of our members, and to preside at the opening of the new Library.

"This ceremony cannot fail to interest all who duly appreciate the importance of the study of juridical science, and the diffusion of a knowledge of the laws which govern alike all ranks and orders of society, and who deem that the maintenance of its learning, no less than the preservation of its independence, is essential to the efficient administration of justice, and to the protection of the liberty of the subject.

"The Library in which we are assembled, built for the purpose of providing the members of this Inn with improved opportunities of study, may be regarded as an earnest that the Masters of the Bench take a deep interest in the exertions of

the student, and are anxious to encourage a spirit of generous rivalry for the honours which have been set apart as rewards of merit.

"It is not, we trust, presumptuous to hope that, among those who may pursue their studies in this room, many will be found not unworthy successors of those great lawyers and statesmen, to whose names, enrolled in the books of our Society, and many of which grace these walls, we refer with legitimate pride.

"We recognise in the honour which your Royal Highness has this day conferred upon us a manifestation of that respect for the law for which your Royal House has always been distinguished, and never more so than during the happy reign of her Most Gracious Majesty—a reign specially marked by the many important improvements in our laws—and we feel assured that the enrolment of your Royal Highness as one of our body will animate us all with fresh zeal ever to uphold the dignity of the profession, and to maintain the high character of our ancient society:—

To which his Royal Highness read the following reply in a clear, firm tone, which, notwithstanding the crowded state of the room, was audible nearly all over it:—

"Gentlemen,—I thank you cordially for this address, and for the gratifying terms in which you refer to my presence here to-day.

"I have gladly accepted your invitation, and esteem it a high privilege to be enrolled on your list of bachelors, and permitted to inaugurate the opening of this beautiful library, so worthy of your ancient and renowned Society.

"Although but very imperfectly acquainted with the noble science to the study of which this edifice is more specially devoted, I am deeply sensible of its vast interest and importance, and I value, as they deserve, the learning and integrity for which the Bench and Bar of this country are so justly celebrated.

"Your Inn has contributed many to the long array of illustrious names which adorn our legal annals; and, while heartily congratulating you on the completion of this great work, I venture to express a fervent hope that the students within its walls may largely profit by the advantages so wisely and liberally provided for them, and may successfully emulate the fame of their eminent predecessors."

The Prince then signified his pleasure to the Treasurer that the library be opened, and the Treasurer then said, "By command of His Royal Highness this library is declared to be opened." This concluded the two ceremonials, which together did not last more than half-an-hour, and the procession then left the library in the same order, and went to the Temple Church, where there was a special service which had been drawn up by the Master, Dr. Robinson.

At 4 o'clock some 750 guests sat down to what was modestly called a *déjeuner*, but which was in fact a sumptuous banquet. In the hall there was not room for more than 350, including the guests on the dais; the rest were accommodated in the pavillion hard by. The Treasurer was in the chair, having the Prince on his right, and the Duke of Cambridge on his left hand. In addition to the other guests whose names are given, Lord Brougham joined the company at dinner. The gallery over the screen was filled with ladies. As previously arranged, there were no speeches. The Treasurer gave in rapid succession, "The Queen," "The Prince Consort," "The Prince of Wales," "The Duke of Cambridge, and the rest of the Royal Family," all of which were duly honoured.

The Prince of Wales then rose and said,—Gentlemen, I wish all prosperity to the profession, and I beg leave to give you "*Domus*."

The speech and toast were received with great enthusiasm. Shortly afterwards the Prince left the hall, accompanied by the other visitors, loudly cheered, as upon entering. Next to his Royal Highness, Colonel Brewster, the Commander of the Inns of Court Volunteers, sat, and to judge from the warmth of his reception, appeared to be the most popular man present, an advantage which he probably owes to the excellent state of efficiency to which he has brought that fine corps.

The day was brought to a close by an evening *conversazione*, for which the Prince did not remain. He left immediately after the *déjeuner*, after expressing to the Master his high gratification at the events of the day.

The general arrangements for the accommodation and marshalling of the guests were excellent, and did great credit to all concerned in carrying them out, and though there must have been at one time nearly a thousand people collected together, the complete success of the day was not marred by the slightest confusion, nor, as far as could be known, by a single disappointment.

Law Students' Journal.

MICHAELMAS TERM EXAMINATION.

Persons applying to be admitted attorneys, are required to attend on Wednesday, the 13th, and Thursday, the 14th Nov. next, at half-past nine in the forenoon, at the Hall of the Incorporated Law Society, Chancery-lane, in order to be examined. The examination will commence at ten o'clock precisely, and close at four o'clock each day.

Articles of clerkship and assignment, with answers to the questions as to due service, according to the regulations approved by the judges, must be left with the secretary on or before Friday the 8th Nov.

Where articles have not expired, but will expire during term, or in the vacation following such term, the candidate may be examined conditionally; but the articles must be left within the first seven days of term, and answers up to that time. If part of the term has been served with a barrister, special pleader, or London agent, answers to the questions must be obtained from them, as to the time served with each respectively.

On the first day of examination, papers will be delivered to each candidate, containing questions to be answered in writing, classed under the several heads of—1. Preliminary. 2. Common and statute law, and practice of the courts. 3. Conveyancing.

On the second day, further papers will be delivered to each candidate, containing questions to be answered in—4. Equity, and practice of the courts. 5. Bankruptcy, and practice of the courts. 6. Criminal law, and proceedings before justices of the peace.

Each candidate is required to answer all the preliminary questions (No. 1); and also to answer in three of the other heads of inquiry, viz.:—common law, conveyancing, and equity. The examiners will continue the practice of proposing questions in bankruptcy and in criminal law and proceedings before justices of the peace, in order that candidates who have given their attention to these subjects may have the advantage of answering such questions, and having the correctness of their answers in those departments taken into consideration in summing up the merit of their general examination.

LAW LECTURES AT THE INCORPORATED LAW SOCIETY, 1861-62.

MR. FREEMAN OLIVER HAYNES, on Conveyancing, Monday, November 4.

MR. WILLIAM MURRAY, on Common Law and Mercantile Law, Friday, November 8.

The annual exhibition of chrysanthemums in the Inner Temple gardens commenced this week. The show this year is most magnificent. Three sides of the garden are occupied by the flowers, the best specimens being ranged on the north side of the garden, and placed under canvass. Mr. Broome, the society's gardener, has this year succeeded in infusing a slight lavender scent into these flowers. Those of our readers who delight in floriculture should take an early opportunity of viewing the splendid collection of flowers now offered for their inspection by the Benchers of the Inner Temple.

Births, Marriages, and Deaths.

BIRTHS.

BALL—On Oct. 30, at Pershore, the wife of Edwin Ball, Esq. of a daughter.

DEMPSTER—On Oct. 28, at Morden House, Greenwich, the wife of R. Frederic Dempster, Esq., Solicitor, of a son.

MERRIFIELD—On Oct. 22, at Brighton, the wife of a Frederic Merrifield, Esq., Barrister-at-law, of a daughter.

STAPYLTON—On Oct. 27, at 30, Gloucester-square, Hyde-park, the wife of Martin B. Stapylton, Esq., Barrister-at-law, of a daughter, who survived her birth only a few hours.

MARRIAGES.

BALSTON—OLIVER—On Oct. 24, Thomas Balston, Esq., of the Inner Temple, Barrister-at-law, to Ellen Frances, daughter of the Rev. W. M. Oliver, rector of Bovinger, Essex.

ENGLEHEART—WILCOXON—On Oct. 22, Edward Curteis, son of Nathaniel Brown Engleheart, Esq., of Doctor's-commons, to Emilie, daughter of Robert Wilcoxon, Esq., of Monument-yard.

HARVEY—RUSSELL—On Oct. 29. John Harvey, Esq., of Caw House, county Londonderry, Ireland, to Emily, daughter of the late Sir William Oldnall Russell, Chief Justice of Bengal.

HASKINS—HULME—On Oct. 24, John Haskins, Esq., of Hadlow House, Mayfield, Sussex, and Elm-grove, Ventnor, Isle of Wight, to Josephine, daughter of the late John Walter Hulme, Esq., Chief Justice of Hongkong.

SMITH—TRINDER—On Oct. 29, Richard Fryer Smith, Esq., of Cheadle, Staffordshire, to Louisa Sarah, daughter of the late W. H. Trinder, Esq., of John-street, Bedford-row.

TRISTRAM—BURGH—On Oct. 26, at Dublin, Thomas Hutchinson Tristram, Esq., D.C.L., Advocate, Doctor's-commons, to Flora, daughter of the late very Rev. Thomas John de Burgh, Dean of Cloyne.

WATTS—WEBB—On Oct. 23, John Onslow Watts, Esq., of Lincoln's-inn, Barrister-at-law, to Caroline Mary, daughter of Major Vere Webb, of Bath.

DEATHS.

BURTON—On Oct. 21, William Warwick Burton, Esq., of 14, Lincoln's-inn-fields.

CHAPMAN—On Oct. 21, at Weston-super-Mare, Lucy, daughter of Ralph Chapman, Esq., Solicitor, aged 13 years.

CHEFFINS—On Oct. 23, Charles Frederick Cheffins, Esq., of 11, Southampton-buildings, Chancery-lane, aged 54.

FRY—On Oct. 14, George Fry, Esq., of 18, Great Portland-street, London, aged 51, son of the late — Fry, Esq., of the Registry-office, Chancery-lane.

GLENNIE—On Oct. 20, John Irving Glennie, Esq., of Doctor's-commons, aged 65.

NUTT—On Oct. 28, at Canterbury, John Nutt, Esq., aged 69, for many years Town Clerk and Clerk of the Peace for the city and borough.

PARKER—On Oct. 30, aged 58, Caroline, the wife of Thomas Parker, Esq., of 40, Bedford-row.

PRIDHAM—On Oct. 24, at Plymouth, Henry, son of George Pridham, Esq., aged 27.

SKENE—On Sept. 23, on board the P. & O. steamship Simla on his homeward voyage from Ceylon, James Francis Skene, Esq., advocate, son of George Skene, Esq., Professor of Law in the University of Glasgow, in his 29th year.

Court Papers.

Court of Probate AND

Court for Divorce and Matrimonial Causes.

SITTINGS IN AND AFTER MICHAELMAS TERM, 1861.

Probate Causes without Juries—Wednesday, November 6th, Thursday, 7th, Friday, 8th, Saturday, 9th.

Full Court for Divorce and Matrimonial Causes—Wednesday, November 13.

Divorce Causes without Juries—Thursday, November 14, Friday 15, Saturday 16, Wednesday 20, Thursday 21, Friday 22, Saturday 23.

Probate Causes with Juries—Wednesday, November 27, Thursday 28, Friday 29, Saturday 30.

Divorce Causes with Juries will be taken after the Probate Causes with Juries have been heard, and until the 24th December, with the exception of Mondays and Tuesdays.

The Judge will sit in chambers at 11 o'clock, and in court to hear motions at 12 o'clock, on Tuesday, November 5th, and each succeeding Tuesday during the sittings of the Court.

Papers for motions are to be left with the clerk of the papers before two o'clock on Thursdays.

General Orders in Bankruptcy.

It is ordered as follows, that is to say,—

A fee of £1 shall be paid on every petition for adjudication of bankruptcy when presented to the London Court of Bankruptcy or to a county court by debtors who are not traders, and whose debts do not exceed £300, and who do not petition in forma pauperis.

The above fee to be received and taken by means of a stamp having the word "Bankruptcy" impressed or affixed thereon as provided by the Act.

WESTBURY, C.
JOHN S. M. FONSELANQUE, Commissioner,
EDWARD HOLROYD, Commissioner.

14th October, 1861.

London Gazettes.

Windings-up of Joint Stock Companies.

FRIDAY, NOV. 1, 1861.

UNLIMITED IN CHANCERY.

STATE FIRE INSURANCE COMPANY.—Petition for winding up, presented Oct. 24, will be heard before V.C. Wood, on Nov. 9. Gibbs & Tucker, 17, Clement's-lane, London, Solicitors for petitioner.

Professional Partnerships Dissolved.

TUESDAY, Oct. 29, 1861.

GREEN, FRANK HENRY, & AUGUSTUS JONES, Attorneys and Solicitors, 1 Lincoln's-inn-fields, Middlesex. Oct. 11, by mutual consent.

Creditors under 22 & 23 Vict. cap. 35.

Last Day of Claim.

TUESDAY, Oct. 29, 1861.

ALLDIS, JOHN, 2 and 3, Eastcheap, London, and off/Jamaica Level, Rotherhithe, Surrey, Eating-house Keeper. Dec. 31. Sol. C. E. Freeman, 11, Bucklersbury, London, E.C.

BRADNEY, Rev. JOHN HOPKINS, Leigh House, Bradford, Wilts, Clerk. Nov. 30. Sols. Bockett's Son, & Barton, 60, Lincoln's-inn-fields, London.

BRAY, HENRY, East Isley, Berks, Jockey. Nov. 30. Sol. W. Hulbert, East Isley, Berks.

CLARK, JOHN, Sankey Bridges, Lancashire, Merchant. Dec. 1. Sols. Marsh & Barratt, Warrington.

DICKINSON, WILLIAM, 2, Wellington-place, Limehouse, Middlesex, Master Mariner. Jan. 1. Sol. W. Stocken, 61, Cornhill, London.

GODFREY, WILLIAM PARKER, Old Brentford, Middlesex, Grocer and Cheese-monger. Within one month from Oct. 22. Sol. A. Rhodes, 2, Church-court, Clement's-lane, London.

GRIFFITH, RICHARD, 22, Bedford-street North, Liverpool, and senior partner in the firm of Messrs. Griffith, Sons, & Palethorpe, Brokers, Liverpool. Dec. 25. Sol. J. L. Bromfield, 23, Newgate-street, Chester.

HALE, SAMUEL WILLIAM, Bilston, Staffordshire, Wine and Spirit Merchant. Dec. 2. Sol. C. G. Brown, Bilston.

HURRY, ROGER, Turves, Whittlesey, Isle of Ely, Farmer. Dec. 1. Sol. G. M. Smith, Whittlesey.

KENT, WILLIAM, 7, Walcot-terrace, Bath, Gent. Dec. 31. Sols. Stone-Chamberlayne, & King, 13, Queen-square, Bath.

LEE, JOHN BARTON, Lower Stonnall, Staffordshire, Gent. Dec. 16. Sol. C. Bridges, 17, Temple-street, Birmingham.

MAITLAND, LUCIA, Greenheys, Manchester, Widow. Dec. 2. Sols. Kershaw & Bullock, 29, Kennedy-street, Manchester.

MANLEY, JAMES, 1, Walcot Parade, Bath. Dec. 31. Sols. Stone, Chamberlayne, & King, 13, Queen-square, Bath.

MARTIN, REVEREND JOHN, Bunbury, Cheshire, Clerk. Dec. 24. Sol. J. Broadhurst, Hospital-street, Nantwich.

NORMAN, GEORGE, Bath, Esq. Dec. 31. Sols. Stone, Chamberlayne, & King, 13, Queen-square, Bath.

OLIVER, JOHN, Mickley, Kirkby Malzeard, Yorks. Nov. 16. Sol. J. Calvert, Masham, Yorkshire.

PARRY, WILLIAM, formerly of Kempsey, and late of London-road, Worcester, Gent. Nov. 30. Sol. J. Stallard, 6, Foregate-street, Worcester.

SEATH, JOHN, North Yarmouth, Norfolk, Mariner in the Merchant Service. Nov. 30. Sols. Emmet & Son, 14, Bloomsbury-square, Middlesex.

WEBB, HENRY, Ronswood, Saint Martin, Worcester, Merchant and Chemical Manure Manufacturer. Nov. 30. Sol. J. Stallard, 6, Foregate-street, Worcester.

WHITE, WILLIAM, Sen., Spaxton, Somersetshire, Yeoman. Dec. 2. Sol. W. Brice, Bridgewater, Somersetshire.

WILLIAMS, WILLIAM, Flookersbrook, Cheshire, Tanner. Dec. 10. Sol. G. Tibbits, St. John-street, Chester.

Deeds registered pursuant to Bankruptcy Act, 1861.

TUESDAY, Oct. 22, 1861.

DOBBS, JOHN, Liverpool, Corn Broker. Oct. 18. Composition. Reg. Oct. 25.

FAWCETT, JOHN, 17, Sydney-place, Commercial-road, East, Middlesex. Carpet and Furniture Dealer. Oct. 18. Composition. Reg. Oct. 28.

MELLING, JAMES, Crescent, Birmingham, Bath Proprietor. Oct. 18. Composition. Reg. Oct. 28.

OWEN, THOMAS, Welchpool, Montgomery, Grocer. Oct. 17. Assignment. Reg. Oct. 28.

SIMPSON, FRANCIS, High-street, Newington, Surrey, China and Glass Dealer. Oct. 17. Arrangement and inspectorship. Reg. Oct. 25.

TAYLOR, ROBERT, and JABER TAYLOR, Manchester, Wholesale Stationers. Oct. 21. Composition. Reg. Oct. 26.

Assignments for Benefit of Creditors.

TUESDAY, Oct. 29, 1861.

CASPLE, WILLIAM, Somers-road, Southsea, Southampton, Baker and Grocer. Oct. 10. Sols. H. & R. W. Ford, 170, Queen-street, Portsea.

DERHAM, RICHARD JONES, 46, Redcliff-street, Bristol, Cooper. Oct. 2. Sols. King & Plummer, 5, Exchange-buildings East, Bristol.

JEFFRIES, WILLIAM, Jacob-street, Bristol, Smith. Oct. 10. Sols. King & Plummer, 5, Exchange-buildings East, Bristol.

RICE, JOSEPH, Peel Causeway, Bowdon, near Manchester, Contractor and Brickmaker. Oct. 3. Sol. D. Boote, 52, Brown street, Manchester.

RYDILL, GEORGE, Dewsbury, Yorkshire, Auctioneer and Commission Agent. Oct. 4. Sols. Scolefield & Oldroyd, Dewsbury.

Bankrupts.

TUESDAY, Oct. 29, 1861.

ABRAHAM, JOHN, Dunstable, Bedfordshire, Straw Hat Manufacturer. Pet. Oct. 22. Registrar, Haultit: first meeting, Nov. 8 at 2; Basinghall-street. Off. Ass. Stansfeld. Sols. Crossley & Burn, 24, Lombard-street, London.

ASTLES, FREDERICK WILLIAM, Smethwick, Staffordshire, Schoolmaster and Agent. Pet. Oct. 14. Dec. 5 at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, Birmingham.

AUSTIN, JOSEPH, Kippay, Yorkshire, Maltster. Pet. Oct. 26. First meeting, Nov. 11 at 11; Leeds. Off. Ass. Hope. Sol. Coleman, Pontefract; or J. Blackburn, Leeds.

BACON, ROBERT, late of Blackmore, Essex, Publican, Plumber, and Glazier. Pet. Oct. 25. Registrar, Higgins; first meeting, Nov. 8 at 2; Basinghall-street. Off. Ass. Cannan. Sol. Hand, 22, Coleman-street.

BEALK, JOHN SAMUEL, 27, Priddington-green, Middlesex, Surgeon and Apothecary. Pet. Oct. 28. Registrar, Miller; first meeting, Nov. 11 at 2; Basinghall-street. Off. Ass. Edwards. Sol. Clarke, 2, Stanley-place, Paddington-green, London.

BELL, THOMAS, York, Chemist and Druggist. Pet. Oct. 25. First meeting, Nov. 8 at 11; Leeds. Off. Ass. Young. Sols. Richardson & Cobb York; or Bond & Barwick, Leeds.

- BILLINGTON, FREDERICK**, Commercial Dining Rooms, 73, Cheapside London. Pet. Oct. 29 (in form of pauperis). Registrar, Miller: first meeting, Nov. 11 at 10; Basinghall-street. Off. Ass. Edwards.
- BURGESS, WILLIAM**, 24, Sussex-street, Plinico, Middlesex, House Agent and Furniture Dealer. Pet. Oct. 24. In form of pauperis. Registrar, Hazlitt: first meeting, Nov. 9 at 11; Basinghall-street. Off. Ass. Stansfeld.
- COLWELL, EDWIN ALFRED**, formerly of 110, Stamford-street, Blackfriars, Surrey, then of 6, Peter-street, Islington, and now of 14, High Holborn, Middlesex, Wholesale Milliner. Pet. Oct. 24. Registrar, Abraham: first meeting, Nov. 7 at 10; Basinghall-street. Off. Ass. Bell. Sol. Phibus, 20, Coleman-street.
- COPPLESTONE, MATTHEWS**, late of King's-road, Brighton, then of 1, Cheyne-walk, Chelsea, Middlesex, but now of 8, The Terrace, Barnes, Surrey, Wine Merchant. Pet. Oct. 28. Registrar, Miller: first meeting, Nov. 11 at 11; Basinghall-street. Off. Ass. Edwards. Sol. Kisch, 8, Lancaster-place, Strand, London.
- DEAKINS, FRANCIS HENRY**, Feathers Hotel, Ledbury, Herefordshire, Licensed Victualler. Pet. Oct. 14. Dec. 5 at 11; Birmingham. Off. Ass. Kinnear. Sols. East & Parry, 45, Ann-street, Birmingham.
- DELAMERE, NICHOLAS HERBERT**, Liverpool, Commission Agent and Ship Owner. Pet. Oct. 26. Registrar, Lee: first meeting, Nov. 9 at 11; Liverpool. Off. Ass. Turner. Sol. Pemberton, 13, Cable-street, Liverpool.
- DENNY, ARTHUR SILBERT**, 36, Dean-street, Oxford-street, Soho, Middlesex, Engineer. Pet. Oct. 23. Registrar, Abraham: first meeting, Nov. 8 at 1; Basinghall-street. Off. Ass. Johnson.
- DICKINSON, ISAAC**, Bennington, near Stevenage, Hertford, Baker. Pet. Oct. 28. Registrar, Winslow: first meeting, Nov. 12, at 1; Basinghall-street. Off. Ass. Pennell. Sols. Harrison and Lewis, Old Jewry, London.
- DICKINSON, WATSON JAMES**, 1 Friar-street, Blackfriars-road, Surrey, Coffee-house Keeper, and Clerk to a Builder. Pet. Oct. 22. Registrar, Abraham: first meeting, Nov. 12, at 11; Basinghall-street. Off. Ass. Johnson.
- DIXON, GEORGE, HENKELL** Newcastle-upon-Tyne, Coal, Coke, Chemical and Iron Merchant, and Commission Agent (Dixon & Co.). Pet. Oct. 26. Registrar, Gibson: first meeting, Nov. 9, at 1; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Cram & Legg, Newcastle-upon-Tyne.
- FOSTER, JOSEPH**, 2, King's-college-road, Saint John's wood, Hampstead, Middlesex, Commercial Traveller. Pet. Oct. 26. Registrar, Abraham: first meeting, Nov. 9 at 12; Basinghall-street. Off. Ass. Johnson. Sol. Medcalf, 9, Tokenhouse-yard, Lothbury.
- FROUD, STEPHEN**, otherwise called John Edward Froud, Landsdowne-road North, Notting-hill, Middlesex, Builder. Pet. Oct. 23. Registrar, Miller: first meeting, Nov. 9 at 12; Basinghall-street. Off. Ass. Edwards. Sol. H. H. Poole, 58, Bartholomew-close, London.
- FYFFE, JANE, & WILLIAM THOMAS FYFFE**, Deptford, Kent, Lightermen. Pet. Oct. 26. Registrar, Hazlitt: first meeting, Nov. 9 at 2; Basinghall-street. Off. Ass. Graham. Sol. W. Sandom, Deptford, Kent.
- HARDMAN, MARIA**, Patricroft, Lancashire, Tailor and Woollen Draper. Pet. Oct. 26. Registrar, Wilde: first meeting, Nov. 9 at 11; Manchester. Off. Ass. Fraser. Sol. D. Boote, Brown-street, Manchester.
- HARDSON, GEORGE HENRY DE STRANDESS NEVILLE PLANTAGENET**, 22, Kensington-gardens-square, Middlesex. Pet. Oct. 25. Informa pauperis. Registrar, Winslow: first meeting, Nov. 11 at 2; Basinghall-street. Off. Ass. Pennell.
- HAWTHORN, JOHN**, Burslem, Staffordshire, Builder. Pet. Oct. 19. First meeting, Nov. 9 at 2; Burslem. Off. Ass. Whitmore. Sols. E. C. Lees, Burslem, or J. Smith, Birmingham.
- HEADLAND, THOMAS**, 91, Bermondsey New-road, Surrey, Leather Seller. Pet. Oct. 28. Registrar, Miller: first meeting, Nov. 11 at 12; Basinghall-street. Off. Ass. Edwards. Sol. R. G. Chipperfield, 3, Trinity-street, Southwark, Surrey.
- HOBSON, RICHARD**, Marlbro-road, St. John's wood, Middlesex, formerly Secretary to an Insurance Office. Pet. Oct. 28. Registrar, Abraham: first meeting, Nov. 11 at 1; Basinghall-street. Off. Ass. Johnson.
- HOLLINHEAD, ENOCH**, 4, Leckwith-road, Canton, Llandaff, Glamorgan, Fancy Potter. Pet. Oct. 23. Registrar, Langley: first meeting, Nov. 22 at 10; Cardiff. Off. Ass. Langley. Sol. F. J. Wilcocks, Arcade-chambers, Cardiff.
- HOWITT, WILLIAM**, 1, Ravenscourt-cottages, West End, Hammermith, Middlesex, Carpenter and Builder. Pet. Oct. 26. Registrar, Miller: first meeting, Nov. 9 at 12; Basinghall-street. Off. Ass. Edwards. Sol. W. H. Dashwood, 43, James-grove, Peckham; and 3, Falcon-court, Fleet-street, London.
- HULSTON, SARAH**, 237, Gooch-street, Birmingham, Pocket Book Manufacturer. Pet. Oct. 26. First meeting, Nov. 11 at 11; Birmingham. Off. Ass. Whitmore. Sol. R. H. Foster, Birmingham.
- HUNTER, JOHN**, 9, Wolsey-terrace, Kentish-town, Middlesex, Gent. Pet. Oct. 29 (in form of pauperis). Registrar, Winslow: first meeting, Nov. 23 at 11.30; Basinghall-street. Off. Ass. Pennell.
- HUNTER, THOMAS**, 7, Baring-street, New North-road, Hoxton, Linen and Woollen Draper. Pet. Oct. 25. Registrar, Hazlitt: first meeting, Nov. 8, at 3; Basinghall-street. Off. Ass. Graham. Sols. Treherne and Wolfstan, Gresham-street, London.
- ISLIP, THOMAS**, late of Rowell, Northampton, Carpenter and Builder, then of Edmonton, Middlesex, and afterwards and now of 78, Regent-street, Litchurch, Derby, Journeyman Carpenter. Pet. Oct. 24. Registrar, Winslow: first meeting, Nov. 11, at 12; Basinghall-street. Off. Ass. Pennell. Sol. J. J. Rae, 18, Warwick-court, Gray's Inn, London.
- JOLLEY, JOHN**, Whitechapel, Liverpool, Clothier. Pet. Oct. 21. Registrar, Brougham: first meeting, Nov. 11, at 12; Liverpool. Off. Ass. Bird. Sols. Halse and Deane, Liverpool; and Sale, Worthington, Shipman and Seldon, Manchester.
- JONES, EDWARD**, 12, Birkett-street, Richmond-row, Liverpool, Slater and Plasterer. Pet. Oct. 25. Registrar, Hime: first meeting, Nov. 8 at 12; Liverpool. Off. Ass. Hime.
- KINZETT, HENRY**, 142, St. John-street-road, Clerkenwell, Middlesex, Artificial Florist. Pet. Oct. 26. Registrar, Winslow: first meeting, Nov. 9 at 11; Basinghall-street. Off. Ass. Pennell. Sol. Lewis & Son, 7, Wilmingon-square, London.
- LEMAN, ALFRED**, formerly of Highfield-street, Liverpool, Ale and Stout Store Keeper, Poplar, Middlesex, Commercial Traveller. Pet. Oct. 25. (in form of pauperis.) Registrar, Miller: first meeting, Nov. 9 at 11; Basinghall-street. Off. Ass. Edwards.
- MEACH, JOHN BUSH**, Morford-street, Bath, Carpenter and Builder. Pet. Oct. 25. Registrar, Orme: first meeting, Nov. 8 at 11; Bristol. Off. Ass. Acreman. Sols. Slack & Simmons, Bath, or to Abbot, Lucas, & Leonard, Bristol.
- MUNDAY, JAMES**, 7, York-street, King-cross-street, Halifax, Excavators and Contractors. Pet. Oct. 25. Registrar, Rankin: first meeting, Nov. 8 at 10; Halifax. Off. Ass. Rankin. Sols. Norris & Foster, Halifax.
- NEWTON, AUGUSTUS**, 58, Curzon-street, Mayfair, Middlesex, Esq. Pet. Oct. 24. Registrar, Hazlitt: first meeting, Nov. 8 at 12; Basinghall-street. Off. Ass. Stansfeld. Sols. Harrison & Lewis, 6, Old Jewry, London.
- OUTHWAITE, ELIJAH**, Leeds, Journeyman Plumber and Glazier. Pet. Oct. 24. First meeting, Nov. 11 at 11; Leeds. Off. Ass. Young. Sol. H. B. Harle, Leeds.
- OUTHWAITE, JOHN**, Goole, Yorkshire, Journeyman Joiner and Model Maker. Pet. Oct. 28. First meeting, Nov. 11 at 11; Leeds. Off. Ass. Young. Sol. H. B. Harle, Leeds.
- OUTHWAITE, SAMUEL**, Middlesborough, Yorkshire, Butcher. Pet. Oct. 26. First meeting, Nov. 11 at 11; Leeds. Off. Ass. Young. Sols. W. Myers, Darlington; or Bond & Berwick, Leeds.
- OWEN, DAVID WILLIAM**, 77, Highfield-street, Liverpool, Beer Retailer and Clerk to a Broker. Pet. Oct. 25. Registrar, Hime: first meeting, Nov. 8 at 12; Liverpool. Off. Ass. Hime.
- PENTECOST, ISAAC**, 7, Lewisham-street, Great Queen-street, Westminster, Middlesex, Beershop Keeper and General Dealer. Pet. Oct. 22 (in form of pauperis). Registrar, Higgins: first meeting, Nov. 8 at 11; Basinghall-street. Off. Ass. Cannan.
- PERKINS, JOH, 8, Angel-court, Skinner-street, London, Journeyman Printer. Pet. Oct. 25. Registrar, Higgins: first meeting, Nov. 8 at 12; Basinghall-street. Off. Ass. Cannan. Sol. H. J. Preston, 10, Austin-friars.**
- PLINLEY, WILLIAM**, Cape Nursery, Shepherd's Bush, Middlesex, Market Gardener. Pet. Oct. 26. Registrar, Higgins: first meeting, Nov. 9 at 1; Basinghall-street. Off. Ass. Cannan. Sol. R. Jones, 3, New Inn, Strand.
- PRENTIS, JOHN WOOD**, 307, Sherlock-street, Birmingham, Grocer and Provision Merchant. Pet. Oct. 25. Registrar, Wilson: first meeting, Nov. 8 at 11.30; Birmingham. Off. Ass. Whitmore. Sols. Beale & Marigold, Waterloo-street, Birmingham.
- PRESCOTT, THOMAS WILLIAM TOTTINGHAM**, 37, Bryanstone-street, Portman-square, Middlesex. Pet. Oct. 19. Registrar, Orme: first meeting, Nov. 11 at 12; Bristol. Off. Ass. Milar. Sols. F. L. Syms, 7, Farnval's-inn, London; or A. Henderson, Bristol.
- QUINN, THOMAS**, 85, Scotland-road, Liverpool, Draper. Pet. Oct. 19. Registrar, Lee: first meeting, Nov. 11 at 11; Liverpool. Off. Ass. Turner. Sols. Sole, Turner, & Turner, 69, Aldermanbury, London, or to Dodge & Wynne, 7, Union-court, Castle-street, Liverpool.
- RAVEN, SAMUEL**, 32, Douglas road, Islington, Middlesex, Solicitor. Pet. Oct. 24. Registrar, Miller: first meeting, Nov. 8 at 12; Basinghall-street. Off. Ass. Edwards. Sol. T. N. Jenkins, 31, Nicholas-lane, London.
- RIDER, THOMAS GEORGE**, 1, Albion-place, Camberwell New-road, Surrey, Leather Merchant. Pet. Oct. 28. Registrar, Hazlitt: first meeting, Nov. 12 at 2; Basinghall-street. Off. Ass. Stansfeld. Sol. L. Hand, 22, Coleman-street, London.
- ROUTLEDGE, CHRISTOPHER**, Lower Sydenham, Kent, Brick Maker. Pet. Oct. 25. Registrar, Winslow: first meeting, Nov. 23 at 11; Basinghall-street. Off. Ass. Pennell. Sol. H. B. Silvester, 18, Great Dover-street, Newington, Surrey.
- SIMONDS, HENRY PARISH**, 6, Charles-place, Hertford-road, Kingland, Middlesex, Gold Beater. Pet. Oct. 26. Registrar, Abraham: first meeting, Nov. 9 at 11; Basinghall-street. Off. Ass. Bell. Sol. Beard, 10, Basinghall-street.
- SMITH, EDWARD BARNES**, Woodcote, Epsom, Surrey, Horse Dealer. Pet. Oct. 23. Registrar, Winslow: first meeting, Nov. 9 at 2; Basinghall-street. Off. Ass. Pennell. Sols. Gibbs & Tucker, 17, Clements-lane, London.
- SMITH, GEORGE HEDCOMBE**, North Perrot near Crewkerne, Somersetshire, Twine and Web Manufacturer. Pet. Oct. 28. Registrar, Carew: first meeting, Nov. 11 at 1; Exeter. Off. Ass. Hirtzel. Sols. Dommot and Canning, Chard; or J. E. H. W. Clarke, Exeter.
- SMITH, WILLIAM TAYLOR, and WADE HAMPTON SMITH**, Sedgley, Staffordshire, Mine Drainers. Pet. Oct. 14. Nov. 29 at 11; Birmingham. Off. Ass. Kinnear. Sols. Hayes & Wright, Oldbury; or Hodgson & Allen, Birmingham.
- SPRINGMANN, CHARLES**, Newcastle-upon-Tyne, Ship Broker and Merchant. Pet. Oct. 25. Registrar, Gibson: first meeting, Nov. 8 at 11; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Daglish & Stewart, Newcastle-upon-Tyne.
- STANGER, SAMUEL**, 137, Church-street, Bethnal-green, Middlesex, Grocer and Tea Dealer. Pet. Oct. 28. Registrar, Higgins: first meeting, Nov. 11 at 1; Basinghall-street. Off. Ass. Cannan. Sol. J. A. Jackson, 10, Bridgewater-square, Barbican.
- SWALLOW, RICHARD**, 7, Strait, Saint Martin, Lincoln, Beerhouse Keeper, Furniture Dealer, and Paper Hanger. Pet. Oct. 23. Registrar, Uppeby: Nov. 8 at 12; Lincoln. Off. Ass. Uppeby. Sols. Brown & Sons, Lincoln.
- TAYLOR, THOMAS**, Blackwell Mills, Darlington, Durham, Miller, Contractor, and Provision Dealer. Pet. Oct. 26. Registrar, Gibson: first meeting, Nov. 9, at 12; Newcastle-upon-Tyne. Off. Ass. Baker. Sol. H. Storey, Newcastle-upon-Tyne.
- TINGEL, JOSEPH CHILD**, Thame, Oxfordshire, Brewer. Pet. Oct. 26. Corn. Goulburn: Nov. 9 at 11, and Dec. 9 at 12; Basinghall-street. Off. Ass. Pennell. Sols. Harrison & Lewis, 6, Old Jewry, London.
- TODD, JOSEPH**, Exmouth, Devonshire, Gent. Pet. Oct. 25. Registrar, Carew: first meeting, Nov. 8 at 12; Exeter. Off. Ass. Hirtzel. Sols. H. C. Adams, Exmouth, or Turner & Hirtzel, Exeter.
- VICKERS, JOHN**, 2, Aubrey-road, Notting-hill, Middlesex, Commission Agent. Pet. Oct. 23. Registrar, Winslow: first meeting, Nov. 9 at 1; Basinghall-street. Off. Ass. Pennell. Sol. J. R. Chidley, 26, Old Jewry, London.
- WALKER, WILLIAM**, Walsall, Staffordshire, Harness Maker and Covered Furniture Manufacturer. Pet. Oct. 25. First meeting, Nov. 11 at 12; George Hotel, Walsall. Off. Ass. Kinnear. Sol. W. H. Duignan, Walsall.
- WILDS, JOHN**, commonly known as JOHN TWIVY, Carlton, near South, Yorkshire, Dealer in Flax and Potatoes. Pet. Oct. 25. First meeting, Nov. 8 at 11; Leeds. Off. Ass. Young. Sol. H. B. Harle, Leeds.
- WORTHINGTON, HENRY, & WILLIAM GILLIBRAND**, Guide, Lower Darwen, near Blackburn, Lancashire, Cotton Manufacturers (Worthington &

Co.). Pet. Oct. 18. Registrar, Wilde: first meeting, Nov. 8 at 12; Manchester. Off. Ass. Pott. Sols. Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester.

FRIDAY, NOV. 1, 1861.

ALLWOOD, THOMAS, Nottingham, and late of Stanton-in-the-Wolds, Nottingham, Farmer. Pet. Oct. 29. Registrar, Waterfield: first meeting, Nov. 12 at 11; Nottingham. Off. Ass. Harris. Sols. Cowley & Everall, Nottingham.

APPLEYARD, WILLIAM, Broad-street, Sheffield-park, Sheffield, Fishmonger. Pet. Oct. 25. First meeting, Nov. 14 at 12; Sheffield. Off. Ass. Wake and Rodgers.

ASHBEE, ROBERT, 25, Oxford-road, Islington, Middlesex, and 10, Poultry, London, Metal Merchant and Commission Agent. Pet. Oct. 31 (in form pauperis). Registrar, Miller: first meeting, Nov. 23 at 2; Basinghall-street. Off. Ass. Edwards.

BARKER, HENRY JOHN, Lane's Hotel, St. Alban's-place, Haymarket, Middlesex. Pet. Oct. 29. Registrar, Hazlitt: first meeting, Nov. 14 at 11, Basinghall-street. Off. Ass. Graham. Sols. Lewis & Lewis, 10, Ely-place, Holborn, London.

BARKER, JOHN, Horsforth, Cloth Manufacturer. Pet. Oct. 31. First meeting, Nov. 14 at 11; Leeds. Off. Ass. Hope. Sol. B. Carias, Leeds.

BATES, HENRY, Holtahill-lane, Walsall, Coal Dealer. Pet. Oct. 29. First meeting, Nov. 12 at 12; Walsall. Off. Ass. Clarke. Sol. W. H. Dugnan, Walsall.

BELSON, ROBERT HOWES, Rose-corner, King-street, Norwich, Plumber, Glazier, and Painter. Pet. Oct. 30. Registrar, Miller: first meeting, Nov. 19 at 3; Basinghall-street. Off. Ass. Edwards. Sols. Sole, Turner and Turner, 68, Aldermanbury, London; J. G. Atkinson, Norwich.

BERRILL, PETER, Moor-place, Kennington-road, Surrey, Surgeon. Pet. Oct. 30. Registrar, Winslow: first meeting, Nov. 23 at 1; Basinghall-street. Off. Ass. Pennell. Sol. F. George, Nine-lane, London.

BERTHAM, ALEXANDER, Newcastle-upon-Tyne. Cheese and Bacon Factor. Pet. Oct. 23. Registrar, Gibson: first meeting, Nov. 13, at 12 30; Newcastle-upon-Tyne. Off. Ass. Baker. Sols. Potts & Scarisbrick, Sunderland.

BORHAM, WILLIAM HENRY, 19, Cambridge-terrace, Edgware-road Middlesex, Surgeon. Pet. Oct. 30. Registrar, Hazlitt: first meeting Nov. 16, at 11; Basinghall-street. Off. Ass. Stansfield. Sol. G. H. Thistlewood, Symond's-inn, Chancery-lane, London.

CARTWRIGHT, GEORGE, Wolverhampton, Stafford, Butcher. Pet. Oct. 29. First meeting, Nov. 13, at 11; Birmingham. Off. Ass. Whitmore. Sols. James & Knight, 36, Bennett's-Hill, Birmingham.

CLARKE, JOSEPH, Oswestry, Fruiterer and Fish Dealer. Pet. Oct. 26. Registrar, Croxon: first meeting, Nov. 14, at 12; Oswestry. Off. Ass. Croxon. Sol. W. I. Bull, Oswestry.

CLEGG, RACHAEL, 25, High-street, Freetown, and 1, Greenhalgh row, Freetown, Bury, Lancaster, Grocer, Tea Dealer, and Shopkeeper, and Beer-seller. Pet. Oct. 30. Registrar, Grundy: first meeting, Nov. 20 at 11; Bury. Off. Ass. Grundy. Sol. Watson, Bury, Lancashire.

CHAPMAN, WILLIAM HENRY, Garway-road, Westbourne-grove, Middlesex, Livery Stable Keeper. Pet. Nov. 1. Registrar, Hazlitt: first meeting, Nov. 16, at 11 30; Basinghall-street. Off. Ass. Graham. Sols. Lawrence, Elwes, & Boyer, 14, Old Jewry-chambers, London.

COLE, JAMES, 2, Wier-fields, St. Leonard's, Devonshire, and 57, High-street, Exeter, Hosiery, Haberdasher, and Stay Maker. Pet. Oct. 31. Registrar, Daw: first meeting, Nov. 15 at 11; Exeter. Off. Ass. Daw. Sol. T. Flood, 14, Castle-street, Exeter.

COLLEY, ROBERT LATMAN, Barnaleys, Yorkshire, Provision Dealer. Pet. Oct. 29. First meeting, Nov. 13 at 11; Leeds. Off. Ass. Hope. Sols. Newman & Son, or Bond & Barwick, Leeds.

CROSBY, ELIZA, Hazel's Cottage, near Prescott, Lancaster. Pet. Oct. 30. Registrar, Ansell: first meeting, Nov. 13 at 11; St. Helens. Off. Ass. R. Anderson.

COX, GEORGE, 5, Barbican, London, Optician. Pet. Oct. 21. Registrar, Higgins: first meeting, Nov. 19 at 12 30; Basinghall-street. Off. Ass. Cannan. Sols. Digby & Sharp, 1, Circus-place, Finsbury.

DEAN, JAMES, 102, Foregate-street, Chester, Furniture Broker, and Dealer in Glass, China, and Earthenware. Pet. Oct. 26. Registrar, Wason: first meeting, Nov. 9 at 12; Basinghall-street. Off. Ass. Wason. Sol. J. Cartwright.

DICKENS, ROBERT, Yarwell, Northampton, Wheelwright. Pet. Oct. 29. Registrar, Winslow: first meeting, Nov. 23 at 12; Basinghall-street. Off. Ass. Pennell. Sols. Wright & Bonner, 15, London-street, Fenchurch-street, London.

FISHER, JAMES & JAMES MCLEAN, Reigate, Surrey, Builders. Pet. Sept. 16. Com. Holroyd: Nov. 12 at 2, and Dec. 10 at 12; Basinghall-street. Off. Ass. Edwards. Sol. H. H. Pool, 58, Bartholomew-close, London.

FOLET, EDWARD, 10, Clifton-crescent, Asylum-road, Old Kent-road, Surrey, Builder. Pet. Oct. 29. Registrar, Abrahall: first meeting, Nov. 13 at 1; Basinghall-street. Off. Ass. Bell.

FREARSON, EMMA, 16, Brewer-street, Somers Town, Middlesex, Draper and Haberdasher. Pet. Oct. 30. Registrar, Abrahall: first meeting, Nov. 20 at 13; Basinghall-street. Off. Ass. Bell. Sol. B. May, Russell-square.

GALLAGHER, JOHN HUTCHINSON, Hazel's-cottage, Prescott, Slater and Plasterer. Pet. Oct. 30. Registrar, Ansell: first meeting, Nov. 13 at 11; Saint Helen's. Off. Ass. Ansell. Sol. R. Anderson, 6, King-street, Liverpool.

GOODERD, JOHN FREDERICK, 223, Piccadilly, Middlesex, Eating-house Keeper. Pet. Oct. 30. Registrar, Higgins: first meeting, Nov. 19 at 2; Basinghall-street. Off. Ass. Cannan. Sols. H. Pook, 27, Basinghall-street, or E. Lewis, Great Marlborough-street.

GOSLING, HENRY, 29, New Compton-street, Soho, Middlesex, Painter, Writer, and Decorator. Pet. Oct. 29. Registrar, Higgins: first meeting, Nov. 19 at twelve; Basinghall-street. Off. Ass. Cannan. Sol. B. Peverley, 19, Coleman-street.

GOULDER, HENRY, JUN., Kimberley, Nottinghamshire, Bricklayer and Builder. Pet. Oct. 31. Registrar, Waterfield: first meeting, Nov. 14 at 11; Nottingham. Off. Ass. Harris. Sols. Cowley & Everall, Nottingham.

HARDAKER JONATHAN, Leeds, Woollen Cloth Manufacturer and Commission Agent for the sale of Woollen Cloth. Pet. Oct. 28. First meeting, Nov. 12 at 11; Leeds. Off. Ass. Hope. Sol. T. Simpson, Leeds.

HARRINGTON, WILLIAM, 123, Westgate-street, Gloucester, Wine & Spirit Merchant. Pet. Oct. 17. Registrar, Orme: first meeting, Nov. 12 at 12; Bristol. Off. Ass. Acraman. Sols. J. Scott, 4, Skinner-street, Snow-hill, London, or Abbott, Lucas, & Leonard, Albion-chambers, Bristol.

HARRIS, THORPHILUS, 12, Gloucester-street, Queen's-square, Bloomsbury, Middlesex, Law Clerk. Pet. Oct. 29 (in form pauperis). Registrar, Miller: Nov. 22 at 10; Basinghall-street. Off. Ass. Edwards.

HART, NEWSON, Cranford, Suffolk, Farmer. Pet. Oct. 30. Registrar, Miller: first meeting, Nov. 19 at 3 30; Basinghall-street. Off. Ass. Edwards. Sols. Mosely, Taylor, & Mosely, 9, Old Jewry-chambers, London; or to H. K. Mosely, Framlingham, Suffolk.

HEATHCOTE, ROBERT, 31, Bell-yard, Temple bar, Middlesex, Licensed Victualler. Pet. Oct. 31. Registrar, Abrahall: first meeting, Nov. 20 at 11 30; Basinghall-street. Off. Ass. Bell.

HOPWELL, EDWARD, 62, Coleman-street, London, Mercantile Agent. Pet. Oct. 29 (in form pauperis). Registrar, Higgins: first meeting, Nov. 19 at 10 30; Basinghall-street. Off. Ass. Cannan.

HOWICK, JOHN, 27, Weymouth-terrace, Hackney-road, Middlesex, Builder and Contractor. Pet. Oct. 25 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 11 at 11; Basinghall-street. Off. Ass. Stansfield. Sol. H. E. Mansey, 7, Old Jewry, London.

HUTTON, JOHN ARTHUR, formerly of Great Chart Mills, near Ashford, Kent, Miller, then of Ashford, Kent, then of 1, Devonshire-place, Edgware-road, and then and now of 3, Westbourne-grove-terrace, Westbourne-grove, Bayswater, Middlesex, Clerk in her Majesty's War Office. Pet. Oct. 28. Registrar, Higgins: first meeting, Nov. 11 at 11; Basinghall-street. Off. Ass. Cannan. Sols. Nichols and Clark, 9, Cook's-court, Lincoln's-inn.

JONES, JOHN MARSHALL, 10, Missionary-place, Waiworth, Surrey, Commission Agent. Pet. Oct. 30. Registrar, Miller: Nov. 19 at 3; Basinghall-street. Off. Ass. Edwards. Sol. J. Hall, 1A, Basinghall-street, London.

KENTISH, THOMAS, 163, Grange-road, Bermondsey, Surrey, Bread and Biscuit Baker. Pet. Oct. 29 (in form pauperis). Registrar, Winslow: first meeting, Nov. 3 at 12 30; Basinghall-street. Off. Ass. Pennell.

KING, GEORGE, Holly-street, Sheffield, Beerhouse Keeper and Dealer in Tobacco, and Table Knife Cutler. Pet. Oct. 25. First meeting, Nov. 14 at 12; Sheffield. Off. Ass. Wake & Rodgers.

LAMB, JOHN, Nottingham, General Clothier and Salesman. Pet. Oct. 29. Registrar, Waterfield: first meeting, Nov. 12 at 11; Nottingham. Off. Ass. Harris. Sol. S. Maples, Nottingham.

LAMPRELL, WILLIAM ALLISTON, 914, Long-lane, London, Carpenter and Builder. Pet. Oct. 30. Registrar, Miller: first meeting, Nov. 23 at 10 30; Basinghall-street. Off. Ass. Edwards.

LAW, WILLIAM ALEXANDER, 13, Mercer's-terrace, Stepney, Middlesex, and late of White Post-lane, Hackney, Commercial Traveller. Pet. Oct. 31. Registrar, Miller: first meeting, Nov. 22 at 11 30; Basinghall-street. Off. Ass. Edwards.

LAYCOCK, JOHN, JUN., Kirkstall-road, Leeds, Cloth Fuller. Pet. Oct. 31. First meeting, Nov. 14 at 11; Leeds. Off. Ass. Young. Sols. Terry & Watson, Bradford, or to Bond & Barwick, Leeds.

LEVINSON, BENJAMIN, 22, Church-street, Spitalfields, late of 174, Sidney-street, Commercial-road East, Middlesex, Wholesale and Retail Clothier and Tailor. Pet. Oct. 29. Registrar, Abrahall: first meeting, Nov. 12 at 12; Basinghall-street. Off. Ass. Bell. Sol. Abbott, 1, St. Mark's-street, Great Prescott-street, London.

LINZA, CHARLES, Dog and Partridge, Hollington, Staffordshire, Licensed Victualler, Grocer, and Provision Dealer. Pet. Oct. 28. Registrar, Daniel: first meeting, Nov. 11 at 11; Cheadle. Off. Ass. Daniel. Sol. Tennant, Hanley?

LOCKS, WILLIAM, Horton Old Town, Middlesex, Timber Merchant. Pet. Oct. 29. Registrar, Abrahall: Nov. 12 at 11 30; Basinghall-street. Off. Ass. Johnson. Sols. Wright & Venn, 2, Paper buildings, Temple.

LONG, JOHN ATKINS, Wakefield, Schoolmaster. Pet. Oct. 31. First meeting, Nov. 14 at 11; Leeds. Off. Ass. Young. Sols. Bond & Barwick, Leeds.

MANSFIELD, RALPH, Manchester, Lithographer. Pet. Oct. 30. Registrar, Simons: first meeting, Nov. 13 at 12; Manchester. Off. Ass. Fraser. Sol. Heywood, Dickinson-street, Manchester.

MARKE, PHILIP, Amblescote, Oldswinford, Staffordshire, Schoolmaster. Pet. Oct. 29. First meeting, Nov. 13 at 11; Birmingham. Off. Ass. Kinnear. Sols. James & Knight, Birmingham.

MARSHALL, JOHN, 12, Crescent, Minories, London, Glass and China Dealer. Pet. Oct. 29. Registrar, Hazlitt: first meeting, Nov. 12 at 1; Basinghall-street. Off. Ass. Graham. Sol. H. Pook, 27, Basinghall-street, London.

MEREDITH, EDWARD WILLIAM, 17, Mulberry-street, Hulme. Pet. Oct. 28. Registrar, Hulton: first meeting, Nov. 13 at 10; Salford. Off. Ass. Hulton. Sol. J. E. Dawson, Bridge-street, Manchester.

MONKS, WILLIAM, 18, Pensonby-place, Vauxhall-road, Westminster, Journeyman Carpenter. Pet. Oct. 29. Registrar (in form pauperis), Higgins: first meeting, Nov. 19 at 10; Basinghall-street. Off. Ass. Cannan.

MONDAY, ABRAHAM & WILLIAM JOHN NICHOLLS, 224, Milk-street, London, Trimming Manufacturers. Pet. Oct. 30. Registrar, Higgins: first meeting, Nov. 19 at 1; Basinghall-street. Off. Ass. Cannan. Sol. T. Beard, 10, Basinghall-street.

MURDER, FRANCIS MONTIEN, Midhurst, Sussex, Licensed Victualler. Pet. Oct. 30. Registrar, Miller: first meeting, Nov. 19 at 2 30; Basinghall-street. Off. Ass. Edwards. Sol. G. White, 8, Dances'-inn, Strand, London, and Guildford, Surrey.

MOODY, CHARLES, 58, Goswell-road, Clerkenwell, Middlesex, Fork Butcher, Poulterer, and Cheesemonger. Pet. Oct. 26. Registrar, Higgins: first meeting, Nov. 19 at 11 30; Basinghall-street. Off. Ass. Cannan. Sol. Hill, Bury-court, St. Mary Axe.

MOORE, CONSTANTINE, 26A, London-road, Surrey, Butcher. Pet. Oct. 31. Registrar, Abrahall: Nov. 20, at 10 30; Basinghall-street. Off. Ass. Bell. Sols. Lewis and Son, Wilmington-square.

NEEDHAM, JOHN, Potterhanworth, Lincoln, Licensed Victualler and Labourer. Pet. Oct. 28. Registrar, Uppeby: first meeting, Nov. 11, at 12; Lincoln. Off. Ass. Uppeby. Sols. Brown and Son, Lincoln.

NEWSON, THOMAS, Longton, Stoke-upon-Trent, Stafford, Builder. Pet. Oct. 29. Registrar, Keary: first meeting, Nov. 12 at 4; Stoke-upon-Trent. Off. Ass. Keary. Sol. R. W. Litchfield, Newcastle-under-Lyme.

NEWCOMBE, JOHN DEAN, 1, Clyde-square, Northumberland-terrace, Everton, Liverpool, Solicitor to an Insurance Company and a Clerk. Pet. Oct. 30. Registrar, Hime: first meeting, Nov. 13, at 3; Liverpool. Off. Ass. Hime. Sol. S. O. Husband, 9, James-street, Liverpool.

NICHOLSON, JOHN, formerly of Chester-le-street, Durham, Publican, Brewer. Pet. Oct. 29. Registrar, Bramwell: first meeting, Nov. 13, at 10; Durham. Off. Ass. Bramwell. Sol. J. E. Marshall, Claypall, Durham.

NUTHEY, DAVID, Beverley, York, Land Surveyor, Civil Engineer, and Contractor. Pet. Oct. 31. First meeting, Nov. 14, at 11; Leeds. Off. Ass. Hope. Sol. B. Carless, Leeds.

PEARSON, WILLIAM, 107, Rochdale-road, Manchester, Baker and Flour Dealer. Pet. Oct. 29. Registrar, Simons: first meeting, Nov. 12 at 12; Manchester. Off. Ass. Pott. Sol. Hewitt, 20, Bond-street, Manchester.

PIDDING, WILLIAM, formerly of Putney, Surrey, Inventor and Patentee. Pet. Oct. 31 (in form pauperis). Registrar, Miller: first meeting, Nov. 22 at 11; Basinghall-street. Off. Ass. Edwards.

PINNELL, JAMES, 18, Red Cross-square, London, Widow (Silversmith). Pet. Nov. 1. Registrar, Abrahall: first meeting, Nov. 20 at 11; Basinghall-street. Off. Ass. Johnson. Sol. Stopher, Coleman-street.

POWELL, WILLIAM THOMAS, Tenbury, Worcester, and of Knighton, Radnor, Draper. Pet. Oct. 10. Com. Sanders: Nov. 11 and Dec. 2 at 11; Birmingham. Off. Ass. Kinnear. Sol. C. Bridges, Birmingham.

RAULT, LEWIS, Calais-house, Great Warner-street, Clerkenwell, and 101, Leather-lane, Middlesex, and now of 128, Holborn-hill, Yeast Contractor and Wine Merchant. Pet. Oct. 24. Registrar, Abrahall: first meeting, Nov. 15 at 1.30; Basinghall-street. Off. Ass. Johnson.

RIVETT, THOMAS, Stockport, Chester, Cotton Yarn Doublor. Pet. Oct. 21. Registrar, Wilde: first meeting, Nov. 15 at 12; Manchester. Off. Ass. Hernaman. Sols. Earle, Earle, Hopps, & Orford, Manchester.

ROBINSON, DAVID, Lincoln, Joiner and Builder, and Undertaker. Pet. Oct. 31. Registrar, Uppeby: Nov. 14, at 10; Lincoln. Off. Ass. Uppeby. Sols. Brown & Son, Lincoln.

SCHOFIELD, JOSEPH, Oak, Hollins with Oldham, Lancaster, Farmer. Pet. Oct. 25. First meeting, Nov. 22, at 12; Oldham. Off. Ass. Summercales. Sol. W. Ashcroft, Oldham.

SHARP, JOHN, 45, Saint Phillip's-road, Sheffield, Toolfitter. Pet. Oct. 25. First meeting, Nov. 14, at 12; Sheffield. Off. Ass. Wake and Rodgers, Bank-street, Sheffield.

SKINNER, GEORGE PRICE, of Eaton-place, Peckham-rye, Surrey, and of Lordship-lane, East Dulwich, Brickmaker. Pet. Oct. 29. Registrar, Higgins: Nov. 19 at 11; Basinghall-street. Off. Ass. Cannan. Sol. M. Abrahams, 17, Gresham-street.

SMITH, THOMAS, Spennymore, Durham, Joiner and Builder. Pet. Oct. 29. Registrar, Trotter: first meeting, Nov. 12 at 10; Bishop Auckland. Off. Ass. Trotter. Sol. W. Brignal, Durham.

STOCKER, CHARLES HENRY, Pear Tree-cottage, Acton-green, Middlesex. Pet. Oct. 31. Registrar, Abrahall: first meeting, Nov. 15 at 11; Basinghall-street. Off. Ass. Johnson. Sols. Lewis and Lewis, Ely-place.

SUMMERS, THOMAS, Golden Lion Public-house, Goodman's-yard, Minorities, London, Licensed Victualler. Pet. Oct. 31. Registrar, Abrahall: first meeting, Nov. 15 at 12; Basinghall-street. Off. Ass. Johnson. Sol. Abbott, 1, St. Mark-street, Great Prescott-street.

TERRY, CHARLES, 6, Elliott's-row, Lower-road, Islington, Middlesex, Grocer and Cheesemonger. Pet. Oct. 31. Registrar, Hazlitt: first meeting, Nov. 12 at 12; Basinghall-street. Off. Ass. Graham. Sol. Wells, 47, Moorgate-street, London.

THOMAS, LEOPOLD POLLARD, St. George's-terrace, Kilburn, Middlesex, Gent. Pet. Oct. 31 (in form pauperis). Registrar, Hazlitt: first meeting, Nov. 14 at 11.30; Basinghall-street. Off. Ass. Stansfield.

TURTEL, JOHN GABRIEL, Poole, Dorsetshire, Shoe Maker. Pet. Oct. 29. Registrar, Winslow: first meeting, Nov. 23 at 12.30; Basinghall-street. Off. Ass. Pennell. Sols. Flux & Angles, 9, Mincing-lane, London, or to H. W. Dickenson Poole, Dorsetshire.

URTON, GEORGE, Ruby-place, Copeland-street, Greenheys, Manchester, Plumber, Glazier, and Gas Fitter. Pet. Oct. 31. Registrar, Wilde: first meeting, Nov. 14 at 12; Manchester. Off. Ass. Pott. Sols. Cobbett & Wheeler, Brown-street, Manchester.

WADE, ROBERT, Church, Lancashire, Joiner and Builder. Pet. Oct. 28. Registrar, Simons: Nov. 11 at 12; Manchester. Off. Ass. Pennell. Sols. Sale, Worthington, Shipman, & Seddon, Booth-street, Manchester.

WALLWORTH, THOMAS, 32, Bradford-street, Manchester, Flour Dealer. Pet. Oct. 24. First meeting, Dec. 20 at 12. Off. Ass. Kay.

WHITE, MARK, King's Head Public House, 17, Leather-lane, Middlesex, Licensed Victualler. Pet. Oct. 31. Registrar, Higgins: first meeting, Nov. 19, at 2.30; Basinghall-street. Off. Ass. Cannan. Sol. W. R. Buchanan, 13, Basinghall-street.

WILDS, ROBERT, Ruyton-of-the-Eleven-Towns, Salop, Tailor. Pet. Oct. 16. Registrar, Croxon: first meeting, Nov. 14 at 11; Oswestry. Off. Ass. Croxon. Sol. C. Chandler, Shrewsbury.

WILD, WILLIAM, & JAMES BOWKER, Bury, Cotton Manufacturers (Wild & Bowker). Pet. Oct. 25. Registrar, Simons: first meeting, Nov. 12 at 12; Manchester. Off. Ass. Hernaman. Sols. Slater & Myers, Fountain-street, Manchester.

WILLISON, WILLIAM, Stamford, Lincolnshire, Printer. Pet. Oct. 18. Registrar, Waterfield: first meeting, Nov. 14 at 11; Nottingham. Off. Ass. Harris. Sols. W. French, Stamford, or J. T. Brewster, Nottingham.

WILLIAMSON, BENJAMIN, 8, Providence-street, Waiworth, Surrey, General Dealer. Pet. Oct. 31 (in form pauperis). Registrar, Miller: first meeting, Nov. 22 at 1.30; Basinghall-street. Off. Ass. Edwards.

MEETINGS FOR PROOF OF DEBTS.

TUESDAY, Oct. 29, 1861.

ROBERT HICKS, 47, Mortimer-street, Cavendish-square, Middlesex, and 13, Limes-villas, Lewisham, Kent, House and Estate Agent and Surveyor. Nov. 27 at 2; Basinghall-street.—**JAMES MASON**, Ware, Hertford, Mailster. Nov. 27 at 2.30; Basinghall-street.—**RAYMOND D'ARCY NEWTON**, 2, Warwick-square, London, Advertising Agent and Dealer in Newspapers. Nov. 8 at 12; Basinghall-street.—**RICHARD GEORGE PAPPS**, 32, Barbican, London, Builder. Nov. 21 at 1; Basinghall-street.—**MARK FELTHAM**, West Winch, Norfolk, Miller. Nov. 20 at 12; Basinghall-street.—**GRINDER ANTHON MARTIN AAR**, 19, Colchester-street, London, Shipbroker. Nov. 20 at 1.30; Basinghall-street.—**GEORGE BARNETT**, 21, Felix-terrace, Liverpool-road, Islington, Middlesex, Butcher. Nov. 20 at 12.30; Basinghall-street.—**JOHN EVERETT**, late of Rainham, and now of Green Hill-grove, Little Ilford, Essex, Carpenter. Nov. 20 at 1; Basinghall-street.—**JOHN AXEL TALEN**, 4, Whitley-villas, Caledonian-road, Islington, Middlesex.—Nov. 20 at 11.30; Basinghall-street.—**JOHN LIVERSIDGE**, 61a, Tabernacle-walk, St. Leonard, Shoreditch, and 8, Devon-villas, Buckingham-road, De-beauvoir Town, Middlesex, Wheelwright. Nov. 20 at 11; Basinghall-street.—**MATTHEW HUTCHINSON**, 48, Mark-lane, London, and of the Paragon, Blackheath, Kent, Hemp and Flax Dealer. Nov. 20 at 2; Basinghall-street.—**WILLIAM WHITEN**, Meriden, Warwick, Grocer and

Draper. Nov. 29 at 11; Birmingham. **RICHARD BAKER**, Ipsley, Warwick, Needle Dealer. Nov. 29 at 11; Birmingham.—**HENRY RAWSON**, Manchester, Stationer and Printer. Nov. 19 at 12; Manchester.—**WILLIAM BROWN TAYLOR**, Norwich, Tobacconist and Tea Dealer. Nov. 8 at 1; Basinghall-street.—**WILLIAM HENRY ROWE**, 7 Gloucester-place, Regents-park, Middlesex, Builder. Nov. 20 at 11.30; Basinghall-street.

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